

Bill No. CS for SB 156, 1st Eng.

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Rossin moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

16 and insert:

17 Section 1. Subsections (3), (4), and (5) of section

18 20.19, Florida Statutes, are amended, present subsections

19 (16), (17), (18), (19), and (20) are redesignated as

20 subsections (17), (18), (19), (20), and (21), respectively,

21 and a new subsection (16) is added to that section, to read:

22 20.19 Department of Children and Family

23 Services.--There is created a Department of Children and

24 Family Services.

25 (3) OFFICE OF STANDARDS AND EVALUATION.--There is

26 created under the secretary the Office of Standards and

27 Evaluation which has the following responsibilities:

28 (a) ~~With the assistance of the assistant secretaries,~~

29 ~~district administrators, and health and human services boards,~~

30 Establishing systems and strategies to evaluate performance in

31 achieving outcome measures and performance and productivity

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1 standards related to service delivery, program and financial
2 administration, and support, with the assistance of the
3 assistant secretaries, district administrators, and health and
4 human services boards and procedures.

5 (b) Directing the development of monitoring and
6 quality assurance systems for statewide and district services
7 that will routinely assess the efficiency and effectiveness of
8 departmental and provider staff and services.

9 (c) Validating the monitoring and quality assurance
10 activities of statewide and district service providers and
11 staff to ensure that these activities are being conducted
12 routinely and that corrective action is being taken to
13 eliminate deficiencies detected by these activities.

14 (d) Conducting evaluations, directly or by contract,
15 of programs and services provided by the department to
16 determine whether improvement in the condition of individuals,
17 families, and communities has occurred as a result of these
18 programs and services. The evaluations must include an
19 assessment of the short-term effects on individuals and
20 families and the long-term effects on communities and the
21 state. Outcome evaluation studies shall be conducted in
22 response to priorities determined by the department and the
23 Legislature and to the extent that funding is provided by the
24 Legislature.

25 (e) Consulting with the inspector general to ensure
26 the integrity of the monitoring and evaluation process and the
27 validity of the data derived from these activities.

28 (f) Developing procedures for the competitive
29 procurement of external evaluations, including detailed
30 specifications for all evaluation contracts.

31 (g) Developing the budget for the department's

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1 evaluation efforts and identifying future evaluation needs,
2 including infrastructure needs to support the outcome
3 evaluation function.

4 (h) Evaluating and reporting to the Legislature,
5 beginning December 31, 1999, and by October 31 of each
6 subsequent year, on the following issues:

7 1. The effectiveness of the department's performance
8 contracting system in accomplishing program outcomes and in
9 continuously improving performance.

10 2. The adequacy of resources and internal controls
11 used by each program and service district to ensure
12 effectiveness and quality of client services provided through
13 standard contracts and other agreements.

14 3. The effectiveness and quality of contracted
15 services for each client target group, as determined by annual
16 performance reporting and results of quality assurance
17 monitoring.

18 4. The status of the department's progress in
19 complying with the provisions of this act, including the work
20 of the contract evaluation teams established pursuant to
21 paragraph (9)(g).

22 (i)(h) Such other duties relating to evaluation as may
23 be assigned to the Office of Standards and Evaluation by the
24 secretary.

25 (4) PROGRAM OFFICES.--

26 (a) There are created program offices, each of which
27 shall be headed by an assistant secretary who shall be
28 appointed by and serve at the pleasure of the secretary. Each
29 program office shall have the following responsibilities:

30 1. Ensuring that family services programs are
31 implemented according to legislative intent and as provided in

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- 1 state and federal laws, rules, and regulations.
- 2 2. Establishing program standards and performance
3 objectives.
- 4 3. Reviewing, monitoring, and ensuring compliance with
5 statewide standards and performance measures objectives.
- 6 4. Providing general statewide supervision of the
7 administration of service programs, including, but not limited
8 to:
- 9 a. Developing and coordinating training for service
10 programs.
- 11 b. Coordinating program research.
- 12 c. Identifying statewide program needs and
13 recommending solutions and priorities.
- 14 d. Providing technical assistance for the
15 administrators and staff of the service districts.
- 16 e. Assisting district administrators in staff
17 development and training.
- 18 f. Monitoring service programs to ensure program
19 quality among service districts.
- 20 ~~4. Conducting outcome evaluations and ensuring program~~
21 ~~effectiveness.~~
- 22 5. Developing workload and productivity standards.
- 23 6. Developing resource allocation methodologies.
- 24 7. Compiling reports, analyses, and assessment of
25 client needs on a statewide basis.
- 26 8. Ensuring the continued interagency collaboration
27 with the Department of Education for the development and
28 integration of effective programs to serve children and their
29 families.
- 30 9. Other duties as are assigned by the secretary.
- 31 (b) The following program offices are established and

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1 may be consolidated, restructured, or rearranged by the
 2 secretary; provided any such consolidation, restructuring, or
 3 rearranging is for the purpose of encouraging service
 4 integration through more effective and efficient performance
 5 of the program offices or parts thereof:

6 1. Economic Self-Sufficiency Program Office.--The
 7 responsibilities of this office encompass income support
 8 programs within the department, such as temporary assistance
 9 to families with dependent children, food stamps, welfare
 10 reform, and state supplementation of the supplemental security
 11 income (SSI) program.

12 2. Developmental Services Program Office.--The
 13 responsibilities of this office encompass programs operated by
 14 the department for developmentally disabled persons.
 15 Developmental disabilities include any disability defined in
 16 s. 393.063.

17 3. Children and Families Program Office.--The
 18 responsibilities of this program office encompass early
 19 intervention services for children and families at risk;
 20 intake services for protective investigation of abandoned,
 21 abused, and neglected children; interstate compact on the
 22 placement of children programs; adoption; child care;
 23 out-of-home care programs and other specialized services to
 24 families; and child protection and sexual abuse treatment
 25 teams created under chapter 415, excluding medical direction
 26 functions.

27 4. Alcohol, Drug Abuse, and Mental Health Program
 28 Office.--The responsibilities of this office encompass all
 29 alcohol, drug abuse, and mental health programs operated by
 30 the department.

31 (5) ASSISTANT SECRETARY FOR ADMINISTRATION.--

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1 (a) The secretary shall appoint an Assistant Secretary
2 for Administration who serves at the pleasure of the
3 secretary. The Assistant Secretary for Administration is
4 responsible for:

5 1. Supervising all of the budget management activities
6 of the department and serving as the chief budget officer of
7 the department.

8 2. Providing administrative and management support
9 services above the district level.

10 3. Monitoring administrative and management support
11 services in the districts.

12 4. Developing and implementing uniform policies,
13 procedures, and guidelines with respect to personnel
14 administration, finance and accounting, budget, grants
15 management and disbursement, contract administration,
16 procurement, information and communications systems,
17 management evaluation and improvement, and general services,
18 including housekeeping, maintenance, and leasing of
19 facilities.

20 5. Performing such other administrative duties as are
21 assigned by the secretary.

22 (b) If reductions in a district's operating budget
23 become necessary during any fiscal year, the department shall
24 develop a formula to be used in its recommendations to the
25 Governor and Legislature which does not disproportionately
26 reduce a district's operating budget because of voluntary
27 county appropriations to department programs.

28 (c) The Assistant Secretary for Administration shall
29 evaluate and report to the Legislature by July 1, 1999, and
30 annually thereafter, on the methods used by each program to
31 ensure the fiscal accountability of each provider of client

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1 services with whom the department contracts.

2 (d) The Assistant Secretary for Administration shall
3 evaluate the administrative operations of the districts, and
4 may require that districts develop and submit corrective
5 action plans in those areas that do not conform to the
6 department's uniform operating procedures.

7 (16) CONTRACTING AND PERFORMANCE STANDARDS.--

8 (a) The department shall establish performance
9 standards for all contracted client services. Notwithstanding
10 s. 287.057(3)(f), the department must competitively procure
11 any contract for client services when any of the following
12 occurs:

13 1. The provider fails to meet appropriate performance
14 standards established by the department after the provider has
15 been given a reasonable opportunity to achieve the established
16 standards.

17 2. A new program or service has been authorized and
18 funded by the Legislature and the annual value of the contract
19 for such program or service is \$300,000 or more.

20 3. The department has concluded, after reviewing
21 market prices and available treatment options, that there is
22 evidence that the department can improve the performance
23 outcomes produced by its contract resources. At a minimum, the
24 department shall review market prices and available treatment
25 options biennially. The department shall compile the results
26 of the biennial review and include the results in its annual
27 performance report to the Legislature pursuant to chapter
28 94-249, Laws of Florida. The department shall provide notice
29 and an opportunity for public comment on its review of market
30 prices and available treatment options.

31 (b) The competitive requirements of paragraph (a) must

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1 be initiated for each contract that meets the criteria of this
2 subsection, unless the secretary makes a written determination
3 that particular facts and circumstances require deferral of
4 the competitive process. Facts and circumstances must be
5 specifically described for each individual contract proposed
6 for deferral and must include one or more of the following:

7 1. An immediate threat to the health, safety, or
8 welfare of the department's clients.

9 2. A threat to appropriate use or disposition of
10 facilities that have been financed in whole, or in substantial
11 part, through contracts or agreements with a state agency.

12 3. A threat to the service infrastructure of a
13 community which could endanger the well-being of the
14 department's clients.

15
16 Competitive procurement of client services contracts that meet
17 the criteria in paragraph (a) may not be deferred for longer
18 than 1 year.

19 (c) The Legislature intends for the department to
20 obtain services in the manner that is most cost-effective for
21 the state, in the manner that provides the greatest long-term
22 benefits to the clients receiving services, and in the manner
23 that minimizes the disruption of client services. In order to
24 meet these legislative goals, the department may adopt rules
25 providing procedures for the competitive procurement of
26 contracted client services which represent an alternative to
27 the request-for-proposal or the invitation-to-bid process. The
28 alternative competitive procedures shall permit the department
29 to solicit professional qualifications from prospective
30 providers and to evaluate such statements of qualification
31 before requesting service proposals. The department may limit

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1 the firms invited to submit service proposals to only those
2 firms that have demonstrated the highest level of professional
3 capability to provide the services under consideration, but
4 may not invite fewer than three firms to submit service
5 proposals, unless fewer than three firms submitted
6 satisfactory statements of qualification. The alternative
7 procedures must, at a minimum, allow the department to
8 evaluate competing proposals and select the proposal that
9 provides the greatest benefit to the state while considering
10 the quality of the services, dependability and integrity of
11 the provider, dependability of the provider's services, the
12 experience of the provider in serving target populations or
13 client groups substantially identical to members of the target
14 population for the contract in question, and the ability of
15 the provider to secure local funds to support the delivery of
16 services, including, but not limited to, funds derived from
17 local governments. These alternative procedures need not
18 conform to the requirements of s. 287.057(1) or (2) or s.
19 287.042.

20 (d) The department shall review the period for which
21 it executes contracts and, to the greatest extent practicable,
22 shall execute multiyear contracts to make the most efficient
23 use of the resources devoted to contract processing and
24 execution.

25 (e) When it is in the best interest of a defined
26 segment of its consumer population, the department may
27 competitively procure and contract for systems of treatment or
28 service that involve multiple providers, rather than procuring
29 and contracting for treatment or services separately from each
30 participating provider. The department must ensure that all
31 providers that participate in the treatment or service system

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1 meet all applicable statutory, regulatory, service-quality,
2 and cost-control requirements. If other governmental entities
3 or units of special purpose government contribute matching
4 funds to the support of a given system of treatment or
5 service, the department shall formally request information
6 from those funding entities in the procurement process and may
7 take the information received from those funding entities into
8 account in the selection process. If a local government
9 contributes match to support the system of treatment or
10 contracted service and if the match constitutes at least 25
11 percent of the value of the contract, the department shall
12 afford the governmental match contributor an opportunity to
13 name an employee to the selection team required by s.
14 287.057(15). Any employee so named shall qualify as one of the
15 employees required by s. 287.057(15). The selection team shall
16 include the named employee unless the department sets forth in
17 writing the reason such inclusion would be contrary to the
18 best interests of the state. No governmental entity or unit of
19 special purpose government may name an employee to the
20 selection team if it, or any of its political subdivisions,
21 executive agencies, or special districts, intends to compete
22 for the contract to be awarded. The governmental funding
23 entity or match contributor shall comply with any deadlines
24 and procurement procedures established by the department. The
25 department may also involve nongovernmental funding entities
26 in the procurement process when appropriate.

27 (f) The department may contract for or provide
28 assessment and case-management services independently from
29 treatment services.

30 (g) The department shall adopt, by rule, provisions
31 for including in its contracts incremental penalties to be

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1 imposed by its contract managers on a service provider due to
2 the provider's failure to comply with a requirement for
3 corrective action. Any financial penalty that is imposed upon
4 a provider may not be paid from funds being used to provide
5 services to clients, and the provider may not reduce the
6 amount of services being delivered to clients as a method for
7 offsetting the impact of the penalty. If a financial penalty
8 is imposed upon a provider that is a corporation, the
9 department shall notify, at a minimum, the board of directors
10 of the corporation. The department may notify, at its
11 discretion, any additional parties that the department
12 believes may be helpful in obtaining the corrective action
13 that is being sought. Further, the rules adopted by the
14 department must include provisions that permit the department
15 to deduct the financial penalties from funds that would
16 otherwise be due to the provider, not to exceed 10 percent of
17 the amount that otherwise would be due to the provider for the
18 period of noncompliance. If the department imposes a financial
19 penalty, it shall advise the provider in writing of the cause
20 for the penalty. A failure to include such deductions in a
21 request for payment constitutes a ground for the department to
22 reject that request for payment. The additional remedies
23 identified in this paragraph do not limit or restrict the
24 department's application of any other remedy available to it
25 in the contract or under law. The additional remedies
26 described in this paragraph may be cumulative and may be
27 assessed upon each separate failure to comply with
28 instructions from the department to complete corrective
29 action.

30 (h) The department shall develop standards of conduct
31 and a range of disciplinary actions for its employees which

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1 are specifically related to carrying out contracting
2 responsibilities, and shall incorporate the standards and
3 disciplinary actions in its Employee Handbook by December 31,
4 1998.

5 (i) The department must implement systems and controls
6 to ensure financial integrity and service-provision quality in
7 the developmental services Medicaid waiver service system no
8 later than December 31, 1998. The Auditor General shall
9 include specific reference to systems and controls related to
10 financial integrity in the developmental services Medicaid
11 waiver service system in his audit of the department for the
12 1998-1999 fiscal year, and for all subsequent fiscal years.
13 The Office of Program Policy Analysis and Government
14 Accountability shall review the department's systems and
15 controls related to service-provision quality in the
16 developmental services Medicaid waiver service system and
17 submit a report to the Legislature by December 31, 1999.

18 (j) If a provider fails to meet the performance
19 standards established in the contract, the department may
20 allow a reasonable period for the provider to correct
21 performance deficiencies. If performance deficiencies are not
22 resolved to the satisfaction of the department within the
23 prescribed time, and if no extenuating circumstances can be
24 documented by the provider to the department's satisfaction,
25 the department must cancel the contract with the provider. The
26 department may not enter into a new contract with that same
27 provider for the services for which the contract was
28 previously canceled for a period of at least 24 months after
29 the date of cancellation. If an adult substance abuse
30 services provider fails to meet the performance standards
31 established in the contract, the department may allow a

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1 reasonable period, not to exceed 6 months, for the provider to
2 correct performance deficiencies. If the performance
3 deficiencies are not resolved to the satisfaction of the
4 department within 6 months, the department must cancel the
5 contract with the adult substance abuse provider, unless there
6 is no other qualified provider in the service area.

7 (k) The department shall include in its standard
8 contract document a requirement that it file a lien against
9 the property where facilities are located which have been
10 constructed or substantially renovated, in whole or in part,
11 through the use of state funds. However, the department is not
12 required to file a lien if the amount of state funds does not
13 exceed \$25,000 or 10 percent of the contract amount, whichever
14 amount is less. The lien must be recorded in the county where
15 the property is located upon the execution of the contract
16 authorizing such construction or renovation. The lien must
17 specify that the department has a financial interest in the
18 property equal to the pro rata portion of the state's original
19 investment of the then-fair-market value for renovations, or
20 the proportionate share of the cost of the construction. The
21 lien must also specify that the department's interest is
22 proportionately reduced and subsequently vacated over a
23 20-year period of depreciation. The contract must include a
24 provision that, as a condition of receipt of state funding for
25 this purpose, the provider agrees that, if it disposes of the
26 property before the department's interest is vacated, the
27 provider will refund the proportionate share of the state's
28 initial investment, as adjusted by depreciation.

29 (l) The department shall develop and refine
30 contracting and accountability methods that are
31 administratively efficient and that provide for optimal

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1 provider performance.

2 (m) The department may competitively procure any
3 contract when it deems it is in the best interest of the state
4 to do so. The requirements described in paragraph (a) do not,
5 and may not be construed to, limit in any way the department's
6 ability to competitively procure any contract it executes, and
7 the absence of any or all of the criteria described in
8 paragraph (a) may not be used as the basis for an
9 administrative or judicial protest of the department's
10 determination to conduct competition, make an award, or
11 execute any contract.

12 (n) A contract may include cost-neutral,
13 performance-based incentives that may vary according to the
14 extent a provider achieves or surpasses the performance
15 standards set forth in the contract. Such incentives may be
16 weighted proportionally to reflect the extent to which the
17 provider has demonstrated that it has consistently met or
18 exceeded the contractual requirements and the department's
19 performance standards.

20 Section 2. (1) The Department of Children and Family
21 Services shall take steps to ensure that department contracts
22 are negotiated in a manner that assures that the state's
23 interests are well represented. In order to make this
24 assurance, the department must request voluntary assistance
25 from outside entities, including, but not limited to, other
26 state agencies, to provide training for departmental employees
27 who negotiate contracts. Further, employees who negotiate
28 contracts must have available to them other department
29 employees who have expertise in legal and fiscal matters and
30 employees who are especially skilled in conducting contract
31 negotiations to ensure that the interests of the state are

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1 well represented.

2 (2) The department shall create contract management
3 units at the district level which must be staffed by
4 individuals who are specifically trained to perform the
5 functions related to contract management. The contract
6 management units are responsible for monitoring the
7 programmatic and administrative performance of the
8 department's contracts for client services and shall report to
9 the appropriate district administrator. To the greatest extent
10 possible, the members of the contract management units shall
11 be career service employees who are assigned to the same pay
12 grade. The contract management units shall be in operation
13 throughout the state no later than March 1, 1999.

14 (3) The department shall evaluate the effectiveness
15 and efficiency of contracting functions in each service
16 district and report to the Legislature by December 15, 1999.
17 For districts where contracting functions have been
18 centralized for at least 12 months, the department shall
19 report on the effectiveness of such centralization. For
20 districts that elected not to centralize contracting
21 functions, the report must include the reasons for that
22 decision and the steps a district has taken to improve
23 contracting within the district.

24 Section 3. (1) It is critical that the Department of
25 Children and Family Services have an adequate number and
26 quality of staff to ensure the effective negotiation and
27 management of contracts for client services. The Legislature
28 intends that the department be permitted to have limited
29 flexibility to use funds for improving contract negotiation,
30 contract management, oversight, quality assurance, training,
31 and other related activities. To this end, effective October

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1 1, 1998, the department may transfer up to .025 percent of the
 2 total funds from operating appropriations categories of any
 3 budget entity within the department. Such transfer may not
 4 exceed a total of \$3 million in any fiscal year. Any and all
 5 savings which result from the procurement procedures required
 6 pursuant to this section shall remain in those categories used
 7 to pay for contractually provided client services of any
 8 budget entity within the department. When necessary, the
 9 department may establish, in accordance with s. 216.177,
 10 Florida Statutes, additional positions that will be
 11 exclusively devoted to these functions. Any positions required
 12 under this section may be established notwithstanding ss.
 13 216.262(1)(a) and 216.351, Florida Statutes.

14 (2) The department must report to the Legislature by
 15 July 1, 2000, on the impact of this section. This report must,
 16 at a minimum, include quantifiable evidence demonstrating that
 17 the department is able to provide additional client services
 18 within the same appropriation through improved ability to
 19 negotiate and manage contracts.

20 Section 4. This act shall take effect October 1 of the
 21 year in which enacted.

22
 23

24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27

28 and insert:

29 A bill to be entitled
 30 An act relating to program administration by
 31 the Department of Children and Family Services;

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1 amending s. 20.19, F.S.; providing additional
2 duties for the department's Office of Standards
3 and Evaluation with respect to measuring
4 standards of performance and to reports due to
5 the Legislature; providing duties of program
6 offices; requiring an evaluation and a report
7 from the Assistant Secretary for
8 Administration; revising requirements for the
9 department in procuring contracts for client
10 services and in establishing standards for the
11 delivery of those services; requiring the
12 department to procure certain services
13 competitively; authorizing deferral of the
14 competitive contracting process under certain
15 circumstances; limiting the duration of such
16 deferrals; authorizing the department to adopt
17 rules relating to an alternative competitive
18 procurement process; providing intent that the
19 department enter multiyear contracts; providing
20 for procuring services from multiple sources;
21 requiring that the department adopt rules for
22 imposing penalties against a provider that
23 fails to comply with a requirement for
24 corrective action; requiring notice; requiring
25 that the department develop, and incorporate
26 into the department's Employee Handbook,
27 standards of conduct and a range of
28 disciplinary actions relating to certain staff
29 functions; requiring the department to assure
30 the accountability of each provider of client
31 services; providing duties of the Auditor

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1 General and the Office of Program Policy
2 Analysis and Government Accountability;
3 providing for cancellation of contracts under
4 specified circumstances; providing for
5 department liens against certain property
6 constructed or renovated using state funds;
7 authorizing the department to competitively
8 procure any contract under certain
9 circumstances; providing for department
10 contracts to include certain incentives;
11 requiring the department to provide training
12 for staff in negotiating contracts; requiring
13 the department to ensure certain assistance to
14 staff who are negotiating a contract; requiring
15 the department to create contract management
16 units at the district level; providing
17 specifications for these units; specifying the
18 date by which the contract management units
19 must be in operation; requiring the department
20 to evaluate contracting functions in the
21 service districts; requiring reports to the
22 Legislature by the department; authorizing the
23 department to exercise budget and personnel
24 flexibility; authorizing the department to
25 transfer specified funds from certain budget
26 entities in order to create certain staff
27 positions; requiring a report; providing an
28 effective date.

29
30 WHEREAS, it is the intent of the Legislature that the
31 Department of Children and Family Services achieve and

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1 maintain accountability from all providers of client services
2 in order to assure a high level of quality and effectiveness
3 of those services, and

4 WHEREAS, it is further the intent of the Legislature
5 that the Office of Standards and Evaluation, in conjunction
6 with the program offices at the headquarters of the
7 department, play a central role in assuring that this
8 accountability is achieved and maintained, NOW, THEREFORE,

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