

By the Committee on Governmental Oversight and Productivity

302-1062A-02

1 A bill to be entitled
2 An act relating to state procurement; amending
3 s. 120.57, F.S.; providing procedures
4 applicable to a protest of a contract
5 solicitation or award; specifying the type of
6 notice that starts the time for filing a notice
7 of protest; specifying the types of submissions
8 that may be considered in a protest; amending
9 s. 287.001, F.S.; clarifying legislative intent
10 with respect to state procurement; amending s.
11 287.012, F.S.; revising definitions; defining
12 additional terms; amending 287.022, F.S.;
13 conforming a cross-reference to changes made by
14 the act; amending ss. 287.032, 287.042, F.S.;
15 revising the purpose, duties, and functions of
16 the Department of Management Services;
17 clarifying and conforming provisions; requiring
18 the department to develop procedures for
19 issuing solicitations, requests for
20 information, and requests for quotes; requiring
21 the department to develop methods for
22 conducting question and answer sessions
23 regarding solicitations; providing that the
24 Office of Supplier Diversity may consult with
25 the department regarding solicitation
26 distribution procedures; providing that rules
27 may be distributed to agencies via an
28 electronic medium; requiring written
29 documentation of certain agency decisions;
30 removing the department's responsibilities for
31 the management of state surplus property;

1 amending s. 287.045, F.S., relating to the
2 procurement of products and materials with
3 recycled content; clarifying and conforming
4 provisions; amending s. 287.056, F.S.;
5 specifying entities that are required or
6 permitted to purchase from purchasing
7 agreements and state term contracts; providing
8 for use of a request for quote to obtain
9 pricing information; amending s. 287.057;
10 clarifying and conforming provisions; revising
11 requirements for solicitations; providing for
12 question and answer sessions regarding
13 solicitations; providing requirements for
14 amendments to a solicitation; providing
15 requirements for emergency procurements;
16 conforming cross-references to changes made by
17 the act; clarifying that exceptional purchase
18 contracts may not be renewed; providing
19 requirements for persons appointed to evaluate
20 proposals and replies and to negotiate
21 contracts; specifying the entities responsible
22 for developing an on-line procurement system;
23 amending s. 287.0572, F.S.; clarifying and
24 conforming provisions; requiring that the cost
25 of all state contracts be evaluated by
26 present-value methodology; amending s. 287.058,
27 F.S.; eliminating certain requirements for
28 contract renewal; conforming cross-references
29 to changes made by the act; amending s.
30 287.0595; revising requirements for the
31 Department of Environmental Protection with

1 respect to contracts for pollution response;
2 amending s. 287.064, F.S.; clarifying the
3 procurement responsibilities of the Division of
4 Bond Finance; amending s. 287.073, F.S.,
5 relating to the procurement of information
6 technology resources; conforming a
7 cross-reference and other provisions; amending
8 s. 287.0731; revising requirements for a team
9 for contract negotiations; amending ss.
10 287.0822, 287.084, 287.087, 287.093, 287.09451,
11 F.S., relating to procurement of beef and pork,
12 preference for state businesses and businesses
13 with drug-free workplace programs, minority
14 business enterprises, and the Office of
15 Supplier Diversity; clarifying and conforming
16 provisions to changes made by the act; amending
17 ss. 287.133, 287.134, F.S., relating to
18 prohibitions on the transaction of business
19 with certain entities convicted of public
20 entity crimes and entities that have engaged in
21 discrimination; clarifying and conforming
22 provisions; amending s. 287.1345, F.S.,
23 relating to the surcharge on users of state
24 term contracts; authorizing the Department of
25 Management Services to collect surcharges from
26 eligible users; amending s. 283.33, F.S.,
27 relating to the printing of publications;
28 conforming provisions to changes made by the
29 act; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (3) of section 120.57, Florida
2 Statutes, is amended to read:

3 120.57 Additional procedures for particular cases.--

4 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
5 CONTRACT SOLICITATION ~~BIDDING~~ OR AWARD.--Agencies subject to
6 this chapter shall use ~~utilize~~ the uniform rules of procedure,
7 which provide procedures for the resolution of protests
8 arising from the contract solicitation and award ~~bidding~~
9 process. Such rules shall at least provide that:

10 (a) The agency shall provide notice of its decision or
11 intended decision concerning a bid solicitation or a contract
12 award as follows:

13 1. For a ~~bid~~ solicitation, notice of a decision or
14 intended decision shall be given by United States mail or by
15 hand delivery.

16 2. For any decision of the Department of Management
17 Services concerning a request by an agency for approval of an
18 exceptional purchase under part I of chapter 287 and the rules
19 of the Department of Management Services, notice of a decision
20 or intended decision shall be given by posting such notice in
21 the office of the Department of Management Services.

22 3. For any other agency decision, notice of a decision
23 or intended decision shall be given either by posting the
24 solicitation ~~bid~~ tabulation at the location where the bids,
25 proposals, or replies were opened or by certified United
26 States mail or other express delivery service, return receipt
27 requested.

28
29 The notice required by this paragraph shall contain the
30 following statement: "Failure to file a protest within the
31 time prescribed in s. 120.57(3), Florida Statutes, shall

1 constitute a waiver of proceedings under chapter 120, Florida
2 Statutes."

3 (b) Any person who is adversely affected by the agency
4 decision or intended decision shall file with the agency a
5 notice of protest in writing within 72 hours after the receipt
6 posting of the notice of contract award, except bid tabulation
7 ~~or after receipt of the notice of the agency decision or~~
8 ~~intended decision and shall file a formal written protest~~
9 ~~within 10 days after filing the notice of protest with~~
10 respect to a protest of the specifications contained in an
11 invitation to bid, ~~or in a request for proposals, or an~~
12 invitation to negotiate, the notice of protest shall be filed
13 in writing within 72 hours after the receipt of notice of the
14 project plans and specifications or intended project plans and
15 specifications in an invitation to bid, a ~~or~~ request for
16 proposals, or an invitation to negotiate. ~~and~~ The formal
17 written protest shall be filed within 10 days after the date
18 the notice of protest is filed. Failure to file a notice of
19 protest or failure to file a formal written protest shall
20 constitute a waiver of proceedings under this chapter. The
21 formal written protest shall state with particularity the
22 facts and law upon which the protest is based. Saturdays,
23 Sundays, and legal holidays shall be excluded in the
24 computation of the 72-hour time periods provided by this
25 paragraph.

26 (c) Upon receipt of the formal written protest that
27 ~~which~~ has been timely filed, the agency shall stop the ~~bid~~
28 solicitation process or the contract award process until the
29 subject of the protest is resolved by final agency action,
30 unless the agency head sets forth in writing particular facts
31 and circumstances which require the continuance of the ~~bid~~

1 solicitation process or the contract award process without
2 delay in order to avoid an immediate and serious danger to the
3 public health, safety, or welfare.

4 (d)1. The agency shall provide an opportunity to
5 resolve the protest by mutual agreement between the parties
6 within 7 days, excluding Saturdays, Sundays, and legal
7 holidays, after receipt of a formal written protest.

8 2. If the subject of a protest is not resolved by
9 mutual agreement within 7 days, excluding Saturdays, Sundays,
10 and legal holidays, after receipt of the formal written
11 protest, and if there is no disputed issue of material fact,
12 an informal proceeding shall be conducted pursuant to
13 subsection (2) and applicable agency rules before a person
14 whose qualifications have been prescribed by rules of the
15 agency.

16 3. If the subject of a protest is not resolved by
17 mutual agreement within 7 days, excluding Saturdays, Sundays,
18 and legal holidays, after receipt of the formal written
19 protest, and if there is a disputed issue of material fact,
20 the agency shall refer the protest to the division for
21 proceedings under subsection (1).

22 (e) Upon receipt of a formal written protest referred
23 pursuant to this subsection, the director of the division
24 shall expedite the hearing and assign an administrative law
25 judge who shall commence a hearing within 30 days after the
26 receipt of the formal written protest by the division and
27 enter a recommended order within 30 days after the hearing or
28 within 30 days after receipt of the hearing transcript by the
29 administrative law judge, whichever is later. Each party shall
30 be allowed 10 days in which to submit written exceptions to
31 the recommended order. A final order shall be entered by the

1 agency within 30 days of the entry of a recommended order. The
2 provisions of this paragraph may be waived upon stipulation by
3 all parties.

4 (f) In a protest to an invitation to bid or request
5 for proposals ~~competitive-procurement protest~~, no submissions
6 made after the bid or proposal opening which amend or
7 supplement ~~amending or supplementing~~ the bid or proposal shall
8 be considered. In a protest to an invitation to negotiate
9 procurement, no submissions made after the agency announces
10 its intent to award a contract which amend or supplement the
11 reply shall be considered. Unless otherwise provided by
12 statute, the burden of proof shall rest with the party
13 protesting the proposed agency action. In a
14 competitive-procurement protest, other than a rejection of all
15 bids, proposals, or replies, the administrative law judge
16 shall conduct a de novo proceeding to determine whether the
17 agency's proposed action is contrary to the agency's governing
18 statutes, the agency's rules or policies, or the ~~bid or~~
19 ~~proposal~~ specifications contained in the bid, proposal, or
20 reply. The standard of proof for such proceedings shall be
21 whether the proposed agency action was clearly erroneous,
22 contrary to competition, arbitrary, or capricious. In any
23 bid-protest proceeding contesting an intended agency action to
24 reject all bids, proposals, or replies, the standard of review
25 by an administrative law judge shall be whether the agency's
26 intended action is illegal, arbitrary, dishonest, or
27 fraudulent.

28 Section 2. Section 287.001, Florida Statutes, is
29 amended to read:

30 287.001 Legislative intent.--The Legislature
31 recognizes that fair and open competition is a basic tenet of

1 public procurement; that such competition reduces the
2 appearance and opportunity for favoritism and inspires public
3 confidence that contracts are awarded equitably and
4 economically; and that documentation of the acts taken and
5 effective monitoring mechanisms are important means of curbing
6 any improprieties and establishing public confidence in the
7 process by which commodities and contractual services are
8 procured. It is essential to the effective and ethical
9 procurement of commodities and contractual services that there
10 be a system of uniform procedures to be utilized by state
11 agencies in managing and procuring commodities and contractual
12 services; that detailed justification of agency decisions in
13 the procurement of commodities and contractual services be
14 maintained; and that adherence by the agency and the vendor
15 ~~contractor~~ to specific ethical considerations be required.

16 Section 3. Section 287.012, Florida Statutes, is
17 amended to read:

18 287.012 Definitions.--As used ~~The following~~
19 ~~definitions shall apply~~ in this part, the term:

20 (1) "Agency" means any of the various state officers,
21 departments, boards, commissions, divisions, bureaus, and
22 councils and any other unit of organization, however
23 designated, of the executive branch of state government.

24 "Agency" does not include the University and College Boards of
25 Trustees or the state universities and colleges ~~Board of~~
26 ~~Regents or the State University System.~~

27 (2) "Agency head" means, with respect to an agency
28 headed by a collegial body, the executive director or chief
29 administrative officer of the agency.

30 (3) "Artist" means an individual or group of
31 individuals who profess and practice a demonstrated creative

1 talent and skill in the area of music, dance, drama, folk art,
2 creative writing, painting, sculpture, photography, graphic
3 arts, craft arts, industrial design, costume design, fashion
4 design, motion pictures, television, radio, or tape and sound
5 recording or in any other related field.

6 (4) "Best value" means the highest overall value to
7 the state based on objective factors that include, but are not
8 limited to, price, quality, design, and workmanship.

9 (5)~~(4)~~ "Commodity" means any of the various supplies,
10 materials, goods, merchandise, food, equipment, and other
11 personal property, including a mobile home, trailer, or other
12 portable structure with floor space of less than 3,000 square
13 feet, purchased, leased, or otherwise contracted for by the
14 state and its agencies. "Commodity" also includes interest on
15 deferred-payment commodity contracts approved pursuant to s.
16 287.063 entered into by an agency for the purchase of other
17 commodities. However, commodities purchased for resale are
18 excluded from this definition. Further, a prescribed drug,
19 medical supply, or device required by a licensed health care
20 provider as a part of providing health services involving
21 examination, diagnosis, treatment, prevention, medical
22 consultation, or administration for clients at the time the
23 service is provided is not considered to be a "commodity."
24 Printing of publications shall be considered a commodity when
25 let upon contract pursuant to s. 283.33, whether purchased for
26 resale or not.

27 (6)~~(5)~~ "Competitive sealed bids," ~~or "competitive~~
28 sealed proposals, ~~or "competitive sealed replies" mean the~~
29 process of receiving ~~refers to the receipt of two or more~~
30 sealed bids, ~~or proposals, or replies~~ submitted by responsive
31 vendors ~~and qualified bidders or offerors~~ and includes bids,

1 ~~or~~ proposals, or replies transmitted by electronic means in
2 lieu of or in addition to written bids, ~~or proposals, or~~
3 replies.

4 (7) "Competitive solicitation" or "solicitation" means
5 an invitation to bid, a request for proposals, or an
6 invitation to negotiate.

7 ~~(8)(6)~~ "Contractor" means a person who contracts to
8 sell commodities or contractual services to an agency.

9 ~~(9)(7)~~ "Contractual service" means the rendering by a
10 contractor of its time and effort rather than the furnishing
11 of specific commodities. The term applies only to those
12 services rendered by individuals and firms who are independent
13 contractors, and such services may include, but are not
14 limited to, evaluations; consultations; maintenance;
15 accounting; security; management systems; management
16 consulting; educational training programs; research and
17 development studies or reports on the findings of consultants
18 engaged thereunder; and professional, technical, and social
19 services. "Contractual service" does not include any contract
20 for the furnishing of labor or materials for the construction,
21 renovation, repair, modification, or demolition of any
22 facility, building, portion of building, utility, park,
23 parking lot, or structure or other improvement to real
24 property entered into pursuant to chapter 255 and rules
25 adopted thereunder.

26 ~~(10)(8)~~ "Department" means the Department of
27 Management Services.

28 (11) "Eligible user" means a municipality or other
29 political subdivision of this state or a private, nonprofit
30 corporation, which is authorized by the department to purchase
31 from state term contracts or to use the on-line procurement

1 system. In order to be authorized as an eligible user, a
2 private, nonprofit corporation must expend the majority of its
3 total direct revenues for the provision of commodities or
4 contractual services to the state, a municipality, or a
5 political subdivision of the state, and receive only a small
6 portion of its total revenues from any source other than a
7 state agency, municipality, or political subdivision of the
8 state during the period for which eligible user status is
9 authorized.

10 (12)(9) "Exceptional purchase" means any purchase of
11 commodities or contractual services excepted by law or rule
12 from the requirements for competitive solicitation ~~or~~
13 ~~acquisition~~, including, but not limited to, purchases from a
14 single source; ~~purchases upon receipt of less than two~~
15 ~~responsive bids, or proposals, or replies; and purchases~~
16 without publication of notice in the Florida Administrative
17 Weekly, ~~and exceptions granted by the department for a~~
18 ~~purchase of commodities from other than a state term contract~~
19 ~~vendor.~~

20 (13)(10) "Extension" means an increase in the time
21 allowed for the contract period due to circumstances which,
22 without fault of either party, make performance impracticable
23 or impossible, or which prevent a new contract from being
24 executed, with or without a proportional increase in the total
25 dollar amount, with any increase to be based on the method and
26 rate previously established in the contract.

27 (14) "Information technology" has the meaning ascribed
28 in s. 282.0041.

29 (15)(11) "Invitation to bid" means a written
30 solicitation for competitive sealed bids ~~with the title, date,~~
31 ~~and hour of the public bid opening designated and specifically~~

1 ~~defining the commodity, group of commodities, or services for~~
2 ~~which bids are sought. It includes instructions prescribing~~
3 ~~all conditions for bidding and shall be distributed to all~~
4 ~~prospective bidders simultaneously.~~ The invitation to bid is
5 used when the agency is capable of specifically defining the
6 scope of work for which a contractual service is required or
7 when the agency is capable of establishing precise
8 specifications defining the actual commodity or group of
9 commodities required. A written solicitation includes a
10 solicitation published or transmitted by electronic means.

11 (16) "Invitation to negotiate" means a written
12 solicitation for competitive sealed replies to select one or
13 more vendors with which to commence negotiations for the
14 procurement of commodities or contractual services. The
15 invitation to negotiate is used when the agency determines
16 that negotiations may be necessary for the state to receive
17 the best value. A written solicitation includes a solicitation
18 published or transmitted by electronic means.

19 (17)~~(12)~~ "Minority business enterprise" has the ~~same~~
20 meaning ascribed ~~as that provided in s. 288.703.~~

21 (18) "Negotiation" means discussions between the
22 agency and vendors that may result in clarification or
23 revision of a vendor's reply to an invitation to negotiate.

24 (19) "Office" means the Office of Supplier Diversity
25 of the Department of Management Services.

26 ~~(13) "Qualified bidder," "responsible bidder,"~~
27 ~~"qualified offeror," or "responsible offeror" means a person~~
28 ~~who has the capability in all respects to perform fully the~~
29 ~~contract requirements and has the integrity and reliability~~
30 ~~which will assure good faith performance.~~

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1 ~~(20)(14)~~ "Renewal" means contracting with the same
2 contractor for an additional contract period after the initial
3 contract period, only if pursuant to contract terms
4 specifically providing for such renewal.

5 ~~(21)(15)~~ "Request for proposals" means a written
6 solicitation for competitive sealed proposals ~~with the title,~~
7 ~~date, and hour of the public opening designated. A written~~
8 ~~solicitation includes a solicitation published or transmitted~~
9 ~~by electronic means.~~The request for proposals is used when
10 the agency is incapable of specifically defining the scope of
11 work for which the commodity, group of commodities, or
12 contractual service is required and when the agency is
13 requesting that a responsible vendor ~~qualified offeror~~ propose
14 a commodity, group of commodities, or contractual service to
15 meet the specifications of the solicitation document. A
16 written solicitation includes a solicitation published or
17 transmitted by electronic means.~~A request for proposals~~
18 ~~includes, but is not limited to, general information,~~
19 ~~applicable laws and rules, functional or general~~
20 ~~specifications, statement of work, proposal instructions, and~~
21 ~~evaluation criteria. Requests for proposals shall state the~~
22 ~~relative importance of price and any other evaluation~~
23 ~~criteria.~~

24 (22) "Request for information" means a written request
25 made by an agency to vendors for information about commodities
26 or contractual services. Responses to these requests are not
27 offers and cannot be accepted by the agency to form a binding
28 contract.

29 (23) "Request for a quote" means an oral or written
30 request for written pricing information from a state term
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1 contract vendor for commodities or contractual services
2 available on a state term contract from that vendor.

3 (24) "Responsible vendor" means a vendor who has the
4 capability in all respects to fully perform the contract
5 requirements and the integrity and reliability that will
6 assure good-faith performance.

7 (25)(16) "Responsive bid," or "responsive proposal" or
8 "responsive reply" means a bid, or proposal, or reply
9 submitted by a responsive, and responsible vendor or
10 qualified, bidder or offeror which conforms in all material
11 respects to the solicitation invitation to bid or request for
12 proposals.

13 (26)(17) "Responsive vendor bidder" or "responsive
14 offeror" means a vendor that person who has submitted a bid,
15 or proposal, or reply that which conforms in all material
16 respects to the solicitation invitation to bid or request for
17 proposals.

18 (27) "State term contract" means a term contract that
19 is competitively procured by the department pursuant to s.
20 287.057 and that is used by agencies and eligible users
21 pursuant to s. 287.056.

22 (28)(18) "Term contract" means an indefinite quantity
23 contract wherein a party agrees to furnish commodities or
24 contractual services during a defined prescribed period of
25 time, the expiration of which concludes the contract.

26 ~~(19) "Office" means the Office of Supplier Diversity~~
27 ~~of the Department of Management Services.~~

28 ~~(20) "Invitation to negotiate" means a written~~
29 ~~solicitation that calls for responses to select one or more~~
30 ~~persons or business entities with which to commence~~

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1 ~~negotiations for the procurement of commodities or contractual~~
2 ~~services.~~

3 ~~(21) "Request for a quote" means a solicitation that~~
4 ~~calls for pricing information for purposes of competitively~~
5 ~~selecting and procuring commodities and contractual services~~
6 ~~from qualified or registered vendors.~~

7 ~~(22) "Information technology" means equipment,~~
8 ~~hardware, software, firmware, programs, systems, networks,~~
9 ~~infrastructure, media, and related material used to~~
10 ~~automatically, electronically, and wirelessly collect,~~
11 ~~receive, access, transmit, display, store, record, retrieve,~~
12 ~~analyze, evaluate, process, classify, manipulate, manage,~~
13 ~~assimilate, control, communicate, exchange, convert, converge,~~
14 ~~interface, switch, or disseminate information of any kind or~~
15 ~~form.~~

16 Section 4. Subsections (1) and (3) of section 287.022,
17 Florida Statutes, are amended to read:

18 287.022 Purchase of insurance.--

19 (1) Insurance, while not a commodity, nevertheless
20 shall be purchased for all agencies by the department, except
21 that agencies may purchase title insurance for land
22 acquisition and may make emergency purchases of insurance
23 pursuant to s. 287.057(6)(a)~~s. 287.057(4)(a)~~. The procedures
24 for purchasing insurance, whether the purchase is made by the
25 department or by the agencies, shall be the same as those set
26 forth herein for the purchase of commodities.

27 (3) The department ~~of Management Services~~ and the
28 Division of State Group Insurance shall not prohibit or limit
29 any properly licensed insurer, health maintenance
30 organization, prepaid limited health services organization, or
31 insurance agent from competing for any insurance product or

1 plan purchased, provided, or endorsed by the department or the
2 division on the basis of the compensation arrangement used by
3 the insurer or organization for its agents.

4 Section 5. Section 287.032, Florida Statutes, is
5 amended to read:

6 287.032 Purpose of department.--It shall be the
7 purpose of the Department of Management Services:

8 (1) To promote efficiency, economy, and the
9 conservation of energy and to effect coordination in the
10 purchase of commodities for the state.

11 (2) To provide uniform commodity and contractual
12 service procurement policies, rules, procedures, and forms for
13 use by ~~the various~~ agencies and eligible users ~~in procuring~~
14 ~~contractual services~~.

15 (3) To procure and distribute ~~state-owned surplus~~
16 ~~tangible personal property and~~ federal surplus tangible
17 personal property allocated to the state by the Federal
18 Government.

19 Section 6. Section 287.042, Florida Statutes, is
20 amended to read:

21 287.042 Powers, duties, and functions.--The department
22 shall have the following powers, duties, and functions:

23 (1)(a) To canvass all sources of supply, establish and
24 maintain a vendor list, and contract for the purchase, lease,
25 or acquisition ~~in any manner~~, including purchase by
26 installment sales or lease-purchase contracts which may
27 provide for the payment of interest on unpaid portions of the
28 purchase price, of all commodities and contractual services
29 required by any agency under this chapter ~~competitive bidding~~
30 ~~or by contractual negotiation~~. Any contract providing for
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1 deferred payments and the payment of interest shall be subject
2 to specific rules adopted by the department.

3 (b) The department may remove from its vendor list any
4 source of supply which fails to fulfill any of its duties
5 specified in a contract with the state. It may reinstate any
6 such source of supply when it is satisfied that further
7 instances of default will not occur.

8 (c) In order to promote cost-effective procurement of
9 commodities and contractual services, the department or an
10 agency may enter into contracts that limit the liability of a
11 vendor consistent with s. 672.719.

12 (d) The department shall issue commodity numbers for
13 all products of the corporation operating the correctional
14 industry program which meet or exceed department
15 specifications.

16 (e) The department shall, ~~beginning October 1, 1991,~~
17 include the products offered by the corporation on any listing
18 prepared by the department which lists term contracts executed
19 by the department. The products or services shall be placed on
20 such list in a category based upon specification criteria
21 developed through a joint effort of the department and the
22 corporation and approved by the department.

23 (f) The corporation may submit products and services
24 to the department for testing, analysis, and review relating
25 to the quality and cost comparability. If, after review and
26 testing, the department approves of the products and services,
27 the department shall give written notice thereof to the
28 corporation. The corporation shall pay a reasonable fee
29 charged for testing its products by the Department of
30 Agriculture and Consumer Services.

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1 (g) The department may collect fees for the use of its
2 electronic information services. The fees may be imposed on an
3 individual transaction basis or as a fixed subscription for a
4 designated period of time. At a minimum, the fees shall be
5 determined in an amount sufficient to cover the department's
6 projected costs of such services, including overhead in
7 accordance with the policies of the Department of Management
8 Services for computing its administrative assessment. All
9 fees collected pursuant to this paragraph shall be deposited
10 in the Grants and Donations Trust Fund for disbursement as
11 provided by law.

12 (2)(a) To establish ~~plan and coordinate purchases in~~
13 ~~volume and to negotiate and execute~~ purchasing agreements and
14 competitively procure state term contracts for commodities and
15 contractual services under which state agencies shall, and
16 eligible users may, make purchases pursuant to s. 287.056, ~~and~~
17 ~~under which a federal, county, municipality, institutions~~
18 ~~qualified pursuant to s. 240.605, private nonprofit community~~
19 ~~transportation coordinator designated pursuant to chapter 427,~~
20 ~~while conducting business related solely to the Commission for~~
21 ~~the Transportation Disadvantaged, or other local public agency~~
22 ~~may make purchases.~~ The department may restrict purchases from
23 some term contracts to state agencies only for those term
24 contracts where the inclusion of other governmental entities
25 will have an adverse effect on competition or to those federal
26 facilities located in this state. In such planning or
27 purchasing the Office of Supplier Diversity may monitor to
28 ensure that opportunities are afforded for contracting with
29 minority business enterprises. The department, for state term
30 contracts, and all agencies, for multiyear contractual
31 services or term contracts, shall explore reasonable and

1 economical means to utilize certified minority business
2 enterprises. Purchases by any county, municipality, private
3 nonprofit community transportation coordinator designated
4 pursuant to chapter 427, while conducting business related
5 solely to the Commission for the Transportation Disadvantaged,
6 or other local public agency under the provisions in the state
7 purchasing contracts, and purchases, from the corporation
8 operating the correctional work programs, of products or
9 services that are subject to paragraph (1)(f), are exempt from
10 the competitive solicitation ~~sealed bid~~ requirements otherwise
11 applying to their purchases.

12 (b) As an alternative to any provision in s.
13 120.57(3)(c), the department may proceed with the competitive
14 ~~bid~~ solicitation or contract award process of a term contract
15 ~~bid~~ when the secretary of the department or his or her
16 designee sets forth in writing particular facts and
17 circumstances which demonstrate that the delay incident to
18 staying the solicitation ~~bid process~~ or contract award process
19 would be detrimental to the interests of the state. After the
20 award of a contract resulting from a competitive solicitation
21 ~~bid~~ in which a timely protest was received and in which the
22 state did not prevail, the contract may be canceled and
23 reawarded to the prevailing party.

24 (c) Any person who files an action protesting a
25 decision or intended decision pertaining to contracts
26 administered by the department, a water management district,
27 or an ~~a state~~ agency pursuant to s. 120.57(3)(b) shall post
28 with the department, the water management district, or the
29 ~~state~~ agency at the time of filing the formal written protest
30 a bond payable to the department, the water management
31 district, or ~~state~~ agency in an amount equal to 1 percent of

1 the department's, the water management district's, or the
2 ~~state~~ agency's estimate of the total volume of the contract or
3 \$5,000, whichever is less, which bond shall be conditioned
4 upon the payment of all costs which may be adjudged against
5 him or her in the administrative hearing in which the action
6 is brought and in any subsequent appellate court proceeding.
7 For protests of decisions or intended decisions of the
8 department pertaining to agencies' requests for approval of
9 exceptional purchases, the bond shall be in an amount equal to
10 1 percent of the requesting agency's estimate of the contract
11 amount for the exceptional purchase requested or \$5,000,
12 whichever is less. In lieu of a bond, the department, the
13 water management district, or ~~state~~ agency may, in either
14 case, accept a cashier's check or money order in the amount of
15 the bond. If, after completion of the administrative hearing
16 process and any appellate court proceedings, the department,
17 water management district, or agency prevails, it shall
18 recover all costs and charges which shall be included in the
19 final order or judgment, excluding attorney's fees. This
20 section shall not apply to protests filed by the Office of
21 Supplier Diversity. Upon payment of such costs and charges by
22 the person protesting the award, the bond, cashier's check, or
23 money order shall be returned to him or her. If the person
24 protesting the award prevails, he or she shall recover from
25 the department, agency, or water management district, all
26 costs and charges which shall be included in the final order
27 of judgment, excluding attorney's fees.

28 (d) The terms, conditions, and specifications of a
29 solicitation ~~request for proposal, request for quote,~~
30 ~~invitation to bid, or invitation to negotiate,~~ including any
31 provisions governing the methods for ranking proposals or

1 replies, awarding contracts, reserving rights of further
2 negotiation, or the modification or ~~of~~ amendment of any
3 contract, are subject to challenge only by filing a protest
4 within 72 hours after the notice of the terms, conditions, or
5 specifications as provided in s. 120.57(3)(b).

6 ~~(3) To have general supervision, through the state~~
7 ~~agencies, of all storerooms and stores operated by the~~
8 ~~agencies and to have supervision of inventories of all~~
9 ~~commodities belonging to the state agencies. The duties~~
10 ~~imposed by this section do not relieve any state agency from~~
11 ~~accountability for commodities under its control.~~

12 (3)(4) To establish a system of coordinated, uniform
13 procurement policies, procedures, and practices to be used by
14 agencies in acquiring commodities and contractual services,
15 which shall include, but not be limited to:

16 (a) Development of a list of interested vendors to be
17 maintained by classes of commodities and contractual services.
18 This list shall not be used to prequalify vendors or to
19 exclude any interested vendor from bidding.

20 (b) Development of procedures for advertising
21 solicitations. ~~These the releasing of requests for proposals,~~
22 ~~requests for quotes, invitations to bid, invitations to~~
23 ~~negotiate, and other competitive acquisitions which procedures~~
24 must shall include, but are not limited to, notice by
25 publication in the Florida Administrative Weekly, on
26 Government Services Direct, or by mail or facsimile. Notice
27 must be given at least 10 days before the date set for
28 submission of proposals, or bids, or replies. The Office of
29 Supplier Diversity may consult with the department agencies
30 regarding the development of solicitation bid distribution
31 procedures to ensure that maximum distribution is afforded to

1 certified minority business enterprises as defined in s.
2 288.703.

3 (c) Development of procedures for the receipt and
4 opening of bids, ~~responses, quotes, or proposals, or replies~~
5 by an agency. Such procedures shall provide the Office of
6 Supplier Diversity an opportunity to monitor and ensure that
7 the contract award is consistent with the requirements of s.
8 287.09451.

9 (d) Development of procedures to be used by an agency
10 in deciding to contract, including, but not limited to,
11 identifying and assessing in writing project needs and
12 requirements, availability of agency employees, budgetary
13 constraints or availability, facility equipment availability,
14 current and projected agency workload capabilities, and the
15 ability of any other state agency to perform the services.

16 (e) Development of procedures to be used by an agency
17 in maintaining a contract file for each contract which shall
18 include, but not be limited to, all pertinent information
19 relating to the contract during the preparatory stages; ~~a~~
20 copy of the solicitation; invitation to bid or request for
21 ~~proposals;~~ documentation relating to the solicitation bid
22 ~~process;~~ opening of bids, proposals, or replies; evaluation
23 and tabulation of bids, proposals, or replies; and
24 determination and notice of award of contract.

25 (f) Development of procedures to be used by an agency
26 for issuing solicitations that include requirements to
27 describe commodities, services, scope of work, and
28 deliverables in a manner that promotes competition invitations
29 ~~to bid, invitations to negotiate, requests for proposal,~~
30 ~~requests for quote, or other competitive procurement~~
31 ~~processes.~~

1 (g) Development of procedures to be used by an agency
2 when issuing requests for information and requests for quotes.

3 (4)(5)(a) To prescribe the methods of securing
4 competitive sealed bids, ~~responses, quotes, and proposals, and~~
5 replies. Such methods may include, but are not limited to,
6 procedures for identifying vendors; setting qualifications;
7 conducting conferences or written question and answer periods
8 for purposes of assuring the vendor's full understanding of
9 the solicitation requirements prior to the submittal date for
10 bids, proposals, or replies; evaluating ~~responses, bids, and~~
11 proposals, and replies; ranking and ~~respondents and proposers;~~
12 selecting vendors invitees and proposers; and conducting
13 negotiations.

14 (b) To prescribe, in consultation with the State
15 Technology Office, procedures for procuring information
16 technology and information technology consultant services
17 which provide for public announcement and qualification,
18 competitive solicitations ~~selection, competitive negotiation,~~
19 contract award, and prohibition against contingent fees. Such
20 procedures shall be limited to information technology
21 consultant contracts for which the total project costs, or
22 planning or study activities, are estimated to exceed the
23 threshold amount provided for in s. 287.017, for CATEGORY TWO.

24 (5)(6) To prescribe specific commodities and
25 quantities to be purchased locally.

26 (6)(7)(a) To govern the purchase by any agency of any
27 commodity or contractual service and to establish standards
28 and specifications for any commodity.

29 (b) Except for the purchase of insurance, the
30 department may delegate to agencies the authority for the
31

1 procurement of and contracting for, ~~or the purchase, lease, or~~
2 ~~acquisition of,~~ commodities or contractual services.

3 (7)~~(8)~~ To establish definitions and classes of
4 commodities and contractual services. Agencies shall follow
5 the definitions and classes of commodities and contractual
6 services established by the department in acquiring or
7 purchasing commodities or contractual services. The authority
8 of the department under this section shall not be construed to
9 impair or interfere with the determination by state agencies
10 of their need for, or their use of, services including
11 particular specifications.

12 (8)~~(9)~~ To provide ~~furnish copies of~~ any commodity and
13 contractual service purchasing rules to the Comptroller and
14 all agencies through an electronic medium or other means
15 ~~affected thereby.~~ Agencies may ~~The Comptroller shall not~~
16 approve any account or request ~~direct~~ any payment of any
17 account for the purchase of any commodity or the procurement
18 of any contractual service covered by a purchasing or
19 contractual service rule except as authorized therein. The
20 department shall furnish copies of rules adopted by the
21 department to any county, municipality, or other local public
22 agency requesting them.

23 (9)~~(10)~~ To require that every agency furnish
24 information relative to its commodity and contractual services
25 purchases and methods of purchasing commodities and
26 contractual services to the department when so requested.

27 (10)~~(11)~~ To prepare statistical data concerning the
28 method of procurement, terms, usage, and disposition of
29 commodities and contractual services by ~~state~~ agencies. All
30 agencies shall furnish such information for this purpose to
31 the office and to the department, as the department or office

1 may call for, but no less frequently than annually, on such
2 forms or in such manner as the department may prescribe.

3 (11)~~(12)~~ To establish and maintain programs for the
4 purpose of disseminating information to government, industry,
5 educational institutions, and the general public concerning
6 policies, procedures, rules, and forms for the procurement of
7 commodities and contractual services.

8 (12)~~(13)~~ Except as otherwise provided herein, to adopt
9 rules necessary to carry out the purposes of this section,
10 including the authority to delegate to any ~~state~~ agency any
11 and all of the responsibility conferred by this section,
12 retaining to the department any and all authority for
13 supervision thereof. Such purchasing of commodities and
14 procurement of contractual services by state agencies shall be
15 in strict accordance with the rules and procedures prescribed
16 by the department ~~of Management Services~~.

17 (13)~~(14)~~ If the department determines in writing that
18 it is in the best interest of the state, to award to multiple
19 suppliers contracts for commodities and contractual services
20 established by the department for use by all agencies. Such
21 awards may be on a statewide or regional basis. If regional
22 contracts are established by the department, multiple supplier
23 awards may be based upon multiple awards for regions.
24 Agencies may award contracts to the responsible and lowest
25 ~~qualified~~ responsive vendor bidder on a statewide or regional
26 basis.

27 (14)~~(15)~~ To procure and distribute ~~state-owned surplus~~
28 ~~tangible personal property~~ and federal surplus tangible
29 personal property allocated to the state by the Federal
30 Government.

31

1 (15)~~(16)~~(a) To enter into joint agreements with
2 governmental agencies, as defined in s. 163.3164(10), for the
3 purpose of pooling funds for the purchase of commodities or
4 information technology that can be used by multiple agencies.
5 However, the department shall consult with the State
6 Technology Office on joint agreements that involve the
7 purchase of information technology. Agencies entering into
8 joint purchasing agreements with the department or the State
9 Technology Office shall authorize the department or the State
10 Technology Office to contract for such purchases on their
11 behalf.

12 (b) Each agency that has been appropriated or has
13 existing funds for such purchases, shall, upon contract award
14 by the department, transfer their portion of the funds into
15 the department's Grants and Donations Trust Fund for payment
16 by the department. These funds shall be transferred by the
17 Executive Office of the Governor pursuant to the agency budget
18 amendment request provisions in chapter 216.

19 (c) Agencies that sign such joint agreements are
20 financially obligated for their portion of the agreed-upon
21 funds. If any agency becomes more than 90 days delinquent in
22 paying such funds, the department ~~of Management Services~~ shall
23 certify to the Comptroller the amount due, and the Comptroller
24 shall transfer the amount due to the Grants and Donations
25 Trust Fund of the department from any of the agency's
26 available funds. The Comptroller shall report all such
27 transfers and the reasons for such transfers to the Executive
28 Office of the Governor and the legislative appropriations
29 committees.

30 (16)~~(17)~~(a) To evaluate contracts let by the Federal
31 Government, another state, or a political subdivision for the

1 provision of commodities and contract services, and, when it
2 is determined in writing to be cost-effective and in the best
3 interest of the state, to enter into a written agreement
4 authorizing an ~~a state~~ agency to make purchases under a
5 contract approved by the department and let by the Federal
6 Government, another state, or a political subdivision.

7 (b) For contracts pertaining to the provision of
8 information technology, the State Technology Office, in
9 consultation with the department, shall assess the
10 technological needs of a particular agency, evaluate the
11 contracts, and determine whether to enter into a written
12 agreement with the letting federal, state, or political
13 subdivision body to provide information technology for a
14 particular agency.

15 Section 7. Section 287.045, Florida Statutes, is
16 amended to read:

17 287.045 Procurement of products and materials with
18 recycled content.--

19 (1)(a) ~~The department of Management Services,~~ in
20 cooperation with the Department of Environmental Protection,
21 shall review and revise existing procurement procedures and
22 specifications for the purchase of products and materials to
23 eliminate any procedures and specifications that explicitly
24 discriminate against products and materials with recycled
25 content except where such procedures and specifications are
26 necessary to protect the public health, safety, and welfare.

27 (b) Each ~~state~~ agency shall review and revise its
28 procurement procedures and specifications for the purchase of
29 products and materials to eliminate any procedures and
30 specifications that explicitly discriminate against products
31 and materials with recycled content, except if such procedures

1 and specifications are necessary to protect the public health,
2 safety, and welfare.

3 (2)(a) The department and each ~~state~~ agency shall
4 review and revise its procurement procedures and
5 specifications for the purchase of products and materials to
6 ensure to the maximum extent feasible that each agency uses
7 state contracts to purchase products or materials that may be
8 recycled or reused when these products or materials are
9 discarded.

10 (b) The Auditor General shall assist in monitoring the
11 product procurement requirements.

12 (3) As part of the review and revision required in
13 subsection (2), the department and each agency shall review
14 its procurement provisions and specifications for the purchase
15 of products and materials to determine which products or
16 materials with recycled content could be procured by the
17 department or other agencies and the amount of recycled
18 content that can technologically be contained in such products
19 or materials. The department and other agencies must use the
20 amounts of recycled content and postconsumer recovered
21 material determined by the department in issuing solicitations
22 ~~invitations to bid~~ for contracts for the purchase of such
23 products or materials.

24 (4) Upon completion of the review required in
25 subsection (3), the department and other agencies ~~or an agency~~
26 shall require that a person who submits a bid, proposal, or
27 reply for a contract for the purchase of products or materials
28 identified in subsection (3) and who wishes to be considered
29 for the price preference described in subsection (5) certify
30 in writing the percentage of recycled content in the product
31 or material that is subject to the bid, proposal, or reply. A

1 person may certify that the product or material contains no
2 recycled content.

3 (5) Upon evaluation of bids, proposals, or replies for
4 every public contract that involves the purchase of products
5 or materials identified in subsection (3), the department or
6 other ~~an~~ agency shall identify the lowest responsible and
7 responsive vendor bidder and other responsive vendors bidders
8 who have certified that the products or materials contain at
9 least the minimum percentage of recycled content and
10 postconsumer recovered material that is set forth in the
11 solicitation invitation for the bids. The department or
12 agency may consider life-cycle costing when evaluating a bid,
13 proposal, or reply on a product that consists of recycled
14 materials. The department shall adopt rules that specify the
15 criteria to be used when considering life-cycle costing in
16 evaluating bids, proposals, or replies. The rules must take
17 into consideration the specified warranty periods for products
18 and the comparative expected service life relative to the cost
19 of the products. In awarding a contract for the purchase of
20 products or materials, the department or other ~~an~~ agency may
21 allow up to a 10-percent price preference to a responsible and
22 responsive vendor bidder who has certified that the products
23 or materials contain at least the minimum percentage of
24 recycled content and postconsumer recovered material and up to
25 an additional 5-percent price preference to a responsible and
26 responsive vendor bidder who has certified that the products
27 or material are made of materials recovered in this state.
28 The amount of the price preference must be commensurate with
29 the certified amounts of recycled material and postconsumer
30 recovered material and materials recycled from products in
31 this state, contained in the product or materials on a sliding

1 scale as established by department rule, which rule shall not
2 become effective prior to November 1, 1994. Reusable
3 materials and products shall be used where economically and
4 technically feasible. If no vendors ~~bidders~~ offer products or
5 materials with measurable life-cycle costing factors or the
6 minimum prescribed recycled and postconsumer content, the
7 contract must be awarded to the lowest qualified responsible
8 and responsive vendor bidder.

9 (6) For the purposes of this section, the term
10 "recycled content" means materials that have been recycled
11 that are contained in the products or materials to be
12 procured, including, but not limited to, paper, aluminum,
13 steel, glass, plastics, and composted material. The term does
14 not include the virgin component of internally generated scrap
15 that is commonly used in industrial or manufacturing processes
16 or such waste or scrap purchased from another manufacturer who
17 manufactures the same or a closely related product. Recycled
18 content printing and fine writing grades of paper shall
19 contain at least 10 percent postconsumer recovered materials.

20 (7) Any person may request the department to evaluate
21 a product or material with recycled content if the product or
22 material is eligible for inclusion under state contracts. The
23 department shall review each reasonable proposal to determine
24 its merit and, if it finds that the product or material may be
25 used beneficially, it may incorporate that product or material
26 into its procurement procedures.

27 (8) The department and each ~~state~~ agency shall review
28 and revise its procedures and specifications on a continuing
29 basis to encourage the use of products and materials with
30 recycled content and postconsumer recovered material and
31 shall, in developing new procedures and specifications,

1 encourage the use of products and materials with recycled
2 content and postconsumer recovered material.

3 (9) After November 1, 1994, the department may
4 discontinue contracting for products or materials the recycled
5 content of which does not meet the requirements of subsection
6 (3) if it determines that products or materials meeting those
7 requirements are available at a cost not to exceed an
8 additional 10 percent of comparable virgin products.

9 (10) An A-state agency, or a vendor ~~person~~ contracting
10 with such agency with respect to work performed under
11 contract, must procure products or materials with recycled
12 content if the department determines that those products or
13 materials are available pursuant to subsection (5).

14 Notwithstanding any other provision to the contrary, for the
15 purpose of this section, the term "agency" means any of the
16 various state officers, departments, boards, commissions,
17 divisions, bureaus, and councils and any other unit of
18 organization, however designated, of the executive branch
19 including the Department of the Lottery, the legislative
20 branch, the judicial branch, the University and College Boards
21 of Trustees, and the state universities and colleges ~~and the~~
22 ~~State University System~~. A decision not to procure such items
23 must be based on the department's determination that such
24 procurement is not reasonably available within an acceptable
25 period of time or fails to meet the performance standards set
26 forth in the applicable specifications or fails to meet the
27 performance standards of the agency.

28 (11) Each state agency shall report annually to the
29 department its total expenditures on, and use of, products
30 with recycled content and the percentage of its budget that
31 represents purchases of similar products made from virgin

1 materials. The department shall design a uniform reporting
2 mechanism and prepare annual summaries of statewide purchases
3 delineating those with recycled content to be submitted to the
4 Governor, the President of the Senate, and the Speaker of the
5 House of Representatives.

6 Section 8. Section 287.056, Florida Statutes, is
7 amended to read:

8 287.056 ~~Agency Purchases from state term agreements~~
9 ~~and contracts competitively procured executed~~ by the
10 department.--

11 (1) Agencies shall, and eligible users may, purchase
12 commodities and contractual services from ~~the purchasing~~
13 agreements established and state term contracts competitively
14 procured negotiated and executed by the department, ~~as~~
15 ~~authorized in s. 287.042(2).~~

16 (2) Agencies and eligible users may ~~have the option to~~
17 purchase commodities or contractual services from state term
18 ~~any written agreements or contracts competitively procured~~
19 ~~negotiated and executed~~ by the department which contain a user
20 surcharge pursuant to s. 287.1345 ~~or such other agreements~~ as
21 determined by the department.

22 (3) Agencies and eligible users may use a request for
23 quote to obtain written pricing information from a state term
24 contract vendor for commodities or contractual services
25 available on state term contract from that vendor. The sole
26 purpose of a request for quote is to determine whether a price
27 lower than the state term contract price is available. Use of
28 a request for quote does not constitute an agency decision
29 that is subject to protest under s. 120.57(3).

30 Section 9. Section 287.057, Florida Statutes, is
31 amended to read:

1 287.057 Procurement of commodities or contractual
2 services.--

3 (1)(a) Unless otherwise authorized by law, all
4 contracts for the purchase of commodities or contractual
5 services in excess of the threshold amount provided in s.
6 287.017 for CATEGORY TWO shall be awarded by competitive
7 sealed bidding. An invitation to bid shall be made available
8 simultaneously to all vendors and must issued which shall
9 include a detailed description of the commodities or
10 contractual services sought; the time and date for the
11 submittal of bids and of the public opening; and all
12 contractual terms and conditions applicable to the procurement
13 ~~of commodities or contractual services~~, including the criteria
14 ~~which shall include, but need not be limited to, price, to be~~
15 used in determining acceptability of the bid. If the agency
16 contemplates renewal of the contract, it shall be so stated in
17 the invitation to bid. The bid shall include the price for
18 each year for which the contract may be renewed. Evaluation of
19 bids shall include consideration of the total cost for each
20 year as submitted quoted by the vendor bidder. ~~No~~ Criteria
21 that were not set forth in the invitation to bid may not be
22 used in determining acceptability of the bid ~~that was not set~~
23 ~~forth in the invitation to bid~~.

24 (b) The contract shall be awarded with reasonable
25 promptness by written notice to the responsible ~~qualified~~ and
26 responsive vendor that bidder who submits the lowest
27 responsive bid. This bid must be determined in writing to
28 meet the requirements and criteria set forth in the invitation
29 to bid.

30 (2)(a) If ~~when~~ an agency determines in writing that
31 the use of competitive sealed bidding is not practicable,

1 commodities or contractual services shall be procured by
2 competitive sealed proposals. A request for proposals shall
3 be made available simultaneously to all vendors, and must
4 include ~~which includes~~ a statement of the commodities or
5 contractual services sought; the time and date for the
6 submittal of proposals and of the public opening;and all
7 contractual terms and conditions applicable to the procurement
8 ~~of commodities or contractual services~~, including the
9 criteria, which shall include, but need not be limited to,
10 price, to be used in determining acceptability of the proposal
11 ~~shall be issued.~~ The relative importance of price and other
12 evaluation criteria shall be indicated.If the agency
13 contemplates renewal of the commodities or contractual
14 services contract, it must ~~shall~~ be ~~so~~ stated in the request
15 for proposals. The proposal shall include the price for each
16 year for which the contract may be renewed. Evaluation of
17 proposals shall include consideration of the total cost for
18 each year as submitted ~~quoted~~ by the vendor ~~offeror~~. ~~To assure~~
19 ~~full understanding of and responsiveness to the solicitation~~
20 ~~requirements, discussions may be conducted with qualified~~
21 ~~offerors. The offerors shall be accorded fair and equal~~
22 ~~treatment prior to the submittal date specified in the request~~
23 ~~for proposals with respect to any opportunity for discussion~~
24 ~~and revision of proposals.~~

25 (b) The contract ~~award~~ shall be awarded ~~made~~ to the
26 responsible and responsive vendor ~~offeror~~ whose proposal is
27 determined in writing to be the most advantageous to the
28 state, taking into consideration the price and the other
29 criteria set forth in the request for proposals. The contract
30 file shall contain a written statement explaining the basis on
31 which the award is made.

1 (3)(a) If the agency determines in writing that the
2 use of competitive sealed bidding or competitive sealed
3 proposals will not result in the best value to the state, the
4 agency may procure commodities and contractual services by
5 competitive sealed replies. The agency's written determination
6 must specify reasons that explain why negotiation may be
7 necessary in order for the state to achieve the best value and
8 must be approved in writing by the agency head or his or her
9 designee prior to the advertisement of an invitation to
10 negotiate. An invitation to negotiate shall be made available
11 to all vendors simultaneously and must include a statement of
12 the commodities or contractual services sought; the time and
13 date for the submittal of replies and of the public opening;
14 and all terms and conditions applicable to the procurement,
15 including the criteria to be used in determining the
16 responsiveness of the reply.

17 (b) The agency shall evaluate and rank responsive
18 replies against all evaluation criteria set forth in the
19 invitation to negotiate and shall select, based on the
20 ranking, one or more vendors with which to commence
21 negotiations. If two or more responsive replies are received
22 and the agency negotiates with fewer than two vendors, the
23 agency shall document in writing reasons that explain why this
24 action is in the state's best interest and shall submit this
25 document to the department prior to the contract award in a
26 manner and form prescribed by the department. After
27 negotiations are conducted, the agency shall award the
28 contract to the responsible and responsive vendor that the
29 agency determines in writing will provide the best value to
30 the state. The contract file must contain a written statement
31 that explains the basis for vendor selection and provides a

1 detailed description of the factors considered in determining
2 the best value for the state.

3 (4) Prior to the time for submittal of bids,
4 proposals, or replies, an agency may conduct a conference or
5 written question and answer period for purposes of assuring
6 the vendor's full understanding of the solicitation
7 requirements. The vendors shall be accorded fair and equal
8 treatment with respect to any opportunity for discussion and
9 revision of bids, proposals, or replies.

10 (5)(a) If an agency determines, prior to the time
11 established for the submittal of bids, proposals, or replies,
12 that it is necessary to change the requirements or any term or
13 condition contained in a solicitation, the agency shall amend
14 the solicitation and make the amendments available
15 simultaneously to all vendors. When amending a solicitation,
16 the agency shall consider whether the time established for the
17 submittal of bids, proposals, or replies should be extended in
18 order to provide prospective vendors with sufficient time to
19 consider the amendment in submitting or modifying their bids,
20 proposals, or replies.

21 (b) If an agency determines, after the time
22 established for the submittal of replies, that it is necessary
23 to change its requirements or any term or condition contained
24 in an invitation to negotiate, the agency shall amend the
25 invitation to negotiate and make the amendments available
26 simultaneously to all vendors who have not been eliminated
27 from the competition. If an amendment to an invitation to
28 negotiate is so substantial as to exceed what prospective
29 vendors reasonably could have anticipated, such that
30 additional vendors would have submitted replies or such that
31 vendors eliminated from the competition would have replied

1 differently, had the amendment been known to them, the agency
2 must cancel the invitation to negotiate and resolicit the
3 procurement, regardless of the stage of the procurement.

4 (c) Notice of amendments to a solicitation shall be
5 provided by publication in the Florida Administrative Weekly,
6 on Government Services Direct, or by mail or facsimile. All
7 solicitations must specify the manner in which notice of
8 amendments will be provided.

9 ~~(3) If an agency determines that the use of an~~
10 ~~invitation to bid or a request for a proposal will not result~~
11 ~~in the best value to the state, based on factors including,~~
12 ~~but not limited to, price, quality, design, and workmanship,~~
13 ~~the agency may procure commodities and contractual services by~~
14 ~~an invitation to negotiate. An agency may procure commodities~~
15 ~~and contractual services by a request for a quote from vendors~~
16 ~~under contract with the department.~~

17 (6)(4) When the purchase price of commodities or
18 contractual services exceeds the threshold amount provided in
19 s. 287.017 for CATEGORY TWO, no purchase of commodities or
20 contractual services may be made without receiving competitive
21 sealed bids, competitive sealed proposals, or competitive
22 sealed replies responses to an invitation to negotiate or a
23 request for a quote unless:

24 (a) The agency head determines in writing that an
25 immediate danger to the public health, safety, or welfare or
26 other substantial loss to the state requires emergency action.
27 After the agency head makes such a written determination, the
28 agency may proceed with the procurement of commodities or
29 contractual services necessitated by the immediate danger,
30 without receiving competitive sealed bids, competitive sealed
31 proposals, or competitive sealed replies competition. However,

1 such emergency procurement shall be made by obtaining pricing
2 information from at least two prospective vendors, which must
3 be retained in the contract file, unless the agency determines
4 in writing that the time required to obtain pricing
5 information will increase the immediate danger to the public
6 health, safety, or welfare or other substantial loss to the
7 state with such competition as is practicable under the
8 circumstances. The agency shall furnish copies of all the
9 written determinations ~~determination~~ certified under oath and
10 any other documents relating to the emergency action to the
11 department. A copy of the statement shall be furnished to the
12 Comptroller with the voucher authorizing payment. The
13 individual purchase of personal clothing, shelter, or supplies
14 which are needed on an emergency basis to avoid
15 institutionalization or placement in a more restrictive
16 setting is an emergency for the purposes of this paragraph,
17 and the filing with the department of such statement is not
18 required in such circumstances. In the case of the emergency
19 purchase of insurance, the period of coverage of such
20 insurance shall not exceed a period of 30 days, and all such
21 emergency purchases shall be reported to the department.

22 (b) The purchase is made by an agency from a state
23 term contract competitively procured ~~Purchasing agreements and~~
24 ~~contracts executed by the department or by agencies under~~
25 ~~authority delegated by the department in writing are excepted~~
26 ~~from bid requirements.~~

27 (c) Commodities or contractual services available only
28 from a single source may be excepted from the bid requirements
29 if it is determined that such commodities or services are
30 available only from a single source and such determination is
31 documented. However, if such contract is for an amount greater

1 than the threshold amount provided in s. 287.017 for CATEGORY
2 FOUR, the agency head shall file a certification of conditions
3 and circumstances with the department and shall obtain the
4 prior approval of the department. The failure of the
5 department to approve or disapprove the request of an agency
6 for prior approval within 21 days after receiving such request
7 or within 14 days after receiving from the agency additional
8 materials requested by the department shall constitute prior
9 approval of the department. To the greatest extent
10 practicable, but no later than 45 days after authorizing the
11 exception in writing, the department shall combine
12 single-source procurement authorizations for identical
13 information technology resources for which the purchase price
14 exceeds the threshold amount provided in s. 287.017 for
15 CATEGORY FOUR, and shall competitively procure state term
16 contracts ~~negotiate and execute volume purchasing agreements~~
17 for such information technology resources procurements on
18 ~~behalf of the agencies.~~

19 (d) When it is in the best interest of the state, the
20 secretary of the department ~~Management Services~~ or his or her
21 designee may authorize the Support Program to purchase
22 insurance by negotiation, but such purchase shall be made only
23 under conditions most favorable to the public interest.

24 (e) Prescriptive assistive devices for the purpose of
25 medical, developmental, or vocational rehabilitation of
26 clients are excepted from competitive solicitation ~~sealed bid~~
27 ~~and competitive sealed proposal~~ requirements and shall be
28 procured pursuant to an established fee schedule or by any
29 other method which ensures the best price for the state,
30 taking into consideration the needs of the client.
31 Prescriptive assistive devices include, but are not limited

1 to, prosthetics, orthotics, and wheelchairs. For purchases
2 made pursuant to this paragraph, state agencies shall annually
3 file with the department a description of the purchases and
4 methods of procurement.

5 (f) The following contractual services and commodities
6 are not subject to the competitive solicitation ~~sealed bid~~
7 requirements of this section:

8 1. Artistic services.

9 2. Academic program reviews.

10 3. Lectures by individuals.

11 4. Auditing services.

12 5. Legal services, including attorney, paralegal,
13 expert witness, appraisal, or mediator services.

14 6. Health services involving examination, diagnosis,
15 treatment, prevention, medical consultation, or
16 administration.

17 7. Services provided to persons with mental or
18 physical disabilities by not-for-profit corporations which
19 have obtained exemptions under the provisions of s. 501(c)(3)
20 of the United States Internal Revenue Code or when such
21 services are governed by the provisions of Office of
22 Management and Budget Circular A-122. However, in acquiring
23 such services, the agency shall consider the ability of the
24 vendor ~~contractor~~, past performance, willingness to meet time
25 requirements, and price.

26 8. Medicaid services delivered to an eligible Medicaid
27 recipient by a health care provider who has not previously
28 applied for and received a Medicaid provider number from the
29 Agency for Health Care Administration. However, this exception
30 shall be valid for a period not to exceed 90 days after the
31

1 date of delivery to the Medicaid recipient and shall not be
2 renewed by the agency.

3 9. Family placement services.

4 10. Prevention services related to mental health,
5 including drug abuse prevention programs, child abuse
6 prevention programs, and shelters for runaways, operated by
7 not-for-profit corporations. However, in acquiring such
8 services, the agency shall consider the ability of the vendor
9 ~~contractor~~, past performance, willingness to meet time
10 requirements, and price.

11 11. Training and education services provided to
12 injured employees pursuant to s. 440.49(1).

13 12. Contracts entered into pursuant to s. 337.11.

14 13. Services or commodities provided by governmental
15 agencies.

16 (g) Continuing education events or programs that are
17 offered to the general public and for which fees have been
18 collected that pay all expenses associated with the event or
19 program are exempt from requirements for competitive
20 solicitation ~~sealed bidding~~.

21 ~~(7)(5)~~ If less than two responsive bids, or proposals,
22 or replies for commodity or contractual services purchases are
23 received, the department or the agency may negotiate on the
24 best terms and conditions. The department or agency shall
25 document the reasons that such action is in the best interest
26 of the state in lieu of resoliciting competitive sealed bids,
27 ~~or proposals, or replies.~~ Each ~~The~~ agency shall report all
28 such actions to the department on a quarterly basis, in a
29 manner and form prescribed by the department.

30 ~~(8)(6)~~ Upon issuance of any solicitation invitation to
31 ~~bid or request for proposals,~~ an agency shall, upon request by

1 the department, forward to the department one copy of each
2 solicitation invitation to bid or request for proposals for
3 all commodity and contractual services purchases in excess of
4 the threshold amount provided in s. 287.017 for CATEGORY TWO.
5 An agency shall also, upon request, furnish a copy of all
6 competitive solicitation ~~sealed bid or competitive sealed~~
7 ~~proposal~~ tabulations. The Office of Supplier Diversity may
8 also request from the agencies any information submitted to
9 the department pursuant to this subsection.

10 (9)(7)(a) In order to strive to meet the minority
11 business enterprise procurement goals set forth in s.
12 287.09451, an agency may reserve any contract for competitive
13 solicitation ~~sealed bidding~~ only among certified minority
14 business enterprises. Agencies shall review all their
15 contracts each fiscal year and shall determine which contracts
16 may be reserved for solicitation ~~bidding~~ only among certified
17 minority business enterprises. This reservation may only be
18 used when it is determined, by reasonable and objective means,
19 before the solicitation invitation to bid that there are
20 capable, qualified certified minority business enterprises
21 available to submit a bid, proposal, or reply on a contract to
22 provide for effective competition. The Office of Supplier
23 Diversity shall consult with any agency in reaching such
24 determination when deemed appropriate.

25 (b) Before a contract may be reserved for solicitation
26 ~~bidding~~ only among ~~by~~ certified minority business enterprises,
27 the agency head must find that such a reservation is in the
28 best interests of the state. All determinations shall be
29 subject to s. 287.09451(5). Once a decision has been made to
30 reserve a contract, but before sealed bids, proposals, or
31 replies are requested, the agency shall estimate what it

1 expects the amount of the contract to be, based on the nature
2 of the services or commodities involved and their value under
3 prevailing market conditions. If all the sealed bids,
4 proposals, or replies received are over this estimate, the
5 agency may reject the bids, proposals, or replies and request
6 new ones from certified minority business enterprises, or the
7 agency may reject the bids, proposals, or replies and reopen
8 the bidding to all eligible vendors ~~qualified bidders~~.

9 (c) All agencies shall consider the use of price
10 preferences of up to 10 percent, weighted preference formulas,
11 or other preferences for vendors ~~contractors~~ as determined
12 appropriate pursuant to guidelines established in accordance
13 with s. 287.09451(4) to increase the participation of minority
14 business enterprises.

15 (d) All agencies shall avoid any undue concentration
16 of contracts or purchases in categories of commodities or
17 contractual services in order to meet the minority business
18 enterprise purchasing goals in s. 287.09451.

19 ~~(10)(8)~~ An agency may reserve any contract for
20 competitive solicitation ~~sealed bidding~~ only among vendors
21 ~~qualified bidders~~ who agree to use ~~utilize~~ certified minority
22 business enterprises as subcontractors or subvendors. The
23 percentage of funds, in terms of gross contract amount and
24 revenues, which must be expended with the certified minority
25 business enterprise subcontractors and subvendors shall be
26 determined by the agency before such contracts may be
27 reserved. In order to bid on a contract so reserved, the
28 vendor ~~qualified bidder~~ shall identify those certified
29 minority business enterprises which will be utilized as
30 subcontractors or subvendors by sworn statement. At the time
31 of performance or project completion, the contractor shall

1 report by sworn statement the payments and completion of work
2 for all certified minority business enterprises used in the
3 contract.

4 (11)~~(9)~~ An agency shall not divide the procurement of
5 commodities or contractual services so as to avoid the
6 requirements of subsections (1) through (6), ~~(2)~~, and ~~(3)~~.

7 (12)~~(10)~~ A contract for commodities or contractual
8 services may be awarded without competition if state or
9 federal law prescribes with whom the agency must contract or
10 if the rate of payment is established during the
11 appropriations process.

12 (13)~~(11)~~ If two equal responses to a solicitation or a
13 request for quote ~~an invitation to bid or request for~~
14 ~~proposals~~ are received and one response is from a certified
15 minority business enterprise, the agency shall enter into a
16 contract with the certified minority business enterprise.

17 (14)~~(12)~~ Extension of a contract for contractual
18 services shall be in writing for a period not to exceed 6
19 months and shall be subject to the same terms and conditions
20 set forth in the initial contract. There shall be only one
21 extension of a contract unless the failure to meet the
22 criteria set forth in the contract for completion of the
23 contract is due to events beyond the control of the
24 contractor.

25 (15)~~(13)~~ ~~Except for those contracts initially procured~~
26 ~~pursuant to paragraph (3)(a) or paragraph (3)(c),~~ Contracts
27 for commodities or contractual services may be renewed on a
28 yearly basis for no more than 2 years or for a period no
29 longer than the term of the original contract, whichever
30 period is longer. Renewal of a contract for commodities or
31 contractual services shall be in writing and shall be subject

1 to the same terms and conditions set forth in the initial
2 contract. If the commodity or contractual service is
3 purchased as a result of the solicitation of bids,or
4 proposals, or replies, the cost of any contemplated renewals
5 shall be included in the invitation to bid,or request for
6 proposals, or invitation to negotiate. Renewals shall be
7 contingent upon satisfactory performance evaluations by the
8 agency. Exceptional purchase contracts pursuant to s.
9 287.057(6)(a) and (c) may not be renewed.

10 (16)~~(14)~~ For each contractual services contract, the
11 agency shall designate an employee to function as contract
12 manager who shall be responsible for enforcing performance of
13 the contract terms and conditions and serve as a liaison with
14 the contractor. The agency shall establish procedures to
15 ensure that contractual services have been rendered in
16 accordance with the contract terms prior to processing the
17 invoice for payment.

18 (17)~~(15)~~ Each agency shall designate at least one
19 employee who shall serve as a contract administrator
20 responsible for maintaining a contract file and financial
21 information on all contractual services contracts and who
22 shall serve as a liaison with the contract managers and the
23 department.

24 (18) For a contract in excess of the threshold amount
25 provided in s. 287.017 for CATEGORY FOUR, the agency head
26 shall appoint:

27 (a) At least three persons to evaluate proposals and
28 replies who collectively have experience and knowledge in
29 contract procurement and the program areas and service
30 requirements for which commodities or contractual services are
31 sought.

1 (b) At least three persons to conduct negotiations
2 during a competitive sealed reply procurement who collectively
3 have experience and knowledge in negotiating contracts,
4 contract procurement, and the program areas and service
5 requirements for which commodities or contractual services are
6 sought.

7 ~~(16) For requests for proposals, a selection team of~~
8 ~~at least three employees who have experience and knowledge in~~
9 ~~the program areas and service requirements for which~~
10 ~~contractual services are sought shall be appointed by the~~
11 ~~agency head to aid in the selection of contractors for~~
12 ~~contracts of more than the threshold amount provided in s.~~
13 ~~287.017 for CATEGORY FOUR.~~

14 (19)~~(17)~~ A No person who receives a contract that
15 which has not been procured pursuant to subsection (1) through
16 (6), ~~subsection (2), or subsection (3)~~ to perform a
17 feasibility study of the potential implementation of a
18 subsequent contract, who participates ~~participating~~ in the
19 drafting of a solicitation ~~an invitation to bid or request for~~
20 ~~proposals,~~ or who develops ~~developing~~ a program for future
21 implementation, is not ~~shall be~~ eligible to contract with the
22 agency for any other contracts dealing with that specific
23 subject matter, and; ~~nor shall~~ any firm in which such person
24 has any interest is not ~~be~~ eligible to receive such contract.

25 ~~(20)~~(18) Each agency shall establish a review and
26 approval process for all contractual services contracts
27 costing more than the threshold amount provided for in s.
28 287.017 for CATEGORY THREE which shall include, but not be
29 limited to, program, financial, and legal review and approval.
30 Such reviews and approvals shall be obtained before the
31 contract is executed.

1 ~~(19) The department may establish state contractual~~
2 ~~service term contracts. Such contracts may be utilized by any~~
3 ~~agency, county, municipality, or local public agency.~~

4 (21)(20) In any procurement that costs more than the
5 threshold amount provided for in s. 287.017 for CATEGORY TWO
6 and is accomplished without competition, the individuals
7 taking part in the development or selection of criteria for
8 evaluation, the evaluation process, and the award process
9 shall attest in writing that they are independent of, and have
10 no conflict of interest in, the entities evaluated and
11 selected.

12 (22)(21) Nothing in this section shall affect the
13 validity or effect of any contract in existence on October 1,
14 1990.

15 (23)(22) An agency may contract for services with any
16 independent, nonprofit college or university which is located
17 within the state and is accredited by the Southern Association
18 of Colleges and Schools, on the same basis as it may contract
19 with any state university and college institution in the State
20 University System.

21 (24)(23)(a) The department, in consultation with the
22 State Technology Office and the Comptroller, shall develop a
23 program for on-line procurement of commodities and contractual
24 services. To enable the state to promote open competition and
25 to leverage its buying power, ~~executive state~~ agencies shall
26 participate in the on-line procurement program, and eligible
27 users ~~other agencies~~ may participate in the program. Only
28 vendors bidders prequalified as meeting mandatory requirements
29 and qualifications criteria shall be permitted to participate
30 in on-line procurement. The State Technology Office may
31

1 contract for equipment and services necessary to develop and
2 implement on-line procurement.

3 (b) ~~The State Technology Office, in consultation with~~
4 ~~the department, in consultation with the state technology~~
5 office, shall adopt rules, pursuant to ss. 120.536(1) and
6 120.54, to administer ~~implement~~ the program for on-line
7 procurement. The rules shall include, but not be limited to:

8 1. Determining the requirements and qualification
9 criteria for prequalifying vendors ~~bidders~~.

10 2. Establishing the procedures for conducting on-line
11 procurement.

12 3. Establishing the criteria for eligible commodities
13 and contractual services.

14 4. Establishing the procedures for providing access to
15 on-line procurement.

16 5. Determining the criteria warranting any exceptions
17 to participation in the on-line procurement program.

18 (c) ~~The department of Management Services and the~~
19 ~~State Technology Office~~ may collect fees for the use of the
20 on-line procurement systems. The fees may be imposed on an
21 individual transaction basis or as a fixed percentage of the
22 cost savings generated. At a minimum, the fees must be set in
23 an amount sufficient to cover the projected costs of such
24 services, including administrative and project service costs
25 in accordance with the policies of the department ~~of~~
26 ~~Management Services and the State Technology Office~~. For the
27 purposes of compensating the provider, the department may
28 authorize the provider to collect and retain a portion of the
29 fees. The providers may withhold the portion retained from the
30 amount of fees to be remitted to the department. The
31 department may establish ~~negotiate~~ the retainage as a

1 percentage of such fees charged to users, as a flat amount, or
2 as any other method the department deems feasible. All fees
3 and surcharges collected under this paragraph shall be
4 deposited in the Grants and Donation Trust Fund as provided by
5 law.

6 (25)~~(24)~~(a) The State Technology Office shall
7 establish, in consultation with the department, state
8 strategic information technology alliances for the acquisition
9 and use of information technology and related material with
10 prequalified contractors or partners to provide the state with
11 efficient, cost-effective, and advanced information
12 technology.

13 (b) In consultation with and under contract to the
14 State Technology Office, the state strategic information
15 technology alliances shall design, develop, and deploy
16 projects providing the information technology needed to
17 collect, store, and process the state's data and information,
18 provide connectivity, and integrate and standardize computer
19 networks and information systems of the state.

20 (c) The partners in the state strategic information
21 technology alliances shall be industry leaders with
22 demonstrated experience in the public and private sectors.

23 (d) The State Technology Office, in consultation with
24 the department ~~of Management Services~~, shall adopt rules,
25 pursuant to ss. 120.536(1) and 120.54, to administer ~~implement~~
26 the state strategic information technology alliances.

27 Section 10. Section 287.0572, Florida Statutes, is
28 amended to read:

29 287.0572 Present-value methodology.--

30 (1) The cost of bids, or proposals, or replies for
31 state contracts that ~~which require the payment of money for~~

1 ~~more than 1 year and~~ include provisions for unequal payment
2 streams or unequal time payment periods shall be evaluated
3 using present-value methodology. Each agency, as defined in
4 s. 287.012(1), shall perform the evaluation using the
5 present-value discount rate supplied by the department ~~of~~
6 ~~Management Services~~. The present-value discount rate shall be
7 the rate for United States Treasury notes and bonds published
8 in the Interest Rates: Money and Capital Markets section of
9 the most recent copy of the Federal Reserve Bulletin published
10 at the time of issuance of the request for proposals, the
11 invitation to negotiate, or the invitation ~~invitations~~ to bid.

12 (2) The department ~~of Management Services~~ may adopt
13 rules to administer ~~implement the provisions of~~ subsection
14 (1).

15 Section 11. Subsections (1), (4), and (5) of section
16 287.058, Florida Statutes, are amended to read:

17 287.058 Contract document.--

18 (1) Every procurement of contractual services in
19 excess of the threshold amount provided in s. 287.017 for
20 CATEGORY TWO, except for the providing of health and mental
21 health services or drugs in the examination, diagnosis, or
22 treatment of sick or injured state employees or the providing
23 of other benefits as required by the provisions of chapter
24 440, shall be evidenced by a written agreement embodying all
25 provisions and conditions of the procurement of such services,
26 which provisions and conditions shall, where applicable,
27 include, but shall not be limited to:

28 (a) A provision that bills for fees or other
29 compensation for services or expenses be submitted in detail
30 sufficient for a proper preaudit and postaudit thereof.

31

1 (b) A provision that bills for any travel expenses be
2 submitted in accordance with s. 112.061. A state agency may
3 establish rates lower than the maximum provided in s. 112.061.

4 (c) A provision allowing unilateral cancellation by
5 the agency for refusal by the contractor to allow public
6 access to all documents, papers, letters, or other material
7 made or received by the contractor in conjunction with the
8 contract, unless the records are exempt from s. 24(a) of Art.
9 I of the State Constitution and s. 119.07(1).

10 (d) A provision dividing the contract into units of
11 deliverables, which shall include, but not be limited to,
12 reports, findings, and drafts, that must be received and
13 accepted in writing by the contract manager prior to payment.

14 (e) A provision specifying the criteria and the final
15 date by which such criteria must be met for completion of the
16 contract.

17 ~~(f) A provision specifying that the contract may be~~
18 ~~renewed on a yearly basis for a period of up to 2 years after~~
19 ~~the initial contract or for a period no longer than the term~~
20 ~~of the original contract, whichever period is longer,~~
21 ~~specifying the terms under which the cost may change as~~
22 ~~determined in the invitation to bid or request for proposals,~~
23 ~~and specifying that renewals shall be contingent upon~~
24 ~~satisfactory performance evaluations by the agency and subject~~
25 ~~to the availability of funds.~~

26
27 In lieu of a written agreement, the department may authorize
28 the use of a purchase order for classes of contractual
29 services, if provided the provisions of paragraphs (a)-(e)
30 ~~(a)-(f)~~ are included in the purchase order or solicitation,
31 ~~invitation to bid, or request for proposals.~~ The purchase

1 order must ~~shall~~ include, but need not be limited to,an
2 adequate description of the services, the contract period, and
3 the method of payment. In lieu of printing the provisions of
4 paragraphs (a)-(e)(a)-(f) in the contract document or
5 purchase order, agencies may incorporate the requirements of
6 paragraphs (a)-(e)(a)-(f) by reference.

7 (4) Every procurement of contractual services of the
8 value of the threshold amount provided in s. 287.017 for
9 CATEGORY TWO or less, except for the providing of health and
10 mental health services or drugs in the examination, diagnosis,
11 or treatment of sick or injured state employees or the
12 providing of other benefits as required by the provisions of
13 chapter 440, shall be evidenced by a written agreement or
14 purchase order. The written agreement or purchase order must
15 ~~shall~~ contain sufficient detail for a proper audit, must ~~shall~~
16 be signed by purchasing or contracting personnel acting on
17 behalf of the agency, and may contain the provisions and
18 conditions provided in subsection (1).

19 (5) Unless otherwise provided in the General
20 Appropriations Act or the substantive bill implementing the
21 General Appropriations Act, the Comptroller may waive the
22 requirements of this section for services which are included
23 in s. 287.057(6)(f) ~~s. 287.057(4)(f)~~.

24 Section 12. Subsections (1) and (2) of section
25 287.0595, Florida Statutes, are amended to read:

26 287.0595 Pollution response action contracts;
27 department rules.--

28 (1) The Department of Environmental Protection shall
29 establish, through adopting ~~the promulgation of~~ administrative
30 rules as provided in chapter 120:

31

1 (a) Procedures for determining the qualifications of
2 responsible potential vendors ~~bidders~~ prior to advertisement
3 for and receipt of bids, proposals, or replies for pollution
4 response action contracts, including procedures for the
5 rejection of unqualified vendors ~~bidders~~. Response actions are
6 those activities described in s. 376.301(37).

7 (b) Procedures for awarding such contracts to the
8 lowest responsible and responsive vendor ~~qualified bidder~~ as
9 well as procedures to be followed in cases in which the
10 department declares a valid emergency to exist which would
11 necessitate the waiver of the rules governing the awarding of
12 such contracts to the lowest responsible and responsive vendor
13 ~~qualified bidder~~.

14 (c) Procedures governing payment of contracts.

15 (d) Procedures to govern negotiations for contracts,
16 modifications to contract documents, and terms and conditions
17 of contracts.

18 (2) In adopting rules under this section, the
19 Department of Environmental Protection shall follow the
20 criteria applicable to the department's ~~Department of~~
21 ~~Management Services~~ contracting to the maximum extent
22 possible, consistent with the goals and purposes of ss.
23 376.307 and 376.3071.

24 Section 13. Subsection (1) of section 287.064, Florida
25 Statutes, is amended to read:

26 287.064 Consolidated financing of deferred-payment
27 purchases.--

28 (1) The Division of Bond Finance of the State Board of
29 Administration and the Comptroller shall plan and coordinate
30 deferred-payment purchases made by or on behalf of the state
31 or its agencies or by or on behalf of state community colleges

1 participating under this section pursuant to s. 240.319(4)(p).
2 The Division of Bond Finance shall procure, pursuant to s.
3 287.057,~~negotiate~~ and the Comptroller shall execute,
4 agreements and contracts to establish master equipment
5 financing agreements for consolidated financing of
6 deferred-payment, installment sale, or lease purchases with a
7 financial institution or a consortium of financial
8 institutions. As used in this act, the term "deferred-payment"
9 includes installment sale and lease-purchase.

10 (a) The period during which equipment may be acquired
11 under any one master equipment financing agreement shall be
12 limited to not more than 3 years.

13 (b) Repayment of the whole or a part of the funds
14 drawn pursuant to the master equipment financing agreement may
15 continue beyond the period established pursuant to paragraph
16 (a).

17 (c) The interest rate component of any master
18 equipment financing agreement shall be deemed to comply with
19 the interest rate limitation imposed in s. 287.063 so long as
20 the interest rate component of every interagency or community
21 college agreement entered into under such master equipment
22 financing agreement complies with the interest rate limitation
23 imposed in s. 287.063. Such interest rate limitation does not
24 apply when the payment obligation under the master equipment
25 financing agreement is rated by a nationally recognized rating
26 service in any one of the three highest classifications, which
27 rating services and classifications are determined pursuant to
28 rules adopted by the Comptroller.

29 Section 14. Subsections (1), (2), and (3) of section
30 287.073, Florida Statutes, are amended to read:

31

1 287.073 Procurement of information technology
2 resources.--

3 (1) For the purposes of this section, the term
4 "information technology resources" has the same meaning
5 ascribed in s. 282.0041 ~~s. 282.303(12)~~.

6 (2) When an agency can establish precise
7 specifications defining the actual information technology
8 resources that are required and only the price of such
9 resources is the determining factor, the agency shall solicit
10 sealed competitive bids through an invitation to bid, stating
11 in writing the title, date, and hour of the public bid opening
12 and specifically defining the information technology resources
13 for which bids are sought. An invitation to bid shall include
14 instructions prescribing all conditions for bidding and shall
15 be distributed to all prospective vendors ~~bidders~~
16 simultaneously.

17 (3) When an agency determines that there are
18 alternative means by which to meet the agency's requirements
19 for information technology resources, that establishing
20 precise specifications is not practicable, and that other
21 evaluation criteria, in addition to price, will best meet the
22 agency's requirements, the agency may solicit sealed proposals
23 through a request for proposals, stating in writing the title,
24 date, and hour of the public opening. A request for proposals
25 may include, but is not limited to, general information,
26 applicable laws and rules, functional or general
27 specifications, a statement of work, proposal instructions,
28 and evaluation criteria. Evaluation criteria may include, but
29 are not limited to, cost factors, technological assessment,
30 service assessment, reliability assessment, software
31 compatibility, and benchmark performance. To assure full

1 understanding of and responsiveness to the requirements set
2 forth in the request for proposals, the agency may conduct
3 discussions with vendors ~~qualified offerors~~. The department
4 shall assist in such discussions upon the request of an
5 agency. Vendors ~~Qualified offerors~~ shall be accorded fair and
6 equal treatment with respect to any opportunity for discussion
7 and revision of proposals prior to the submittal date
8 specified in the request for proposals. A contract shall be
9 awarded to the responsible and responsive vendor ~~offeror~~ whose
10 proposal is determined to be the most advantageous to the
11 state, taking into consideration price and other evaluation
12 criteria set forth in the request for proposals.

13 Section 15. Section 287.0731, Florida Statutes, is
14 amended to read:

15 287.0731 Team for contract negotiations.--Contingent
16 upon funding in the General Appropriations Act, the department
17 ~~of Management Services, in consultation with the State~~
18 ~~Technology Office,~~ shall establish a permanent team that
19 includes for contract negotiations including a chief
20 negotiator, to specialize in conducting negotiations for the
21 procurement of information technology resources with an
22 invitation to negotiate.

23 Section 16. Section 287.0822, Florida Statutes, is
24 amended to read:

25 287.0822 Beef and pork; prohibition on purchase; bid
26 specifications; penalty.--

27 (1) Fresh or frozen beef or pork that has not been
28 inspected by the United States Department of Agriculture or by
29 another state's inspection program which has been approved by
30 the United States Department of Agriculture shall not be
31 purchased, or caused to be purchased, by any agency of the

1 state or of any municipality, political subdivision, school
2 district, or special district for consumption in this state or
3 for distribution for consumption in this state. Solicitations
4 ~~Bid invitations~~ issued by any agency of the state or of any
5 municipality, political subdivision, school district, or
6 special district for the purchase of fresh or frozen beef or
7 pork must specify that only beef or pork inspected and passed
8 by either the United States Department of Agriculture or by
9 another state's inspection program which has been approved by
10 the United States Department of Agriculture will be accepted.
11 The supplier or vendor shall certify on the invoice that the
12 fresh or frozen beef or pork or imported beef or pork supplied
13 is either domestic or complies with this subsection.

14 (2) All solicitations ~~bid invitations~~ for purchase of
15 fresh or frozen meats of any kind by any agency of the state
16 or of any municipality, political subdivision, school
17 district, or special district using state or local funds shall
18 include the words: " 'All American' and 'Genuine Florida'
19 meats or meat products shall be granted preference as allowed
20 by Section 287.082, Florida Statutes."

21 (3) Any person who knowingly violates or causes to be
22 violated the provisions of this section shall be personally
23 liable to the affected public agency for any funds spent in
24 violation of the provisions of this section.

25 Section 17. Section 287.084, Florida Statutes, is
26 amended to read:

27 287.084 Preference to Florida businesses.--

28 (1) When an agency, county, municipality, school
29 district, or other political subdivision of the state is
30 required to make purchases of personal property through
31 competitive solicitation ~~bidding~~ and the lowest responsible

1 and responsive bid, proposal, or reply is by a vendor ~~bidder~~
2 whose principal place of business is in a state or political
3 subdivision thereof which grants a preference for the purchase
4 of such personal property to a person whose principal place of
5 business is in such state, then the agency, county,
6 municipality, school district, or other political subdivision
7 of this state may award a preference to the lowest responsible
8 and responsive vendor ~~bidder~~ having a principal place of
9 business within this state, which preference is equal to the
10 preference granted by the state or political subdivision
11 thereof in which the lowest responsible and responsive vendor
12 ~~bidder~~ has its ~~his or her~~ principal place of business.
13 However, this section does ~~shall~~ not apply to transportation
14 projects for which federal aid funds are available.

15 (2) If a solicitation ~~an invitation for bids~~ provides
16 for the granting of such preference as is provided in this
17 section herein, any vendor ~~bidder~~ whose principal place of
18 business is outside the State of Florida must accompany any
19 written bid, proposal, or reply documents with a written
20 opinion of an attorney at law licensed to practice law in that
21 foreign state, as to the preferences, if any or none, granted
22 by the law of that state to its own business entities whose
23 principal places of business are in that foreign state in the
24 letting of any or all public contracts.

25 Section 18. Section 287.087, Florida Statutes, is
26 amended to read:

27 287.087 Preference to businesses with drug-free
28 workplace programs.--Whenever two or more bids, proposals, or
29 replies that ~~which~~ are equal with respect to price, quality,
30 and service are received by the state or by any political
31 subdivision for the procurement of commodities or contractual

1 services, a bid, proposal, or reply received from a business
2 that certifies that it has implemented a drug-free workplace
3 program shall be given preference in the award process. In
4 order to have a drug-free workplace program, a business shall:

5 (1) Publish a statement notifying employees that the
6 unlawful manufacture, distribution, dispensing, possession, or
7 use of a controlled substance is prohibited in the workplace
8 and specifying the actions that will be taken against
9 employees for violations of such prohibition.

10 (2) Inform employees about the dangers of drug abuse
11 in the workplace, the business's policy of maintaining a
12 drug-free workplace, any available drug counseling,
13 rehabilitation, and employee assistance programs, and the
14 penalties that may be imposed upon employees for drug abuse
15 violations.

16 (3) Give each employee engaged in providing the
17 commodities or contractual services that are under bid a copy
18 of the statement specified in subsection (1).

19 (4) In the statement specified in subsection (1),
20 notify the employees that, as a condition of working on the
21 commodities or contractual services that are under bid, the
22 employee will abide by the terms of the statement and will
23 notify the employer of any conviction of, or plea of guilty or
24 nolo contendere to, any violation of chapter 893 or of any
25 controlled substance law of the United States or any state,
26 for a violation occurring in the workplace no later than 5
27 days after such conviction.

28 (5) Impose a sanction on, or require the satisfactory
29 participation in a drug abuse assistance or rehabilitation
30 program if such is available in the employee's community by,
31 any employee who is so convicted.

1 (6) Make a good faith effort to continue to maintain a
2 drug-free workplace through implementation of this section.

3 Section 19. Section 287.093, Florida Statutes, is
4 amended to read:

5 287.093 Minority business enterprises; procurement of
6 personal property and services from funds set aside for such
7 purpose.--Any county, municipality, community college, or
8 district school board may set aside up to 10 percent or more
9 of the total amount of funds allocated for the procurement of
10 personal property and services for the purpose of entering
11 into contracts with minority business enterprises. Such
12 contracts shall be competitively solicited ~~bid~~ only among
13 minority business enterprises. The set-aside shall be used to
14 redress present effects of past discriminatory practices and
15 shall be subject to periodic reassessment to account for
16 changing needs and circumstances.

17 Section 20. Paragraphs (n) and (o) of subsection (4)
18 and paragraphs (d) and (e) of subsection (5) of section
19 287.09451, Florida Statutes, are amended to read:

20 287.09451 Office of Supplier Diversity; powers,
21 duties, and functions.--

22 (4) The Office of Supplier Diversity shall have the
23 following powers, duties, and functions:

24 (n)1. To develop procedures to be used by an agency in
25 identifying commodities, contractual services, architectural
26 and engineering services, and construction contracts, except
27 those architectural, engineering, construction, or other
28 related services or contracts subject to the provisions of
29 chapter 339, that could be provided by minority business
30 enterprises. Each agency is encouraged to spend 21 percent of
31 the moneys actually expended for construction contracts, 25

1 percent of the moneys actually expended for architectural and
2 engineering contracts, 24 percent of the moneys actually
3 expended for commodities, and 50.5 percent of the moneys
4 actually expended for contractual services during the previous
5 fiscal year, except for the state university construction
6 program which shall be based upon public education capital
7 outlay projections for the subsequent fiscal year, and
8 reported to the Legislature pursuant to s. 216.023, for the
9 purpose of entering into contracts with certified minority
10 business enterprises as defined in s. 288.703(2), or approved
11 joint ventures. However, in the event of budget reductions
12 pursuant to s. 216.221, the base amounts may be adjusted to
13 reflect such reductions. The overall spending goal for each
14 industry category shall be subdivided as follows:

15 a. For construction contracts: 4 percent for black
16 Americans, 6 percent for Hispanic-Americans, and 11 percent
17 for American women.

18 b. For architectural and engineering contracts: 9
19 percent for Hispanic-Americans, 1 percent for Asian-Americans,
20 and 15 percent for American women.

21 c. For commodities: 2 percent for black Americans, 4
22 percent for Hispanic-Americans, 0.5 percent for
23 Asian-Americans, 0.5 percent for Native Americans, and 17
24 percent for American women.

25 d. For contractual services: 6 percent for black
26 Americans, 7 percent for Hispanic-Americans, 1 percent for
27 Asian-Americans, 0.5 percent for Native Americans, and 36
28 percent for American women.

29 2. For the purposes of commodities contracts for the
30 purchase of equipment to be used in the construction and
31 maintenance of state transportation facilities involving the

1 Department of Transportation, "minority business enterprise"
2 has the same meaning as provided in s. 288.703. "Minority
3 person" has the same meaning as in s. 288.703(3). In order to
4 ensure that the goals established under this paragraph for
5 contracting with certified minority business enterprises are
6 met, the department, with the assistance of the Office of
7 Supplier Diversity, shall make recommendations to the
8 Legislature on revisions to the goals, based on an updated
9 statistical analysis, at least once every 5 years. Such
10 recommendations shall be based on statistical data indicating
11 the availability of and disparity in the use of minority
12 businesses contracting with the state. The results of the
13 first updated disparity study must be presented to the
14 Legislature no later than December 1, 1996.

15 3. In determining the base amounts for assessing
16 compliance with this paragraph, the Office of Supplier
17 Diversity may develop, by rule, guidelines for all agencies to
18 use in establishing such base amounts. These rules must
19 include, but are not limited to, guidelines for calculation of
20 base amounts, a deadline for the agencies to submit base
21 amounts, a deadline for approval of the base amounts by the
22 Office of Supplier Diversity, and procedures for adjusting the
23 base amounts as a result of budget reductions made pursuant to
24 s. 216.221.

25 4. To determine guidelines for the use of price
26 preferences, weighted preference formulas, or other
27 preferences, as appropriate to the particular industry or
28 trade, to increase the participation of minority businesses in
29 state contracting. These guidelines shall include
30 consideration of:

31 a. Size and complexity of the project.

1 b. The concentration of transactions with minority
2 business enterprises for the commodity or contractual services
3 in question in prior agency contracting.

4 c. The specificity and definition of work allocated to
5 participating minority business enterprises.

6 d. The capacity of participating minority business
7 enterprises to complete the tasks identified in the project.

8 e. The available pool of minority business enterprises
9 as prime contractors, either alone or as partners in an
10 approved joint venture that serves as the prime contractor.

11 5. To determine guidelines for use of joint ventures
12 to meet minority business enterprises spending goals. For
13 purposes of this section, "joint venture" means any
14 association of two or more business concerns to carry out a
15 single business enterprise for profit, for which purpose they
16 combine their property, capital, efforts, skills, and
17 knowledge. The guidelines shall allow transactions with joint
18 ventures to be eligible for credit against the minority
19 business enterprise goals of an agency when the contracting
20 joint venture demonstrates that at least one partner to the
21 joint venture is a certified minority business enterprise as
22 defined in s. 288.703, and that such partner is responsible
23 for a clearly defined portion of the work to be performed, and
24 shares in the ownership, control, management,
25 responsibilities, risks, and profits of the joint venture.
26 Such demonstration shall be by verifiable documents and sworn
27 statements and may be reviewed by the Office of Supplier
28 Diversity at or before the time a contract bid, proposal, or
29 reply is submitted. An agency may count toward its minority
30 business enterprise goals a portion of the total dollar amount
31 of a contract equal to the percentage of the ownership and

1 control held by the qualifying certified minority business
2 partners in the contracting joint venture, so long as the
3 joint venture meets the guidelines adopted by the office.
4 (o)1. To establish a system to record and measure the
5 use of certified minority business enterprises in state
6 contracting. This system shall maintain information and
7 statistics on certified minority business enterprise
8 participation, awards, dollar volume of expenditures and
9 agency goals, and other appropriate types of information to
10 analyze progress in the access of certified minority business
11 enterprises to state contracts and to monitor agency
12 compliance with this section. Such reporting must include, but
13 is not limited to, the identification of all subcontracts in
14 state contracting by dollar amount and by number of
15 subcontracts and the identification of the utilization of
16 certified minority business enterprises as prime contractors
17 and subcontractors by dollar amounts of contracts and
18 subcontracts, number of contracts and subcontracts, minority
19 status, industry, and any conditions or circumstances that
20 significantly affected the performance of subcontractors.
21 Agencies shall report their compliance with the requirements
22 of this reporting system at least annually and at the request
23 of the office. All agencies shall cooperate with the office in
24 establishing this reporting system. Except in construction
25 contracting, all agencies shall review contracts costing in
26 excess of CATEGORY FOUR as defined in s. 287.017 to determine
27 if such contracts could be divided into smaller contracts to
28 be separately solicited ~~bid~~ and awarded, and shall, when
29 economical, offer such smaller contracts to encourage minority
30 participation.
31

1 2. To report agency compliance with the provisions of
2 subparagraph 1. for the preceding fiscal year to the Governor
3 and Cabinet, the President of the Senate, the Speaker of the
4 House of Representatives, and the secretary of the Department
5 of Labor and Employment Security on or before February 1 of
6 each year. The report must contain, at a minimum, the
7 following:

8 a. Total expenditures of each agency by industry.

9 b. The dollar amount and percentage of contracts
10 awarded to certified minority business enterprises by each
11 state agency.

12 c. The dollar amount and percentage of contracts
13 awarded indirectly to certified minority business enterprises
14 as subcontractors by each state agency.

15 d. The total dollar amount and percentage of contracts
16 awarded to certified minority business enterprises, whether
17 directly or indirectly, as subcontractors.

18 e. A statement and assessment of good faith efforts
19 taken by each state agency.

20 f. A status report of agency compliance with
21 subsection (6), as determined by the Minority Business
22 Enterprise Office.

23 (5)

24 (d) If ~~Should~~ the proposed procurement proceeds
25 ~~proceed~~ to competitive solicitation bidding, the office is
26 hereby granted standing to protest, pursuant to this section,
27 in a timely manner, any contract award during ~~in~~ competitive
28 solicitation bidding for contractual services and construction
29 contracts that fail to include minority business enterprise
30 participation, if any responding vendor bidder has
31 demonstrated the ability to achieve any level of

1 participation, or, any contract award for commodities where, a
2 reasonable and economical opportunity to reserve a contract,
3 statewide or district level, for minority participation was
4 not executed or, an agency failed to adopt an applicable
5 preference for minority participation. The bond requirement
6 shall be waived for the office purposes of this subsection.

7 (e) An agency may presume that a vendor bidder
8 offering no minority participation has not made a good faith
9 effort when other vendors bidders offer minority participation
10 of firms listed as relevant to the agency's purchasing needs
11 in the pertinent locality or statewide to complete the
12 project.

13 Section 21. Paragraph (g) of subsection (1),
14 subsection (2), and paragraphs (a) and (d) of subsection (3)
15 of section 287.133, Florida Statutes, are amended to read:

16 287.133 Public entity crime; denial or revocation of
17 the right to transact business with public entities.--

18 (1) As used in this section:

19 (g) "Public entity crime" means a violation of any
20 state or federal law by a person with respect to and directly
21 related to the transaction of business with any public entity
22 or with an agency or political subdivision of any other state
23 or with the United States, including, but not limited to, any
24 bid, proposal, reply, or contract for goods or services, any
25 lease for real property, or any contract for the construction
26 or repair of a public building or public work, involving
27 antitrust, fraud, theft, bribery, collusion, racketeering,
28 conspiracy, or material misrepresentation.

29 (2)(a) A person or affiliate who has been placed on
30 the convicted vendor list following a conviction for a public
31 entity crime may not submit a bid, proposal, or reply on a

1 contract to provide any goods or services to a public entity;~~;~~
2 may not submit a bid, proposal, or reply on a contract with a
3 public entity for the construction or repair of a public
4 building or public work;~~;~~ may not submit bids, proposals, or
5 replies on leases of real property to a public entity;~~;~~ may
6 not be awarded or perform work as a contractor, supplier,
7 subcontractor, or consultant under a contract with any public
8 entity;~~;~~ and may not transact business with any public entity
9 in excess of the threshold amount provided in s. 287.017 for
10 CATEGORY TWO for a period of 36 months following ~~from~~ the date
11 of being placed on the convicted vendor list.

12 (b) A ~~No~~ public entity may not ~~shall~~ accept any bid,
13 proposal, or reply from, award any contract to, or transact
14 any business in excess of the threshold amount provided in s.
15 287.017 for CATEGORY TWO with any person or affiliate on the
16 convicted vendor list for a period of 36 months following ~~from~~
17 the date that person or affiliate was placed on the convicted
18 vendor list unless that person or affiliate has been removed
19 from the list pursuant to paragraph (3)(f). A ~~No~~ public
20 entity that ~~which~~ was transacting business with a person at
21 the time of the commission of a public entity crime resulting
22 ~~which resulted~~ in that person being placed on the convicted
23 vendor list may not ~~shall~~ accept any bid, proposal, or reply
24 from, award any contract to, or transact any business with any
25 other person who is under the same, or substantially the same,
26 control as the person whose name appears on the convicted
27 vendor list so long as that person's name appears on the
28 convicted vendor list.

29 (3)(a) All invitations to bid as defined by s.
30 287.012(15) ~~s. 287.012(11)~~, requests for proposals as defined
31 by s. 287.012(21) ~~s. 287.012(15)~~, invitations to negotiate as

1 defined by s. 287.012(16), and any contract document of the
2 state must described by s. 287.058 shall contain a statement
3 informing persons of the provisions of paragraph (2)(a).

4 (d) The department shall maintain a list of the names
5 and addresses of those who have been disqualified from the
6 public contracting and purchasing process under this section.
7 The department shall publish an initial list on January 1,
8 1990, and shall publish an updated version of the list
9 quarterly thereafter. The ~~initial list and~~ revised quarterly
10 lists shall be published in the Florida Administrative Weekly.
11 Notwithstanding this paragraph, a person or affiliate
12 disqualified from the public contracting and purchasing
13 process pursuant to this section shall be disqualified as of
14 the date the final order is entered.

15 Section 22. Subsection (2) and paragraphs (a) and (c)
16 of subsection (3) of section 287.134, Florida Statutes, are
17 amended to read:

18 287.134 Discrimination; denial or revocation of the
19 right to transact business with public entities.--

20 (2)(a) An entity or affiliate who has been placed on
21 the discriminatory vendor list may not submit a bid, proposal,
22 or reply on a contract to provide any goods or services to a
23 public entity; ~~may not submit a bid, proposal, or reply~~ on a
24 contract with a public entity for the construction or repair
25 of a public building or public work; ~~may not submit bids,~~
26 proposals, or replies on leases of real property to a public
27 entity; ~~may not be awarded or perform work as a contractor,~~
28 supplier, subcontractor, or consultant under a contract with
29 any public entity; ~~and may not transact business with any~~
30 public entity.

31

1 (b) A No public entity may not shall accept any bid,
2 proposals, or replies from, award any contract to, or transact
3 any business with any entity or affiliate on the
4 discriminatory vendor list for a period of 36 months following
5 from the date that entity or affiliate was placed on the
6 discriminatory vendor list unless that entity or affiliate has
7 been removed from the list pursuant to paragraph (3)(f). A No
8 public entity that which was transacting business with an
9 entity at the time of the discrimination resulting which
10 resulted in that entity being placed on the discriminatory
11 vendor list may not shall accept any bid, proposal, or reply
12 from, award any contract to, or transact any business with any
13 other entity who is under the same, or substantially the same,
14 control as the entity whose name appears on the discriminatory
15 vendor list so long as that entity's name appears on the
16 discriminatory vendor list.

17 (3)(a) All invitations to bid, as defined by s.
18 287.012(15)~~s. 287.012(11)~~, requests for proposals, as defined
19 by s. 287.012(21)~~s. 287.012(15)~~, invitations to negotiate as
20 defined by s. 287.012(16), and any written contract document
21 of the state must shall contain a statement informing entities
22 of the provisions of paragraph (2)(a).

23 (c) The department shall maintain a list of the names
24 and addresses of any entity which has been disqualified from
25 the public contracting and purchasing process under this
26 section. The department shall publish an initial list on
27 January 1, 2001, and shall publish an updated version of the
28 list quarterly thereafter. ~~The initial list and revised~~
29 quarterly lists shall be published in the Florida
30 Administrative Weekly. Notwithstanding this paragraph, an
31 entity or affiliate disqualified from the public contracting

1 and purchasing process pursuant to this section shall be
2 disqualified as of the date the final order is entered.

3 Section 23. Section 287.1345, Florida Statutes, is
4 amended to read:

5 287.1345 Surcharge on users of state term contracts;
6 deposit of proceeds collected.--The department of ~~Management~~
7 ~~Services~~ may impose a surcharge upon users of state term
8 contracts in order to fund the costs, including overhead, of
9 its procurement function. The department may provide for the
10 state term contract vendor to collect the surcharge or
11 directly collect the fee from the public agency or eligible
12 user involved. For the purpose of compensating vendors for
13 expenses incurred in collecting such fees, the department may
14 authorize a vendor to retain a portion of the fees. The
15 vendor may withhold the portion retained from the amount of
16 fees to be remitted to the department. The department may
17 establish ~~negotiate~~ the retainage as a percentage of such fees
18 charged to users, as a flat amount, or as any other method the
19 department deems feasible. Vendors shall maintain accurate
20 sales summaries for purchases made from state term contracts
21 and shall provide the summaries to the department on a
22 quarterly basis. Any contract remedies relating to the
23 collection of such fees from users through vendors are
24 enforceable, including, but not limited to, liquidated
25 damages, late fees, and the costs of collection, including
26 attorney's fees. The fees collected pursuant to this section
27 shall be deposited into the Grants and Donations Trust Fund of
28 the department and are subject to appropriation as provided by
29 law. The Executive Office of the Governor may exempt
30 transactions from the payment of the surcharge if payment of
31 such surcharge would cause the state, a political subdivision,

1 or unit of local government to lose federal funds or in other
2 cases where such exemption is in the public interest. The
3 fees collected pursuant to this section and interest income on
4 such fees shall not be deemed to be income of a revenue nature
5 for purposes of chapter 215.

6 Section 24. Subsection (1) of section 283.33, Florida
7 Statutes, is amended to read:

8 283.33 Printing of publications; lowest bidder
9 awards.--

10 (1) Publications may be printed and prepared in-house,
11 by another agency or the Legislature, or purchased on bid,
12 whichever is more economical and practicable as determined by
13 the agency. An agency may contract for binding separately
14 when more economical or practicable, whether or not the
15 remainder of the printing is done in-house. A bidder may
16 subcontract for binding and still be considered a qualified
17 bidder or offeror, ~~notwithstanding s. 287.012(13).~~

18 Section 25. This act shall take effect July 1, 2002.

19

20 *****

21 SENATE SUMMARY

22 Revises various provisions governing state procurement of
23 property and services. Revises requirements for
24 protesting a contract solicitation or award. Provides
25 additional duties of the Department of Management
26 Services with respect to securing solicitations,
27 conducting negotiations, and awarding contracts. Requires
28 that the department develop methods for conducting
29 question and answer sessions regarding solicitations.
30 Authorizes the Office of Supplier Diversity to consult
31 with the department regarding bid-distribution
procedures. Provides for rules to be distributed to
agencies via an electronic medium. Requires written
documentation of certain agency decisions. Provides for
agencies to use a request for quote to obtain pricing
information. Provides requirements for amendments to a
solicitation, emergency procurements, and procurements
from a single source. Requires the evaluation of the cost
of state contracts using present-value methodology. (See
bill for details.)