

By the Committee on Governmental Oversight and Productivity

302-2251B-02

1                                   A bill to be entitled  
2           An act relating to state procurement; amending  
3           s. 61.1826, F.S.; conforming a cross-reference  
4           to changes made by this act; amending s.  
5           120.57, F.S.; specifying the manner in which  
6           notice of decisions and intended decisions  
7           concerning procurement are to be provided;  
8           defining the term "electronically post";  
9           providing procedures applicable to a protest of  
10          a contract solicitation or award; specifying  
11          the type of notice that starts the time for  
12          filing a notice of protest; providing that  
13          state holidays are not included in the time for  
14          filing a notice of protest; specifying the  
15          types of submissions that may be considered in  
16          a protest; clarifying and conforming  
17          provisions; amending ss. 283.32, 283.33,  
18          283.34, 283.35, F.S.; conforming the sections  
19          to changes made by the act; conforming a  
20          cross-reference; amending s. 287.001, F.S.;  
21          clarifying legislative intent with respect to  
22          state procurement; amending s. 287.012, F.S.;  
23          revising definitions; defining additional  
24          terms; amending s. 287.017, F.S.; eliminating  
25          the requirement for annual adjustments of  
26          purchasing categories; amending 287.022, F.S.;  
27          conforming a cross-reference to changes made by  
28          the act; amending ss. 287.032, 287.042, F.S.;  
29          revising the purpose, duties, and functions of  
30          the Department of Management Services;  
31          clarifying and conforming provisions; providing

1 procedures for the listing of commodities and  
2 services offered by certain nonprofit agencies  
3 organized pursuant to ch. 413, F.S.; providing  
4 that eligible users may purchase from state  
5 term contracts; providing that the protest bond  
6 amount shall be a specified percentage of the  
7 estimated contract amount; providing that  
8 official bank checks may be accepted in lieu of  
9 a bond; providing for prevailing party's  
10 attorney's fees; requiring the department to  
11 develop procedures for issuing solicitations,  
12 requests for information, and requests for  
13 quotes; prescribing the manner in which  
14 solicitations are to be noticed; providing an  
15 exception for the 10-day notice requirement for  
16 solicitations; requiring the department to  
17 develop procedures for electronic posting;  
18 requiring the department to develop methods for  
19 conducting question-and-answer sessions  
20 regarding solicitations; providing that the  
21 Office of Supplier Diversity may consult with  
22 the department regarding solicitation  
23 distribution procedures; providing that rules  
24 may be distributed to agencies via an  
25 electronic medium; requiring written  
26 documentation of certain agency decisions;  
27 eliminating the department's responsibilities  
28 for the management of state surplus property;  
29 amending s. 287.045, F.S., relating to the  
30 procurement of products and materials with  
31 recycled content; clarifying and conforming

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

1 clarifying that exceptional purchase contracts  
2 may not be renewed; conforming cross-references  
3 to changes made by the act; amending s.  
4 287.059, F.S.; clarifying and conforming  
5 provisions; amending s. 287.0595, F.S.;  
6 revising requirements for the Department of  
7 Environmental Protection with respect to  
8 contracts for pollution response; clarifying  
9 and conforming provisions; repealing s.  
10 287.073, F.S., relating to the procurement of  
11 information technology resources; amending s.  
12 287.0731, F.S.; revising requirements for a  
13 team for contract negotiations; amending ss.  
14 287.0822, 287.084, 287.087, 287.093, 287.09451,  
15 F.S., relating to procurement of beef and pork,  
16 preference for state businesses and businesses  
17 with drug-free-workplace programs, minority  
18 business enterprises, and the Office of  
19 Supplier Diversity; clarifying and conforming  
20 provisions to changes made by the act;  
21 repealing s. 287.121, F.S., relating to  
22 assistance by the Department of Legal Affairs;  
23 amending ss. 287.133, 287.134, F.S., relating  
24 to prohibitions on the transaction of business  
25 with certain entities convicted of  
26 public-entity crimes and entities that have  
27 engaged in discrimination; clarifying and  
28 conforming provisions; amending s. 287.1345,  
29 F.S., relating to the surcharge on users of  
30 state term contracts; authorizing the  
31 Department of Management Services to collect

1 surcharges from eligible users; amending s.  
2 373.610, F.S.; clarifying that the provision  
3 applies to contractors; amending s. 373.611,  
4 F.S.; providing that water management districts  
5 may contract to limit damages recoverable from  
6 certain entities during procurement; amending  
7 ss. 394.457, 394.47865, 402.73, 408.045,  
8 445.024, 455.2177, F.S., relating to the power  
9 to contract by the Department of Children and  
10 Family Services, the Agency for Health Care  
11 Administration, the Regional Work Force Boards,  
12 and the Department of Business and Professional  
13 Regulation and their power to privatize and  
14 procure; conforming cross-references;  
15 clarifying and conforming provisions; amending  
16 s. 413.036, F.S.; providing that ch. 287, F.S.,  
17 does not apply to purchases made from certain  
18 nonprofit agencies; specifying provisions  
19 required to be contained in certain state  
20 procurement contracts; providing an effective  
21 date.

22

23 Be It Enacted by the Legislature of the State of Florida:

24

25 Section 1. Paragraph (e) of subsection (1) of section  
26 61.1826, Florida Statutes, is amended to read:

27 61.1826 Procurement of services for State Disbursement  
28 Unit and the non-Title IV-D component of the State Case  
29 Registry; contracts and cooperative agreements; penalties;  
30 withholding payment.--

31

1           (1) LEGISLATIVE FINDINGS.--The Legislature finds that  
2 the clerks of court play a vital role, as essential  
3 participants in the establishment, modification, collection,  
4 and enforcement of child support, in securing the health,  
5 safety, and welfare of the children of this state. The  
6 Legislature further finds and declares that:

7           (e) The potential loss of substantial federal funds  
8 poses a direct and immediate threat to the health, safety, and  
9 welfare of the children and citizens of the state and  
10 constitutes an emergency for purposes of s. 287.057(5)(a)~~s.~~  
11 ~~287.057(4)(a)~~.

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

14           120.57 Additional procedures for particular cases.--

15           (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO  
16 CONTRACT SOLICITATION ~~BIDDING~~ OR AWARD.--Agencies subject to  
17 this chapter shall use ~~utilize~~ the uniform rules of procedure,  
18 which provide procedures for the resolution of protests  
19 arising from the contract solicitation or award ~~bidding~~  
20 process. Such rules shall at least provide that:

21           (a) The agency shall provide notice of a ~~its~~ decision  
22 or intended decision concerning a ~~bid~~ solicitation, ~~or a~~  
23 contract award, or exceptional purchase by electronic posting.  
24 This notice shall contain the following statement: "Failure to  
25 file a protest within the time prescribed in section  
26 120.57(3), Florida Statutes, shall constitute a waiver of  
27 proceedings under chapter 120, Florida Statutes."~~as follows:~~

28           ~~1. For a bid solicitation, notice of a decision or~~  
29 ~~intended decision shall be given by United States mail or by~~  
30 ~~hand delivery.~~

1           ~~2. For any decision of the Department of Management~~  
2 ~~Services concerning a request by an agency for approval of an~~  
3 ~~exceptional purchase under part I of chapter 287 and the rules~~  
4 ~~of the Department of Management Services, notice of a decision~~  
5 ~~or intended decision shall be given by posting such notice in~~  
6 ~~the office of the Department of Management Services.~~

7           ~~3. For any other agency decision, notice of a decision~~  
8 ~~or intended decision shall be given either by posting the bid~~  
9 ~~tabulation at the location where the bids were opened or by~~  
10 ~~certified United States mail or other express delivery~~  
11 ~~service, return receipt requested.~~

12  
13 ~~The notice required by this paragraph shall contain the~~  
14 ~~following statement: "Failure to file a protest within the~~  
15 ~~time prescribed in s. 120.57(3), Florida Statutes, shall~~  
16 ~~constitute a waiver of proceedings under chapter 120, Florida~~  
17 ~~Statutes."~~

18           (b) Any person who is adversely affected by the agency  
19 decision or intended decision shall file with the agency a  
20 notice of protest in writing within 72 hours after the posting  
21 of the notice of decision or intended decision bid tabulation  
22 ~~or after receipt of the notice of the agency decision or~~  
23 ~~intended decision and shall file a formal written protest~~  
24 ~~within 10 days after filing the notice of protest. With~~  
25 ~~respect to a protest of the terms, conditions, and~~  
26 ~~specifications contained in a solicitation, including any~~  
27 ~~provisions governing the methods for ranking bids, proposals,~~  
28 ~~or replies, awarding contracts, reserving rights of further~~  
29 ~~negotiation, or modifying or amending any contract ~~an~~~~  
30 ~~invitation to bid or in a request for proposals, the notice of~~  
31 ~~protest shall be filed in writing within 72 hours after the~~

1 ~~posting receipt of notice~~ of the solicitation.~~project plans~~  
2 ~~and specifications in an invitation to bid or request for~~  
3 ~~proposals,~~ and The formal written protest shall be filed  
4 within 10 days after the date the notice of protest is filed.  
5 Failure to file a notice of protest or failure to file a  
6 formal written protest shall constitute a waiver of  
7 proceedings under this chapter. The formal written protest  
8 shall state with particularity the facts and law upon which  
9 the protest is based. Saturdays, Sundays, and state legal  
10 holidays shall be excluded in the computation of the 72-hour  
11 time periods provided by this paragraph.

12 (c) Upon receipt of the formal written protest that  
13 ~~which~~ has been timely filed, the agency shall stop the ~~bid~~  
14 ~~solicitation process~~ or ~~the~~ contract award process until the  
15 subject of the protest is resolved by final agency action,  
16 unless the agency head sets forth in writing particular facts  
17 and circumstances which require the continuance of the ~~bid~~  
18 ~~solicitation process~~ or ~~the~~ contract award process without  
19 delay in order to avoid an immediate and serious danger to the  
20 public health, safety, or welfare.

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

25 2. If the subject of a protest is not resolved by  
26 mutual agreement within 7 days, excluding Saturdays, Sundays,  
27 and state legal holidays, after receipt of the formal written  
28 protest, and if there is no disputed issue of material fact,  
29 an informal proceeding shall be conducted pursuant to  
30 subsection (2) and applicable agency rules before a person  
31



1 whose qualifications have been prescribed by rules of the  
2 agency.

3 3. If the subject of a protest is not resolved by  
4 mutual agreement within 7 days, excluding Saturdays, Sundays,  
5 and state legal ~~legal~~ holidays, after receipt of the formal written  
6 protest, and if there is a disputed issue of material fact,  
7 the agency shall refer the protest to the division for  
8 proceedings under subsection (1).

9 (e) Upon receipt of a formal written protest referred  
10 pursuant to this subsection, the director of the division  
11 shall expedite the hearing and assign an administrative law  
12 judge who shall commence a hearing within 30 days after the  
13 receipt of the formal written protest by the division and  
14 enter a recommended order within 30 days after the hearing or  
15 within 30 days after receipt of the hearing transcript by the  
16 administrative law judge, whichever is later. Each party shall  
17 be allowed 10 days in which to submit written exceptions to  
18 the recommended order. A final order shall be entered by the  
19 agency within 30 days of the entry of a recommended order. The  
20 provisions of this paragraph may be waived upon stipulation by  
21 all parties.

22 (f) In a protest to an invitation to bid or request  
23 for proposals procurement ~~competitive-procurement~~ protest, no  
24 submissions made after the bid or proposal opening which amend  
25 or supplement ~~amending or supplementing~~ the bid or proposal  
26 shall be considered. In a protest to an invitation to  
27 negotiate procurement, no submissions made after the agency  
28 announces its intent to award a contract, reject all replies,  
29 or withdraw the solicitation which amend or supplement the  
30 reply shall be considered. Unless otherwise provided by  
31 statute, the burden of proof shall rest with the party

1 protesting the proposed agency action. In a  
2 competitive-procurement protest, other than a rejection of all  
3 bids, proposals, or replies, the administrative law judge  
4 shall conduct a de novo proceeding to determine whether the  
5 agency's proposed action is contrary to the agency's governing  
6 statutes, the agency's rules or policies, or the solicitation  
7 ~~bid or proposal~~ specifications. The standard of proof for such  
8 proceedings shall be whether the proposed agency action was  
9 clearly erroneous, contrary to competition, arbitrary, or  
10 capricious. In any bid-protest proceeding contesting an  
11 intended agency action to reject all bids, proposals, or  
12 replies, the standard of review by an administrative law judge  
13 shall be whether the agency's intended action is illegal,  
14 arbitrary, dishonest, or fraudulent.

15 (g) For purposes of this subsection, the definitions  
16 in s. 287.012 apply.

17 Section 3. Section 283.32, Florida Statutes, is  
18 amended to read:

19 283.32 Recycled paper to be used by each agency;  
20 printing bids certifying use of recycled paper; percentage  
21 preference in awarding contracts.--

22 (1) Each agency shall purchase, when economical,  
23 recycled paper if and when recycled paper can be obtained that  
24 is of adequate quality for the purposes of the agency.

25 (2) Each agency shall require ~~that~~ a vendor that  
26 ~~person who~~ submits a bid for a contract for printing and that  
27 ~~who~~ wishes to be considered for the price preference described  
28 in s. 287.045 to ~~shall~~ certify in writing the percentage of  
29 recycled content of the material used for such printing. Such  
30 vendor person may certify that the material contains no  
31 recycled content.

1           (3) Upon evaluation of bids for each printing  
2 contract, the agency shall identify the lowest responsive bid  
3 ~~bidder~~ and any other responsive bids in which it has been  
4 ~~bidders who have~~ certified that the materials used in printing  
5 contain at least the minimum percentage of recycled content  
6 that is set forth by the department. In awarding a contract  
7 for printing, the agency may allow up to a 10-percent price  
8 preference, as provided in s. 287.045, to a responsible and  
9 responsive vendor that ~~bidder who~~ has certified that the  
10 materials used in printing contain at least the minimum  
11 percentage of recycled content established by the department.  
12 If no vendors ~~bidders~~ offer materials for printing that  
13 contain the minimum prescribed recycled content, the contract  
14 shall be awarded to the responsible vendor that submits the  
15 lowest responsive bid ~~qualified bidder~~.

16           Section 4. Section 283.33, Florida Statutes, is  
17 amended to read:

18           283.33 Printing of publications; lowest bidder  
19 awards.--

20           (1) Publications may be printed and prepared in-house,  
21 by another agency or the Legislature, or purchased on bid,  
22 whichever is more economical and practicable as determined by  
23 the agency. An agency may contract for binding separately when  
24 more economical or practicable, whether or not the remainder  
25 of the printing is done in-house. A vendor ~~bidder~~ may  
26 subcontract for binding and still be considered a responsible  
27 vendor ~~qualified bidder or offeror~~, notwithstanding s.  
28 287.012(24) ~~s. 287.012(13)~~.

29           (2) All printing of publications that cost in excess  
30 of the threshold amount provided in s. 287.017 for CATEGORY  
31 TWO and purchased by agencies shall be let upon contract to

1 the vendor that submits the lowest responsive bid and that  
2 will bidder, who shall furnish all materials used in printing.  
3 Such contract shall specify a definite term and a definite  
4 number of copies.

5 (3) Except as otherwise provided for in this part, a  
6 contract for printing of a publication shall be subject to,  
7 when applicable, the definitions in s. 287.012, and shall be  
8 considered a commodity for that purpose.

9 (4) The provisions of s. 946.515(4) shall not apply to  
10 purchases of printing.

11 Section 5. Section 283.34, Florida Statutes, is  
12 amended to read:

13 283.34 State officers not to have interests in  
14 printing contract.--No member of the Legislature or other  
15 officer of this state may have an interest, directly or  
16 indirectly, in any printing contract as provided for in s.  
17 283.33; however, nothing in this section prohibits a member of  
18 the Legislature from receiving such a contract when the member  
19 or his or her firm has submitted the lowest responsive bid ~~is~~  
20 ~~the lowest bidder of all bidders submitting competitive bids~~  
21 for the contract.

22 Section 6. Section 283.35, Florida Statutes, is  
23 amended to read:

24 283.35 Preference given printing within the  
25 state.--Every agency shall give preference to vendors ~~bidders~~  
26 located within the state when awarding contracts to have  
27 materials printed, whenever such printing can be done at no  
28 greater expense than the expense of awarding a contract to a  
29 vendor bidder located outside the state and can be done at a  
30 level of quality comparable to that obtainable from a vendor  
31 ~~bidder~~ located outside the state.

1           Section 7. Section 287.001, Florida Statutes, is  
2 amended to read:

3           287.001 Legislative intent.--The Legislature  
4 recognizes that fair and open competition is a basic tenet of  
5 public procurement; that such competition reduces the  
6 appearance and opportunity for favoritism and inspires public  
7 confidence that contracts are awarded equitably and  
8 economically; and that documentation of the acts taken and  
9 effective monitoring mechanisms are important means of curbing  
10 any improprieties and establishing public confidence in the  
11 process by which commodities and contractual services are  
12 procured. It is essential to the effective and ethical  
13 procurement of commodities and contractual services that there  
14 be a system of uniform procedures to be utilized by state  
15 agencies in managing and procuring commodities and contractual  
16 services; that detailed justification of agency decisions in  
17 the procurement of commodities and contractual services be  
18 maintained; and that adherence by the agency and the vendor  
19 ~~contractor~~ to specific ethical considerations be required.

20           Section 8. Section 287.012, Florida Statutes, is  
21 amended to read:

22           287.012 Definitions.--As used ~~The following~~  
23 ~~definitions shall apply~~ in this part, the term:

24           (1) "Agency" means any of the various state officers,  
25 departments, boards, commissions, divisions, bureaus, and  
26 councils and any other unit of organization, however  
27 designated, of the executive branch of state government.

28 "Agency" does not include the University and College Boards of  
29 Trustees or the state universities and colleges ~~Board of~~  
30 ~~Regents or the State University System.~~

31

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

4           (3) "Artist" means an individual or group of  
5 individuals who profess and practice a demonstrated creative  
6 talent and skill in the area of music, dance, drama, folk art,  
7 creative writing, painting, sculpture, photography, graphic  
8 arts, craft arts, industrial design, costume design, fashion  
9 design, motion pictures, television, radio, or tape and sound  
10 recording or in any other related field.

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

14           (5)~~(4)~~ "Commodity" means any of the various supplies,  
15 materials, goods, merchandise, food, equipment, information  
16 technology, and other personal property, including a mobile  
17 home, trailer, or other portable structure with floor space of  
18 less than 5,000 ~~3,000~~ square feet, purchased, leased, or  
19 otherwise contracted for by the state and its agencies.  
20 "Commodity" also includes interest on deferred-payment  
21 commodity contracts approved pursuant to s. 287.063 entered  
22 into by an agency for the purchase of other commodities.  
23 However, commodities purchased for resale are excluded from  
24 this definition. Further, a prescribed drug, medical supply,  
25 or device required by a licensed health care provider as a  
26 part of providing health services involving examination,  
27 diagnosis, treatment, prevention, medical consultation, or  
28 administration for clients at the time the service is provided  
29 is not considered to be a "commodity." Printing of  
30 publications shall be considered a commodity when let upon  
31

1 contract pursuant to s. 283.33, whether purchased for resale  
2 or not.

3 (6)~~(5)~~ "Competitive sealed bids," or "competitive  
4 sealed proposals," or "competitive sealed replies" mean the  
5 process of receiving ~~refers to the receipt of~~ two or more  
6 sealed bids,~~or proposals, or replies~~ submitted by responsive  
7 vendors ~~and qualified bidders or offerors~~ and includes bids,  
8 ~~or proposals, or replies~~ transmitted by electronic means in  
9 lieu of or in addition to written bids,~~or proposals, or~~  
10 replies.

11 (7) "Competitive solicitation" or "solicitation" means  
12 an invitation to bid, a request for proposals, or an  
13 invitation to negotiate.

14 (8)~~(6)~~ "Contractor" means a person who contracts to  
15 sell commodities or contractual services to an agency.

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

31

1 property entered into pursuant to chapter 255 and rules  
2 adopted thereunder.

3 (10)~~(8)~~ "Department" means the Department of  
4 Management Services.

5 (11) "Electronic posting" or "electronically post"  
6 means the posting of solicitations, agency decisions or  
7 intended decisions, or other matters relating to procurement  
8 on a centralized Internet website designated by the department  
9 for this purpose.

10 (12) "Eligible user" means any person or entity  
11 authorized by the department pursuant to rule to purchase from  
12 state term contracts or to use the on-line procurement system.

13 (13)~~(9)~~ "Exceptional purchase" means any purchase of  
14 commodities or contractual services excepted by law or rule  
15 from the requirements for competitive solicitation ~~or~~  
16 ~~acquisition~~, including, but not limited to, purchases from a  
17 single source; ~~purchases upon receipt of less than two~~  
18 ~~responsive bids, or proposals, or replies; purchases made by~~  
19 ~~an agency, after receiving approval from the department, from~~  
20 ~~a contract procured, pursuant to s. 287.057(1), (2), or (3),~~  
21 ~~by another agency; and purchases made without advertisement in~~  
22 ~~the manner required by s. 287.042(3)(b) without publication of~~  
23 ~~notice in the Florida Administrative Weekly, and exceptions~~  
24 ~~granted by the department for a purchase of commodities from~~  
25 ~~other than a state term contract vendor.~~

26 (14)~~(10)~~ "Extension" means an increase in the time  
27 allowed for the contract period due to circumstances which,  
28 without fault of either party, make performance impracticable  
29 or impossible, or which prevent a new contract from being  
30 executed, with or without a proportional increase in the total  
31



1 dollar amount, with any increase to be based on the method and  
2 rate previously established in the contract.

3 (15) "Information technology" has the meaning ascribed  
4 in s. 282.0041.

5 (16)~~(11)~~ "Invitation to bid" means a written  
6 solicitation for competitive sealed bids ~~with the title, date,~~  
7 ~~and hour of the public bid opening designated and specifically~~  
8 ~~defining the commodity, group of commodities, or services for~~  
9 ~~which bids are sought. It includes instructions prescribing~~  
10 ~~all conditions for bidding and shall be distributed to all~~  
11 ~~prospective bidders simultaneously.~~ The invitation to bid is  
12 used when the agency is capable of specifically defining the  
13 scope of work for which a contractual service is required or  
14 when the agency is capable of establishing precise  
15 specifications defining the actual commodity or group of  
16 commodities required. A written solicitation includes a  
17 solicitation that is electronically posted ~~published or~~  
18 ~~transmitted by electronic means.~~

19 (17) "Invitation to negotiate" means a written  
20 solicitation for competitive sealed replies to select one or  
21 more vendors with which to commence negotiations for the  
22 procurement of commodities or contractual services. The  
23 invitation to negotiate is used when the agency determines  
24 that negotiations may be necessary for the state to receive  
25 the best value. A written solicitation includes a solicitation  
26 that is electronically posted.

27 (18)~~(12)~~ "Minority business enterprise" has the ~~same~~  
28 meaning ascribed ~~as that provided~~ in s. 288.703.

29 (19) "Office" means the Office of Supplier Diversity  
30 of the Department of Management Services.

31

1           ~~(13)~~ "Qualified bidder," ~~"responsible bidder,"~~  
2 ~~"qualified offeror,"~~ or ~~"responsible offeror"~~ means a person  
3 who has the capability in all respects to perform fully the  
4 contract requirements and has the integrity and reliability  
5 which will assure good faith performance.  
6           (20)~~(14)~~ "Renewal" means contracting with the same  
7 contractor for an additional contract period after the initial  
8 contract period, only if pursuant to contract terms  
9 specifically providing for such renewal.  
10           (21) "Request for information" means a written request  
11 made by an agency to vendors for information concerning  
12 commodities or contractual services. Responses to these  
13 requests are not offers and may not be accepted by the agency  
14 to form a binding contract.  
15           (22)~~(15)~~ "Request for proposals" means a written  
16 solicitation for competitive sealed proposals with the title,  
17 date, and hour of the public opening designated. A written  
18 solicitation includes a solicitation published or transmitted  
19 by electronic means. The request for proposals is used when it  
20 is not practicable for the agency to ~~is incapable of~~  
21 specifically define ~~defining~~ the scope of work for which the  
22 commodity, group of commodities, or contractual service is  
23 required and when the agency is requesting that a responsible  
24 vendor ~~qualified offeror~~ propose a commodity, group of  
25 commodities, or contractual service to meet the specifications  
26 of the solicitation document. A written solicitation includes  
27 a solicitation that is electronically posted. ~~A request for~~  
28 ~~proposals includes, but is not limited to, general~~  
29 ~~information, applicable laws and rules, functional or general~~  
30 ~~specifications, statement of work, proposal instructions, and~~  
31 ~~evaluation criteria. Requests for proposals shall state the~~

1 ~~relative importance of price and any other evaluation~~  
2 ~~criteria.~~

3 (23) "Request for a quote" means an oral or written  
4 request for written pricing or services information from a  
5 state term contract vendor for commodities or contractual  
6 services available on a state term contract from that vendor.

7 (24) "Responsible vendor" means a vendor who has the  
8 capability in all respects to fully perform the contract  
9 requirements and the integrity and reliability that will  
10 assure good-faith performance.

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

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

22 (27) "State term contract" means a term contract that  
23 is competitively procured by the department pursuant to s.  
24 287.057 and that is used by agencies and eligible users  
25 pursuant to s. 287.056.

26 (28)~~(18)~~ "Term contract" means an indefinite quantity  
27 contract wherein a party agrees to furnish commodities or  
28 contractual services during a defined prescribed period of  
29 time, the expiration of which concludes the contract.

30 ~~(19) "Office" means the Office of Supplier Diversity~~  
31 ~~of the Department of Management Services.~~

1           ~~(20) "Invitation to negotiate" means a written~~  
2 ~~solicitation that calls for responses to select one or more~~  
3 ~~persons or business entities with which to commence~~  
4 ~~negotiations for the procurement of commodities or contractual~~  
5 ~~services.~~

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

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

19           Section 9. Subsection (2) of section 287.017, Florida  
20 Statutes, is amended to read:

21           287.017 Purchasing categories, threshold amounts;  
22 procedures for automatic adjustment by department.--

23           (2) The department shall adopt rules to annually  
24 adjust the amounts provided in subsection (1) based upon the  
25 rate of change of a nationally recognized price index. Such  
26 rules shall include, but not be limited to, the following:

27           (a) Designation of the nationally recognized price  
28 index or component thereof used to calculate the proper  
29 adjustment authorized in this section.

30           (b) The procedure for rounding results.

31

1 (c) The effective date of each ~~annual~~ adjustment based  
2 upon the previous calendar year data.

3 Section 10. Subsections (1) and (3) of section  
4 287.022, Florida Statutes, are amended to read:

5 287.022 Purchase of insurance.--

6 (1) Insurance, while not a commodity, nevertheless  
7 shall be purchased for all agencies by the department, except  
8 that agencies may purchase title insurance for land  
9 acquisition and may make emergency purchases of insurance  
10 pursuant to s. 287.057(5)(a)~~s. 287.057(4)(a)~~. The procedures  
11 for purchasing insurance, whether the purchase is made by the  
12 department or by the agencies, shall be the same as those set  
13 forth herein for the purchase of commodities.

14 (3) The department ~~of Management Services~~ and the  
15 Division of State Group Insurance shall not prohibit or limit  
16 any properly licensed insurer, health maintenance  
17 organization, prepaid limited health services organization, or  
18 insurance agent from competing for any insurance product or  
19 plan purchased, provided, or endorsed by the department or the  
20 division on the basis of the compensation arrangement used by  
21 the insurer or organization for its agents.

22 Section 11. Section 287.032, Florida Statutes, is  
23 amended to read:

24 287.032 Purpose of department.--It shall be the  
25 purpose of the Department of Management Services:

26 (1) To promote efficiency, economy, and the  
27 conservation of energy and to effect coordination in the  
28 purchase of commodities and contractual services for the  
29 state.

30 (2) To provide uniform commodity and contractual  
31 service procurement policies, rules, procedures, and forms for

1 use by ~~the various~~ agencies and eligible users ~~in procuring~~  
2 ~~contractual services.~~

3 (3) To procure and distribute ~~state-owned surplus~~  
4 ~~tangible personal property~~ and federal surplus tangible  
5 personal property allocated to the state by the Federal  
6 Government.

7 Section 12. Section 287.042, Florida Statutes, is  
8 amended to read:

9 287.042 Powers, duties, and functions.--The department  
10 shall have the following powers, duties, and functions:

11 (1)(a) To canvass all sources of supply, establish and  
12 maintain a vendor list, and contract for the purchase, lease,  
13 or acquisition ~~in any manner~~, including purchase by  
14 installment sales or lease-purchase contracts which may  
15 provide for the payment of interest on unpaid portions of the  
16 purchase price, of all commodities and contractual services  
17 required by any agency under this chapter ~~competitive bidding~~  
18 ~~or by contractual negotiation~~. Any contract providing for  
19 deferred payments and the payment of interest shall be subject  
20 to specific rules adopted by the department.

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

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

30 (d) The department shall issue commodity numbers for  
31 all products of the corporation operating the correctional

1 industry program which meet or exceed department  
2 specifications.

3 (e) The department shall, ~~beginning October 1, 1991,~~  
4 include the products offered by the corporation on any listing  
5 prepared by the department which lists state term contracts  
6 executed by the department. The products or services shall be  
7 placed on such list in a category based upon specification  
8 criteria developed through a joint effort of the department  
9 and the corporation and approved by the department.

10 (f) The corporation may submit products and services  
11 to the department for testing, analysis, and review relating  
12 to the quality and cost comparability. If, after review and  
13 testing, the department approves of the products and services,  
14 the department shall give written notice thereof to the  
15 corporation. The corporation shall pay a reasonable fee  
16 charged for testing its products by the Department of  
17 Agriculture and Consumer Services.

18 (g) The department shall include products and services  
19 that are offered by a qualified nonprofit agency for the blind  
20 or for the other severely handicapped organized pursuant to  
21 chapter 413 and that have been determined to be suitable for  
22 purchase pursuant to s. 413.035 on any department listing of  
23 state term contracts. The products and services shall be  
24 placed on such list in a category based upon specification  
25 criteria developed by the department in consultation with the  
26 qualified nonprofit agency.

27 ~~(h)~~(g) The department may collect fees for the use of  
28 its electronic information services. The fees may be imposed  
29 on an individual transaction basis or as a fixed subscription  
30 for a designated period of time. At a minimum, the fees shall  
31 be determined in an amount sufficient to cover the

1 department's projected costs of such services, including  
2 overhead in accordance with the policies of the Department of  
3 Management Services for computing its administrative  
4 assessment. All fees collected pursuant to this paragraph  
5 shall be deposited in the Grants and Donations Trust Fund for  
6 disbursement as provided by law.

7       (2)(a) To establish ~~plan and coordinate purchases in~~  
8 ~~volume and to negotiate and execute~~ purchasing agreements and  
9 procure state term contracts for commodities and contractual  
10 services, pursuant to s. 287.057, under which state agencies  
11 shall, and eligible users may, make purchases pursuant to s.  
12 ~~287.056, and under which a federal, county, municipality,~~  
13 ~~institutions qualified pursuant to s. 240.605, private~~  
14 ~~nonprofit community transportation coordinator designated~~  
15 ~~pursuant to chapter 427, while conducting business related~~  
16 ~~solely to the Commission for the Transportation Disadvantaged,~~  
17 ~~or other local public agency may make purchases.~~ The  
18 department may restrict purchases from some term contracts to  
19 state agencies only for those term contracts where the  
20 inclusion of other governmental entities will have an adverse  
21 effect on competition or to those federal facilities located  
22 in this state. In such planning or purchasing the Office of  
23 Supplier Diversity may monitor to ensure that opportunities  
24 are afforded for contracting with minority business  
25 enterprises. The department, for state term contracts, and all  
26 agencies, for multiyear contractual services or term  
27 contracts, shall explore reasonable and economical means to  
28 utilize certified minority business enterprises. Purchases by  
29 any county, municipality, private nonprofit community  
30 transportation coordinator designated pursuant to chapter 427,  
31 while conducting business related solely to the Commission for



1 the Transportation Disadvantaged, or other local public agency  
2 under the provisions in the state purchasing contracts, and  
3 purchases, from the corporation operating the correctional  
4 work programs, of products or services that are subject to  
5 paragraph (1)(f), are exempt from the competitive solicitation  
6 ~~sealed bid~~ requirements otherwise applying to their purchases.

7 (b) As an alternative to any provision in s.  
8 120.57(3)(c), the department may proceed with the competitive  
9 ~~bid~~ solicitation or contract award process of a term contract  
10 ~~bid~~ when the secretary of the department or his or her  
11 designee sets forth in writing particular facts and  
12 circumstances which demonstrate that the delay incident to  
13 staying the solicitation ~~bid process~~ or contract award process  
14 would be detrimental to the interests of the state. After the  
15 award of a contract resulting from a competitive solicitation  
16 ~~bid~~ in which a timely protest was received and in which the  
17 state did not prevail, the contract may be canceled and  
18 reawarded ~~to the prevailing party~~.

19 (c) Any person who files an action protesting a  
20 decision or intended decision pertaining to contracts  
21 administered by the department, a water management district,  
22 or an ~~a state~~ agency pursuant to s. 120.57(3)(b) shall post  
23 with the department, the water management district, or the  
24 ~~state~~ agency at the time of filing the formal written protest  
25 a bond payable to the department, the water management  
26 district, or ~~state~~ agency in an amount equal to 1 percent of  
27 the estimated contract amount.~~department's, the water~~  
28 ~~management district's, or the state agency's estimate of the~~  
29 ~~total volume of the contract or \$5,000, whichever is less,~~  
30 ~~which bond shall be conditioned upon the payment of all costs~~  
31 ~~which may be adjudged against him or her in the administrative~~

1 ~~hearing in which the action is brought and in any subsequent~~  
2 ~~appellate court proceeding.~~For protests of decisions or  
3 intended decisions of the department pertaining to agencies'  
4 ~~requests for approval of~~ exceptional purchases, the bond shall  
5 be in an amount equal to 1 percent of the estimated requesting  
6 ~~agency's estimate of the~~ contract amount for the exceptional  
7 purchase requested or \$5,000, whichever is less. The estimated  
8 contract amount shall be based upon the contract price  
9 submitted by the protestor or, if no contract price was  
10 submitted, the department, water management district, or  
11 agency shall estimate the contract amount based on factors  
12 including, but not limited to, the price of previous or  
13 existing contracts for similar commodities or contractual  
14 services, the amount appropriated by the Legislature for the  
15 contract, or the fair market value of similar commodities or  
16 contractual services. The agency shall provide the estimated  
17 contract amount to the vendor within 72 hours, excluding  
18 Saturdays, Sundays, and state holidays, after the filing of  
19 the notice of protest by the vendor. The estimated contract  
20 amount is not subject to protest pursuant to s. 120.57(3). The  
21 bond shall be conditioned upon the payment of all costs and  
22 reasonable attorney's fees that are adjudged against the  
23 protestor in the administrative hearing in which the action is  
24 brought and in any subsequent appellate court proceeding.In  
25 lieu of a bond, the department, the water management district,  
26 or ~~state~~ agency may, in either case, accept a cashier's check,  
27 official bank check, or money order in the amount of the bond.  
28 If, after completion of the administrative hearing process and  
29 any appellate court proceedings, the department, water  
30 management district, or agency prevails, it shall recover all  
31 costs and reasonable attorney's fees,~~charges~~ which shall be

1 included in the final order or judgment, ~~excluding attorney's~~  
2 ~~fees~~. This section shall not apply to protests filed by the  
3 Office of Supplier Diversity. Upon payment of such costs and  
4 reasonable attorney's fees ~~charges~~ by the protestor ~~person~~  
5 ~~protesting the award~~, the bond, cashier's check, official bank  
6 check, or money order shall be returned to the protestor ~~him~~  
7 ~~or her~~. If, after the completion of the administrative hearing  
8 process and any appellate court proceedings, the protestor ~~the~~  
9 ~~person protesting the award~~ prevails, the protestor ~~he or she~~  
10 shall recover from the department, water management district,  
11 or agency ~~or water management district~~, all costs and  
12 reasonable attorney's fees, ~~charges~~ which shall be included in  
13 the final order or ~~of~~ judgment, ~~excluding attorney's fees~~.

14 ~~(d) The terms, conditions, and specifications of a~~  
15 ~~request for proposal, request for quote, invitation to bid, or~~  
16 ~~invitation to negotiate, including any provisions governing~~  
17 ~~the methods for ranking proposals, awarding contracts,~~  
18 ~~reserving rights of further negotiation, or the modification~~  
19 ~~of amendment of any contract, are subject to challenge only by~~  
20 ~~filing a protest within 72 hours after the notice of the~~  
21 ~~terms, conditions, or specifications as provided in s.~~  
22 ~~120.57(3)(b).~~

23 ~~(3) To have general supervision, through the state~~  
24 ~~agencies, of all storerooms and stores operated by the~~  
25 ~~agencies and to have supervision of inventories of all~~  
26 ~~commodities belonging to the state agencies. The duties~~  
27 ~~imposed by this section do not relieve any state agency from~~  
28 ~~accountability for commodities under its control.~~

29 ~~(3)(4)~~ To establish a system of coordinated, uniform  
30 procurement policies, procedures, and practices to be used by  
31

1 agencies in acquiring commodities and contractual services,  
2 which shall include, but not be limited to:

3 (a) Development of a list of interested vendors to be  
4 maintained by classes of commodities and contractual services.  
5 This list shall not be used to prequalify vendors or to  
6 exclude any interested vendor from bidding.

7 (b)1. Development of procedures for advertising  
8 solicitations. These ~~the releasing of requests for proposals,~~  
9 ~~requests for quotes, invitations to bid, invitations to~~  
10 ~~negotiate, and other competitive acquisitions which~~ procedures  
11 must provide for electronic posting of solicitations for ~~shall~~  
12 ~~include, but are not limited to, notice by publication in the~~  
13 ~~Florida Administrative Weekly, on Government Services Direct,~~  
14 ~~or by mail~~ at least 10 days before the date set for receipt  
15 submittal of bids, proposals, or replies ~~bids,~~ unless the  
16 department or other agency determines in writing that a  
17 shorter period of time is necessary to avoid harming the  
18 interests of the state. The Office of Supplier Diversity may  
19 consult with the department ~~agencies~~ regarding the development  
20 of solicitation ~~bid~~ distribution procedures to ensure that  
21 maximum distribution is afforded to certified minority  
22 business enterprises as defined in s. 288.703.

23 2. Development of procedures for electronic posting.  
24 The department shall designate a centralized website on the  
25 Internet for the department and other agencies to  
26 electronically post solicitations, decisions or intended  
27 decisions, and other matters relating to procurement. From  
28 July 1, 2002, until July 1, 2003, the department shall publish  
29 a notice in each edition of the Florida Administrative Weekly  
30 which indicates the specific URL or Internet address for the  
31 centralized website.

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

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

14           (e) Development of procedures to be used by an agency  
15 in maintaining a contract file for each contract which shall  
16 include, but not be limited to, all pertinent information  
17 relating to the contract during the preparatory stages;7a  
18 copy of the solicitation; ~~invitation to bid or request for~~  
19 ~~proposals~~; documentation relating to the solicitation bid  
20 process; ~~opening of bids, proposals, or replies~~; evaluation  
21 and tabulation of bids, proposals, or replies; and  
22 determination and notice of award of contract.

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

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

1           ~~(4)~~(5)(a) To prescribe the methods of securing  
2 competitive sealed bids, ~~responses, quotes, and proposals, and~~  
3 replies. Such methods may include, but are not limited to,  
4 procedures for identifying vendors; setting qualifications;  
5 conducting conferences or written question and answer periods  
6 for purposes of responding to vendor questions; evaluating  
7 responses, bids, and proposals, and replies; ranking and  
8 ~~respondents and proposers; selecting vendors invitees and~~  
9 ~~proposers; and conducting negotiations.~~

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

20           ~~(5)~~(6) To prescribe specific commodities and  
21 quantities to be purchased locally.

22           ~~(6)~~(7)(a) To govern the purchase by any agency of any  
23 commodity or contractual service and to establish standards  
24 and specifications for any commodity.

25           (b) Except for the purchase of insurance, the  
26 department may delegate to agencies the authority for the  
27 procurement of and contracting for, ~~or the purchase, lease, or~~  
28 ~~acquisition of,~~ commodities or contractual services.

29           ~~(7)~~(8) To establish definitions and classes of  
30 commodities and contractual services. Agencies shall follow  
31 the definitions and classes of commodities and contractual

1 services established by the department in acquiring or  
2 purchasing commodities or contractual services. The authority  
3 of the department under this section shall not be construed to  
4 impair or interfere with the determination by state agencies  
5 of their need for, or their use of, services including  
6 particular specifications.

7 (8)~~(9)~~ To provide ~~furnish copies of~~ any commodity and  
8 contractual service purchasing rules to the Comptroller and  
9 all agencies through an electronic medium or other means  
10 ~~affected thereby~~. Agencies may ~~The Comptroller shall~~ not  
11 approve any account or request ~~direct~~ any payment of any  
12 account for the purchase of any commodity or the procurement  
13 of any contractual service covered by a purchasing or  
14 contractual service rule except as authorized therein. The  
15 department shall furnish copies of rules adopted by the  
16 department to any county, municipality, or other local public  
17 agency requesting them.

18 (9)~~(10)~~ To require that every agency furnish  
19 information relative to its commodity and contractual services  
20 purchases and methods of purchasing commodities and  
21 contractual services to the department when so requested.

22 (10)~~(11)~~ To prepare statistical data concerning the  
23 method of procurement, terms, usage, and disposition of  
24 commodities and contractual services by ~~state~~ agencies. All  
25 agencies shall furnish such information for this purpose to  
26 the office and to the department, as the department or office  
27 may call for, but no less frequently than annually, on such  
28 forms or in such manner as the department may prescribe.

29 (11)~~(12)~~ To establish and maintain programs for the  
30 purpose of disseminating information to government, industry,  
31 educational institutions, and the general public concerning

1 policies, procedures, rules, and forms for the procurement of  
2 commodities and contractual services.

3 (12)~~(13)~~ Except as otherwise provided herein, to adopt  
4 rules necessary to carry out the purposes of this section,  
5 including the authority to delegate to any ~~state~~ agency any  
6 and all of the responsibility conferred by this section,  
7 retaining to the department any and all authority for  
8 supervision thereof. Such purchasing of commodities and  
9 procurement of contractual services by state agencies shall be  
10 in strict accordance with the rules and procedures prescribed  
11 by the department ~~of Management Services~~.

12 (13)~~(14)~~ If the department determines in writing that  
13 it is in the best interest of the state, to award to multiple  
14 suppliers contracts for commodities and contractual services  
15 established by the department for use by all agencies. Such  
16 awards may be on a statewide or regional basis. If regional  
17 contracts are established by the department, multiple supplier  
18 awards may be based upon multiple awards for regions.  
19 Agencies may award contracts to a responsible and ~~the lowest~~  
20 ~~qualified~~ responsive vendor bidder on a statewide or regional  
21 basis.

22 (14)~~(15)~~ To procure and distribute ~~state-owned surplus~~  
23 ~~tangible personal property and~~ federal surplus tangible  
24 personal property allocated to the state by the Federal  
25 Government.

26 (15)~~(16)~~(a) To enter into joint agreements with  
27 governmental agencies, as defined in s. 163.3164(10), for the  
28 purpose of pooling funds for the purchase of commodities or  
29 information technology that can be used by multiple agencies.  
30 However, the department shall consult with the State  
31 Technology Office on joint agreements that involve the



1 purchase of information technology. Agencies entering into  
2 joint purchasing agreements with the department or the State  
3 Technology Office shall authorize the department or the State  
4 Technology Office to contract for such purchases on their  
5 behalf.

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

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

24 (16)~~(17)~~(a) To evaluate contracts let by the Federal  
25 Government, another state, or a political subdivision for the  
26 provision of commodities and contract services, and, when it  
27 is determined in writing to be cost-effective and in the best  
28 interest of the state, to enter into a written agreement  
29 authorizing an ~~a state~~ agency to make purchases under a  
30 contract approved by the department and let by the Federal  
31 Government, another state, or a political subdivision.

1           (b) For contracts pertaining to the provision of  
2 information technology, the State Technology Office, in  
3 consultation with the department, shall assess the  
4 technological needs of a particular agency, evaluate the  
5 contracts, and determine whether to enter into a written  
6 agreement with the letting federal, state, or political  
7 subdivision body to provide information technology for a  
8 particular agency.

9           Section 13. Section 287.045, Florida Statutes, is  
10 amended to read:

11           287.045 Procurement of products and materials with  
12 recycled content.--

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

21           (b) Each ~~state~~ agency shall review and revise its  
22 procurement procedures and specifications for the purchase of  
23 products and materials to eliminate any procedures and  
24 specifications that explicitly discriminate against products  
25 and materials with recycled content, except if such procedures  
26 and specifications are necessary to protect the public health,  
27 safety, and welfare.

28           (2)(a) The department and each ~~state~~ agency shall  
29 review and revise its procurement procedures and  
30 specifications for the purchase of products and materials to  
31 ensure to the maximum extent feasible that each agency uses

1 state contracts to purchase products or materials that may be  
2 recycled or reused when these products or materials are  
3 discarded.

4 (b) The Auditor General shall assist in monitoring the  
5 product procurement requirements.

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

18 (4) Upon completion of the review required in  
19 subsection (3), the department and other agencies ~~or an agency~~  
20 shall require that a person who submits a bid, proposal, or  
21 reply for a contract for the purchase of products or materials  
22 identified in subsection (3) and who wishes to be considered  
23 for the price preference described in subsection (5) certify  
24 in writing the percentage of recycled content in the product  
25 or material that is subject to the bid, proposal, or reply. A  
26 person may certify that the product or material contains no  
27 recycled content.

28 (5) Upon evaluation of bids, proposals, or replies for  
29 every public contract that involves the purchase of products  
30 or materials identified in subsection (3), the department or  
31 other ~~an~~ agency shall identify the lowest responsible and

1 responsive vendor bidder and other responsible and responsive  
2 vendors bidders who have certified that the products or  
3 materials contain at least the minimum percentage of recycled  
4 content and postconsumer recovered material that is set forth  
5 in the solicitation invitation for the bids. The department  
6 or agency may consider life-cycle costing when evaluating a  
7 bid, proposal, or reply on a product that consists of recycled  
8 materials. The department shall adopt rules that specify the  
9 criteria to be used when considering life-cycle costing in  
10 evaluating bids, proposals, or replies. The rules must take  
11 into consideration the specified warranty periods for products  
12 and the comparative expected service life relative to the cost  
13 of the products. In awarding a contract for the purchase of  
14 products or materials, the department or other ~~an~~ agency may  
15 allow up to a 10-percent price preference to a responsible and  
16 responsive vendor bidder who has certified that the products  
17 or materials contain at least the minimum percentage of  
18 recycled content and postconsumer recovered material and up to  
19 an additional 5-percent price preference to a responsible and  
20 responsive vendor bidder who has certified that the products  
21 or material are made of materials recovered in this state.  
22 The amount of the price preference must be commensurate with  
23 the certified amounts of recycled material and postconsumer  
24 recovered material and materials recycled from products in  
25 this state, contained in the product or materials on a sliding  
26 scale as established by department rule, which rule shall not  
27 become effective prior to November 1, 1994. Reusable  
28 materials and products shall be used where economically and  
29 technically feasible. If no vendors bidders offer products or  
30 materials with measurable life-cycle costing factors or the  
31 minimum prescribed recycled and postconsumer content, the

1 contract must be awarded to the lowest qualified responsible  
2 and responsive vendor bidder.

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

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

21 (8) The department and each ~~state~~ agency shall review  
22 and revise its procedures and specifications on a continuing  
23 basis to encourage the use of products and materials with  
24 recycled content and postconsumer recovered material and  
25 shall, in developing new procedures and specifications,  
26 encourage the use of products and materials with recycled  
27 content and postconsumer recovered material.

28 (9) After November 1, 1994, the department may  
29 discontinue contracting for products or materials the recycled  
30 content of which does not meet the requirements of subsection  
31 (3) if it determines that products or materials meeting those

1 requirements are available at a cost not to exceed an  
2 additional 10 percent of comparable virgin products.

3           (10) An ~~A~~ state agency, or a vendor person contracting  
4 with such agency with respect to work performed under  
5 contract, must procure products or materials with recycled  
6 content if the department determines that those products or  
7 materials are available pursuant to subsection (5).  
8 Notwithstanding any other provision to the contrary, for the  
9 purpose of this section, the term "agency" means any of the  
10 various state officers, departments, boards, commissions,  
11 divisions, bureaus, and councils and any other unit of  
12 organization, however designated, of the executive branch  
13 including the Department of the Lottery, the legislative  
14 branch, the judicial branch, the University and College Boards  
15 of Trustees, and the state universities and colleges ~~and the~~  
16 ~~State University System~~. A decision not to procure such items  
17 must be based on the department's determination that such  
18 procurement is not reasonably available within an acceptable  
19 period of time or fails to meet the performance standards set  
20 forth in the applicable specifications or fails to meet the  
21 performance standards of the agency.

22           (11) Each ~~state~~ agency shall report annually to the  
23 department its total expenditures on, and use of, products  
24 with recycled content and the percentage of its budget that  
25 represents purchases of similar products made from virgin  
26 materials. The department shall design a uniform reporting  
27 mechanism and prepare annual summaries of statewide purchases  
28 delineating those with recycled content to be submitted to the  
29 Governor, the President of the Senate, and the Speaker of the  
30 House of Representatives.

31

1           Section 14. Section 287.056, Florida Statutes, is  
2 amended to read:

3           287.056 ~~Agency Purchases from~~ purchasing agreements  
4 and state term contracts ~~executed by the department.--~~

5           (1) Agencies shall, and eligible users may, purchase  
6 commodities and contractual services from ~~the~~ purchasing  
7 agreements established and state term contracts procured,  
8 pursuant to s. 287.057, ~~negotiated and executed by the~~  
9 department, ~~as authorized in s. 287.042(2).~~

10           (2) Agencies may have the option to purchase  
11 commodities or contractual services from state term ~~any~~  
12 ~~written agreements or contracts~~ procured, pursuant to s.  
13 287.057, ~~negotiated and executed by the department which~~  
14 contain a user surcharge pursuant to s. 287.1345 ~~or such other~~  
15 ~~agreements~~ as determined by the department.

16           (3) Agencies and eligible users may use a request for  
17 quote to obtain written pricing or services information from a  
18 state term contract vendor for commodities or contractual  
19 services available on state term contract from that vendor.  
20 The purpose of a request for quote is to determine whether a  
21 price, term, or condition more favorable to the agency or  
22 eligible user than that provided in the state term contract is  
23 available. Use of a request for quote does not constitute a  
24 decision or intended decision that is subject to protest under  
25 s. 120.57(3).

26           Section 15. Section 287.057, Florida Statutes, is  
27 amended to read:

28           287.057 Procurement of commodities or contractual  
29 services.--

30           (1)(a) Unless otherwise authorized by law, all  
31 contracts for the purchase of commodities or contractual

1 services in excess of the threshold amount provided in s.  
2 287.017 for CATEGORY TWO shall be awarded by competitive  
3 sealed bidding. An invitation to bid shall be made available  
4 simultaneously to all vendors and must ~~issued which shall~~  
5 include a detailed description of the commodities or  
6 contractual services sought; the time and date for the receipt  
7 ~~submittal~~ of bids and of the public opening; and all  
8 contractual terms and conditions applicable to the procurement  
9 ~~of commodities or contractual services~~, including the criteria  
10 ~~which shall include, but need not be limited to, price,~~ to be  
11 used in determining acceptability of the bid. If the agency  
12 contemplates renewal of the contract, that fact must ~~it shall~~  
13 be ~~so~~ stated in the invitation to bid. The bid shall include  
14 the price for each year for which the contract may be renewed.  
15 Evaluation of bids shall include consideration of the total  
16 cost for each year as submitted ~~quoted~~ by the vendor ~~bidder~~.  
17 ~~No~~ Criteria that were not set forth in the invitation to bid  
18 may not be used in determining acceptability of the bid ~~that~~  
19 ~~was not set forth in the invitation to bid.~~

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

26 (2)(a) If ~~When~~ an agency determines in writing that  
27 the use of an invitation to bid ~~competitive sealed bidding~~ is  
28 not practicable, commodities or contractual services shall be  
29 procured by competitive sealed proposals. A request for  
30 proposals shall be made available simultaneously to all  
31 vendors, and must include ~~which includes~~ a statement of the



1 commodities or contractual services sought; the time and date  
2 for the receipt of proposals and of the public opening; and  
3 all contractual terms and conditions applicable to the  
4 ~~procurement of commodities or contractual services~~, including  
5 the criteria, which shall include, but need not be limited to,  
6 price, to be used in determining acceptability of the proposal  
7 ~~shall be issued. The relative importance of price and other~~  
8 evaluation criteria shall be indicated. If the agency  
9 contemplates renewal of the commodities or contractual  
10 services contract, that fact must ~~it shall be so~~ stated in the  
11 request for proposals. The proposal shall include the price  
12 for each year for which the contract may be renewed.

13 Evaluation of proposals shall include consideration of the  
14 total cost for each year as submitted ~~quoted~~ by the vendor  
15 ~~offeror. To assure full understanding of and responsiveness to~~  
16 ~~the solicitation requirements, discussions may be conducted~~  
17 ~~with qualified offerors. The offerors shall be accorded fair~~  
18 ~~and equal treatment prior to the submittal date specified in~~  
19 ~~the request for proposals with respect to any opportunity for~~  
20 ~~discussion and revision of proposals.~~

21 (b) The contract award shall be awarded ~~made~~ to the  
22 responsible and responsive vendor ~~offeror~~ whose proposal is  
23 determined in writing to be the most advantageous to the  
24 state, taking into consideration the price and the other  
25 criteria set forth in the request for proposals. The contract  
26 file shall contain documentation supporting the basis on which  
27 the award is made.

28 (3)(a) If the agency determines in writing that the  
29 use of an invitation to bid or a request for proposals will  
30 not result in the best value to the state, the agency may  
31 procure commodities and contractual services by competitive

1 sealed replies. The agency's written determination must  
2 specify reasons that explain why negotiation may be necessary  
3 in order for the state to achieve the best value and must be  
4 approved in writing by the agency head or his or her designee  
5 prior to the advertisement of an invitation to negotiate. An  
6 invitation to negotiate shall be made available to all vendors  
7 simultaneously and must include a statement of the commodities  
8 or contractual services sought; the time and date for the  
9 receipt of replies and of the public opening; and all terms  
10 and conditions applicable to the procurement, including the  
11 criteria to be used in determining the acceptability of the  
12 reply. If the agency contemplates renewal of the contract,  
13 that fact must be stated in the invitation to negotiate. The  
14 reply shall include the price for each year for which the  
15 contract may be renewed.

16 (b) The agency shall evaluate and rank responsive  
17 replies against all evaluation criteria set forth in the  
18 invitation to negotiate and shall select, based on the  
19 ranking, one or more vendors with which to commence  
20 negotiations. After negotiations are conducted, the agency  
21 shall award the contract to the responsible and responsive  
22 vendor that the agency determines will provide the best value  
23 to the state. The contract file must contain a written  
24 statement that explains the basis for vendor selection and  
25 that sets forth the vendor's deliverables and price, pursuant  
26 to the contract, with an explanation of how these deliverables  
27 and price provide the best value to the state.

28 (4) Prior to the time for receipt of bids, proposals,  
29 or replies, an agency may conduct a conference or written  
30 question and answer period for purposes of assuring the  
31 vendor's full understanding of the solicitation requirements.

1 The vendors shall be accorded fair and equal treatment with  
2 respect to any opportunity for discussion and revision of  
3 bids, proposals, or replies.

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

12 (5)(4) When the purchase price of commodities or  
13 contractual services exceeds the threshold amount provided in  
14 s. 287.017 for CATEGORY TWO, no purchase of commodities or  
15 contractual services may be made without receiving competitive  
16 sealed bids, competitive sealed proposals, or competitive  
17 sealed replies ~~responses to an invitation to negotiate or a~~  
18 ~~request for a quote unless:~~

19 (a) The agency head determines in writing that an  
20 immediate danger to the public health, safety, or welfare or  
21 other substantial loss to the state requires emergency action.  
22 After the agency head makes such a written determination, the  
23 agency may proceed with the procurement of commodities or  
24 contractual services necessitated by the immediate danger,  
25 without receiving competitive sealed bids, competitive sealed  
26 proposals, or competitive sealed replies ~~competition~~. However,  
27 such emergency procurement shall be made by obtaining pricing  
28 information from at least two prospective vendors, which must  
29 be retained in the contract file, unless the agency determines  
30 in writing that the time required to obtain pricing  
31 information will increase the immediate danger to the public

1 health, safety, or welfare or other substantial loss to the  
2 state with such competition as is practicable under the  
3 circumstances. The agency shall furnish copies of all the  
4 written determinations ~~determination~~ certified under oath and  
5 any other documents relating to the emergency action to the  
6 department. A copy of the statement shall be furnished to the  
7 Comptroller with the voucher authorizing payment. The  
8 individual purchase of personal clothing, shelter, or supplies  
9 which are needed on an emergency basis to avoid  
10 institutionalization or placement in a more restrictive  
11 setting is an emergency for the purposes of this paragraph,  
12 and the filing with the department of such statement is not  
13 required in such circumstances. In the case of the emergency  
14 purchase of insurance, the period of coverage of such  
15 insurance shall not exceed a period of 30 days, and all such  
16 emergency purchases shall be reported to the department.

17 (b) The purchase is made by an agency from a state  
18 term contract procured, pursuant to this section, ~~Purchasing~~  
19 ~~agreements and contracts executed~~ by the department or by an  
20 agency, after receiving approval from the department, from a  
21 contract procured, pursuant to subsection (1), subsection (2),  
22 or subsection (3), by another agency ~~agencies under authority~~  
23 ~~delegated by the department in writing are excepted from bid~~  
24 ~~requirements.~~

25 (c) Commodities or contractual services available only  
26 from a single source may be excepted from the  
27 competitive-solicitation bid requirements. When an agency  
28 believes that commodities or contractual services are  
29 available only from a single source, the agency shall  
30 electronically post a description of the commodities or  
31 contractual services sought for a period of at least 7

1 business days. The description must include a request that  
2 prospective vendors provide information regarding their  
3 ability to supply the commodities or contractual services  
4 described. If it is determined in writing by the agency, after  
5 reviewing any information received from prospective vendors,  
6 that the commodities or contractual services are available  
7 only from a single source, the agency shall:

8       1. Provide notice of its intended decision to enter a  
9 single-source purchase contract in the manner specified in s.  
10 120.57(3), if the amount of the contract does not exceed the  
11 threshold amount provided in s. 287.017 for CATEGORY FOUR.

12       2. Request approval from the department for the  
13 single-source purchase, if the amount of the contract exceeds  
14 the threshold amount provided in s. 287.017 for CATEGORY FOUR.

15 The agency shall initiate its request for approval in a form  
16 prescribed by the department, which request may be  
17 electronically transmitted.~~if it is determined that such~~  
18 ~~commodities or services are available only from a single~~  
19 ~~source and such determination is documented. However, if such~~  
20 ~~contract is for an amount greater than the threshold amount~~  
21 ~~provided in s. 287.017 for CATEGORY FOUR, the agency head~~  
22 ~~shall file a certification of conditions and circumstances~~  
23 ~~with the department and shall obtain the prior approval of the~~  
24 ~~department.~~The failure of the department to approve or  
25 disapprove the agency's request ~~of an agency~~ for prior  
26 approval within 21 days after receiving such request ~~or within~~  
27 ~~14 days after receiving from the agency additional materials~~  
28 ~~requested by the department shall constitute prior approval of~~  
29 the department. If the department approves the agency's  
30 request, the agency shall provide notice of its intended  
31 decision to enter a single-source contract in the manner

1 specified in s. 120.57(3)~~To the greatest extent practicable,~~  
2 ~~but no later than 45 days after authorizing the exception in~~  
3 ~~writing, the department shall combine single-source~~  
4 ~~procurement authorizations for identical information~~  
5 ~~technology resources for which the purchase price exceeds the~~  
6 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR, and~~  
7 ~~shall negotiate and execute volume purchasing agreements for~~  
8 ~~such procurements on behalf of the agencies.~~

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

14 (e) Prescriptive assistive devices for the purpose of  
15 medical, developmental, or vocational rehabilitation of  
16 clients are excepted from competitive solicitation ~~sealed bid~~  
17 ~~and competitive sealed proposal~~ requirements and shall be  
18 procured pursuant to an established fee schedule or by any  
19 other method which ensures the best price for the state,  
20 taking into consideration the needs of the client.

21 Prescriptive assistive devices include, but are not limited  
22 to, prosthetics, orthotics, and wheelchairs. For purchases  
23 made pursuant to this paragraph, state agencies shall annually  
24 file with the department a description of the purchases and  
25 methods of procurement.

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

- 29 1. Artistic services.
- 30 2. Academic program reviews.
- 31 3. Lectures by individuals.

- 1           4. Auditing services.
- 2           5. Legal services, including attorney, paralegal,  
3 expert witness, appraisal, or mediator services.
- 4           6. Health services involving examination, diagnosis,  
5 treatment, prevention, medical consultation, or  
6 administration.
- 7           7. Services provided to persons with mental or  
8 physical disabilities by not-for-profit corporations which  
9 have obtained exemptions under the provisions of s. 501(c)(3)  
10 of the United States Internal Revenue Code or when such  
11 services are governed by the provisions of Office of  
12 Management and Budget Circular A-122. However, in acquiring  
13 such services, the agency shall consider the ability of the  
14 vendor ~~contractor~~, past performance, willingness to meet time  
15 requirements, and price.
- 16           8. Medicaid services delivered to an eligible Medicaid  
17 recipient by a health care provider who has not previously  
18 applied for and received a Medicaid provider number from the  
19 Agency for Health Care Administration. However, this exception  
20 shall be valid for a period not to exceed 90 days after the  
21 date of delivery to the Medicaid recipient and shall not be  
22 renewed by the agency.
- 23           9. Family placement services.
- 24           10. Prevention services related to mental health,  
25 including drug abuse prevention programs, child abuse  
26 prevention programs, and shelters for runaways, operated by  
27 not-for-profit corporations. However, in acquiring such  
28 services, the agency shall consider the ability of the vendor  
29 ~~contractor~~, past performance, willingness to meet time  
30 requirements, and price.
- 31

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

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

4           13. Services or commodities provided by governmental  
5 agencies.

6           (g) Continuing education events or programs that are  
7 offered to the general public and for which fees have been  
8 collected that pay all expenses associated with the event or  
9 program are exempt from requirements for competitive  
10 solicitation ~~sealed bidding~~.

11           ~~(6)(5)~~ If less than two responsive bids, or proposals,  
12 or replies for commodity or contractual services purchases are  
13 received, the department or other ~~the~~ agency may negotiate on  
14 the best terms and conditions. The department or other agency  
15 shall document the reasons that such action is in the best  
16 interest of the state in lieu of resoliciting competitive  
17 sealed bids, or proposals, or replies. Each ~~The~~ agency shall  
18 report all such actions to the department on a quarterly  
19 basis, in a manner and form prescribed by the department.

20           ~~(7)(6)~~ Upon issuance of any solicitation invitation to  
21 ~~bid or request for proposals,~~ an agency shall, upon request by  
22 the department, forward to the department one copy of each  
23 solicitation invitation to bid or request for proposals for  
24 all commodity and contractual services purchases in excess of  
25 the threshold amount provided in s. 287.017 for CATEGORY TWO.  
26 An agency shall also, upon request, furnish a copy of all  
27 competitive solicitation ~~sealed bid or competitive sealed~~  
28 ~~proposal~~ tabulations. The Office of Supplier Diversity may  
29 also request from the agencies any information submitted to  
30 the department pursuant to this subsection.

31



1           (8)(7)(a) In order to strive to meet the minority  
2 business enterprise procurement goals set forth in s.  
3 287.09451, an agency may reserve any contract for competitive  
4 solicitation ~~sealed bidding~~ only among certified minority  
5 business enterprises. Agencies shall review all their  
6 contracts each fiscal year and shall determine which contracts  
7 may be reserved for solicitation ~~bidding~~ only among certified  
8 minority business enterprises. This reservation may only be  
9 used when it is determined, by reasonable and objective means,  
10 before the solicitation ~~invitation to bid~~ that there are  
11 capable, qualified certified minority business enterprises  
12 available to submit a bid, proposal, or reply on a contract to  
13 provide for effective competition. The Office of Supplier  
14 Diversity shall consult with any agency in reaching such  
15 determination when deemed appropriate.

16           (b) Before a contract may be reserved for solicitation  
17 ~~bidding~~ only among ~~by~~ certified minority business enterprises,  
18 the agency head must find that such a reservation is in the  
19 best interests of the state. All determinations shall be  
20 subject to s. 287.09451(5). Once a decision has been made to  
21 reserve a contract, but before sealed bids, proposals, or  
22 replies are requested, the agency shall estimate what it  
23 expects the amount of the contract to be, based on the nature  
24 of the services or commodities involved and their value under  
25 prevailing market conditions. If all the sealed bids,  
26 proposals, or replies received are over this estimate, the  
27 agency may reject the bids, proposals, or replies and request  
28 new ones from certified minority business enterprises, or the  
29 agency may reject the bids, proposals, or replies and reopen  
30 the bidding to all eligible vendors ~~qualified bidders~~.

31

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

7 (d) All agencies shall avoid any undue concentration  
8 of contracts or purchases in categories of commodities or  
9 contractual services in order to meet the minority business  
10 enterprise purchasing goals in s. 287.09451.

11 ~~(9)~~(8) An agency may reserve any contract for  
12 competitive solicitation ~~sealed bidding~~ only among vendors  
13 ~~qualified bidders~~ who agree to use ~~utilize~~ certified minority  
14 business enterprises as subcontractors or subvendors. The  
15 percentage of funds, in terms of gross contract amount and  
16 revenues, which must be expended with the certified minority  
17 business enterprise subcontractors and subvendors shall be  
18 determined by the agency before such contracts may be  
19 reserved. In order to bid on a contract so reserved, the  
20 vendor ~~qualified bidder~~ shall identify those certified  
21 minority business enterprises which will be utilized as  
22 subcontractors or subvendors by sworn statement. At the time  
23 of performance or project completion, the contractor shall  
24 report by sworn statement the payments and completion of work  
25 for all certified minority business enterprises used in the  
26 contract.

27 ~~(10)~~(9) An agency shall not divide the procurement of  
28 commodities or contractual services so as to avoid the  
29 requirements of subsections (1) through (5), ~~(2), and (3)~~.

30 ~~(11)~~(10) A contract for commodities or contractual  
31 services may be awarded without competition if state or

1 federal law prescribes with whom the agency must contract or  
2 if the rate of payment is established during the  
3 appropriations process.

4 (12)~~(11)~~ If two equal responses to a solicitation or a  
5 request for quote ~~an invitation to bid or request for~~  
6 ~~proposals~~ are received and one response is from a certified  
7 minority business enterprise, the agency shall enter into a  
8 contract with the certified minority business enterprise.

9 (13)~~(12)~~ Extension of a contract for contractual  
10 services shall be in writing for a period not to exceed 6  
11 months and shall be subject to the same terms and conditions  
12 set forth in the initial contract. There shall be only one  
13 extension of a contract unless the failure to meet the  
14 criteria set forth in the contract for completion of the  
15 contract is due to events beyond the control of the  
16 contractor.

17 (14)~~(13)~~ ~~Except for those contracts initially procured~~  
18 ~~pursuant to paragraph (3)(a) or paragraph (3)(c),~~ Contracts  
19 for commodities or contractual services may be renewed for a  
20 period that may not exceed 3 years or ~~on a yearly basis for no~~  
21 ~~more than 2 years or for a period no longer than the term of~~  
22 the original contract, whichever period is longer. Renewal of  
23 a contract for commodities or contractual services shall be in  
24 writing and shall be subject to the same terms and conditions  
25 set forth in the initial contract. If the commodity or  
26 contractual service is purchased as a result of the  
27 solicitation of bids, or proposals, or replies, the price of  
28 the commodity or contractual service to be renewed ~~cost of any~~  
29 ~~contemplated renewals~~ shall be specified ~~included~~ in the bid,  
30 proposal, or reply ~~invitation to bid or request for proposals.~~  
31 A renewal contract may not include any compensation for costs

1 associated with the renewal. Renewals shall be contingent upon  
2 satisfactory performance evaluations by the agency and subject  
3 to the availability of funds. Exceptional purchase contracts  
4 pursuant to s. 287.057(5)(a) and (c) may not be renewed.

5 ~~(15)(14)~~ For each contractual services contract, the  
6 agency shall designate an employee to function as contract  
7 manager who shall be responsible for enforcing performance of  
8 the contract terms and conditions and serve as a liaison with  
9 the contractor. The agency shall establish procedures to  
10 ensure that contractual services have been rendered in  
11 accordance with the contract terms prior to processing the  
12 invoice for payment.

13 ~~(16)(15)~~ Each agency shall designate at least one  
14 employee who shall serve as a contract administrator  
15 responsible for maintaining a contract file and financial  
16 information on all contractual services contracts and who  
17 shall serve as a liaison with the contract managers and the  
18 department.

19 (17) For a contract in excess of the threshold amount  
20 provided in s. 287.017 for CATEGORY FOUR, the agency head  
21 shall appoint:

22 (a) At least three persons to evaluate proposals and  
23 replies who collectively have experience and knowledge in the  
24 program areas and service requirements for which commodities  
25 or contractual services are sought.

26 (b) At least three persons to conduct negotiations  
27 during a competitive sealed reply procurement who collectively  
28 have experience and knowledge in negotiating contracts,  
29 contract procurement, and the program areas and service  
30 requirements for which commodities or contractual services are  
31 sought.

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

8           (18)~~(17)~~ A No person who receives a contract that  
9 which has not been procured pursuant to subsection (1) through  
10 (5), ~~subsection (2), or subsection (3)~~to perform a  
11 feasibility study of the potential implementation of a  
12 subsequent contract, who participates ~~participating~~ in the  
13 drafting of a solicitation ~~an invitation to bid or request for~~  
14 ~~proposals,~~ or who develops ~~developing~~ a program for future  
15 implementation, is not ~~shall be~~ eligible to contract with the  
16 agency for any other contracts dealing with that specific  
17 subject matter, and ~~nor shall~~ any firm in which such person  
18 has any interest is not ~~be~~ eligible to receive such contract.  
19 However, this prohibition does not prevent a vendor who  
20 responds to a request for information from being eligible to  
21 contract with an agency.

22           (19)~~(18)~~ Each agency shall establish a review and  
23 approval process for all contractual services contracts  
24 costing more than the threshold amount provided for in s.  
25 287.017 for CATEGORY THREE which shall include, but not be  
26 limited to, program, financial, and legal review and approval.  
27 Such reviews and approvals shall be obtained before the  
28 contract is executed.

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

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

9           (21) Nothing in this section shall affect the validity  
10 or effect of any contract in existence on October 1, 1990.

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

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

30           (b) The ~~State Technology Office, in consultation with~~  
31 ~~the~~ department, in consultation with the State Technology

1 Office, shall adopt rules, pursuant to ss. 120.536(1) and  
2 120.54, to administer ~~implement~~ the program for on-line  
3 procurement. The rules shall include, but not be limited to:  
4       1. Determining the requirements and qualification  
5 criteria for prequalifying vendors ~~bidders~~.  
6       2. Establishing the procedures for conducting on-line  
7 procurement.  
8       3. Establishing the criteria for eligible commodities  
9 and contractual services.  
10       4. Establishing the procedures for providing access to  
11 on-line procurement.  
12       5. Determining the criteria warranting any exceptions  
13 to participation in the on-line procurement program.  
14       (c) ~~The department of Management Services and the~~  
15 ~~State Technology Office~~ may collect fees for the use of the  
16 on-line procurement systems. The fees may be imposed on an  
17 individual transaction basis or as a fixed percentage of the  
18 cost savings generated. At a minimum, the fees must be set in  
19 an amount sufficient to cover the projected costs of such  
20 services, including administrative and project service costs  
21 in accordance with the policies of the department ~~of~~  
22 ~~Management Services and the State Technology Office~~. For the  
23 purposes of compensating the provider, the department may  
24 authorize the provider to collect and retain a portion of the  
25 fees. The providers may withhold the portion retained from the  
26 amount of fees to be remitted to the department. The  
27 department may negotiate the retainage as a percentage of such  
28 fees charged to users, as a flat amount, or as any other  
29 method the department deems feasible. All fees and surcharges  
30 collected under this paragraph shall be deposited in the  
31 Grants and Donation Trust Fund as provided by law.

1           (24)(a) The State Technology Office shall establish,  
2 in consultation with the department, state strategic  
3 information technology alliances for the acquisition and use  
4 of information technology and related material with  
5 prequalified contractors or partners to provide the state with  
6 efficient, cost-effective, and advanced information  
7 technology.

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

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

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

22           Section 16. Section 287.0572, Florida Statutes, is  
23 amended to read:

24           287.0572 Present-value methodology.--

25           (1) The cost of bids, or proposals, or replies for  
26 state contracts that ~~which require the payment of money for~~  
27 ~~more than 1 year and~~ include provisions for unequal payment  
28 streams or unequal time payment periods shall be evaluated  
29 using present-value methodology. Each agency, as defined in  
30 s. 287.012(1), shall perform the evaluation using the  
31 present-value discount rate supplied by the department ~~of~~



1 ~~Management Services~~. The present-value discount rate shall be  
2 the rate for United States Treasury notes and bonds published  
3 in the Interest Rates: Money and Capital Markets section of  
4 the most recent copy of the Federal Reserve Bulletin published  
5 at the time of issuance of the request for proposals, the  
6 invitation to negotiate, or the invitation ~~invitations~~ to bid.

7 (2) The department ~~of Management Services~~ may adopt  
8 rules to administer ~~implement the provisions of~~ subsection  
9 (1).

10 Section 17. Subsections (1), (4), and (5) of section  
11 287.058, Florida Statutes, are amended to read:

12 287.058 Contract document.--

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

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

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

29 (c) A provision allowing unilateral cancellation by  
30 the agency for refusal by the contractor to allow public  
31 access to all documents, papers, letters, or other material

1 made or received by the contractor in conjunction with the  
2 contract, unless the records are exempt from s. 24(a) of Art.  
3 I of the State Constitution and s. 119.07(1).

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

8 (e) A provision specifying the criteria and the final  
9 date by which such criteria must be met for completion of the  
10 contract.

11 (f) A provision specifying that the contract may be  
12 renewed for a period that may not exceed 3 years or ~~on a~~  
13 ~~yearly basis for a period of up to 2 years after the initial~~  
14 ~~contract or for a period no longer than the term of the~~  
15 original contract, whichever period is longer, specifying the  
16 renewal price for the contractual service as set forth in the  
17 bid, proposal, or reply, specifying that costs for the renewal  
18 may not be charged, terms under which the cost may change as  
19 ~~determined in the invitation to bid or request for proposals,~~  
20 and specifying that renewals shall be contingent upon  
21 satisfactory performance evaluations by the agency and subject  
22 to the availability of funds. Exceptional purchase contracts  
23 pursuant to s. 287.057(5)(a) and (c) may not be renewed.

24  
25 In lieu of a written agreement, the department may authorize  
26 the use of a purchase order for classes of contractual  
27 services, if provided the provisions of paragraphs (a)-(f) are  
28 included in the purchase order or solicitation, ~~invitation to~~  
29 ~~bid, or request for proposals.~~ The purchase order must ~~shall~~  
30 include, but need not be limited to, an adequate description  
31 of the services, the contract period, and the method of

1 payment. In lieu of printing the provisions of paragraphs  
2 (a)-(f) in the contract document or purchase order, agencies  
3 may incorporate the requirements of paragraphs (a)-(f) by  
4 reference.

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

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

22 Section 18. Subsection (2) of section 287.059, Florida  
23 Statutes, is amended to read:

24 287.059 Private attorney services.--

25 (2) No agency shall contract for private attorney  
26 services without the prior written approval of the Attorney  
27 General, except that such written approval is not required for  
28 private attorney services:

29 (a) Procured by the Executive Office of the Governor  
30 or any department under the exclusive jurisdiction of a single  
31 Cabinet officer.

1 (b) Provided by legal services organizations to  
2 indigent clients.

3 (c) Necessary to represent the state in litigation  
4 involving the State Risk Management Trust Fund pursuant to  
5 part II of chapter 284.

6 (d) Procured by the university and college boards of  
7 trustees or the state universities and colleges ~~Board of~~  
8 ~~Regents and the universities of the State University System.~~

9 (e) Procured by community and junior colleges and  
10 multicounty special districts.

11 (f) Procured by the Board of Trustees for the Florida  
12 School for the Deaf and the Blind.

13 Section 19. Subsections (1) and (2) of section  
14 287.0595, Florida Statutes, are amended to read:

15 287.0595 Pollution response action contracts;  
16 department rules.--

17 (1) The Department of Environmental Protection shall  
18 establish, by adopting ~~through the promulgation of~~  
19 administrative rules as provided in chapter 120:

20 (a) Procedures for determining the qualifications of  
21 responsible potential vendors ~~bidders~~ prior to advertisement  
22 for and receipt of bids, proposals, or replies for pollution  
23 response action contracts, including procedures for the  
24 rejection of unqualified vendors ~~bidders~~. Response actions are  
25 those activities described in s. 376.301(37).

26 (b) Procedures for awarding such contracts to the  
27 lowest responsible and responsive vendor ~~qualified bidder~~ as  
28 well as procedures to be followed in cases in which the  
29 department declares a valid emergency to exist which would  
30 necessitate the waiver of the rules governing the awarding of  
31

1 such contracts to the lowest responsible and responsive vendor  
2 ~~qualified bidder~~.

3 (c) Procedures governing payment of contracts.

4 (d) Procedures to govern negotiations for contracts,  
5 modifications to contract documents, and terms and conditions  
6 of contracts.

7 (2) In adopting rules under this section, the  
8 Department of Environmental Protection shall follow the  
9 criteria applicable to the department's ~~Department of~~  
10 ~~Management Services~~ contracting to the maximum extent  
11 possible, consistent with the goals and purposes of ss.  
12 376.307 and 376.3071.

13 Section 20. Section 287.073, Florida Statutes, is  
14 repealed.

15 Section 21. Section 287.0731, Florida Statutes, is  
16 amended to read:

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

25 Section 22. Section 287.0822, Florida Statutes, is  
26 amended to read:

27 287.0822 Beef and pork; prohibition on purchase; bid  
28 specifications; penalty.--

29 (1) Fresh or frozen beef or pork that has not been  
30 inspected by the United States Department of Agriculture or by  
31 another state's inspection program which has been approved by

1 the United States Department of Agriculture shall not be  
2 purchased, or caused to be purchased, by any agency of the  
3 state or of any municipality, political subdivision, school  
4 district, or special district for consumption in this state or  
5 for distribution for consumption in this state. Solicitations  
6 ~~Bid invitations~~ issued by any agency of the state or of any  
7 municipality, political subdivision, school district, or  
8 special district for the purchase of fresh or frozen beef or  
9 pork must specify that only beef or pork inspected and passed  
10 by either the United States Department of Agriculture or by  
11 another state's inspection program which has been approved by  
12 the United States Department of Agriculture will be accepted.  
13 The supplier or vendor shall certify on the invoice that the  
14 fresh or frozen beef or pork or imported beef or pork supplied  
15 is either domestic or complies with this subsection.

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

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

27 Section 23. Section 287.084, Florida Statutes, is  
28 amended to read:

29 287.084 Preference to Florida businesses.--

30 (1) When an agency, county, municipality, school  
31 district, or other political subdivision of the state is

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

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

27 Section 24. Section 287.087, Florida Statutes, is  
28 amended to read:

29 287.087 Preference to businesses with drug-free  
30 workplace programs.--Whenever two or more bids, proposals, or  
31 replies that ~~which~~ are equal with respect to price, quality,

1 and service are received by the state or by any political  
2 subdivision for the procurement of commodities or contractual  
3 services, a bid, proposal, or reply received from a business  
4 that certifies that it has implemented a drug-free workplace  
5 program shall be given preference in the award process. In  
6 order to have a drug-free workplace program, a business shall:

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

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

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

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

30 (5) Impose a sanction on, or require the satisfactory  
31 participation in a drug abuse assistance or rehabilitation



1 program if such is available in the employee's community by,  
2 any employee who is so convicted.

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

5 Section 25. Section 287.093, Florida Statutes, is  
6 amended to read:

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

19 Section 26. Paragraphs (n) and (o) of subsection (4)  
20 and paragraphs (d) and (e) of subsection (5) of section  
21 287.09451, Florida Statutes, are amended to read:

22 287.09451 Office of Supplier Diversity; powers,  
23 duties, and functions.--

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

26 (n)1. To develop procedures to be used by an agency in  
27 identifying commodities, contractual services, architectural  
28 and engineering services, and construction contracts, except  
29 those architectural, engineering, construction, or other  
30 related services or contracts subject to the provisions of  
31 chapter 339, that could be provided by minority business

1 enterprises. Each agency is encouraged to spend 21 percent of  
2 the moneys actually expended for construction contracts, 25  
3 percent of the moneys actually expended for architectural and  
4 engineering contracts, 24 percent of the moneys actually  
5 expended for commodities, and 50.5 percent of the moneys  
6 actually expended for contractual services during the previous  
7 fiscal year, except for the state university construction  
8 program which shall be based upon public education capital  
9 outlay projections for the subsequent fiscal year, and  
10 reported to the Legislature pursuant to s. 216.023, for the  
11 purpose of entering into contracts with certified minority  
12 business enterprises as defined in s. 288.703(2), or approved  
13 joint ventures. However, in the event of budget reductions  
14 pursuant to s. 216.221, the base amounts may be adjusted to  
15 reflect such reductions. The overall spending goal for each  
16 industry category shall be subdivided as follows:

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

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

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

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

31

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

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

28           4. To determine guidelines for the use of price  
29 preferences, weighted preference formulas, or other  
30 preferences, as appropriate to the particular industry or  
31 trade, to increase the participation of minority businesses in

1 state contracting. These guidelines shall include  
2 consideration of:

- 3 a. Size and complexity of the project.
- 4 b. The concentration of transactions with minority  
5 business enterprises for the commodity or contractual services  
6 in question in prior agency contracting.
- 7 c. The specificity and definition of work allocated to  
8 participating minority business enterprises.
- 9 d. The capacity of participating minority business  
10 enterprises to complete the tasks identified in the project.
- 11 e. The available pool of minority business enterprises  
12 as prime contractors, either alone or as partners in an  
13 approved joint venture that serves as the prime contractor.

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

1 reply is submitted. An agency may count toward its minority  
2 business enterprise goals a portion of the total dollar amount  
3 of a contract equal to the percentage of the ownership and  
4 control held by the qualifying certified minority business  
5 partners in the contracting joint venture, so long as the  
6 joint venture meets the guidelines adopted by the office.

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

1 economical, offer such smaller contracts to encourage minority  
2 participation.

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

10 a. Total expenditures of each agency by industry.

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

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

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

20 e. A statement and assessment of good faith efforts  
21 taken by each state agency.

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

25 (5)

26 (d) If ~~should~~ the proposed procurement proceeds  
27 ~~proceed~~ to competitive solicitation bidding, the office is  
28 hereby granted standing to protest, pursuant to this section,  
29 in a timely manner, any contract award during ~~in~~ competitive  
30 solicitation bidding for contractual services and construction  
31 contracts that fail to include minority business enterprise

1 participation, if any responsible and responsive vendor  
2 ~~responding bidder~~ has demonstrated the ability to achieve any  
3 level of participation, or, any contract award for commodities  
4 where, a reasonable and economical opportunity to reserve a  
5 contract, statewide or district level, for minority  
6 participation was not executed or, an agency failed to adopt  
7 an applicable preference for minority participation. The bond  
8 requirement shall be waived for the office purposes of this  
9 subsection.

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

16 Section 27. Section 287.121, Florida Statutes, is  
17 repealed.

18 Section 28. Paragraph (g) of subsection (1),  
19 subsection (2), and paragraphs (a) and (d) of subsection (3)  
20 of section 287.133, Florida Statutes, are amended to read:

21 287.133 Public entity crime; denial or revocation of  
22 the right to transact business with public entities.--

23 (1) As used in this section:

24 (g) "Public entity crime" means a violation of any  
25 state or federal law by a person with respect to and directly  
26 related to the transaction of business with any public entity  
27 or with an agency or political subdivision of any other state  
28 or with the United States, including, but not limited to, any  
29 bid, proposal, reply, or contract for goods or services, any  
30 lease for real property, or any contract for the construction  
31 or repair of a public building or public work, involving

1 antitrust, fraud, theft, bribery, collusion, racketeering,  
2 conspiracy, or material misrepresentation.

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

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



1 vendor list so long as that person's name appears on the  
2 convicted vendor list.

3 (3)(a) All invitations to bid ~~as defined by s.~~  
4 ~~287.012(11)~~, requests for proposals ~~as defined by s.~~  
5 ~~287.012(15)~~, and invitations to negotiate, as defined in s.  
6 287.012, and any contract document described by s. 287.058  
7 shall contain a statement informing persons of the provisions  
8 of paragraph (2)(a).

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

20 Section 29. Subsection (2) and paragraphs (a) and (c)  
21 of subsection (3) of section 287.134, Florida Statutes, are  
22 amended to read:

23 287.134 Discrimination; denial or revocation of the  
24 right to transact business with public entities.--

25 (2)(a) An entity or affiliate who has been placed on  
26 the discriminatory vendor list may not submit a bid, proposal,  
27 or reply on a contract to provide any goods or services to a  
28 public entity; ~~may not submit a bid, proposal, or reply~~ on a  
29 contract with a public entity for the construction or repair  
30 of a public building or public work; ~~may not submit bids,~~  
31 proposals, or replies on leases of real property to a public

1 entity; ~~it~~ may not be awarded or perform work as a contractor,  
2 supplier, subcontractor, or consultant under a contract with  
3 any public entity; ~~it~~ and may not transact business with any  
4 public entity.

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

21 (3)(a) All invitations to bid, ~~as defined by s.~~  
22 ~~287.012(11)~~, requests for proposals, ~~as defined by s.~~  
23 ~~287.012(15)~~, and invitations to negotiate, as defined by s.  
24 287.012, and any written contract document of the state must  
25 ~~shall~~ contain a statement informing entities of the provisions  
26 of paragraph (2)(a).

27 (c) The department shall maintain a list of the names  
28 and addresses of any entity which has been disqualified from  
29 the public contracting and purchasing process under this  
30 section. The department shall publish an initial list on  
31 January 1, 2001, and shall publish an updated version of the

1 list quarterly thereafter. The ~~initial list and~~ revised  
2 quarterly lists shall be electronically posted ~~published in~~  
3 ~~the Florida Administrative Weekly~~. Notwithstanding this  
4 paragraph, an entity or affiliate disqualified from the public  
5 contracting and purchasing process pursuant to this section  
6 shall be disqualified as of the date the final order is  
7 entered.

8 Section 30. Section 287.1345, Florida Statutes, is  
9 amended to read:

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

1 shall be deposited into the Grants and Donations Trust Fund of  
2 the department and are subject to appropriation as provided by  
3 law. The Executive Office of the Governor may exempt  
4 transactions from the payment of the surcharge if payment of  
5 such surcharge would cause the state, a political subdivision,  
6 or unit of local government to lose federal funds or in other  
7 cases where such exemption is in the public interest. The  
8 fees collected pursuant to this section and interest income on  
9 such fees shall not be deemed to be income of a revenue nature  
10 for purposes of chapter 215.

11 Section 31. Section 373.610, Florida Statutes, is  
12 amended to read:

13 373.610 Defaulting ~~vendors and~~ contractors.--The  
14 district may suspend a contractor on a temporary or permanent  
15 basis from doing work with the district if such contractor has  
16 materially breached its contract with the district. The  
17 district shall adopt rules to administer the provisions of  
18 this section to specify the circumstances and conditions that  
19 constitute a materially breached contract and conditions that  
20 constitute the period for temporary or permanent suspension  
21 and for reinstatement.

22 Section 32. Section 373.611, Florida Statutes, is  
23 amended to read:

24 373.611 Modification or limitation of remedy.--In  
25 order to promote the cost-effective procurement of commodities  
26 and contractual services by the water management districts, a  
27 district may enter into contracts to limit or alter the  
28 measure of damages recoverable from a vendor or contractor by  
29 a district when procuring commodities or contractual services,  
30 consistent with the provisions contained in s. 672.719.

31

1           Section 33. Subsection (3) of section 394.457, Florida  
2 Statutes, is amended to read:

3           394.457 Operation and administration.--

4           (3) POWER TO CONTRACT.--The department may contract to  
5 provide, and be provided with, services and facilities in  
6 order to carry out its responsibilities under this part with  
7 the following agencies: public and private hospitals;  
8 receiving and treatment facilities; clinics; laboratories;  
9 departments, divisions, and other units of state government;  
10 the state colleges and universities; the community colleges;  
11 private colleges and universities; counties, municipalities,  
12 and any other governmental unit, including facilities of the  
13 United States Government; and any other public or private  
14 entity which provides or needs facilities or services. Baker  
15 Act funds for community inpatient, crisis stabilization,  
16 short-term residential treatment, and screening services must  
17 be allocated to each county pursuant to the department's  
18 funding allocation methodology. Notwithstanding the provisions  
19 of s. 287.057(5)(f)~~s. 287.057(4)(f)~~, contracts for  
20 community-based Baker Act services for inpatient, crisis  
21 stabilization, short-term residential treatment, and screening  
22 provided under this part, other than those with other units of  
23 government, to be provided for the department must be awarded  
24 using competitive sealed bids when the county commission of  
25 the county receiving the services makes a request to the  
26 department's district office by January 15 of the contracting  
27 year. The district shall not enter into a competitively bid  
28 contract under this provision if such action will result in  
29 increases of state or local expenditures for Baker Act  
30 services within the district. Contracts for these Baker Act  
31 services using competitive sealed bids will be effective for 3

1 years. Services contracted for by the department may be  
2 reimbursed by the state at a rate up to 100 percent. The  
3 department shall adopt rules establishing minimum standards  
4 for such contracted services and facilities and shall make  
5 periodic audits and inspections to assure that the contracted  
6 services are provided and meet the standards of the  
7 department.

8 Section 34. Paragraph (a) of subsection (1) of section  
9 394.47865, Florida Statutes, is amended to read:

10 394.47865 South Florida State Hospital;  
11 privatization.--

12 (1) The Department of Children and Family Services  
13 shall, through a request for proposals, privatize South  
14 Florida State Hospital. The department shall plan to begin  
15 implementation of this privatization initiative by July 1,  
16 1998.

17 (a) Notwithstanding s. 287.057(14)~~s. 287.057(13)~~, the  
18 department may enter into agreements, not to exceed 20 years,  
19 with a private provider, a coalition of providers, or another  
20 agency to finance, design, and construct a treatment facility  
21 having up to 350 beds and to operate all aspects of daily  
22 operations within the facility. The department may subcontract  
23 any or all components of this procurement to a statutorily  
24 established state governmental entity that has successfully  
25 contracted with private companies for designing, financing,  
26 acquiring, leasing, constructing, and operating major  
27 privatized state facilities.

28 Section 35. Subsections (1) and (5) of section 402.73,  
29 Florida Statutes, are amended to read:

30 402.73 Contracting and performance standards.--  
31

1           (1) The Department of Children and Family Services  
2 shall establish performance standards for all contracted  
3 client services. Notwithstanding s. 287.057(5)(f)~~s.~~

4 ~~287.057(4)(f)~~, the department must competitively procure any  
5 contract for client services when any of the following occurs:

6           (a) The provider fails to meet appropriate performance  
7 standards established by the department after the provider has  
8 been given a reasonable opportunity to achieve the established  
9 standards.

10           (b) A new program or service has been authorized and  
11 funded by the Legislature and the annual value of the contract  
12 for such program or service is \$300,000 or more.

13           (c) The department has concluded, after reviewing  
14 market prices and available treatment options, that there is  
15 evidence that the department can improve the performance  
16 outcomes produced by its contract resources. At a minimum, the  
17 department shall review market prices and available treatment  
18 options biennially. The department shall compile the results  
19 of the biennial review and include the results in its annual  
20 performance report to the Legislature pursuant to chapter  
21 94-249, Laws of Florida. The department shall provide notice  
22 and an opportunity for public comment on its review of market  
23 prices and available treatment options.

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

1 and cost-control requirements. If other governmental entities  
2 or units of special purpose government contribute matching  
3 funds to the support of a given system of treatment or  
4 service, the department shall formally request information  
5 from those funding entities in the procurement process and may  
6 take the information received into account in the selection  
7 process. If a local government contributes match to support  
8 the system of treatment or contracted service and if the match  
9 constitutes at least 25 percent of the value of the contract,  
10 the department shall afford the governmental match contributor  
11 an opportunity to name an employee as one of the persons to  
12 ~~the selection team~~ required by s. 287.057(17) to evaluate or  
13 negotiate certain contracts, unless the department sets forth  
14 in writing the reason why such inclusion would be contrary to  
15 the best interest of the state ~~s. 287.057(15)~~. Any employee so  
16 named by the governmental match contributor shall qualify as  
17 one of the persons ~~employees~~ required by s. 287.057(17)~~s.~~  
18 ~~287.057(15)~~. ~~The selection team shall include the named~~  
19 ~~employee unless the department sets forth in writing the~~  
20 ~~reason such inclusion would be contrary to the best interests~~  
21 ~~of the state.~~No governmental entity or unit of special  
22 purpose government may name an employee as one of the persons  
23 required by s. 287.057(17)~~to the selection team~~ if it, or any  
24 of its political subdivisions, executive agencies, or special  
25 districts, intends to compete for the contract to be awarded.  
26 The governmental funding entity or match contributor shall  
27 comply with any deadlines and procurement procedures  
28 established by the department. The department may also involve  
29 nongovernmental funding entities in the procurement process  
30 when appropriate.  
31



1           Section 36. Subsection (2) of section 408.045, Florida  
2 Statutes, is amended to read:

3           408.045 Certificate of need; competitive sealed  
4 proposals.--

5           (2) The agency shall make a decision regarding the  
6 issuance of the certificate of need in accordance with the  
7 provisions of s. 287.057(17)~~s. 287.057(15)~~, rules adopted by  
8 the agency relating to intermediate care facilities for the  
9 developmentally disabled, and the criteria in s. 408.035, as  
10 further defined by rule.

11           Section 37. Section 413.036, Florida Statutes, is  
12 amended to read:

13           413.036 Procurement of services by agencies; authority  
14 of commission.--

15           (1) If any agency intends to procure any product or  
16 service on the procurement list, that agency shall, in  
17 accordance with rules and regulations of the commission,  
18 procure such product or service at the price established by  
19 the commission from a qualified nonprofit agency for the blind  
20 or for the other severely handicapped if the product or  
21 service is available within a reasonable delivery time. This  
22 act shall not apply in any case in which products or services  
23 are available for procurement from any agency of the state and  
24 procurement therefrom is required under the provision of any  
25 law currently in effect. However, this act shall have  
26 precedence over any law requiring state agency procurement of  
27 products or services from any other nonprofit corporation  
28 unless such precedence is waived by the commission in  
29 accordance with its rules.

30           (2) The provisions of part I of chapter 287 do not  
31 apply to any purchase of commodities or contractual services

1 made by any legislative, executive, or judicial agency of the  
2 state from a qualified nonprofit agency for the blind or for  
3 the other severely handicapped.

4 (3) If, pursuant to a contract between any  
5 legislative, executive, or judicial agency of the state and  
6 any private contract vendor, a product or service is required  
7 by the Department of Management Services or on behalf of any  
8 state agency that is included on the procurement list  
9 established by the commission pursuant to s. 413.035(2), the  
10 contract must contain the following language:

11 "IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY  
12 ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT,  
13 THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR  
14 THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED  
15 PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER  
16 AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1)  
17 AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT  
18 THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE  
19 PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED  
20 FOR THE STATE AGENCY INsofar AS DEALINGS WITH SUCH QUALIFIED  
21 NONPROFIT AGENCY ARE CONCERNED."

22 Section 38. Paragraph (c) of subsection (5) of section  
23 445.024, Florida Statutes, is amended to read:

24 445.024 Work requirements.--

25 (5) USE OF CONTRACTS.--Regional workforce boards shall  
26 provide work activities, training, and other services, as  
27 appropriate, through contracts. In contracting for work  
28 activities, training, or services, the following applies:

29 (c) Notwithstanding the exemption from the competitive  
30 sealed bid requirements provided in s. 287.057(5)(f)~~s.~~  
31 ~~287.057(4)(f)~~for certain contractual services, each contract

1 awarded under this chapter must be awarded on the basis of a  
2 competitive sealed bid, except for a contract with a  
3 governmental entity as determined by the regional workforce  
4 board.

5 Section 39. Paragraph (d) of subsection (2) of section  
6 455.2177, Florida Statutes, is amended to read:

7 455.2177 Monitoring of compliance with continuing  
8 education requirements.--

9 (2) If the compliance monitoring system required under  
10 this section is privatized, the following provisions apply:

11 (d) Upon the failure of a vendor to meet its  
12 obligations under a contract as provided in paragraph (a), the  
13 department may suspend the contract and enter into an  
14 emergency contract under s. 287.057(5)~~s. 287.057(4)~~.

15 Section 40. This act shall take effect July 1, 2002.

16

17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
18 COMMITTEE SUBSTITUTE FOR  
19 SB 1132

20

21 Revises current law to require procurement matters to be  
22 electronically posted by agencies on a centralized website.  
23 Broadens "eligible user" definition to permit DMS to authorize  
24 such users by rule. Provides RESPECT with the same purchasing  
25 preferences as PRIDE. Requires a one percent protest bond and  
26 provides for the award of prevailing party attorney's fees and  
27 costs. Removes bill's requirements for solicitation  
28 amendments, and for resolicitation of an invitation to  
29 negotiate procurement under certain circumstances. Requires  
30 agencies to electronically post potential sole source  
31 purchases. Revises law relating to renewal of contracts.  
Repeals section of law specifically providing procurement  
requirements for information technology. Provides that  
information technology shall be purchased as a commodity.  
Deletes requirement that Department of Management Services  
annually adjust purchase category amounts. Provides a limited  
exception to the requirement that agencies post solicitations  
for at least 10 days. Provides that a request for quote may be  
used to obtain more favorable prices, terms, or conditions for  
commodities or contractual services available on state term  
contract.

31