

567-187AXA-32

Bill No. HB 1977

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Wallace offered the following:

Amendment (with title amendment)

Remove: everything after the enacting clause,

and insert:

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

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

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

(e) The potential loss of substantial federal funds poses a direct and immediate threat to the health, safety, and welfare of the children and citizens of the state and

1 constitutes an emergency for purposes of s. 287.057(5)(a)~~s.~~
2 ~~287.057(4)(a)~~.

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

5 120.57 Additional procedures for particular cases.--

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

12 (a) The agency shall provide notice of a ~~its~~ decision
13 or intended decision concerning a ~~bid~~ solicitation, or a
14 contract award, or exceptional purchase by electronic posting.
15 This notice shall contain the following statement: "Failure to
16 file a protest within the time prescribed in section
17 120.57(3), Florida Statutes, shall constitute a waiver of
18 proceedings under chapter 120, Florida Statutes."~~as follows:~~

19 1. ~~For a bid solicitation, notice of a decision or~~
20 ~~intended decision shall be given by United States mail or by~~
21 ~~hand delivery.~~

22 2. ~~For any decision of the Department of Management~~
23 ~~Services concerning a request by an agency for approval of an~~
24 ~~exceptional purchase under part I of chapter 287 and the rules~~
25 ~~of the Department of Management Services, notice of a decision~~
26 ~~or intended decision shall be given by posting such notice in~~
27 ~~the office of the Department of Management Services.~~

28 3. ~~For any other agency decision, notice of a decision~~
29 ~~or intended decision shall be given either by posting the bid~~
30 ~~tabulation at the location where the bids were opened or by~~
31 ~~certified United States mail or other express delivery~~

1 ~~service, return receipt requested.~~

2

3 ~~The notice required by this paragraph shall contain the~~
4 ~~following statement: "Failure to file a protest within the~~
5 ~~time prescribed in s. 120.57(3), Florida Statutes, shall~~
6 ~~constitute a waiver of proceedings under chapter 120, Florida~~
7 ~~Statutes."~~

8 (b) Any person who is adversely affected by the agency
9 decision or intended decision shall file with the agency a
10 notice of protest in writing within 72 hours after the posting
11 of the notice of decision or intended decision bid tabulation
12 ~~or after receipt of the notice of the agency decision or~~
13 ~~intended decision and shall file a formal written protest~~
14 ~~within 10 days after filing the notice of protest. With~~
15 ~~respect to a protest of the terms, conditions, and~~
16 ~~specifications contained in a solicitation, including any~~
17 ~~provisions governing the methods for ranking bids, proposals,~~
18 ~~or replies, awarding contracts, reserving rights of further~~
19 ~~negotiation, or modifying or amending any contract an~~
20 ~~invitation to bid or in a request for proposals, the notice of~~
21 protest shall be filed in writing within 72 hours after the
22 posting receipt of notice of the solicitation.~~project plans~~
23 ~~and specifications in an invitation to bid or request for~~
24 ~~proposals, and The formal written protest shall be filed~~
25 within 10 days after the date the notice of protest is filed.
26 Failure to file a notice of protest or failure to file a
27 formal written protest shall constitute a waiver of
28 proceedings under this chapter. The formal written protest
29 shall state with particularity the facts and law upon which
30 the protest is based. Saturdays, Sundays, and state legal
31 holidays shall be excluded in the computation of the 72-hour

1 time periods provided by this paragraph.

2 (c) Upon receipt of the formal written protest that
3 ~~which~~ has been timely filed, the agency shall stop the ~~bid~~
4 solicitation ~~process~~ or ~~the~~ contract award process until the
5 subject of the protest is resolved by final agency action,
6 unless the agency head sets forth in writing particular facts
7 and circumstances which require the continuance of the ~~bid~~
8 solicitation ~~process~~ or ~~the~~ contract award process without
9 delay in order to avoid an immediate and serious danger to the
10 public health, safety, or welfare.

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

15 2. If the subject of a protest is not resolved by
16 mutual agreement within 7 days, excluding Saturdays, Sundays,
17 and state legal holidays, after receipt of the formal written
18 protest, and if there is no disputed issue of material fact,
19 an informal proceeding shall be conducted pursuant to
20 subsection (2) and applicable agency rules before a person
21 whose qualifications have been prescribed by rules of the
22 agency.

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

29 (e) Upon receipt of a formal written protest referred
30 pursuant to this subsection, the director of the division
31 shall expedite the hearing and assign an administrative law

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1 judge who shall commence a hearing within 30 days after the
2 receipt of the formal written protest by the division and
3 enter a recommended order within 30 days after the hearing or
4 within 30 days after receipt of the hearing transcript by the
5 administrative law judge, whichever is later. Each party shall
6 be allowed 10 days in which to submit written exceptions to
7 the recommended order. A final order shall be entered by the
8 agency within 30 days of the entry of a recommended order. The
9 provisions of this paragraph may be waived upon stipulation by
10 all parties.

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

1 replies, the standard of review by an administrative law judge
2 shall be whether the agency's intended action is illegal,
3 arbitrary, dishonest, or fraudulent.

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

6 Section 3. Section 283.32, Florida Statutes, is
7 amended to read:

8 283.32 Recycled paper to be used by each agency;
9 printing bids certifying use of recycled paper; percentage
10 preference in awarding contracts.--

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

14 (2) Each agency shall require ~~that~~ a vendor that
15 ~~person who~~ submits a bid for a contract for printing and that
16 ~~who~~ wishes to be considered for the price preference described
17 in s. 287.045 ~~to shall~~ certify in writing the percentage of
18 recycled content of the material used for such printing. Such
19 vendor person may certify that the material contains no
20 recycled content.

21 (3) Upon evaluation of bids for each printing
22 contract, the agency shall identify the lowest responsive bid
23 ~~bidder~~ and any other responsive bids in which it has been
24 ~~bidders who have~~ certified that the materials used in printing
25 contain at least the minimum percentage of recycled content
26 that is set forth by the department. In awarding a contract
27 for printing, the agency may allow up to a 10-percent price
28 preference, as provided in s. 287.045, to a responsible and
29 responsive vendor that bidder who has certified that the
30 materials used in printing contain at least the minimum
31 percentage of recycled content established by the department.

1 If no vendors ~~bidders~~ offer materials for printing that
2 contain the minimum prescribed recycled content, the contract
3 shall be awarded to the responsible vendor that submits the
4 lowest responsive bid ~~qualified bidder~~.

5 Section 4. Section 283.33, Florida Statutes, is
6 amended to read:

7 283.33 Printing of publications; lowest bidder
8 awards.--

9 (1) Publications may be printed and prepared in-house,
10 by another agency or the Legislature, or purchased on bid,
11 whichever is more economical and practicable as determined by
12 the agency. An agency may contract for binding separately when
13 more economical or practicable, whether or not the remainder
14 of the printing is done in-house. A vendor bidder may
15 subcontract for binding and still be considered a responsible
16 vendor ~~qualified bidder or offeror~~, notwithstanding s.
17 287.012(24) ~~s. 287.012(13)~~.

18 (2) All printing of publications that cost in excess
19 of the threshold amount provided in s. 287.017 for CATEGORY
20 TWO and purchased by agencies shall be let upon contract to
21 the vendor that submits the lowest responsive bid and that
22 will bidder, who shall furnish all materials used in printing.
23 Such contract shall specify a definite term and a definite
24 number of copies.

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

29 (4) The provisions of s. 946.515(4) shall not apply to
30 purchases of printing.

31 Section 5. Section 283.34, Florida Statutes, is

1 amended to read:

2 283.34 State officers not to have interests in
3 printing contract.--No member of the Legislature or other
4 officer of this state may have an interest, directly or
5 indirectly, in any printing contract as provided for in s.
6 283.33; however, nothing in this section prohibits a member of
7 the Legislature from receiving such a contract when the member
8 or his or her firm has submitted the lowest responsive bid is
9 ~~the lowest bidder of all bidders submitting competitive bids~~
10 for the contract.

11 Section 6. Section 283.35, Florida Statutes, is
12 amended to read:

13 283.35 Preference given printing within the
14 state.--Every agency shall give preference to vendors ~~bidders~~
15 located within the state when awarding contracts to have
16 materials printed, whenever such printing can be done at no
17 greater expense than the expense of awarding a contract to a
18 vendor ~~bidder~~ located outside the state and can be done at a
19 level of quality comparable to that obtainable from a vendor
20 ~~bidder~~ located outside the state.

21 Section 7. Section 287.001, Florida Statutes, is
22 amended to read:

23 287.001 Legislative intent.--The Legislature
24 recognizes that fair and open competition is a basic tenet of
25 public procurement; that such competition reduces the
26 appearance and opportunity for favoritism and inspires public
27 confidence that contracts are awarded equitably and
28 economically; and that documentation of the acts taken and
29 effective monitoring mechanisms are important means of curbing
30 any improprieties and establishing public confidence in the
31 process by which commodities and contractual services are

1 procured. It is essential to the effective and ethical
2 procurement of commodities and contractual services that there
3 be a system of uniform procedures to be utilized by state
4 agencies in managing and procuring commodities and contractual
5 services; that detailed justification of agency decisions in
6 the procurement of commodities and contractual services be
7 maintained; and that adherence by the agency and the vendor
8 ~~contractor~~ to specific ethical considerations be required.

9 Section 8. Section 287.012, Florida Statutes, is
10 amended to read:

11 287.012 Definitions.--As used ~~The following~~
12 ~~definitions shall apply~~ in this part, the term:

13 (1) "Agency" means any of the various state officers,
14 departments, boards, commissions, divisions, bureaus, and
15 councils and any other unit of organization, however
16 designated, of the executive branch of state government.
17 "Agency" does not include the University and College Boards of
18 Trustees or the state universities and colleges ~~Board of~~
19 ~~Regents or the State University System.~~

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

23 (3) "Artist" means an individual or group of
24 individuals who profess and practice a demonstrated creative
25 talent and skill in the area of music, dance, drama, folk art,
26 creative writing, painting, sculpture, photography, graphic
27 arts, craft arts, industrial design, costume design, fashion
28 design, motion pictures, television, radio, or tape and sound
29 recording or in any other related field.

30 (4) "Best value" means the highest overall value to
31 the state based on objective factors that include, but are not

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1 limited to, price, quality, design, and workmanship.
2 (5)(4) "Commodity" means any of the various supplies,
3 materials, goods, merchandise, food, equipment, information
4 technology, and other personal property, including a mobile
5 home, trailer, or other portable structure with floor space of
6 less than 5,000 ~~3,000~~ square feet, purchased, leased, or
7 otherwise contracted for by the state and its agencies.
8 "Commodity" also includes interest on deferred-payment
9 commodity contracts approved pursuant to s. 287.063 entered
10 into by an agency for the purchase of other commodities.
11 However, commodities purchased for resale are excluded from
12 this definition. Further, a prescribed drug, medical supply,
13 or device required by a licensed health care provider as a
14 part of providing health services involving examination,
15 diagnosis, treatment, prevention, medical consultation, or
16 administration for clients at the time the service is provided
17 is not considered to be a "commodity." Printing of
18 publications shall be considered a commodity when let upon
19 contract pursuant to s. 283.33, whether purchased for resale
20 or not.

21 (6)(5) "Competitive sealed bids," ~~or~~ "competitive
22 sealed proposals," or "competitive sealed replies" mean the
23 process of receiving ~~refers to the receipt of~~ two or more
24 sealed bids, or proposals, or replies submitted by responsive
25 vendors ~~and qualified bidders or offerors~~ and includes bids,
26 ~~or proposals, or replies~~ transmitted by electronic means in
27 lieu of or in addition to written bids, ~~or proposals, or~~
28 replies.

29 (7) "Competitive solicitation" or "solicitation" means
30 an invitation to bid, a request for proposals, or an
31 invitation to negotiate.

1 ~~(8)(6)~~ "Contractor" means a person who contracts to
2 sell commodities or contractual services to an agency.

3 ~~(9)(7)~~ "Contractual service" means the rendering by a
4 contractor of its time and effort rather than the furnishing
5 of specific commodities. The term applies only to those
6 services rendered by individuals and firms who are independent
7 contractors, and such services may include, but are not
8 limited to, evaluations; consultations; maintenance;
9 accounting; security; management systems; management
10 consulting; educational training programs; research and
11 development studies or reports on the findings of consultants
12 engaged thereunder; and professional, technical, and social
13 services. "Contractual service" does not include any contract
14 for the furnishing of labor or materials for the construction,
15 renovation, repair, modification, or demolition of any
16 facility, building, portion of building, utility, park,
17 parking lot, or structure or other improvement to real
18 property entered into pursuant to chapter 255 and rules
19 adopted thereunder.

20 ~~(10)(8)~~ "Department" means the Department of
21 Management Services.

22 (11) "Electronic posting" or "electronically post"
23 means the posting of solicitations, agency decisions or
24 intended decisions, or other matters relating to procurement
25 on a centralized Internet website designated by the department
26 for this purpose.

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

30 ~~(13)(9)~~ "Exceptional purchase" means any purchase of
31 commodities or contractual services excepted by law or rule

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1 from the requirements for competitive solicitation ~~or~~
 2 ~~acquisition~~, including, but not limited to, purchases from a
 3 single source; ~~purchases upon receipt of less than two~~
 4 ~~responsive bids, or proposals, or replies;~~ purchases made by
 5 an agency, after receiving approval from the department, from
 6 a contract procured, pursuant to s. 287.057(1), (2), or (3),
 7 by another agency; and purchases made without advertisement in
 8 the manner required by s. 287.042(3)(b) without publication of
 9 ~~notice in the Florida Administrative Weekly, and exceptions~~
 10 ~~granted by the department for a purchase of commodities from~~
 11 ~~other than a state term contract vendor.~~

12 (14)(10) "Extension" means an increase in the time
 13 allowed for the contract period due to circumstances which,
 14 without fault of either party, make performance impracticable
 15 or impossible, or which prevent a new contract from being
 16 executed, with or without a proportional increase in the total
 17 dollar amount, with any increase to be based on the method and
 18 rate previously established in the contract.

19 (15) "Information technology" has the meaning ascribed
 20 in s. 282.0041.

21 (16)(11) "Invitation to bid" means a written
 22 solicitation for competitive sealed bids ~~with the title, date,~~
 23 ~~and hour of the public bid opening designated and specifically~~
 24 ~~defining the commodity, group of commodities, or services for~~
 25 ~~which bids are sought. It includes instructions prescribing~~
 26 ~~all conditions for bidding and shall be distributed to all~~
 27 ~~prospective bidders simultaneously.~~ The invitation to bid is
 28 used when the agency is capable of specifically defining the
 29 scope of work for which a contractual service is required or
 30 when the agency is capable of establishing precise
 31 specifications defining the actual commodity or group of

1 commodities required. A written solicitation includes a
2 solicitation that is electronically posted ~~published or~~
3 ~~transmitted by electronic means.~~

4 (17) "Invitation to negotiate" means a written
5 solicitation for competitive sealed replies to select one or
6 more vendors with which to commence negotiations for the
7 procurement of commodities or contractual services. The
8 invitation to negotiate is used when the agency determines
9 that negotiations may be necessary for the state to receive
10 the best value. A written solicitation includes a solicitation
11 that is electronically posted.

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

14 (19) "Office" means the Office of Supplier Diversity
15 of the Department of Management Services.

16 ~~(13) "Qualified bidder," "responsible bidder,"~~
17 ~~"qualified offeror," or "responsible offeror" means a person~~
18 ~~who has the capability in all respects to perform fully the~~
19 ~~contract requirements and has the integrity and reliability~~
20 ~~which will assure good faith performance.~~

21 (20)(14) "Renewal" means contracting with the same
22 contractor for an additional contract period after the initial
23 contract period, only if pursuant to contract terms
24 specifically providing for such renewal.

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

30 (22)(15) "Request for proposals" means a written
31 solicitation for competitive sealed proposals with the title,

1 ~~date, and hour of the public opening designated. A written~~
 2 ~~solicitation includes a solicitation published or transmitted~~
 3 ~~by electronic means. The request for proposals is used when it~~
 4 ~~is not practicable for the agency to~~ is incapable of
 5 specifically define ~~defining~~ the scope of work for which the
 6 commodity, group of commodities, or contractual service is
 7 required and when the agency is requesting that a responsible
 8 vendor ~~qualified offeror~~ propose a commodity, group of
 9 commodities, or contractual service to meet the specifications
 10 of the solicitation document. A written solicitation includes
 11 a solicitation that is electronically posted. ~~A request for~~
 12 ~~proposals includes, but is not limited to, general~~
 13 ~~information, applicable laws and rules, functional or general~~
 14 ~~specifications, statement of work, proposal instructions, and~~
 15 ~~evaluation criteria. Requests for proposals shall state the~~
 16 ~~relative importance of price and any other evaluation~~
 17 ~~criteria.~~

18 (23) "Request for a quote" means an oral or written
 19 request for written pricing or services information from a
 20 state term contract vendor for commodities or contractual
 21 services available on a state term contract from that vendor.

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

26 (25)(16) "Responsive bid," or "responsive proposal" or
 27 "responsive reply" means a bid, or proposal, or reply
 28 submitted by a responsive, and responsible vendor or
 29 qualified, bidder or offeror which conforms in all material
 30 respects to the solicitation invitation to bid or request for
 31 proposals.

1 ~~(26)(17)~~ "Responsive vendor bidder" or "~~responsive~~
 2 ~~offeror~~" means a vendor that person who has submitted a bid,
 3 ~~or proposal, or reply that~~ which conforms in all material
 4 respects to the solicitation invitation to bid or request for
 5 proposals.

6 (27) "State term contract" means a term contract that
 7 is competitively procured by the department pursuant to s.
 8 287.057 and that is used by agencies and eligible users
 9 pursuant to s. 287.056.

10 ~~(28)(18)~~ "Term contract" means an indefinite quantity
 11 contract ~~wherein a party agrees~~ to furnish commodities or
 12 contractual services during a defined ~~prescribed~~ period of
 13 time, ~~the expiration of which concludes the contract.~~

14 ~~(19)~~ "Office" means the ~~Office of Supplier Diversity~~
 15 ~~of the Department of Management Services.~~

16 ~~(20)~~ "Invitation to negotiate" means a written
 17 ~~solicitation that calls for responses to select one or more~~
 18 ~~persons or business entities with which to commence~~
 19 ~~negotiations for the procurement of commodities or contractual~~
 20 ~~services.~~

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

25 ~~(22)~~ "Information technology" means equipment,
 26 ~~hardware, software, firmware, programs, systems, networks,~~
 27 ~~infrastructure, media, and related material used to~~
 28 ~~automatically, electronically, and wirelessly collect,~~
 29 ~~receive, access, transmit, display, store, record, retrieve,~~
 30 ~~analyze, evaluate, process, classify, manipulate, manage,~~
 31 ~~assimilate, control, communicate, exchange, convert, converge,~~

1 ~~interface, switch, or disseminate information of any kind or~~
2 ~~form.~~

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

5 287.017 Purchasing categories, threshold amounts;
6 procedures for automatic adjustment by department.--

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

11 (a) Designation of the nationally recognized price
12 index or component thereof used to calculate the proper
13 adjustment authorized in this section.

14 (b) The procedure for rounding results.

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

17 Section 10. Subsections (1) and (3) of section
18 287.022, Florida Statutes, are amended to read:

19 287.022 Purchase of insurance.--

20 (1) Insurance, while not a commodity, nevertheless
21 shall be purchased for all agencies by the department, except
22 that agencies may purchase title insurance for land
23 acquisition and may make emergency purchases of insurance
24 pursuant to s. 287.057(5)(a)~~s. 287.057(4)(a)~~. The procedures
25 for purchasing insurance, whether the purchase is made by the
26 department or by the agencies, shall be the same as those set
27 forth herein for the purchase of commodities.

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

1 insurance agent from competing for any insurance product or
2 plan purchased, provided, or endorsed by the department or the
3 division on the basis of the compensation arrangement used by
4 the insurer or organization for its agents.

5 Section 11. Section 287.032, Florida Statutes, is
6 amended to read:

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

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

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

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

21 Section 12. Section 287.042, Florida Statutes, is
22 amended to read:

23 287.042 Powers, duties, and functions.--The department
24 shall have the following powers, duties, and functions:

25 (1)(a) To canvass all sources of supply, establish and
26 maintain a vendor list, and contract for the purchase, lease,
27 or acquisition ~~in any manner~~, including purchase by
28 installment sales or lease-purchase contracts which may
29 provide for the payment of interest on unpaid portions of the
30 purchase price, of all commodities and contractual services
31 required by any agency under this chapter ~~competitive bidding~~

1 ~~or by contractual negotiation.~~ Any contract providing for
2 deferred payments and the payment of interest shall be subject
3 to specific rules adopted by the department.

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

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

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

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

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

1 (g) The department shall include products and services
 2 that are offered by a qualified nonprofit agency for the blind
 3 or for the other severely handicapped organized pursuant to
 4 chapter 413 and that have been determined to be suitable for
 5 purchase pursuant to s. 413.035 on any department listing of
 6 state term contracts. The products and services shall be
 7 placed on such list in a category based upon specification
 8 criteria developed by the department in consultation with the
 9 qualified nonprofit agency.

10 (h)(g) The department may collect fees for the use of
 11 its electronic information services. The fees may be imposed
 12 on an individual transaction basis or as a fixed subscription
 13 for a designated period of time. At a minimum, the fees shall
 14 be determined in an amount sufficient to cover the
 15 department's projected costs of such services, including
 16 overhead in accordance with the policies of the Department of
 17 Management Services for computing its administrative
 18 assessment. All fees collected pursuant to this paragraph
 19 shall be deposited in the Grants and Donations Trust Fund for
 20 disbursement as provided by law.

21 (2)(a) To establish plan and coordinate purchases in
 22 volume and to negotiate and execute purchasing agreements and
 23 procure state term contracts for commodities and contractual
 24 services, pursuant to s. 287.057, under which state agencies
 25 shall, and eligible users may, make purchases pursuant to s.
 26 287.056, and under which a federal, county, municipality,
 27 institutions qualified pursuant to s. 240.605, private
 28 nonprofit community transportation coordinator designated
 29 pursuant to chapter 427, while conducting business related
 30 solely to the Commission for the Transportation Disadvantaged,
 31 or other local public agency may make purchases. The

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1 department may restrict purchases from some term contracts to
2 state agencies only for those term contracts where the
3 inclusion of other governmental entities will have an adverse
4 effect on competition or to those federal facilities located
5 in this state. In such planning or purchasing the Office of
6 Supplier Diversity may monitor to ensure that opportunities
7 are afforded for contracting with minority business
8 enterprises. The department, for state term contracts, and all
9 agencies, for multiyear contractual services or term
10 contracts, shall explore reasonable and economical means to
11 utilize certified minority business enterprises. Purchases by
12 any county, municipality, private nonprofit community
13 transportation coordinator designated pursuant to chapter 427,
14 while conducting business related solely to the Commission for
15 the Transportation Disadvantaged, or other local public agency
16 under the provisions in the state purchasing contracts, and
17 purchases, from the corporation operating the correctional
18 work programs, of products or services that are subject to
19 paragraph (1)(f), are exempt from the competitive solicitation
20 ~~sealed bid~~ requirements otherwise applying to their purchases.

21 (b) As an alternative to any provision in s.
22 120.57(3)(c), the department may proceed with the competitive
23 ~~bid~~ solicitation or contract award process of a term contract
24 ~~bid~~ when the secretary of the department or his or her
25 designee sets forth in writing particular facts and
26 circumstances which demonstrate that the delay incident to
27 staying the solicitation ~~bid process~~ or contract award process
28 would be detrimental to the interests of the state. After the
29 award of a contract resulting from a competitive solicitation
30 ~~bid~~ in which a timely protest was received and in which the
31 state did not prevail, the contract may be canceled and

1 reawarded to the prevailing party.

2 (c) Any person who files an action protesting a

3 decision or intended decision pertaining to contracts

4 administered by the department, a water management district,

5 or an a state agency pursuant to s. 120.57(3)(b) shall post

6 with the department, the water management district, or the

7 ~~state~~ agency at the time of filing the formal written protest

8 a bond payable to the department, the water management

9 district, or ~~state~~ agency in an amount equal to 1 percent of

10 the estimated contract amount.~~department's, the water~~

11 ~~management district's, or the state agency's estimate of the~~

12 ~~total volume of the contract or \$5,000, whichever is less,~~

13 ~~which bond shall be conditioned upon the payment of all costs~~

14 ~~which may be adjudged against him or her in the administrative~~

15 ~~hearing in which the action is brought and in any subsequent~~

16 ~~appellate court proceeding.~~For protests of decisions or

17 intended decisions of the department pertaining to agencies'

18 ~~requests for approval of exceptional purchases, the bond shall~~

19 be in an amount equal to 1 percent of the estimated requesting

20 ~~agency's estimate of the contract amount for the exceptional~~

21 ~~purchase requested or \$5,000, whichever is less. The estimated~~

22 contract amount shall be based upon the contract price

23 submitted by the protestor or, if no contract price was

24 submitted, the department, water management district, or

25 agency shall estimate the contract amount based on factors

26 including, but not limited to, the price of previous or

27 existing contracts for similar commodities or contractual

28 services, the amount appropriated by the Legislature for the

29 contract, or the fair market value of similar commodities or

30 contractual services. The agency shall provide the estimated

31 contract amount to the vendor within 72 hours, excluding

1 Saturdays, Sundays, and state holidays, after the filing of
2 the notice of protest by the vendor. The estimated contract
3 amount is not subject to protest pursuant to s. 120.57(3). The
4 bond shall be conditioned upon the payment of all costs and
5 reasonable attorney's fees that are adjudged against the
6 protestor in the administrative hearing in which the action is
7 brought and in any subsequent appellate court proceeding.In
8 lieu of a bond, the department, the water management district,
9 or ~~state~~ agency may, in either case, accept a cashier's check,
10 official bank check, or money order in the amount of the bond.
11 If, after completion of the administrative hearing process and
12 any appellate court proceedings, the department, water
13 management district, or agency prevails, it shall recover all
14 costs and reasonable attorney's fees, charges which shall be
15 included in the final order or judgment, ~~excluding attorney's~~
16 ~~fees~~. This section shall not apply to protests filed by the
17 Office of Supplier Diversity. Upon payment of such costs and
18 reasonable attorney's fees charges by the protestor person
19 ~~protesting the award~~, the bond, cashier's check, official bank
20 check, or money order shall be returned to the protestor him
21 or her. If, after the completion of the administrative hearing
22 process and any appellate court proceedings, the protestor the
23 ~~person protesting the award prevails, the protestor he or she~~
24 shall recover from the department, water management district,
25 or agency or water management district, all costs and
26 reasonable attorney's fees, charges which shall be included in
27 the final order or of judgment, excluding attorney's fees.
28 (d) ~~The terms, conditions, and specifications of a~~
29 ~~request for proposal, request for quote, invitation to bid, or~~
30 ~~invitation to negotiate, including any provisions governing~~
31 ~~the methods for ranking proposals, awarding contracts,~~

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

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

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

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

20 (b)1. Development of procedures for advertising
 21 solicitations. ~~These the releasing of requests for proposals,~~
 22 ~~requests for quotes, invitations to bid, invitations to~~
 23 ~~negotiate, and other competitive acquisitions which procedures~~
 24 must provide for electronic posting of solicitations for shall
 25 include, but are not limited to, notice by publication in the
 26 Florida Administrative Weekly, on Government Services Direct,
 27 or by mail at least 10 days before the date set for receipt
 28 submittal of bids, proposals, or replies bids, unless the
 29 department or other agency determines in writing that a
 30 shorter period of time is necessary to avoid harming the
 31 interests of the state. The Office of Supplier Diversity may

1 consult with the department agencies regarding the development
2 of solicitation bid distribution procedures to ensure that
3 maximum distribution is afforded to certified minority
4 business enterprises as defined in s. 288.703.

5 2. Development of procedures for electronic posting.
6 The department shall designate a centralized website on the
7 Internet for the department and other agencies to
8 electronically post solicitations, decisions or intended
9 decisions, and other matters relating to procurement. From
10 July 1, 2002, until July 1, 2003, the department shall publish
11 a notice in each edition of the Florida Administrative Weekly
12 which indicates the specific URL or Internet address for the
13 centralized website.

14 (c) Development of procedures for the receipt and
15 opening of bids, ~~responses, quotes, or proposals,~~ or replies
16 by an agency. Such procedures shall provide the Office of
17 Supplier Diversity an opportunity to monitor and ensure that
18 the contract award is consistent with the requirements of s.
19 287.09451.

20 (d) Development of procedures to be used by an agency
21 in deciding to contract, including, but not limited to,
22 identifying and assessing in writing project needs and
23 requirements, availability of agency employees, budgetary
24 constraints or availability, facility equipment availability,
25 current and projected agency workload capabilities, and the
26 ability of any other state agency to perform the services.

27 (e) Development of procedures to be used by an agency
28 in maintaining a contract file for each contract which shall
29 include, but not be limited to, all pertinent information
30 relating to the contract during the preparatory stages; ~~a~~
31 copy of the solicitation; ~~invitation to bid or request for~~

1 ~~proposals, documentation relating to the solicitation bid~~
 2 ~~process; opening of bids, proposals, or replies; evaluation~~
 3 ~~and tabulation of bids, proposals, or replies; and~~
 4 ~~determination and notice of award of contract.~~

5 (f) Development of procedures to be used by an agency
 6 for issuing solicitations that include requirements to
 7 describe commodities, services, scope of work, and
 8 deliverables in a manner that promotes competition ~~invitations~~
 9 ~~to bid, invitations to negotiate, requests for proposal,~~
 10 ~~requests for quote, or other competitive procurement~~
 11 ~~processes.~~

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

14 (4)(5)(a) To prescribe the methods of securing
 15 competitive sealed bids, ~~responses, quotes, and proposals, and~~
 16 replies. Such methods may include, but are not limited to,
 17 procedures for identifying vendors; setting qualifications;
 18 conducting conferences or written question and answer periods
 19 for purposes of responding to vendor questions; evaluating
 20 ~~responses, bids, and proposals, and replies; ranking and~~
 21 ~~respondents and proposers; selecting vendors invitees and~~
 22 ~~proposers; and conducting negotiations.~~

23 (b) To prescribe, in consultation with the State
 24 Technology Office, procedures for procuring information
 25 technology and information technology consultant services
 26 which provide for public announcement and qualification,
 27 competitive solicitations ~~selection, competitive negotiation,~~
 28 contract award, and prohibition against contingent fees. Such
 29 procedures shall be limited to information technology
 30 consultant contracts for which the total project costs, or
 31 planning or study activities, are estimated to exceed the

1 threshold amount provided for in s. 287.017, for CATEGORY TWO.
 2 (5)~~(6)~~ To prescribe specific commodities and
 3 quantities to be purchased locally.
 4 (6)~~(7)~~(a) To govern the purchase by any agency of any
 5 commodity or contractual service and to establish standards
 6 and specifications for any commodity.
 7 (b) Except for the purchase of insurance, the
 8 department may delegate to agencies the authority for the
 9 procurement of and contracting for, ~~or the purchase, lease, or~~
 10 ~~acquisition of,~~ commodities or contractual services.
 11 (7)~~(8)~~ To establish definitions and classes of
 12 commodities and contractual services. Agencies shall follow
 13 the definitions and classes of commodities and contractual
 14 services established by the department in acquiring or
 15 purchasing commodities or contractual services. The authority
 16 of the department under this section shall not be construed to
 17 impair or interfere with the determination by state agencies
 18 of their need for, or their use of, services including
 19 particular specifications.
 20 (8)~~(9)~~ To provide ~~furnish copies of~~ any commodity and
 21 contractual service purchasing rules to the Comptroller and
 22 all agencies through an electronic medium or other means
 23 ~~affected thereby.~~ Agencies may ~~The Comptroller shall not~~
 24 approve any account or request ~~direct~~ any payment of any
 25 account for the purchase of any commodity or the procurement
 26 of any contractual service covered by a purchasing or
 27 contractual service rule except as authorized therein. The
 28 department shall furnish copies of rules adopted by the
 29 department to any county, municipality, or other local public
 30 agency requesting them.
 31 (9)~~(10)~~ To require that every agency furnish

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1 information relative to its commodity and contractual services
2 purchases and methods of purchasing commodities and
3 contractual services to the department when so requested.

4 (10)~~(11)~~ To prepare statistical data concerning the
5 method of procurement, terms, usage, and disposition of
6 commodities and contractual services by ~~state~~ agencies. All
7 agencies shall furnish such information for this purpose to
8 the office and to the department, as the department or office
9 may call for, but no less frequently than annually, on such
10 forms or in such manner as the department may prescribe.

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

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

25 (13)~~(14)~~ If the department determines in writing that
26 it is in the best interest of the state, to award to multiple
27 suppliers contracts for commodities and contractual services
28 established by the department for use by all agencies. Such
29 awards may be on a statewide or regional basis. If regional
30 contracts are established by the department, multiple supplier
31 awards may be based upon multiple awards for regions.

1 Agencies may award contracts to a responsible and the lowest
2 ~~qualified~~ responsive vendor bidder on a statewide or regional
3 basis.

4 ~~(14)(15)~~ To procure and distribute ~~state-owned surplus~~
5 ~~tangible personal property and~~ federal surplus tangible
6 personal property allocated to the state by the Federal
7 Government.

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

19 (b) Each agency that has been appropriated or has
20 existing funds for such purchases, shall, upon contract award
21 by the department, transfer their portion of the funds into
22 the department's Grants and Donations Trust Fund for payment
23 by the department. These funds shall be transferred by the
24 Executive Office of the Governor pursuant to the agency budget
25 amendment request provisions in chapter 216.

26 (c) Agencies that sign such joint agreements are
27 financially obligated for their portion of the agreed-upon
28 funds. If any agency becomes more than 90 days delinquent in
29 paying such funds, the department ~~of Management Services~~ shall
30 certify to the Comptroller the amount due, and the Comptroller
31 shall transfer the amount due to the Grants and Donations

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1 Trust Fund of the department from any of the agency's
2 available funds. The Comptroller shall report all such
3 transfers and the reasons for such transfers to the Executive
4 Office of the Governor and the legislative appropriations
5 committees.

6 (16)~~(17)~~(a) To evaluate contracts let by the Federal
7 Government, another state, or a political subdivision for the
8 provision of commodities and contract services, and, when it
9 is determined in writing to be cost-effective and in the best
10 interest of the state, to enter into a written agreement
11 authorizing an ~~a state~~ agency to make purchases under a
12 contract approved by the department and let by the Federal
13 Government, another state, or a political subdivision.

14 (b) For contracts pertaining to the provision of
15 information technology, the State Technology Office, in
16 consultation with the department, shall assess the
17 technological needs of a particular agency, evaluate the
18 contracts, and determine whether to enter into a written
19 agreement with the letting federal, state, or political
20 subdivision body to provide information technology for a
21 particular agency.

22 Section 13. Section 287.045, Florida Statutes, is
23 amended to read:

24 287.045 Procurement of products and materials with
25 recycled content.--

26 (1)(a) ~~The department of Management Services,~~ in
27 cooperation with the Department of Environmental Protection,
28 shall review and revise existing procurement procedures and
29 specifications for the purchase of products and materials to
30 eliminate any procedures and specifications that explicitly
31 discriminate against products and materials with recycled

1 content except where such procedures and specifications are
2 necessary to protect the public health, safety, and welfare.

3 (b) Each ~~state~~ agency shall review and revise its
4 procurement procedures and specifications for the purchase of
5 products and materials to eliminate any procedures and
6 specifications that explicitly discriminate against products
7 and materials with recycled content, except if such procedures
8 and specifications are necessary to protect the public health,
9 safety, and welfare.

10 (2)(a) The department and each ~~state~~ agency shall
11 review and revise its procurement procedures and
12 specifications for the purchase of products and materials to
13 ensure to the maximum extent feasible that each agency uses
14 state contracts to purchase products or materials that may be
15 recycled or reused when these products or materials are
16 discarded.

17 (b) The Auditor General shall assist in monitoring the
18 product procurement requirements.

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

31 (4) Upon completion of the review required in

1 subsection (3), the department and other agencies ~~or an agency~~
2 shall require that a person who submits a bid, proposal, or
3 reply for a contract for the purchase of products or materials
4 identified in subsection (3) and who wishes to be considered
5 for the price preference described in subsection (5) certify
6 in writing the percentage of recycled content in the product
7 or material that is subject to the bid, proposal, or reply. A
8 person may certify that the product or material contains no
9 recycled content.

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

1 an additional 5-percent price preference to a responsible and
2 responsive vendor bidder who has certified that the products
3 or material are made of materials recovered in this state.
4 The amount of the price preference must be commensurate with
5 the certified amounts of recycled material and postconsumer
6 recovered material and materials recycled from products in
7 this state, contained in the product or materials on a sliding
8 scale as established by department rule, which rule shall not
9 become effective prior to November 1, 1994. Reusable
10 materials and products shall be used where economically and
11 technically feasible. If no vendors bidders offer products or
12 materials with measurable life-cycle costing factors or the
13 minimum prescribed recycled and postconsumer content, the
14 contract must be awarded to the lowest qualified responsible
15 and responsive vendor bidder.

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

27 (7) Any person may request the department to evaluate
28 a product or material with recycled content if the product or
29 material is eligible for inclusion under state contracts. The
30 department shall review each reasonable proposal to determine
31 its merit and, if it finds that the product or material may be

1 used beneficially, it may incorporate that product or material
2 into its procurement procedures.

3 (8) The department and each ~~state~~ agency shall review
4 and revise its procedures and specifications on a continuing
5 basis to encourage the use of products and materials with
6 recycled content and postconsumer recovered material and
7 shall, in developing new procedures and specifications,
8 encourage the use of products and materials with recycled
9 content and postconsumer recovered material.

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

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

21 Notwithstanding any other provision to the contrary, for the
22 purpose of this section, the term "agency" means any of the
23 various state officers, departments, boards, commissions,
24 divisions, bureaus, and councils and any other unit of
25 organization, however designated, of the executive branch
26 including the Department of the Lottery, the legislative
27 branch, the judicial branch, the University and College Boards
28 of Trustees, and the state universities and colleges ~~and the~~
29 ~~State University System~~. A decision not to procure such items
30 must be based on the department's determination that such
31 procurement is not reasonably available within an acceptable

1 period of time or fails to meet the performance standards set
2 forth in the applicable specifications or fails to meet the
3 performance standards of the agency.

4 (11) Each ~~state~~ agency shall report annually to the
5 department its total expenditures on, and use of, products
6 with recycled content and the percentage of its budget that
7 represents purchases of similar products made from virgin
8 materials. The department shall design a uniform reporting
9 mechanism and prepare annual summaries of statewide purchases
10 delineating those with recycled content to be submitted to the
11 Governor, the President of the Senate, and the Speaker of the
12 House of Representatives.

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

15 287.056 ~~Agency~~ Purchases from purchasing agreements
16 and state term contracts ~~executed by the department.~~--

17 (1) Agencies shall, and eligible users may, purchase
18 commodities and contractual services from ~~the purchasing~~
19 agreements established and state term contracts procured,
20 pursuant to s. 287.057, ~~negotiated and executed~~ by the
21 department, ~~as authorized in s. 287.042(2).~~

22 (2) Agencies may have the option to purchase
23 commodities or contractual services from state term ~~any~~
24 ~~written agreements or contracts~~ procured, pursuant to s.
25 287.057, ~~negotiated and executed~~ by the department which
26 contain a user surcharge pursuant to s. 287.1345 ~~or such other~~
27 ~~agreements~~ as determined by the department.

28 (3) Agencies and eligible users may use a request for
29 quote to obtain written pricing or services information from a
30 state term contract vendor for commodities or contractual
31 services available on state term contract from that vendor.

1 The purpose of a request for quote is to determine whether a
2 price, term, or condition more favorable to the agency or
3 eligible user than that provided in the state term contract is
4 available. Use of a request for quote does not constitute a
5 decision or intended decision that is subject to protest under
6 s. 120.57(3).

7 Section 15. Section 287.057, Florida Statutes, is
8 amended to read:

9 287.057 Procurement of commodities or contractual
10 services.--

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

1 **(b)** The contract shall be awarded with reasonable
 2 promptness by written notice to the responsible ~~qualified~~ and
 3 responsive vendor that ~~bidder who~~ submits the lowest
 4 responsive bid. This bid must be determined in writing to
 5 meet the requirements and criteria set forth in the invitation
 6 to bid.

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

1 ~~discussion and revision of proposals.~~

2 **(b)** The contract award shall be awarded ~~made~~ to the
3 responsible and responsive vendor ~~offeror~~ whose proposal is
4 determined in writing to be the most advantageous to the
5 state, taking into consideration the price and the other
6 criteria set forth in the request for proposals. The contract
7 file shall contain documentation supporting the basis on which
8 the award is made.

9 **(3)(a)** If the agency determines in writing that the
10 use of an invitation to bid or a request for proposals will
11 not result in the best value to the state, the agency may
12 procure commodities and contractual services by competitive
13 sealed replies. The agency's written determination must
14 specify reasons that explain why negotiation may be necessary
15 in order for the state to achieve the best value and must be
16 approved in writing by the agency head or his or her designee
17 prior to the advertisement of an invitation to negotiate. An
18 invitation to negotiate shall be made available to all vendors
19 simultaneously and must include a statement of the commodities
20 or contractual services sought; the time and date for the
21 receipt of replies and of the public opening; and all terms
22 and conditions applicable to the procurement, including the
23 criteria to be used in determining the acceptability of the
24 reply. If the agency contemplates renewal of the contract,
25 that fact must be stated in the invitation to negotiate. The
26 reply shall include the price for each year for which the
27 contract may be renewed.

28 **(b)** The agency shall evaluate and rank responsive
29 replies against all evaluation criteria set forth in the
30 invitation to negotiate and shall select, based on the
31 ranking, one or more vendors with which to commence

1 negotiations. After negotiations are conducted, the agency
2 shall award the contract to the responsible and responsive
3 vendor that the agency determines will provide the best value
4 to the state. The contract file must contain a short plain
5 statement that explains the basis for vendor selection and
6 that sets forth the vendor's deliverables and price, pursuant
7 to the contract, with an explanation of how these deliverables
8 and price provide the best value to the state.

9 (4) Prior to the time for receipt of bids, proposals,
10 or replies, an agency may conduct a conference or written
11 question and answer period for purposes of assuring the
12 vendor's full understanding of the solicitation requirements.
13 The vendors shall be accorded fair and equal treatment with
14 respect to any opportunity for discussion and revision of
15 bids, proposals, or replies.

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

24 (5)(4) When the purchase price of commodities or
25 contractual services exceeds the threshold amount provided in
26 s. 287.017 for CATEGORY TWO, no purchase of commodities or
27 contractual services may be made without receiving competitive
28 sealed bids, competitive sealed proposals, or competitive
29 sealed replies responses to an invitation to negotiate or a
30 request for a quote unless:

31 (a) The agency head determines in writing that an

1 immediate danger to the public health, safety, or welfare or
2 other substantial loss to the state requires emergency action.
3 After the agency head makes such a written determination, the
4 agency may proceed with the procurement of commodities or
5 contractual services necessitated by the immediate danger,
6 without receiving competitive sealed bids, competitive sealed
7 proposals, or competitive sealed replies ~~competition~~. However,
8 such emergency procurement shall be made by obtaining pricing
9 information from at least two prospective vendors, which must
10 be retained in the contract file, unless the agency determines
11 in writing that the time required to obtain pricing
12 information will increase the immediate danger to the public
13 health, safety, or welfare or other substantial loss to the
14 state with such competition as is practicable under the
15 circumstances. The agency shall furnish copies of all the
16 written determinations ~~determination~~ certified under oath and
17 any other documents relating to the emergency action to the
18 department. A copy of the statement shall be furnished to the
19 Comptroller with the voucher authorizing payment. The
20 individual purchase of personal clothing, shelter, or supplies
21 which are needed on an emergency basis to avoid
22 institutionalization or placement in a more restrictive
23 setting is an emergency for the purposes of this paragraph,
24 and the filing with the department of such statement is not
25 required in such circumstances. In the case of the emergency
26 purchase of insurance, the period of coverage of such
27 insurance shall not exceed a period of 30 days, and all such
28 emergency purchases shall be reported to the department.

29 (b) The purchase is made by an agency from a state
30 term contract procured, pursuant to this section, ~~Purchasing~~
31 ~~agreements and contracts executed~~ by the department or by an

1 agency, after receiving approval from the department, from a
 2 contract procured, pursuant to subsection (1), subsection (2),
 3 or subsection (3), by another agency ~~agencies under authority~~
 4 ~~delegated by the department in writing are excepted from bid~~
 5 ~~requirements.~~

6 (c) Commodities or contractual services available only
 7 from a single source may be excepted from the
 8 competitive-solicitation bid requirements. When an agency
 9 believes that commodities or contractual services are
 10 available only from a single source, the agency shall
 11 electronically post a description of the commodities or
 12 contractual services sought for a period of at least 7
 13 business days. The description must include a request that
 14 prospective vendors provide information regarding their
 15 ability to supply the commodities or contractual services
 16 described. If it is determined in writing by the agency, after
 17 reviewing any information received from prospective vendors,
 18 that the commodities or contractual services are available
 19 only from a single source, the agency shall:

20 1. Provide notice of its intended decision to enter a
 21 single-source purchase contract in the manner specified in s.
 22 120.57(3), if the amount of the contract does not exceed the
 23 threshold amount provided in s. 287.017 for CATEGORY FOUR.

24 2. Request approval from the department for the
 25 single-source purchase, if the amount of the contract exceeds
 26 the threshold amount provided in s. 287.017 for CATEGORY FOUR.
 27 The agency shall initiate its request for approval in a form
 28 prescribed by the department, which request may be
 29 electronically transmitted. ~~if it is determined that such~~
 30 ~~commodities or services are available only from a single~~
 31 ~~source and such determination is documented. However, if such~~

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1 ~~contract is for an amount greater than the threshold amount~~
2 ~~provided in s. 287.017 for CATEGORY FOUR, the agency head~~
3 ~~shall file a certification of conditions and circumstances~~
4 ~~with the department and shall obtain the prior approval of the~~
5 ~~department. The failure of the department to approve or~~
6 ~~disapprove the agency's request of an agency for prior~~
7 ~~approval within 21 days after receiving such request or within~~
8 ~~14 days after receiving from the agency additional materials~~
9 ~~requested by the department shall constitute prior approval of~~
10 ~~the department. If the department approves the agency's~~
11 ~~request, the agency shall provide notice of its intended~~
12 ~~decision to enter a single-source contract in the manner~~
13 ~~specified in s. 120.57(3) To the greatest extent practicable,~~
14 ~~but no later than 45 days after authorizing the exception in~~
15 ~~writing, the department shall combine single-source~~
16 ~~procurement authorizations for identical information~~
17 ~~technology resources for which the purchase price exceeds the~~
18 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR, and~~
19 ~~shall negotiate and execute volume purchasing agreements for~~
20 ~~such procurements on behalf of the agencies.~~

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

26 (e) Prescriptive assistive devices for the purpose of
27 medical, developmental, or vocational rehabilitation of
28 clients are excepted from competitive solicitation ~~sealed bid~~
29 ~~and competitive sealed proposal~~ requirements and shall be
30 procured pursuant to an established fee schedule or by any
31 other method which ensures the best price for the state,

1 taking into consideration the needs of the client.
2 Prescriptive assistive devices include, but are not limited
3 to, prosthetics, orthotics, and wheelchairs. For purchases
4 made pursuant to this paragraph, state agencies shall annually
5 file with the department a description of the purchases and
6 methods of procurement.

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

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

1 shall be valid for a period not to exceed 90 days after the
2 date of delivery to the Medicaid recipient and shall not be
3 renewed by the agency.

4 9. Family placement services.

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

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

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

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

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

22 ~~(6)(5)~~ If less than two responsive bids, or proposals,
23 or replies for commodity or contractual services purchases are
24 received, the department or other ~~the~~ agency may negotiate on
25 the best terms and conditions. The department or other agency
26 shall document the reasons that such action is in the best
27 interest of the state in lieu of resoliciting competitive
28 sealed bids, or proposals, or replies. Each ~~The~~ agency shall
29 report all such actions to the department on a quarterly
30 basis, in a manner and form prescribed by the department.

31 ~~(7)(6)~~ Upon issuance of any solicitation ~~invitation to~~

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

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

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

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

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

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

20 ~~(9)(8)~~ An agency may reserve any contract for
21 competitive solicitation ~~sealed bidding~~ only among vendors
22 ~~qualified bidders~~ who agree to use ~~utilize~~ certified minority
23 business enterprises as subcontractors or subvendors. The
24 percentage of funds, in terms of gross contract amount and
25 revenues, which must be expended with the certified minority
26 business enterprise subcontractors and subvendors shall be
27 determined by the agency before such contracts may be
28 reserved. In order to bid on a contract so reserved, the
29 vendor ~~qualified bidder~~ shall identify those certified
30 minority business enterprises which will be utilized as
31 subcontractors or subvendors by sworn statement. At the time

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1 of performance or project completion, the contractor shall
2 report by sworn statement the payments and completion of work
3 for all certified minority business enterprises used in the
4 contract.

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

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

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

18 (13)~~(12)~~ Extension of a contract for contractual
19 services shall be in writing for a period not to exceed 6
20 months and shall be subject to the same terms and conditions
21 set forth in the initial contract. There shall be only one
22 extension of a contract unless the failure to meet the
23 criteria set forth in the contract for completion of the
24 contract is due to events beyond the control of the
25 contractor.

26 (14)~~(13)~~ ~~Except for those contracts initially procured~~
27 ~~pursuant to paragraph (3)(a) or paragraph (3)(c),~~ Contracts
28 for commodities or contractual services may be renewed for a
29 period that may not exceed 3 years or ~~on a yearly basis for no~~
30 ~~more than 2 years or for a period no longer than the term of~~
31 the original contract, whichever period is longer. Renewal of

1 a contract for commodities or contractual services shall be in
 2 writing and shall be subject to the same terms and conditions
 3 set forth in the initial contract. If the commodity or
 4 contractual service is purchased as a result of the
 5 solicitation of bids, ~~or proposals, or replies,~~ the price of
 6 the commodity or contractual service to be renewed ~~cost of any~~
 7 ~~contemplated renewals~~ shall be specified ~~included~~ in the bid,
 8 proposal, or reply invitation to bid or request for proposals.
 9 A renewal contract may not include any compensation for costs
 10 associated with the renewal. Renewals shall be contingent upon
 11 satisfactory performance evaluations by the agency and subject
 12 to the availability of funds. Exceptional purchase contracts
 13 pursuant to s. 287.057(5)(a) and (c) may not be renewed.

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

22 (16)~~(15)~~ Each agency shall designate at least one
 23 employee who shall serve as a contract administrator
 24 responsible for maintaining a contract file and financial
 25 information on all contractual services contracts and who
 26 shall serve as a liaison with the contract managers and the
 27 department.

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

31 (a) At least three persons to evaluate proposals and

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1 replies who collectively have experience and knowledge in the
 2 program areas and service requirements for which commodities
 3 or contractual services are sought.

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

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

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

31 (19)(18) Each agency shall establish a review and

1 approval process for all contractual services contracts
 2 costing more than the threshold amount provided for in s.
 3 287.017 for CATEGORY THREE which shall include, but not be
 4 limited to, program, financial, and legal review and approval.
 5 Such reviews and approvals shall be obtained before the
 6 contract is executed.

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

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

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

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

26 (23)(a) The department, in consultation with the State
 27 Technology Office and the Comptroller, shall develop a program
 28 for on-line procurement of commodities and contractual
 29 services. To enable the state to promote open competition and
 30 to leverage its buying power, ~~executive state~~ agencies shall
 31 participate in the on-line procurement program, and eligible

1 ~~users other agencies~~ may participate in the program. Only
2 ~~vendors bidders~~ prequalified as meeting mandatory requirements
3 and qualifications criteria shall be permitted to participate
4 in on-line procurement. The department, in consultation with
5 the State Technology Office, may contract for equipment and
6 services necessary to develop and implement on-line
7 procurement.

8 (b) The ~~State Technology Office, in consultation with~~
9 ~~the department, in consultation with the State Technology~~
10 ~~Office,~~ shall adopt rules, pursuant to ss. 120.536(1) and
11 120.54, to administer ~~implement~~ the program for on-line
12 procurement. The rules shall include, but not be limited to:

- 13 1. Determining the requirements and qualification
14 criteria for prequalifying vendors bidders.
- 15 2. Establishing the procedures for conducting on-line
16 procurement.
- 17 3. Establishing the criteria for eligible commodities
18 and contractual services.
- 19 4. Establishing the procedures for providing access to
20 on-line procurement.
- 21 5. Determining the criteria warranting any exceptions
22 to participation in the on-line procurement program.

23 (c) The department ~~of Management Services and the~~
24 ~~State Technology Office~~ may collect fees for the use of the
25 on-line procurement systems. The fees may be imposed on an
26 individual transaction basis or as a fixed percentage of the
27 cost savings generated. At a minimum, the fees must be set in
28 an amount sufficient to cover the projected costs of such
29 services, including administrative and project service costs
30 in accordance with the policies of the department ~~of~~
31 ~~Management Services and the State Technology Office~~. For the

1 purposes of compensating the provider, the department may
 2 authorize the provider to collect and retain a portion of the
 3 fees. The providers may withhold the portion retained from the
 4 amount of fees to be remitted to the department. The
 5 department may negotiate the retainage as a percentage of such
 6 fees charged to users, as a flat amount, or as any other
 7 method the department deems feasible. All fees and surcharges
 8 collected under this paragraph shall be deposited in the
 9 Grants and Donation Trust Fund as provided by law.

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

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

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

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

31 Section 16. Section 287.0572, Florida Statutes, is

1 amended to read:

2 287.0572 Present-value methodology.--

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

16 (2) The department of ~~Management Services~~ may adopt
17 rules to administer ~~implement the provisions of~~ subsection
18 (1).

19 Section 17. Subsections (1), (4), and (5) of section
20 287.058, Florida Statutes, are amended to read:

21 287.058 Contract document.--

22 (1) Every procurement of contractual services in
23 excess of the threshold amount provided in s. 287.017 for
24 CATEGORY TWO, except for the providing of health and mental
25 health services or drugs in the examination, diagnosis, or
26 treatment of sick or injured state employees or the providing
27 of other benefits as required by the provisions of chapter
28 440, shall be evidenced by a written agreement embodying all
29 provisions and conditions of the procurement of such services,
30 which provisions and conditions shall, where applicable,
31 include, but shall not be limited to:

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

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

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

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

17 (e) A provision specifying the criteria and the final
18 date by which such criteria must be met for completion of the
19 contract.

20 (f) A provision specifying that the contract may be
21 renewed for a period that may not exceed 3 years or on a
22 yearly basis for a period of up to 2 years after the initial
23 contract or for a period no longer than the term of the
24 original contract, whichever period is longer, specifying the
25 renewal price for the contractual service as set forth in the
26 bid, proposal, or reply, specifying that costs for the renewal
27 may not be charged, terms under which the cost may change as
28 determined in the invitation to bid or request for proposals,
29 and specifying that renewals shall be contingent upon
30 satisfactory performance evaluations by the agency and subject
31 to the availability of funds. Exceptional purchase contracts

1 pursuant to s. 287.057(5)(a) and (c) may not be renewed.

2

3 In lieu of a written agreement, the department may authorize
4 the use of a purchase order for classes of contractual
5 services, if provided the provisions of paragraphs (a)-(f) are
6 included in the purchase order or solicitation, ~~invitation to~~
7 ~~bid, or request for proposals~~. The purchase order must shall
8 include, but need not be limited to, an adequate description
9 of the services, the contract period, and the method of
10 payment. In lieu of printing the provisions of paragraphs
11 (a)-(f) in the contract document or purchase order, agencies
12 may incorporate the requirements of paragraphs (a)-(f) by
13 reference.

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

26 (5) Unless otherwise provided in the General
27 Appropriations Act or the substantive bill implementing the
28 General Appropriations Act, the Comptroller may waive the
29 requirements of this section for services which are included
30 in s. 287.057(5)(f) ~~s. 287.057(4)(f)~~.

31 Section 18. Subsection (2) of section 287.059, Florida

1 Statutes, is amended to read:

2 287.059 Private attorney services.--

3 (2) No agency shall contract for private attorney
4 services without the prior written approval of the Attorney
5 General, except that such written approval is not required for
6 private attorney services:

7 (a) Procured by the Executive Office of the Governor
8 or any department under the exclusive jurisdiction of a single
9 Cabinet officer.

10 (b) Provided by legal services organizations to
11 indigent clients.

12 (c) Necessary to represent the state in litigation
13 involving the State Risk Management Trust Fund pursuant to
14 part II of chapter 284.

15 (d) Procured by the university and college boards of
16 trustees or the state universities and colleges ~~Board of~~
17 ~~Regents and the universities of the State University System.~~

18 (e) Procured by community and junior colleges and
19 multicounty special districts.

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

22 Section 19. Subsections (1) and (2) of section
23 287.0595, Florida Statutes, are amended to read:

24 287.0595 Pollution response action contracts;
25 department rules.--

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

29 (a) Procedures for determining the qualifications of
30 responsible potential vendors ~~bidders~~ prior to advertisement
31 for and receipt of bids, proposals, or replies for pollution

1 response action contracts, including procedures for the
2 rejection of unqualified vendors ~~bidders~~. Response actions are
3 those activities described in s. 376.301(37).

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

11 (c) Procedures governing payment of contracts.

12 (d) Procedures to govern negotiations for contracts,
13 modifications to contract documents, and terms and conditions
14 of contracts.

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

21 Section 20. Section 287.073, Florida Statutes, is
22 repealed.

23 Section 21. Section 287.0731, Florida Statutes, is
24 amended to read:

25 287.0731 Team for contract negotiations.--Contingent
26 upon funding in the General Appropriations Act, the department
27 ~~of Management Services, in consultation with the State~~
28 ~~Technology Office, shall establish a permanent team that~~
29 includes for contract negotiations including a chief
30 negotiator, to specialize in conducting negotiations for the
31 procurement of information technology with an invitation to

1 negotiate.

2 Section 22. Section 287.0822, Florida Statutes, is
3 amended to read:

4 287.0822 Beef and pork; prohibition on purchase; bid
5 specifications; penalty.--

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

24 (2) All solicitations ~~bid invitations~~ for purchase of
25 fresh or frozen meats of any kind by any agency of the state
26 or of any municipality, political subdivision, school
27 district, or special district using state or local funds shall
28 include the words: " 'All American' and 'Genuine Florida'
29 meats or meat products shall be granted preference as allowed
30 by Section 287.082, Florida Statutes."

31 (3) Any person who knowingly violates or causes to be

1 violated the provisions of this section shall be personally
2 liable to the affected public agency for any funds spent in
3 violation of the provisions of this section.

4 Section 23. Section 287.084, Florida Statutes, is
5 amended to read:

6 287.084 Preference to Florida businesses.--

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

25 (2) If a solicitation ~~an invitation for bids~~ provides
26 for the granting of such preference as is provided in this
27 section herein, any vendor bidder whose principal place of
28 business is outside the State of Florida must accompany any
29 written bid, proposal, or reply documents with a written
30 opinion of an attorney at law licensed to practice law in that
31 foreign state, as to the preferences, if any or none, granted

1 by the law of that state to its own business entities whose
2 principal places of business are in that foreign state in the
3 letting of any or all public contracts.

4 Section 24. Section 287.087, Florida Statutes, is
5 amended to read:

6 287.087 Preference to businesses with drug-free
7 workplace programs.--Whenever two or more bids, proposals, or
8 replies that ~~which~~ are equal with respect to price, quality,
9 and service are received by the state or by any political
10 subdivision for the procurement of commodities or contractual
11 services, a bid, proposal, or reply received from a business
12 that certifies that it has implemented a drug-free workplace
13 program shall be given preference in the award process. In
14 order to have a drug-free workplace program, a business shall:

15 (1) Publish a statement notifying employees that the
16 unlawful manufacture, distribution, dispensing, possession, or
17 use of a controlled substance is prohibited in the workplace
18 and specifying the actions that will be taken against
19 employees for violations of such prohibition.

20 (2) Inform employees about the dangers of drug abuse
21 in the workplace, the business's policy of maintaining a
22 drug-free workplace, any available drug counseling,
23 rehabilitation, and employee assistance programs, and the
24 penalties that may be imposed upon employees for drug abuse
25 violations.

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

29 (4) In the statement specified in subsection (1),
30 notify the employees that, as a condition of working on the
31 commodities or contractual services that are under bid, the

1 employee will abide by the terms of the statement and will
2 notify the employer of any conviction of, or plea of guilty or
3 nolo contendere to, any violation of chapter 893 or of any
4 controlled substance law of the United States or any state,
5 for a violation occurring in the workplace no later than 5
6 days after such conviction.

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

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

13 Section 25. Section 287.093, Florida Statutes, is
14 amended to read:

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

27 Section 26. Paragraphs (n) and (o) of subsection (4)
28 and paragraphs (d) and (e) of subsection (5) of section
29 287.09451, Florida Statutes, are amended to read:

30 287.09451 Office of Supplier Diversity; powers,
31 duties, and functions.--

1 (4) The Office of Supplier Diversity shall have the
2 following powers, duties, and functions:
3 (n)1. To develop procedures to be used by an agency in
4 identifying commodities, contractual services, architectural
5 and engineering services, and construction contracts, except
6 those architectural, engineering, construction, or other
7 related services or contracts subject to the provisions of
8 chapter 339, that could be provided by minority business
9 enterprises. Each agency is encouraged to spend 21 percent of
10 the moneys actually expended for construction contracts, 25
11 percent of the moneys actually expended for architectural and
12 engineering contracts, 24 percent of the moneys actually
13 expended for commodities, and 50.5 percent of the moneys
14 actually expended for contractual services during the previous
15 fiscal year, except for the state university construction
16 program which shall be based upon public education capital
17 outlay projections for the subsequent fiscal year, and
18 reported to the Legislature pursuant to s. 216.023, for the
19 purpose of entering into contracts with certified minority
20 business enterprises as defined in s. 288.703(2), or approved
21 joint ventures. However, in the event of budget reductions
22 pursuant to s. 216.221, the base amounts may be adjusted to
23 reflect such reductions. The overall spending goal for each
24 industry category shall be subdivided as follows:
25 a. For construction contracts: 4 percent for black
26 Americans, 6 percent for Hispanic-Americans, and 11 percent
27 for American women.
28 b. For architectural and engineering contracts: 9
29 percent for Hispanic-Americans, 1 percent for Asian-Americans,
30 and 15 percent for American women.
31 c. For commodities: 2 percent for black Americans, 4

1 percent for Hispanic-Americans, 0.5 percent for
2 Asian-Americans, 0.5 percent for Native Americans, and 17
3 percent for American women.

4 d. For contractual services: 6 percent for black
5 Americans, 7 percent for Hispanic-Americans, 1 percent for
6 Asian-Americans, 0.5 percent for Native Americans, and 36
7 percent for American women.

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

25 3. In determining the base amounts for assessing
26 compliance with this paragraph, the Office of Supplier
27 Diversity may develop, by rule, guidelines for all agencies to
28 use in establishing such base amounts. These rules must
29 include, but are not limited to, guidelines for calculation of
30 base amounts, a deadline for the agencies to submit base
31 amounts, a deadline for approval of the base amounts by the

1 Office of Supplier Diversity, and procedures for adjusting the
2 base amounts as a result of budget reductions made pursuant to
3 s. 216.221.

4 4. To determine guidelines for the use of price
5 preferences, weighted preference formulas, or other
6 preferences, as appropriate to the particular industry or
7 trade, to increase the participation of minority businesses in
8 state contracting. These guidelines shall include
9 consideration of:

10 a. Size and complexity of the project.

11 b. The concentration of transactions with minority
12 business enterprises for the commodity or contractual services
13 in question in prior agency contracting.

14 c. The specificity and definition of work allocated to
15 participating minority business enterprises.

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

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

21 5. To determine guidelines for use of joint ventures
22 to meet minority business enterprises spending goals. For
23 purposes of this section, "joint venture" means any
24 association of two or more business concerns to carry out a
25 single business enterprise for profit, for which purpose they
26 combine their property, capital, efforts, skills, and
27 knowledge. The guidelines shall allow transactions with joint
28 ventures to be eligible for credit against the minority
29 business enterprise goals of an agency when the contracting
30 joint venture demonstrates that at least one partner to the
31 joint venture is a certified minority business enterprise as

1 defined in s. 288.703, and that such partner is responsible
2 for a clearly defined portion of the work to be performed, and
3 shares in the ownership, control, management,
4 responsibilities, risks, and profits of the joint venture.
5 Such demonstration shall be by verifiable documents and sworn
6 statements and may be reviewed by the Office of Supplier
7 Diversity at or before the time a contract bid, proposal, or
8 reply is submitted. An agency may count toward its minority
9 business enterprise goals a portion of the total dollar amount
10 of a contract equal to the percentage of the ownership and
11 control held by the qualifying certified minority business
12 partners in the contracting joint venture, so long as the
13 joint venture meets the guidelines adopted by the office.

14 (o)1. To establish a system to record and measure the
15 use of certified minority business enterprises in state
16 contracting. This system shall maintain information and
17 statistics on certified minority business enterprise
18 participation, awards, dollar volume of expenditures and
19 agency goals, and other appropriate types of information to
20 analyze progress in the access of certified minority business
21 enterprises to state contracts and to monitor agency
22 compliance with this section. Such reporting must include, but
23 is not limited to, the identification of all subcontracts in
24 state contracting by dollar amount and by number of
25 subcontracts and the identification of the utilization of
26 certified minority business enterprises as prime contractors
27 and subcontractors by dollar amounts of contracts and
28 subcontracts, number of contracts and subcontracts, minority
29 status, industry, and any conditions or circumstances that
30 significantly affected the performance of subcontractors.
31 Agencies shall report their compliance with the requirements

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1 of this reporting system at least annually and at the request
2 of the office. All agencies shall cooperate with the office in
3 establishing this reporting system. Except in construction
4 contracting, all agencies shall review contracts costing in
5 excess of CATEGORY FOUR as defined in s. 287.017 to determine
6 if such contracts could be divided into smaller contracts to
7 be separately solicited ~~bid~~ and awarded, and shall, when
8 economical, offer such smaller contracts to encourage minority
9 participation.

10 2. To report agency compliance with the provisions of
11 subparagraph 1. for the preceding fiscal year to the Governor
12 and Cabinet, the President of the Senate, the Speaker of the
13 House of Representatives, and the secretary of the Department
14 of Labor and Employment Security on or before February 1 of
15 each year. The report must contain, at a minimum, the
16 following:

- 17 a. Total expenditures of each agency by industry.
18 b. The dollar amount and percentage of contracts
19 awarded to certified minority business enterprises by each
20 state agency.
21 c. The dollar amount and percentage of contracts
22 awarded indirectly to certified minority business enterprises
23 as subcontractors by each state agency.
24 d. The total dollar amount and percentage of contracts
25 awarded to certified minority business enterprises, whether
26 directly or indirectly, as subcontractors.
27 e. A statement and assessment of good faith efforts
28 taken by each state agency.
29 f. A status report of agency compliance with
30 subsection (6), as determined by the Minority Business
31 Enterprise Office.

1 (5)
 2 (d) ~~If Should~~ the proposed procurement proceeds
 3 ~~proceed~~ to competitive solicitation bidding, the office is
 4 hereby granted standing to protest, pursuant to this section,
 5 in a timely manner, any contract award during in competitive
 6 solicitation bidding for contractual services and construction
 7 contracts that fail to include minority business enterprise
 8 participation, if any responsible and responsive vendor
 9 ~~responding bidder~~ has demonstrated the ability to achieve any
 10 level of participation, or, any contract award for commodities
 11 where, a reasonable and economical opportunity to reserve a
 12 contract, statewide or district level, for minority
 13 participation was not executed or, an agency failed to adopt
 14 an applicable preference for minority participation. The bond
 15 requirement shall be waived for the office purposes of this
 16 subsection.

17 (e) An agency may presume that a vendor bidder
 18 offering no minority participation has not made a good faith
 19 effort when other vendors bidders offer minority participation
 20 of firms listed as relevant to the agency's purchasing needs
 21 in the pertinent locality or statewide to complete the
 22 project.

23 Section 27. Subsection (3) is added to section
 24 287.095, Florida Statutes, to read:

25 287.095 Department of Corrections; prison industry
 26 programs.--

27 (3) All products offered for purchase to a state
 28 agency by the corporation organized under chapter 946 shall be
 29 produced in majority part by inmate labor, except for products
 30 not made by inmates which products are contractually allied to
 31 products made by inmates which are offered by the corporation,

1 provided the value of the products not made by inmates do not
2 exceed 2 percent of the total sales of the corporation in any
3 year.

4 Section 28. Section 287.121, Florida Statutes, is
5 repealed.

6 Section 29. Paragraph (g) of subsection (1),
7 subsection (2), and paragraphs (a) and (d) of subsection (3)
8 of section 287.133, Florida Statutes, are amended to read:

9 287.133 Public entity crime; denial or revocation of
10 the right to transact business with public entities.--

11 (1) As used in this section:

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

22 (2)(a) A person or affiliate who has been placed on
23 the convicted vendor list following a conviction for a public
24 entity crime may not submit a bid, proposal, or reply on a
25 contract to provide any goods or services to a public entity;
26 may not submit a bid, proposal, or reply on a contract with a
27 public entity for the construction or repair of a public
28 building or public work;
29 replies on leases of real property to a public entity;
30 not be awarded or perform work as a contractor, supplier,
31 subcontractor, or consultant under a contract with any public

1 entity; and may not transact business with any public entity
2 in excess of the threshold amount provided in s. 287.017 for
3 CATEGORY TWO for a period of 36 months following ~~from~~ the date
4 of being placed on the convicted vendor list.

5 (b) A No public entity may not ~~shall~~ accept any bid,
6 proposal, or reply from, award any contract to, or transact
7 any business in excess of the threshold amount provided in s.
8 287.017 for CATEGORY TWO with any person or affiliate on the
9 convicted vendor list for a period of 36 months following ~~from~~
10 the date that person or affiliate was placed on the convicted
11 vendor list unless that person or affiliate has been removed
12 from the list pursuant to paragraph (3)(f). A No public
13 entity that ~~which~~ was transacting business with a person at
14 the time of the commission of a public entity crime resulting
15 ~~which resulted~~ in that person being placed on the convicted
16 vendor list may not ~~shall~~ accept any bid, proposal, or reply
17 from, award any contract to, or transact any business with any
18 other person who is under the same, or substantially the same,
19 control as the person whose name appears on the convicted
20 vendor list so long as that person's name appears on the
21 convicted vendor list.

22 (3)(a) All invitations to bid ~~as defined by s.~~
23 ~~287.012(11)~~, requests for proposals ~~as defined by s.~~
24 ~~287.012(15)~~, and invitations to negotiate, as defined in s.
25 287.012, and any contract document described by s. 287.058
26 shall contain a statement informing persons of the provisions
27 of paragraph (2)(a).

28 (d) The department shall maintain a list of the names
29 and addresses of those who have been disqualified from the
30 public contracting and purchasing process under this section.
31 The department shall publish an initial list on January 1,

1 1990, and shall publish an updated version of the list
 2 quarterly thereafter. The ~~initial list and~~ revised quarterly
 3 lists shall be electronically posted ~~published in the Florida~~
 4 ~~Administrative Weekly~~. Notwithstanding this paragraph, a
 5 person or affiliate disqualified from the public contracting
 6 and purchasing process pursuant to this section shall be
 7 disqualified as of the date the final order is entered.

8 Section 30. Subsection (2) and paragraphs (a) and (c)
 9 of subsection (3) of section 287.134, Florida Statutes, are
 10 amended to read:

11 287.134 Discrimination; denial or revocation of the
 12 right to transact business with public entities.--

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

24 (b) ~~A No~~ public entity may not shall accept any bid,
 25 proposals, or replies from, award any contract to, or transact
 26 any business with any entity or affiliate on the
 27 discriminatory vendor list for a period of 36 months following
 28 ~~from~~ the date that entity or affiliate was placed on the
 29 discriminatory vendor list unless that entity or affiliate has
 30 been removed from the list pursuant to paragraph (3)(f). ~~A No~~
 31 public entity that ~~which~~ was transacting business with an

1 entity at the time of the discrimination resulting which
 2 ~~resulted~~ in that entity being placed on the discriminatory
 3 vendor list may not shall accept any bid, proposal, or reply
 4 from, award any contract to, or transact any business with any
 5 other entity who is under the same, or substantially the same,
 6 control as the entity whose name appears on the discriminatory
 7 vendor list so long as that entity's name appears on the
 8 discriminatory vendor list.

9 (3)(a) All invitations to bid, ~~as defined by s.~~
 10 ~~287.012(11)~~, requests for proposals, ~~as defined by s.~~
 11 ~~287.012(15)~~, and invitations to negotiate, as defined by s.
 12 287.012, and any written contract document of the state must
 13 ~~shall~~ contain a statement informing entities of the provisions
 14 of paragraph (2)(a).

15 (c) The department shall maintain a list of the names
 16 and addresses of any entity which has been disqualified from
 17 the public contracting and purchasing process under this
 18 section. The department shall publish an initial list on
 19 January 1, 2001, and shall publish an updated version of the
 20 list quarterly thereafter. ~~The initial list and revised~~
 21 ~~quarterly lists shall be electronically posted published in~~
 22 ~~the Florida Administrative Weekly.~~ Notwithstanding this
 23 paragraph, an entity or affiliate disqualified from the public
 24 contracting and purchasing process pursuant to this section
 25 shall be disqualified as of the date the final order is
 26 entered.

27 Section 31. Section 287.1345, Florida Statutes, is
 28 amended to read:

29 287.1345 Surcharge on users of state term contracts;
 30 deposit of proceeds collected.--~~The department of Management~~
 31 ~~Services~~ may impose a surcharge upon users of state term

1 contracts in order to fund the costs, including overhead, of
2 its procurement function. The department may provide for the
3 state term contract vendor to collect the surcharge or
4 directly collect the fee from the public agency or eligible
5 user involved. For the purpose of compensating vendors for
6 expenses incurred in collecting such fees, the department may
7 authorize a vendor to retain a portion of the fees. The
8 vendor may withhold the portion retained from the amount of
9 fees to be remitted to the department. The department may
10 negotiate the retainage as a percentage of such fees charged
11 to users, as a flat amount, or as any other method the
12 department deems feasible. Vendors shall maintain accurate
13 sales summaries for purchases made from state term contracts
14 and shall provide the summaries to the department on a
15 quarterly basis. Any contract remedies relating to the
16 collection of such fees from users through vendors are
17 enforceable, including, but not limited to, liquidated
18 damages, late fees, and the costs of collection, including
19 attorney's fees. The fees collected pursuant to this section
20 shall be deposited into the Grants and Donations Trust Fund of
21 the department and are subject to appropriation as provided by
22 law. The Executive Office of the Governor may exempt
23 transactions from the payment of the surcharge if payment of
24 such surcharge would cause the state, a political subdivision,
25 or unit of local government to lose federal funds or in other
26 cases where such exemption is in the public interest. The
27 fees collected pursuant to this section and interest income on
28 such fees shall not be deemed to be income of a revenue nature
29 for purposes of chapter 215.

30 Section 32. Section 373.610, Florida Statutes, is
31 amended to read:

1 373.610 Defaulting ~~vendors and~~ contractors.--The
 2 district may suspend a contractor on a temporary or permanent
 3 basis from doing work with the district if such contractor has
 4 materially breached its contract with the district. The
 5 district shall adopt rules to administer the provisions of
 6 this section to specify the circumstances and conditions that
 7 constitute a materially breached contract and conditions that
 8 constitute the period for temporary or permanent suspension
 9 and for reinstatement.

10 Section 33. Section 373.611, Florida Statutes, is
 11 amended to read:

12 373.611 Modification or limitation of remedy.--In
 13 order to promote the cost-effective procurement of commodities
 14 and contractual services by the water management districts, a
 15 district may enter into contracts to limit or alter the
 16 measure of damages recoverable from a vendor or contractor by
 17 a district when procuring commodities or contractual services,
 18 consistent with the provisions contained in s. 672.719.

19 Section 34. Subsection (3) of section 394.457, Florida
 20 Statutes, is amended to read:

21 394.457 Operation and administration.--

22 (3) POWER TO CONTRACT.--The department may contract to
 23 provide, and be provided with, services and facilities in
 24 order to carry out its responsibilities under this part with
 25 the following agencies: public and private hospitals;
 26 receiving and treatment facilities; clinics; laboratories;
 27 departments, divisions, and other units of state government;
 28 the state colleges and universities; the community colleges;
 29 private colleges and universities; counties, municipalities,
 30 and any other governmental unit, including facilities of the
 31 United States Government; and any other public or private

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1 entity which provides or needs facilities or services. Baker
2 Act funds for community inpatient, crisis stabilization,
3 short-term residential treatment, and screening services must
4 be allocated to each county pursuant to the department's
5 funding allocation methodology. Notwithstanding the provisions
6 of s. 287.057(5)(f)~~s. 287.057(4)(f)~~, contracts for
7 community-based Baker Act services for inpatient, crisis
8 stabilization, short-term residential treatment, and screening
9 provided under this part, other than those with other units of
10 government, to be provided for the department must be awarded
11 using competitive sealed bids when the county commission of
12 the county receiving the services makes a request to the
13 department's district office by January 15 of the contracting
14 year. The district shall not enter into a competitively bid
15 contract under this provision if such action will result in
16 increases of state or local expenditures for Baker Act
17 services within the district. Contracts for these Baker Act
18 services using competitive sealed bids will be effective for 3
19 years. Services contracted for by the department may be
20 reimbursed by the state at a rate up to 100 percent. The
21 department shall adopt rules establishing minimum standards
22 for such contracted services and facilities and shall make
23 periodic audits and inspections to assure that the contracted
24 services are provided and meet the standards of the
25 department.

26 Section 35. Paragraph (a) of subsection (1) of section
27 394.47865, Florida Statutes, is amended to read:

28 394.47865 South Florida State Hospital;
29 privatization.--

30 (1) The Department of Children and Family Services
31 shall, through a request for proposals, privatize South

1 Florida State Hospital. The department shall plan to begin
2 implementation of this privatization initiative by July 1,
3 1998.

4 (a) Notwithstanding s. 287.057(14)~~s. 287.057(13)~~, the
5 department may enter into agreements, not to exceed 20 years,
6 with a private provider, a coalition of providers, or another
7 agency to finance, design, and construct a treatment facility
8 having up to 350 beds and to operate all aspects of daily
9 operations within the facility. The department may subcontract
10 any or all components of this procurement to a statutorily
11 established state governmental entity that has successfully
12 contracted with private companies for designing, financing,
13 acquiring, leasing, constructing, and operating major
14 privatized state facilities.

15 Section 36. Subsections (1) and (5) of section 402.73,
16 Florida Statutes, are amended to read:

17 402.73 Contracting and performance standards.--

18 (1) The Department of Children and Family Services
19 shall establish performance standards for all contracted
20 client services. Notwithstanding s. 287.057(5)(f)~~s.~~
21 ~~287.057(4)(f)~~, the department must competitively procure any
22 contract for client services when any of the following occurs:

23 (a) The provider fails to meet appropriate performance
24 standards established by the department after the provider has
25 been given a reasonable opportunity to achieve the established
26 standards.

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

30 (c) The department has concluded, after reviewing
31 market prices and available treatment options, that there is

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1 evidence that the department can improve the performance
2 outcomes produced by its contract resources. At a minimum, the
3 department shall review market prices and available treatment
4 options biennially. The department shall compile the results
5 of the biennial review and include the results in its annual
6 performance report to the Legislature pursuant to chapter
7 94-249, Laws of Florida. The department shall provide notice
8 and an opportunity for public comment on its review of market
9 prices and available treatment options.

10 (5) When it is in the best interest of a defined
11 segment of its consumer population, the department may
12 competitively procure and contract for systems of treatment or
13 service that involve multiple providers, rather than procuring
14 and contracting for treatment or services separately from each
15 participating provider. The department must ensure that all
16 providers that participate in the treatment or service system
17 meet all applicable statutory, regulatory, service-quality,
18 and cost-control requirements. If other governmental entities
19 or units of special purpose government contribute matching
20 funds to the support of a given system of treatment or
21 service, the department shall formally request information
22 from those funding entities in the procurement process and may
23 take the information received into account in the selection
24 process. If a local government contributes match to support
25 the system of treatment or contracted service and if the match
26 constitutes at least 25 percent of the value of the contract,
27 the department shall afford the governmental match contributor
28 an opportunity to name an employee as one of the persons to
29 the selection team required by s. 287.057(17) to evaluate or
30 negotiate certain contracts, unless the department sets forth
31 in writing the reason why such inclusion would be contrary to

1 the best interest of the state ~~s. 287.057(15)~~. Any employee so
 2 named by the governmental match contributor shall qualify as
 3 one of the persons ~~employees~~ required by s. 287.057(17)~~s.~~
 4 ~~287.057(15)~~. ~~The selection team shall include the named~~
 5 ~~employee unless the department sets forth in writing the~~
 6 ~~reason such inclusion would be contrary to the best interests~~
 7 ~~of the state.~~No governmental entity or unit of special
 8 purpose government may name an employee as one of the persons
 9 required by s. 287.057(17)~~to the selection team~~ if it, or any
 10 of its political subdivisions, executive agencies, or special
 11 districts, intends to compete for the contract to be awarded.
 12 The governmental funding entity or match contributor shall
 13 comply with any deadlines and procurement procedures
 14 established by the department. The department may also involve
 15 nongovernmental funding entities in the procurement process
 16 when appropriate.

17 Section 37. Subsection (2) of section 408.045, Florida
 18 Statutes, is amended to read:

19 408.045 Certificate of need; competitive sealed
 20 proposals.--

21 (2) The agency shall make a decision regarding the
 22 issuance of the certificate of need in accordance with the
 23 provisions of s. 287.057(17)~~s. 287.057(15)~~, rules adopted by
 24 the agency relating to intermediate care facilities for the
 25 developmentally disabled, and the criteria in s. 408.035, as
 26 further defined by rule.

27 Section 38. Subsection (2) of section 413.033, Florida
 28 Statutes, is amended to read:

29 413.033 Definitions.--As used in ss. 413.032-413.037:

30 (2) "Other severely handicapped" and "severely
 31 handicapped individuals" mean an individual or class of

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1 individuals under a physical or mental disability other than
2 blindness, which, according to criteria established by the
3 department ~~commission created in s. 413.034~~, after
4 consultation with appropriate entities of the state and taking
5 into account the views of nongovernmental entities
6 representing the handicapped, constitutes a substantial
7 handicap to employment and is of such a nature as to prevent
8 the individual under such disability from currently engaging
9 in normal competitive employment.

10 Section 39. Section 413.035, Florida Statutes, is
11 amended to read:

12 413.035 Duties and powers of the department
13 ~~commission~~--

14 (1) It shall be the duty of the department ~~commission~~
15 to determine the market price of all products and services
16 offered for sale to the various agencies of the state by any
17 qualified nonprofit agency for the blind or other severely
18 handicapped. The price shall recover for the nonprofit agency
19 the cost of raw materials, labor, overhead, and delivery, but
20 without profit, and shall be revised from time to time in
21 accordance with changing cost factors. The department
22 ~~commission~~ shall make such rules and regulations regarding
23 specifications, time of delivery, and assignment of products
24 and services to be supplied by nonprofit agencies for the
25 blind or by agencies for the other severely handicapped, with
26 priority for assignment of products to agencies for the blind,
27 authorization of a central nonprofit agency to facilitate the
28 allocation of orders among qualified nonprofit agencies for
29 the blind, authorization of a central nonprofit agency to
30 facilitate the allocation of orders among qualified nonprofit
31 agencies for other severely handicapped, and other relevant

1 matters of procedure as shall be necessary to carry out the
 2 purposes of this act. The department ~~commission~~ shall
 3 authorize the purchase of products and services elsewhere when
 4 requisitions cannot reasonably be complied with through the
 5 nonprofit agencies for the blind and other severely
 6 handicapped.

7 (2) The department ~~commission~~ shall establish and
 8 publish a list of products and services provided by any
 9 qualified nonprofit agency for the blind and any nonprofit
 10 agency for the other severely handicapped, which the
 11 department ~~commission~~ determines are suitable for procurement
 12 by agencies of the state pursuant to this act. This
 13 procurement list and revision thereof shall be distributed to
 14 all purchasing officers of the state and its political
 15 subdivisions. All products offered for purchase to a state
 16 agency by a qualified nonprofit agency shall have significant
 17 value added by blind or severely handicapped persons, as
 18 determined by the department.

19 Section 40. Section 413.036, Florida Statutes, is
 20 amended to read:

21 413.036 Procurement of services by agencies; authority
 22 of department ~~commission~~.--

23 (1) If any agency intends to procure any product or
 24 service on the procurement list, that agency shall, in
 25 accordance with rules and regulations of the department
 26 ~~commission~~, procure such product or service at the price
 27 established by the department ~~commission~~ from a qualified
 28 nonprofit agency for the blind or for the other severely
 29 handicapped if the product or service is available within a
 30 reasonable delivery time. This act shall not apply in any
 31 case in which products or services are available for

1 procurement from any agency of the state and procurement
 2 therefrom is required under the provision of any law currently
 3 in effect. However, this act shall have precedence over any
 4 law requiring state agency procurement of products or services
 5 from any other nonprofit corporation unless such precedence is
 6 waived by the department ~~commission~~ in accordance with its
 7 rules.

8 (2) The provisions of part I of chapter 287 do not
 9 apply to any purchase of commodities or contractual services
 10 made by any legislative, executive, or judicial agency of the
 11 state from a qualified nonprofit agency for the blind or for
 12 the other severely handicapped.

13 (3) If, pursuant to a contract between any
 14 legislative, executive, or judicial agency of the state and
 15 any private contract vendor, a product or service is required
 16 by the Department of Management Services or on behalf of any
 17 state agency that is included on the procurement list
 18 established by the commission pursuant to s. 413.035(2), the
 19 contract must contain the following language:

20 "IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY
 21 ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT,
 22 THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR
 23 THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED
 24 PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER
 25 AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1)
 26 AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT
 27 THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE
 28 PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED
 29 FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED
 30 NONPROFIT AGENCY ARE CONCERNED."

31 Section 41. Section 413.037, Florida Statutes, is

1 amended to read:

2 413.037 Cooperation with department ~~commission~~
3 required; duties of state agencies.--

4 (1) In furtherance of the purposes of this act and in
5 order to contribute to the economy of state government, it is
6 the intent of the Legislature that there be close cooperation
7 between the department ~~commission~~ and any agency of the state
8 from which procurement of products or services is required
9 under the provision of any law currently in effect. The
10 department ~~commission~~ and any such agency of the state are
11 authorized to enter into such contractual agreements,
12 cooperative working relationships, or other arrangements as
13 may be determined to be necessary for effective coordination
14 and efficient realization of the objectives of this act and
15 any other law requiring procurement of products or services
16 from any agency of the state.

17 (2) The department ~~commission~~ may secure directly from
18 any agency of the state information necessary to enable it to
19 carry out this act. Upon request of the department ~~chair of~~
20 ~~the commission~~, the head of the agency shall furnish such
21 information to the department ~~commission~~.

22 (3) Space shall be set aside in the State Capitol for
23 the purpose of exhibiting products produced by clients of
24 rehabilitation-oriented agencies of the state.

25 Section 42. Paragraph (c) of subsection (5) of section
26 445.024, Florida Statutes, is amended to read:

27 445.024 Work requirements.--

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

1 (c) Notwithstanding the exemption from the competitive
 2 sealed bid requirements provided in s. 287.057(5)(f)~~s.~~
 3 ~~287.057(4)(f)~~for certain contractual services, each contract
 4 awarded under this chapter must be awarded on the basis of a
 5 competitive sealed bid, except for a contract with a
 6 governmental entity as determined by the regional workforce
 7 board.

8 Section 43. Paragraph (d) of subsection (2) of section
 9 455.2177, Florida Statutes, is amended to read:

10 455.2177 Monitoring of compliance with continuing
 11 education requirements.--

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

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

18 Section 44. Section 413.034, Florida Statutes, is
 19 repealed.

20 Section 45. This act shall take effect July 1, 2002.

21
 22
 23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Remove: the entire title,

26

27 and insert:

28 A bill to be entitled
 29 An act relating to state procurement; amending
 30 s. 61.1826, F.S.; conforming a cross reference
 31 to changes made by this act; amending s.

1 120.57, F.S.; specifying the manner in which
2 notice of decisions and intended decisions
3 concerning procurement are to be provided;
4 defining the term "electronically post";
5 providing procedures applicable to a protest of
6 a contract solicitation or award; specifying
7 the type of notice that starts the time for
8 filing a notice of protest; providing that
9 state holidays are not included in the time for
10 filing a notice of protest; specifying the
11 types of submissions that may be considered in
12 a protest; clarifying and conforming
13 provisions; amending ss. 283.32, 283.33,
14 283.34, and 283.35, F.S.; conforming the
15 sections to changes made by the act; conforming
16 a cross reference; amending s. 287.001, F.S.;
17 clarifying legislative intent with respect to
18 state procurement; amending s. 287.012, F.S.;
19 revising definitions; defining additional
20 terms; amending s. 287.017, F.S.; eliminating
21 the requirement for annual adjustments of
22 purchasing categories; amending 287.022, F.S.;
23 conforming a cross reference to changes made by
24 the act; amending ss. 287.032 and 287.042,
25 F.S.; revising the purpose, duties, and
26 functions of the Department of Management
27 Services; clarifying and conforming provisions;
28 providing procedures for the listing of
29 commodities and services offered by certain
30 nonprofit agencies organized pursuant to ch.
31 413, F.S.; providing that eligible users may

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1 purchase from state term contracts; providing
2 that the protest bond amount shall be a
3 specified percentage of the estimated contract
4 amount; providing that official bank checks may
5 be accepted in lieu of a bond; providing for
6 prevailing party's attorney's fees; requiring
7 the department to develop procedures for
8 issuing solicitations, requests for
9 information, and requests for quotes;
10 prescribing the manner in which solicitations
11 are to be noticed; providing an exception for
12 the 10-day notice requirement for
13 solicitations; requiring the department to
14 develop procedures for electronic posting;
15 requiring the department to develop methods for
16 conducting question-and-answer sessions
17 regarding solicitations; providing that the
18 Office of Supplier Diversity may consult with
19 the department regarding solicitation
20 distribution procedures; providing that rules
21 may be distributed to agencies via an
22 electronic medium; requiring written
23 documentation of certain agency decisions;
24 eliminating the department's responsibilities
25 for the management of state surplus property;
26 amending s. 287.045, F.S., relating to the
27 procurement of products and materials with
28 recycled content; clarifying and conforming
29 provisions; amending s. 287.056, F.S.;
30 specifying entities that are required or
31 permitted to purchase from purchasing

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

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1 287.059, F.S.; clarifying and conforming
2 provisions; amending s. 287.0595, F.S.;
3 revising requirements for the Department of
4 Environmental Protection with respect to
5 contracts for pollution response; clarifying
6 and conforming provisions; repealing s.
7 287.073, F.S., relating to the procurement of
8 information technology resources; amending s.
9 287.0731, F.S.; revising requirements for a
10 team for contract negotiations; amending ss.
11 287.0822, 287.084, 287.087, 287.093, and
12 287.09451, F.S., relating to procurement of
13 beef and pork, preference for state businesses
14 and businesses with drug-free-workplace
15 programs, minority business enterprises, and
16 the Office of Supplier Diversity; clarifying
17 and conforming provisions to changes made by
18 the act; amending s. 297.095, F.S.; providing
19 requirements for certain products produced by a
20 certain corporation; providing an exception;
21 repealing s. 287.121, F.S., relating to
22 assistance by the Department of Legal Affairs;
23 amending ss. 287.133 and 287.134, F.S.,
24 relating to prohibitions on the transaction of
25 business 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 and 455.2177, F.S., relating to the
9 power to contract by the Department of Children
10 and 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. 413.033, F.S.; revising a definition;
17 amending s. 413.035, F.S.; providing content
18 requirements for certain products; amending s.
19 413.036, F.S.; providing that ch. 287, F.S.,
20 does not apply to purchases made from certain
21 nonprofit agencies; specifying provisions
22 required to be contained in certain state
23 procurement contracts; amending s. 413.037,
24 F.S., to conform; repealing s. 413.034, F.S.,
25 relating to the Commission for Purchase from
26 the Blind or Other Severely Handicapped;
27 providing an effective date.

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31