

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

1 providing procedures for the listing of
 2 commodities and services offered by certain
 3 nonprofit agencies organized pursuant to ch.
 4 413, F.S.; providing that eligible users may
 5 purchase from state term contracts; providing
 6 that the protest bond amount shall be a
 7 specified percentage of the estimated contract
 8 amount; providing that official bank checks may
 9 be accepted in lieu of a bond; requiring the
 10 department to develop procedures for issuing
 11 solicitations, requests for information, and
 12 requests for quotes; prescribing the manner in
 13 which solicitations are to be noticed;
 14 providing an exception for the 10-day notice
 15 requirement for solicitations; requiring the
 16 department to develop procedures for electronic
 17 posting; requiring the department to develop
 18 methods for conducting question-and-answer
 19 sessions regarding solicitations; providing
 20 that the Office of Supplier Diversity may
 21 consult with the department regarding
 22 solicitation distribution procedures; providing
 23 that rules may be distributed to agencies via
 24 an electronic medium; requiring written
 25 documentation of certain agency decisions;
 26 eliminating the department's responsibilities
 27 for the management of state surplus property;
 28 amending s. 287.045, F.S., relating to the
 29 procurement of products and materials with
 30 recycled content; clarifying and conforming
 31 provisions; amending s. 287.056, F.S.;

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

1 may not be renewed; conforming cross references
 2 to changes made by the act; amending s.
 3 287.059, F.S.; clarifying and conforming
 4 provisions; amending s. 287.0595, F.S.;
 5 revising requirements for the Department of
 6 Environmental Protection with respect to
 7 contracts for pollution response; clarifying
 8 and conforming provisions; repealing s.
 9 287.073, F.S., relating to the procurement of
 10 information technology resources; amending s.
 11 287.0731, F.S.; revising requirements for a
 12 team for contract negotiations; amending ss.
 13 287.0822, 287.084, 287.087, 287.093, and
 14 287.09451, F.S., relating to procurement of
 15 beef and pork, preference for state businesses
 16 and businesses with drug-free-workplace
 17 programs, minority business enterprises, and
 18 the Office of Supplier Diversity; clarifying
 19 and conforming provisions to changes made by
 20 the act; amending s. 297.095, F.S.; providing
 21 requirements for certain products produced by a
 22 certain corporation; providing an exception;
 23 repealing s. 287.121, F.S., relating to
 24 assistance by the Department of Legal Affairs;
 25 amending ss. 287.133 and 287.134, F.S.,
 26 relating to prohibitions on the transaction of
 27 business with certain entities convicted of
 28 public-entity crimes and entities that have
 29 engaged in discrimination; clarifying and
 30 conforming provisions; amending s. 287.1345,
 31 F.S., relating to the surcharge on users of

1 state term contracts; authorizing the
 2 Department of Management Services to collect
 3 surcharges from eligible users; amending s.
 4 373.610, F.S.; clarifying that the provision
 5 applies to contractors; amending s. 373.611,
 6 F.S.; providing that water management districts
 7 may contract to limit damages recoverable from
 8 certain entities during procurement; amending
 9 ss. 394.457, 394.47865, 402.73, 408.045,
 10 445.024 and 455.2177, F.S., relating to the
 11 power to contract by the Department of Children
 12 and Family Services, the Agency for Health Care
 13 Administration, the Regional Work Force Boards,
 14 and the Department of Business and Professional
 15 Regulation and their power to privatize and
 16 procure; conforming cross references;
 17 clarifying and conforming provisions; amending
 18 s. 413.033, F.S.; revising a definition;
 19 amending s. 413.035, F.S.; providing content
 20 requirements for certain products; amending s.
 21 413.036, F.S.; providing that ch. 287, F.S.,
 22 does not apply to purchases made from certain
 23 nonprofit agencies; specifying provisions
 24 required to be contained in certain state
 25 procurement contracts; limiting purchases of
 26 products or services by state agencies from
 27 sources other than the nonprofit agency for the
 28 blind or severely handicapped under certain
 29 circumstances; amending s. 413.037, F.S., to
 30 conform; repealing s. 413.034, F.S., relating
 31 to the Commission for Purchase from the Blind

1 or Other Severely Handicapped; providing an
2 effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Paragraph (e) of subsection (1) of section
7 61.1826, Florida Statutes, is amended to read:

8 61.1826 Procurement of services for State Disbursement
9 Unit and the non-Title IV-D component of the State Case
10 Registry; contracts and cooperative agreements; penalties;
11 withholding payment.--

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

18 (e) The potential loss of substantial federal funds
19 poses a direct and immediate threat to the health, safety, and
20 welfare of the children and citizens of the state and
21 constitutes an emergency for purposes of s. 287.057(5)(a)~~s.~~
22 ~~287.057(4)(a)~~.

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

25 120.57 Additional procedures for particular cases.--

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

1 (a) The agency shall provide notice of a its decision
2 or intended decision concerning a ~~bid~~ solicitation, ~~or a~~
3 contract award, or exceptional purchase by electronic posting.
4 This notice shall contain the following statement: "Failure to
5 file a protest within the time prescribed in section
6 120.57(3), Florida Statutes, shall constitute a waiver of
7 proceedings under chapter 120, Florida Statutes."~~as follows:~~

8 1. ~~For a bid solicitation, notice of a decision or~~
9 ~~intended decision shall be given by United States mail or by~~
10 ~~hand delivery.~~

11 2. ~~For any decision of the Department of Management~~
12 ~~Services concerning a request by an agency for approval of an~~
13 ~~exceptional purchase under part I of chapter 287 and the rules~~
14 ~~of the Department of Management Services, notice of a decision~~
15 ~~or intended decision shall be given by posting such notice in~~
16 ~~the office of the Department of Management Services.~~

17 3. ~~For any other agency decision, notice of a decision~~
18 ~~or intended decision shall be given either by posting the bid~~
19 ~~tabulation at the location where the bids were opened or by~~
20 ~~certified United States mail or other express delivery~~
21 ~~service, return receipt requested.~~

22
23 ~~The notice required by this paragraph shall contain the~~
24 ~~following statement: "Failure to file a protest within the~~
25 ~~time prescribed in s. 120.57(3), Florida Statutes, shall~~
26 ~~constitute a waiver of proceedings under chapter 120, Florida~~
27 ~~Statutes."~~

28 (b) Any person who is adversely affected by the agency
29 decision or intended decision shall file with the agency a
30 notice of protest in writing within 72 hours after the posting
31 of the notice of decision or intended decision ~~bid tabulation~~

1 ~~or after receipt of the notice of the agency decision or~~
 2 ~~intended decision and shall file a formal written protest~~
 3 ~~within 10 days after filing the notice of protest.~~ With
 4 respect to a protest of the terms, conditions, and
 5 specifications contained in a solicitation, including any
 6 provisions governing the methods for ranking bids, proposals,
 7 or replies, awarding contracts, reserving rights of further
 8 negotiation, or modifying or amending any contract ~~an~~
 9 ~~invitation to bid or in a request for proposals,~~ the notice of
 10 protest shall be filed in writing within 72 hours after the
 11 posting receipt of notice of the solicitation. ~~project plans~~
 12 ~~and specifications in an invitation to bid or request for~~
 13 ~~proposals, and~~ The formal written protest shall be filed
 14 within 10 days after the date the notice of protest is filed.
 15 Failure to file a notice of protest or failure to file a
 16 formal written protest shall constitute a waiver of
 17 proceedings under this chapter. The formal written protest
 18 shall state with particularity the facts and law upon which
 19 the protest is based. Saturdays, Sundays, and state legal
 20 holidays shall be excluded in the computation of the 72-hour
 21 time periods provided by this paragraph.

22 (c) Upon receipt of the formal written protest that
 23 ~~which~~ has been timely filed, the agency shall stop the ~~bid~~
 24 ~~solicitation process~~ or ~~the~~ contract award process until the
 25 subject of the protest is resolved by final agency action,
 26 unless the agency head sets forth in writing particular facts
 27 and circumstances which require the continuance of the ~~bid~~
 28 ~~solicitation process~~ or ~~the~~ contract award process without
 29 delay in order to avoid an immediate and serious danger to the
 30 public health, safety, or welfare.

31

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

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

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

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

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

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

27 Section 3. Section 283.32, Florida Statutes, is
 28 amended to read:

29 283.32 Recycled paper to be used by each agency;
 30 printing bids certifying use of recycled paper; percentage
 31 preference in awarding contracts.--

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

4 (2) Each agency shall require ~~that~~ a vendor that
5 ~~person who~~ submits a bid for a contract for printing and that
6 ~~who~~ wishes to be considered for the price preference described
7 in s. 287.045 to shall certify in writing the percentage of
8 recycled content of the material used for such printing. Such
9 vendor person may certify that the material contains no
10 recycled content.

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

26 Section 4. Section 283.33, Florida Statutes, is
27 amended to read:

28 283.33 Printing of publications; lowest bidder
29 awards.--

30 (1) Publications may be printed and prepared in-house,
31 by another agency or the Legislature, or purchased on bid,

1 whichever is more economical and practicable as determined by
2 the agency. An agency may contract for binding separately when
3 more economical or practicable, whether or not the remainder
4 of the printing is done in-house. A vendor bidder may
5 subcontract for binding and still be considered a responsible
6 vendor ~~qualified bidder or offeror~~, notwithstanding s.
7 ~~287.012(24)~~s. 287.012(13).

8 (2) All printing of publications that cost in excess
9 of the threshold amount provided in s. 287.017 for CATEGORY
10 TWO and purchased by agencies shall be let upon contract to
11 the vendor that submits the lowest responsive bid and that
12 will bidder, ~~who shall~~ furnish all materials used in printing.
13 Such contract shall specify a definite term and a definite
14 number of copies.

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

19 (4) The provisions of s. 946.515(4) shall not apply to
20 purchases of printing.

21 Section 5. Section 283.34, Florida Statutes, is
22 amended to read:

23 283.34 State officers not to have interests in
24 printing contract.--No member of the Legislature or other
25 officer of this state may have an interest, directly or
26 indirectly, in any printing contract as provided for in s.
27 283.33; however, nothing in this section prohibits a member of
28 the Legislature from receiving such a contract when the member
29 or his or her firm has submitted the lowest responsive bid is
30 ~~the lowest bidder of all bidders submitting competitive bids~~
31 for the contract.

1 Section 6. Section 283.35, Florida Statutes, is
2 amended to read:

3 283.35 Preference given printing within the
4 state.--Every agency shall give preference to vendors ~~bidders~~
5 located within the state when awarding contracts to have
6 materials printed, whenever such printing can be done at no
7 greater expense than the expense of awarding a contract to a
8 vendor ~~bidder~~ located outside the state and can be done at a
9 level of quality comparable to that obtainable from a vendor
10 ~~bidder~~ located outside the state.

11 Section 7. Section 287.001, Florida Statutes, is
12 amended to read:

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

30 Section 8. Section 287.012, Florida Statutes, is
31 amended to read:

1 287.012 Definitions.--As used ~~The following~~
2 ~~definitions shall apply~~ in this part, the term:

3 (1) "Agency" means any of the various state officers,
4 departments, boards, commissions, divisions, bureaus, and
5 councils and any other unit of organization, however
6 designated, of the executive branch of state government.

7 "Agency" does not include the University and College Boards of
8 Trustees or the state universities and colleges ~~Board of~~
9 ~~Regents or the State University System.~~

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

13 (3) "Artist" means an individual or group of
14 individuals who profess and practice a demonstrated creative
15 talent and skill in the area of music, dance, drama, folk art,
16 creative writing, painting, sculpture, photography, graphic
17 arts, craft arts, industrial design, costume design, fashion
18 design, motion pictures, television, radio, or tape and sound
19 recording or in any other related field.

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

23 ~~(5)~~(4) "Commodity" means any of the various supplies,
24 materials, goods, merchandise, food, equipment, information
25 technology, and other personal property, including a mobile
26 home, trailer, or other portable structure with floor space of
27 less than 5,000 ~~3,000~~ square feet, purchased, leased, or
28 otherwise contracted for by the state and its agencies.

29 "Commodity" also includes interest on deferred-payment
30 commodity contracts approved pursuant to s. 287.063 entered
31 into by an agency for the purchase of other commodities.

1 However, commodities purchased for resale are excluded from
 2 this definition. Further, a prescribed drug, medical supply,
 3 or device required by a licensed health care provider as a
 4 part of providing health services involving examination,
 5 diagnosis, treatment, prevention, medical consultation, or
 6 administration for clients at the time the service is provided
 7 is not considered to be a "commodity." Printing of
 8 publications shall be considered a commodity when let upon
 9 contract pursuant to s. 283.33, whether purchased for resale
 10 or not.

11 (6)(5) "Competitive sealed bids," ~~or~~ "competitive
 12 sealed proposals," ~~or~~ "competitive sealed replies" mean the
 13 process of receiving ~~refers to the receipt of~~ two or more
 14 sealed bids, or proposals, or replies submitted by responsive
 15 vendors ~~and qualified bidders or offerors~~ and includes bids,
 16 ~~or proposals,~~ or replies transmitted by electronic means in
 17 lieu of or in addition to written bids, ~~or proposals,~~ or
 18 replies.

19 (7) "Competitive solicitation" or "solicitation" means
 20 an invitation to bid, a request for proposals, or an
 21 invitation to negotiate.

22 (8)(6) "Contractor" means a person who contracts to
 23 sell commodities or contractual services to an agency.

24 (9)(7) "Contractual service" means the rendering by a
 25 contractor of its time and effort rather than the furnishing
 26 of specific commodities. The term applies only to those
 27 services rendered by individuals and firms who are independent
 28 contractors, and such services may include, but are not
 29 limited to, evaluations; consultations; maintenance;
 30 accounting; security; management systems; management
 31 consulting; educational training programs; research and

1 development studies or reports on the findings of consultants
2 engaged thereunder; and professional, technical, and social
3 services. "Contractual service" does not include any contract
4 for the furnishing of labor or materials for the construction,
5 renovation, repair, modification, or demolition of any
6 facility, building, portion of building, utility, park,
7 parking lot, or structure or other improvement to real
8 property entered into pursuant to chapter 255 and rules
9 adopted thereunder.

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

12 (11) "Electronic posting" or "electronically post"
13 means the posting of solicitations, agency decisions or
14 intended decisions, or other matters relating to procurement
15 on a centralized Internet website designated by the department
16 for this purpose.

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

20 (13)~~(9)~~ "Exceptional purchase" means any purchase of
21 commodities or contractual services excepted by law or rule
22 from the requirements for competitive solicitation ~~or~~
23 ~~acquisition~~, including, but not limited to, purchases from a
24 single source; ~~7~~ purchases upon receipt of less than two
25 responsive bids, ~~or~~ proposals, or replies; purchases made by
26 an agency, after receiving approval from the department, from
27 a contract procured, pursuant to s. 287.057(1), (2), or (3),
28 by another agency; and purchases made without advertisement in
29 the manner required by s. 287.042(3)(b) without publication of
30 ~~notice in the Florida Administrative Weekly, and exceptions~~
31

1 ~~granted by the department for a purchase of commodities from~~
2 ~~other than a state term contract vendor.~~

3 (14)~~(10)~~ "Extension" means an increase in the time
4 allowed for the contract period due to circumstances which,
5 without fault of either party, make performance impracticable
6 or impossible, or which prevent a new contract from being
7 executed, with or without a proportional increase in the total
8 dollar amount, with any increase to be based on the method and
9 rate previously established in the contract.

10 (15) "Information technology" has the meaning ascribed
11 in s. 282.0041.

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

26 (17) "Invitation to negotiate" means a written
27 solicitation for competitive sealed replies to select one or
28 more vendors with which to commence negotiations for the
29 procurement of commodities or contractual services. The
30 invitation to negotiate is used when the agency determines
31 that negotiations may be necessary for the state to receive

1 the best value. A written solicitation includes a solicitation
2 that is electronically posted.

3 (18)(12) "Minority business enterprise" has the ~~same~~
4 meaning ascribed ~~as that provided~~ in s. 288.703.

5 (19) "Office" means the Office of Supplier Diversity
6 of the Department of Management Services.

7 ~~(13) "Qualified bidder," "responsible bidder,"~~
8 ~~"qualified offeror," or "responsible offeror" means a person~~
9 ~~who has the capability in all respects to perform fully the~~
10 ~~contract requirements and has the integrity and reliability~~
11 ~~which will assure good faith performance.~~

12 (20)(14) "Renewal" means contracting with the same
13 contractor for an additional contract period after the initial
14 contract period, only if pursuant to contract terms
15 specifically providing for such renewal.

16 (21) "Request for information" means a written request
17 made by an agency to vendors for information concerning
18 commodities or contractual services. Responses to these
19 requests are not offers and may not be accepted by the agency
20 to form a binding contract.

21 (22)(15) "Request for proposals" means a written
22 solicitation for competitive sealed proposals ~~with the title,~~
23 ~~date, and hour of the public opening designated. A written~~
24 ~~solicitation includes a solicitation published or transmitted~~
25 ~~by electronic means. The request for proposals is used when it~~
26 ~~is not practicable for the agency to is incapable of~~
27 ~~specifically define defining the scope of work for which the~~
28 ~~commodity, group of commodities, or contractual service is~~
29 ~~required and when the agency is requesting that a responsible~~
30 ~~vendor qualified offeror propose a commodity, group of~~
31 ~~commodities, or contractual service to meet the specifications~~

1 of the solicitation document. A written solicitation includes
 2 a solicitation that is electronically posted. ~~A request for~~
 3 ~~proposals includes, but is not limited to, general~~
 4 ~~information, applicable laws and rules, functional or general~~
 5 ~~specifications, statement of work, proposal instructions, and~~
 6 ~~evaluation criteria. Requests for proposals shall state the~~
 7 ~~relative importance of price and any other evaluation~~
 8 ~~criteria.~~

9 (23) "Request for a quote" means an oral or written
 10 request for written pricing or services information from a
 11 state term contract vendor for commodities or contractual
 12 services available on a state term contract from that vendor.

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

17 (25)~~(16)~~ "Responsive bid," or "responsive proposal" or
 18 "responsive reply" means a bid, or proposal, or reply
 19 submitted by a responsive, and responsible vendor or
 20 qualified, bidder or offeror which conforms in all material
 21 respects to the solicitation invitation to bid or request for
 22 proposals.

23 (26)~~(17)~~ "Responsive vendor bidder" or "responsive
 24 offeror" means a vendor that person who has submitted a bid,
 25 or proposal, or reply that which conforms in all material
 26 respects to the solicitation invitation to bid or request for
 27 proposals.

28 (27) "State term contract" means a term contract that
 29 is competitively procured by the department pursuant to s.
 30 287.057 and that is used by agencies and eligible users
 31 pursuant to s. 287.056.

1 ~~(28)(18)~~ "Term contract" means an indefinite quantity
2 contract wherein a party agrees to furnish commodities or
3 contractual services during a defined ~~prescribed~~ period of
4 time, ~~the expiration of which concludes the contract.~~

5 ~~(19)~~ "Office" means ~~the Office of Supplier Diversity~~
6 ~~of the Department of Management Services.~~

7 ~~(20)~~ "Invitation to negotiate" means ~~a written~~
8 ~~solicitation that calls for responses to select one or more~~
9 ~~persons or business entities with which to commence~~
10 ~~negotiations for the procurement of commodities or contractual~~
11 ~~services.~~

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

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

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

27 287.017 Purchasing categories, threshold amounts;
28 procedures for automatic adjustment by department.--

29 (2) The department shall adopt rules to annually
30 adjust the amounts provided in subsection (1) based upon the
31

1 rate of change of a nationally recognized price index. Such
2 rules shall include, but not be limited to, the following:

3 (a) Designation of the nationally recognized price
4 index or component thereof used to calculate the proper
5 adjustment authorized in this section.

6 (b) The procedure for rounding results.

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

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

11 287.022 Purchase of insurance.--

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

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

28 Section 11. Section 287.032, Florida Statutes, is
29 amended to read:

30 287.032 Purpose of department.--It shall be the
31 purpose of the Department of Management Services:

1 (1) To promote efficiency, economy, and the
2 conservation of energy and to effect coordination in the
3 purchase of commodities and contractual services for the
4 state.

5 (2) To provide uniform commodity and contractual
6 service procurement policies, rules, procedures, and forms for
7 use by ~~the various~~ agencies and eligible users ~~in procuring~~
8 ~~contractual services~~.

9 (3) To procure and distribute ~~state-owned surplus~~
10 ~~tangible personal property~~ and federal surplus tangible
11 personal property allocated to the state by the Federal
12 Government.

13 Section 12. Section 287.042, Florida Statutes, is
14 amended to read:

15 287.042 Powers, duties, and functions.--The department
16 shall have the following powers, duties, and functions:

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

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

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

5 (d) The department shall issue commodity numbers for
6 all products of the corporation operating the correctional
7 industry program which meet or exceed department
8 specifications.

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

16 (f) The corporation may submit products and services
17 to the department for testing, analysis, and review relating
18 to the quality and cost comparability. If, after review and
19 testing, the department approves of the products and services,
20 the department shall give written notice thereof to the
21 corporation. The corporation shall pay a reasonable fee
22 charged for testing its products by the Department of
23 Agriculture and Consumer Services.

24 (g) The department shall include products and services
25 that are offered by a qualified nonprofit agency for the blind
26 or for the other severely handicapped organized pursuant to
27 chapter 413 and that have been determined to be suitable for
28 purchase pursuant to s. 413.035 on any department listing of
29 state term contracts. The products and services shall be
30 placed on such list in a category based upon specification
31

1 criteria developed by the department in consultation with the
2 qualified nonprofit agency.

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

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

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

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

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

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

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

21 ~~(d) The terms, conditions, and specifications of a~~
 22 ~~request for proposal, request for quote, invitation to bid, or~~
 23 ~~invitation to negotiate, including any provisions governing~~
 24 ~~the methods for ranking proposals, awarding contracts,~~
 25 ~~reserving rights of further negotiation, or the modification~~
 26 ~~of amendment of any contract, are subject to challenge only by~~
 27 ~~filing a protest within 72 hours after the notice of the~~
 28 ~~terms, conditions, or specifications as provided in s.~~
 29 ~~120.57(3)(b).~~

30 ~~(3) To have general supervision, through the state~~
 31 ~~agencies, of all storerooms and stores operated by the~~

1 ~~agencies and to have supervision of inventories of all~~
2 ~~commodities belonging to the state agencies. The duties~~
3 ~~imposed by this section do not relieve any state agency from~~
4 ~~accountability for commodities under its control.~~

5 ~~(3)(4)~~ To establish a system of coordinated, uniform
6 procurement policies, procedures, and practices to be used by
7 agencies in acquiring commodities and contractual services,
8 which shall include, but not be limited to:

9 (a) Development of a list of interested vendors to be
10 maintained by classes of commodities and contractual services.
11 This list shall not be used to prequalify vendors or to
12 exclude any interested vendor from bidding.

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

29 2. Development of procedures for electronic posting.
30 The department shall designate a centralized website on the
31 Internet for the department and other agencies to

1 electronically post solicitations, decisions or intended
 2 decisions, and other matters relating to procurement. From
 3 July 1, 2002, until July 1, 2003, the department shall publish
 4 a notice in each edition of the Florida Administrative Weekly
 5 which indicates the specific URL or Internet address for the
 6 centralized website.

7 (c) Development of procedures for the receipt and
 8 opening of bids, ~~responses, quotes, or proposals, or replies~~
 9 by an agency. Such procedures shall provide the Office of
 10 Supplier Diversity an opportunity to monitor and ensure that
 11 the contract award is consistent with the requirements of s.
 12 287.09451.

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

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

29 (f) Development of procedures to be used by an agency
 30 for issuing solicitations that include requirements to
 31 describe commodities, services, scope of work, and

1 deliverables in a manner that promotes competition invitations
2 ~~to bid, invitations to negotiate, requests for proposal,~~
3 ~~requests for quote, or other competitive procurement~~
4 ~~processes.~~

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

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

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

26 (5)(6) To prescribe specific commodities and
27 quantities to be purchased locally.

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

31

1 (b) Except for the purchase of insurance, the
 2 department may delegate to agencies the authority for the
 3 procurement of and contracting for, ~~or the purchase, lease, or~~
 4 ~~acquisition of,~~ commodities or contractual services.

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

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

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

29 ~~(10)(11)~~ To prepare statistical data concerning the
 30 method of procurement, terms, usage, and disposition of
 31 commodities and contractual services by ~~state~~ agencies. All

1 agencies shall furnish such information for this purpose to
2 the office and to the department, as the department or office
3 may call for, but no less frequently than annually, on such
4 forms or in such manner as the department may prescribe.

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

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

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

29 (14)~~(15)~~ To procure and distribute ~~state-owned surplus~~
30 ~~tangible personal property and~~ federal surplus tangible
31

1 personal property allocated to the state by the Federal
2 Government.

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

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

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

1 ~~(16)(17)~~(a) To evaluate contracts let by the Federal
2 Government, another state, or a political subdivision for the
3 provision of commodities and contract services, and, when it
4 is determined in writing to be cost-effective and in the best
5 interest of the state, to enter into a written agreement
6 authorizing an ~~a state~~ agency to make purchases under a
7 contract approved by the department and let by the Federal
8 Government, another state, or a political subdivision.

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

17 Section 13. Section 287.045, Florida Statutes, is
18 amended to read:

19 287.045 Procurement of products and materials with
20 recycled content.--

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

29 (b) Each ~~state~~ agency shall review and revise its
30 procurement procedures and specifications for the purchase of
31 products and materials to eliminate any procedures and

1 specifications that explicitly discriminate against products
2 and materials with recycled content, except if such procedures
3 and specifications are necessary to protect the public health,
4 safety, and welfare.

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

12 (b) The Auditor General shall assist in monitoring the
13 product procurement requirements.

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

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

1 in writing the percentage of recycled content in the product
2 or material that is subject to the bid, proposal, or reply. A
3 person may certify that the product or material contains no
4 recycled content.

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

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

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

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

29 (8) The department and each ~~state~~ agency shall review
 30 and revise its procedures and specifications on a continuing
 31 basis to encourage the use of products and materials with

1 recycled content and postconsumer recovered material and
2 shall, in developing new procedures and specifications,
3 encourage the use of products and materials with recycled
4 content and postconsumer recovered material.

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

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

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

30 (11) Each ~~state~~ agency shall report annually to the
31 department its total expenditures on, and use of, products

1 with recycled content and the percentage of its budget that
2 represents purchases of similar products made from virgin
3 materials. The department shall design a uniform reporting
4 mechanism and prepare annual summaries of statewide purchases
5 delineating those with recycled content to be submitted to the
6 Governor, the President of the Senate, and the Speaker of the
7 House of Representatives.

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

10 287.056 ~~Agency~~ Purchases from purchasing agreements
11 and state term contracts ~~executed by the department.--~~

12 (1) Agencies shall, and eligible users may, purchase
13 commodities and contractual services from ~~the~~ purchasing
14 agreements established and state term contracts procured,
15 pursuant to s. 287.057, ~~negotiated and executed by the~~
16 ~~department, as authorized in s. 287.042(2).~~

17 (2) Agencies may have the option to purchase
18 commodities or contractual services from state term ~~any~~
19 ~~written agreements or contracts~~ procured, pursuant to s.
20 287.057, ~~negotiated and executed by the department which~~
21 contain a user surcharge pursuant to s. 287.1345 ~~or such other~~
22 ~~agreements~~ as determined by the department.

23 (3) Agencies and eligible users may use a request for
24 quote to obtain written pricing or services information from a
25 state term contract vendor for commodities or contractual
26 services available on state term contract from that vendor.
27 The purpose of a request for quote is to determine whether a
28 price, term, or condition more favorable to the agency or
29 eligible user than that provided in the state term contract is
30 available. Use of a request for quote does not constitute a
31

1 decision or intended decision that is subject to protest under
2 s. 120.57(3).

3 Section 15. Section 287.057, Florida Statutes, is
4 amended to read:

5 287.057 Procurement of commodities or contractual
6 services.--

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

28 (b) The contract shall be awarded with reasonable
29 promptness by written notice to the responsible qualified and
30 responsive vendor that bidder who submits the lowest
31 responsive bid. This bid must be determined in writing to

1 meet the requirements and criteria set forth in the invitation
2 to bid.

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

29 (b) The contract award shall be awarded ~~made~~ to the
30 responsible and responsive vendor ~~offeror~~ whose proposal is
31 determined in writing to be the most advantageous to the

1 state, taking into consideration the price and the other
 2 criteria set forth in the request for proposals. The contract
 3 file shall contain documentation supporting the basis on which
 4 the award is made.

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

24 (b) The agency shall evaluate and rank responsive
 25 replies against all evaluation criteria set forth in the
 26 invitation to negotiate and shall select, based on the
 27 ranking, one or more vendors with which to commence
 28 negotiations. After negotiations are conducted, the agency
 29 shall award the contract to the responsible and responsive
 30 vendor that the agency determines will provide the best value
 31 to the state. The contract file must contain a short plain

1 statement that explains the basis for vendor selection and
2 that sets forth the vendor's deliverables and price, pursuant
3 to the contract, with an explanation of how these deliverables
4 and price provide the best value to the state.

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

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

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

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

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

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

31

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

15 1. Provide notice of its intended decision to enter a
 16 single-source purchase contract in the manner specified in s.
 17 120.57(3), if the amount of the contract does not exceed the
 18 threshold amount provided in s. 287.017 for CATEGORY FOUR.

19 2. Request approval from the department for the
 20 single-source purchase, if the amount of the contract exceeds
 21 the threshold amount provided in s. 287.017 for CATEGORY FOUR.
 22 The agency shall initiate its request for approval in a form
 23 prescribed by the department, which request may be
 24 electronically transmitted.~~if it is determined that such~~
 25 ~~commodities or services are available only from a single~~
 26 ~~source and such determination is documented. However, if such~~
 27 ~~contract is for an amount greater than the threshold amount~~
 28 ~~provided in s. 287.017 for CATEGORY FOUR, the agency head~~
 29 ~~shall file a certification of conditions and circumstances~~
 30 ~~with the department and shall obtain the prior approval of the~~
 31 ~~department.~~The failure of the department to approve or

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

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

21 (e) Prescriptive assistive devices for the purpose of
 22 medical, developmental, or vocational rehabilitation of
 23 clients are excepted from competitive solicitation ~~sealed bid~~
 24 ~~and competitive sealed proposal~~ requirements and shall be
 25 procured pursuant to an established fee schedule or by any
 26 other method which ensures the best price for the state,
 27 taking into consideration the needs of the client.

28 Prescriptive assistive devices include, but are not limited
 29 to, prosthetics, orthotics, and wheelchairs. For purchases
 30 made pursuant to this paragraph, state agencies shall annually
 31

1 file with the department a description of the purchases and
2 methods of procurement.

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

6 1. Artistic services.

7 2. Academic program reviews.

8 3. Lectures by individuals.

9 4. Auditing services.

10 5. Legal services, including attorney, paralegal,
11 expert witness, appraisal, or mediator services.

12 6. Health services involving examination, diagnosis,
13 treatment, prevention, medical consultation, or
14 administration.

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

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

31 9. Family placement services.

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

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

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

11 13. Services or commodities provided by governmental
12 agencies.

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

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

27 ~~(7)(6)~~ Upon issuance of any solicitation ~~invitation to~~
28 ~~bid or request for proposals~~, an agency shall, upon request by
29 the department, forward to the department one copy of each
30 solicitation ~~invitation to bid or request for proposals~~ for
31 all commodity and contractual services purchases in excess of

1 the threshold amount provided in s. 287.017 for CATEGORY TWO.
 2 An agency shall also, upon request, furnish a copy of all
 3 competitive solicitation ~~sealed bid or competitive sealed~~
 4 ~~proposal~~ tabulations. The Office of Supplier Diversity may
 5 also request from the agencies any information submitted to
 6 the department pursuant to this subsection.

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

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

1 proposals, or replies received are over this estimate, the
 2 agency may reject the bids, proposals, or replies and request
 3 new ones from certified minority business enterprises, or the
 4 agency may reject the bids, proposals, or replies and reopen
 5 the bidding to all eligible vendors ~~qualified bidders~~.

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

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

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

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

4 ~~(11)(10)~~ A contract for commodities or contractual
5 services may be awarded without competition if state or
6 federal law prescribes with whom the agency must contract or
7 if the rate of payment is established during the
8 appropriations process.

9 ~~(12)(11)~~ If two equal responses to a solicitation or a
10 request for quote ~~an invitation to bid or request for~~
11 ~~proposals~~ are received and one response is from a certified
12 minority business enterprise, the agency shall enter into a
13 contract with the certified minority business enterprise.

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

22 ~~(14)(13)~~ ~~Except for those contracts initially procured~~
23 ~~pursuant to paragraph (3)(a) or paragraph (3)(c),~~ Contracts
24 for commodities or contractual services may be renewed for a
25 period that may not exceed 3 years or ~~on a yearly basis for no~~
26 ~~more than 2 years or for a period no longer than~~ the term of
27 the original contract, whichever period is longer. Renewal of
28 a contract for commodities or contractual services shall be in
29 writing and shall be subject to the same terms and conditions
30 set forth in the initial contract. If the commodity or
31 contractual service is purchased as a result of the

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

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

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

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

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

31

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

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

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

28 **(19)**~~(18)~~ Each agency shall establish a review and
 29 approval process for all contractual services contracts
 30 costing more than the threshold amount provided for in s.
 31 287.017 for CATEGORY THREE which shall include, but not be

1 limited to, program, financial, and legal review and approval.
2 Such reviews and approvals shall be obtained before the
3 contract is executed.

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

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

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

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

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

1 in on-line procurement. The department, in consultation with
2 the State Technology Office, may contract for equipment and
3 services necessary to develop and implement on-line
4 procurement.

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

10 1. Determining the requirements and qualification
11 criteria for prequalifying vendors ~~bidders~~.

12 2. Establishing the procedures for conducting on-line
13 procurement.

14 3. Establishing the criteria for eligible commodities
15 and contractual services.

16 4. Establishing the procedures for providing access to
17 on-line procurement.

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

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

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

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

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

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

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

28 Section 16. Section 287.0572, Florida Statutes, is
29 amended to read:

30 287.0572 Present-value methodology.--
31

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

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

17 Section 17. Subsections (1), (4), and (5) of section
18 287.058, Florida Statutes, are amended to read:

19 287.058 Contract document.--

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

30
31

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

1 to the availability of funds. Exceptional purchase contracts
 2 pursuant to s. 287.057(5)(a) and (c) may not be renewed.

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

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

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

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

3 287.059 Private attorney services.--

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

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

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

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

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

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

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

23 Section 19. Subsections (1) and (2) of section
24 287.0595, Florida Statutes, are amended to read:

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

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

30 (a) Procedures for determining the qualifications of
31 responsible potential vendors ~~bidders~~ prior to advertisement

1 for and receipt of bids, proposals, or replies for pollution
2 response action contracts, including procedures for the
3 rejection of unqualified vendors ~~bidders~~. Response actions are
4 those activities described in s. 376.301(37).

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

12 (c) Procedures governing payment of contracts.

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

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

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

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

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

1 procurement of information technology with an invitation to
2 negotiate.

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

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

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

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

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

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

7 287.084 Preference to Florida businesses.--

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

26 (2) If a solicitation ~~an invitation for bids~~ provides
27 for the granting of such preference as is provided in this
28 section herein, any vendor bidder whose principal place of
29 business is outside the State of Florida must accompany any
30 written bid, proposal, or reply documents with a written
31 opinion of an attorney at law licensed to practice law in that

1 foreign state, as to the preferences, if any or none, granted
2 by the law of that state to its own business entities whose
3 principal places of business are in that foreign state in the
4 letting of any or all public contracts.

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

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

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

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

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

30 (4) In the statement specified in subsection (1),
31 notify the employees that, as a condition of working on the

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

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

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

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

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

28 Section 26. Paragraphs (n) and (o) of subsection (4)
29 and paragraphs (d) and (e) of subsection (5) of section
30 287.09451, Florida Statutes, are amended to read:

31

1 287.09451 Office of Supplier Diversity; powers,
2 duties, and functions.--

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

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

27 a. For construction contracts: 4 percent for black
28 Americans, 6 percent for Hispanic-Americans, and 11 percent
29 for American women.
30
31

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

4 c. For commodities: 2 percent for black Americans, 4
5 percent for Hispanic-Americans, 0.5 percent for
6 Asian-Americans, 0.5 percent for Native Americans, and 17
7 percent for American women.

8 d. For contractual services: 6 percent for black
9 Americans, 7 percent for Hispanic-Americans, 1 percent for
10 Asian-Americans, 0.5 percent for Native Americans, and 36
11 percent for American women.

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

29 3. In determining the base amounts for assessing
30 compliance with this paragraph, the Office of Supplier
31 Diversity may develop, by rule, guidelines for all agencies to

1 use in establishing such base amounts. These rules must
2 include, but are not limited to, guidelines for calculation of
3 base amounts, a deadline for the agencies to submit base
4 amounts, a deadline for approval of the base amounts by the
5 Office of Supplier Diversity, and procedures for adjusting the
6 base amounts as a result of budget reductions made pursuant to
7 s. 216.221.

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

14 a. Size and complexity of the project.

15 b. The concentration of transactions with minority
16 business enterprises for the commodity or contractual services
17 in question in prior agency contracting.

18 c. The specificity and definition of work allocated to
19 participating minority business enterprises.

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

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

25 5. To determine guidelines for use of joint ventures
26 to meet minority business enterprises spending goals. For
27 purposes of this section, "joint venture" means any
28 association of two or more business concerns to carry out a
29 single business enterprise for profit, for which purpose they
30 combine their property, capital, efforts, skills, and
31 knowledge. The guidelines shall allow transactions with joint

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

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

1 subcontracts, number of contracts and subcontracts, minority
2 status, industry, and any conditions or circumstances that
3 significantly affected the performance of subcontractors.
4 Agencies shall report their compliance with the requirements
5 of this reporting system at least annually and at the request
6 of the office. All agencies shall cooperate with the office in
7 establishing this reporting system. Except in construction
8 contracting, all agencies shall review contracts costing in
9 excess of CATEGORY FOUR as defined in s. 287.017 to determine
10 if such contracts could be divided into smaller contracts to
11 be separately solicited ~~bid~~ and awarded, and shall, when
12 economical, offer such smaller contracts to encourage minority
13 participation.

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

21 a. Total expenditures of each agency by industry.

22 b. The dollar amount and percentage of contracts
23 awarded to certified minority business enterprises by each
24 state agency.

25 c. The dollar amount and percentage of contracts
26 awarded indirectly to certified minority business enterprises
27 as subcontractors by each state agency.

28 d. The total dollar amount and percentage of contracts
29 awarded to certified minority business enterprises, whether
30 directly or indirectly, as subcontractors.

31

1 e. A statement and assessment of good faith efforts
2 taken by each state agency.

3 f. A status report of agency compliance with
4 subsection (6), as determined by the Minority Business
5 Enterprise Office.

6 (5)

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

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

28 Section 27. Subsection (3) is added to section
29 287.095, Florida Statutes, to read:

30 287.095 Department of Corrections; prison industry
31 programs.--

1 (3) All products offered for purchase to a state
2 agency by the corporation organized under chapter 946 shall be
3 produced in majority part by inmate labor, except for products
4 not made by inmates which products are contractually allied to
5 products made by inmates which are offered by the corporation,
6 provided the value of the products not made by inmates do not
7 exceed 2 percent of the total sales of the corporation in any
8 year.

9 Section 28. Section 287.121, Florida Statutes, is
10 repealed.

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

14 287.133 Public entity crime; denial or revocation of
15 the right to transact business with public entities.--

16 (1) As used in this section:

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

27 (2)(a) A person or affiliate who has been placed on
28 the convicted vendor list following a conviction for a public
29 entity crime may not submit a bid, proposal, or reply on a
30 contract to provide any goods or services to a public entity;
31 may not submit a bid, proposal, or reply on a contract with a

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

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

27 (3)(a) All invitations to bid ~~as defined by s.~~
 28 ~~287.012(11)~~, requests for proposals ~~as defined by s.~~
 29 ~~287.012(15)~~, and invitations to negotiate, as defined in s.
 30 287.012, and any contract document described by s. 287.058
 31

1 shall contain a statement informing persons of the provisions
2 of paragraph (2)(a).

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

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

17 287.134 Discrimination; denial or revocation of the
18 right to transact business with public entities.--

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

30 (b) ~~A No~~ public entity may not ~~shall~~ accept any bid,
31 proposals, or replies from, award any contract to, or transact

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

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

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

1 shall be disqualified as of the date the final order is
2 entered.

3 Section 31. Section 287.1345, Florida Statutes, is
4 amended to read:

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

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

6 Section 32. Section 373.610, Florida Statutes, is
7 amended to read:

8 373.610 Defaulting ~~vendors and~~ contractors.--The
9 district may suspend a contractor on a temporary or permanent
10 basis from doing work with the district if such contractor has
11 materially breached its contract with the district. The
12 district shall adopt rules to administer the provisions of
13 this section to specify the circumstances and conditions that
14 constitute a materially breached contract and conditions that
15 constitute the period for temporary or permanent suspension
16 and for reinstatement.

17 Section 33. Section 373.611, Florida Statutes, is
18 amended to read:

19 373.611 Modification or limitation of remedy.--In
20 order to promote the cost-effective procurement of commodities
21 and contractual services by the water management districts, a
22 district may enter into contracts to limit or alter the
23 measure of damages recoverable from a vendor or contractor by
24 a district when procuring commodities or contractual services,
25 consistent with the provisions contained in s. 672.719.

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

28 394.457 Operation and administration.--

29 (3) POWER TO CONTRACT.--The department may contract to
30 provide, and be provided with, services and facilities in
31 order to carry out its responsibilities under this part with

1 the following agencies: public and private hospitals;
 2 receiving and treatment facilities; clinics; laboratories;
 3 departments, divisions, and other units of state government;
 4 the state colleges and universities; the community colleges;
 5 private colleges and universities; counties, municipalities,
 6 and any other governmental unit, including facilities of the
 7 United States Government; and any other public or private
 8 entity which provides or needs facilities or services. Baker
 9 Act funds for community inpatient, crisis stabilization,
 10 short-term residential treatment, and screening services must
 11 be allocated to each county pursuant to the department's
 12 funding allocation methodology. Notwithstanding the provisions
 13 of s. 287.057(5)(f)~~s. 287.057(4)(f)~~, contracts for
 14 community-based Baker Act services for inpatient, crisis
 15 stabilization, short-term residential treatment, and screening
 16 provided under this part, other than those with other units of
 17 government, to be provided for the department must be awarded
 18 using competitive sealed bids when the county commission of
 19 the county receiving the services makes a request to the
 20 department's district office by January 15 of the contracting
 21 year. The district shall not enter into a competitively bid
 22 contract under this provision if such action will result in
 23 increases of state or local expenditures for Baker Act
 24 services within the district. Contracts for these Baker Act
 25 services using competitive sealed bids will be effective for 3
 26 years. Services contracted for by the department may be
 27 reimbursed by the state at a rate up to 100 percent. The
 28 department shall adopt rules establishing minimum standards
 29 for such contracted services and facilities and shall make
 30 periodic audits and inspections to assure that the contracted
 31

1 services are provided and meet the standards of the
2 department.

3 Section 35. Paragraph (a) of subsection (1) of section
4 394.47865, Florida Statutes, is amended to read:

5 394.47865 South Florida State Hospital;
6 privatization.--

7 (1) The Department of Children and Family Services
8 shall, through a request for proposals, privatize South
9 Florida State Hospital. The department shall plan to begin
10 implementation of this privatization initiative by July 1,
11 1998.

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

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

25 402.73 Contracting and performance standards.--

26 (1) The Department of Children and Family Services
27 shall establish performance standards for all contracted
28 client services. Notwithstanding s. 287.057(5)(f)~~s.~~
29 ~~287.057(4)(f)~~, the department must competitively procure any
30 contract for client services when any of the following occurs:
31

1 (a) The provider fails to meet appropriate performance
2 standards established by the department after the provider has
3 been given a reasonable opportunity to achieve the established
4 standards.

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

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

19 (5) When it is in the best interest of a defined
20 segment of its consumer population, the department may
21 competitively procure and contract for systems of treatment or
22 service that involve multiple providers, rather than procuring
23 and contracting for treatment or services separately from each
24 participating provider. The department must ensure that all
25 providers that participate in the treatment or service system
26 meet all applicable statutory, regulatory, service-quality,
27 and cost-control requirements. If other governmental entities
28 or units of special purpose government contribute matching
29 funds to the support of a given system of treatment or
30 service, the department shall formally request information
31 from those funding entities in the procurement process and may

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

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

28 408.045 Certificate of need; competitive sealed
 29 proposals.--

30 (2) The agency shall make a decision regarding the
 31 issuance of the certificate of need in accordance with the

1 provisions of s. 287.057(17)~~s. 287.057(15)~~, rules adopted by
2 the agency relating to intermediate care facilities for the
3 developmentally disabled, and the criteria in s. 408.035, as
4 further defined by rule.

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

7 413.033 Definitions.--As used in ss. 413.032-413.037:

8 (2) "Other severely handicapped" and "severely
9 handicapped individuals" mean an individual or class of
10 individuals under a physical or mental disability other than
11 blindness, which, according to criteria established by the
12 department ~~commission created in s. 413.034~~, after
13 consultation with appropriate entities of the state and taking
14 into account the views of nongovernmental entities
15 representing the handicapped, constitutes a substantial
16 handicap to employment and is of such a nature as to prevent
17 the individual under such disability from currently engaging
18 in normal competitive employment.

19 Section 39. Section 413.035, Florida Statutes, is
20 amended to read:

21 413.035 Duties and powers of the department
22 ~~commission~~.--

23 (1) It shall be the duty of the department ~~commission~~
24 to determine the market price of all products and services
25 offered for sale to the various agencies of the state by any
26 qualified nonprofit agency for the blind or other severely
27 handicapped. The price shall recover for the nonprofit agency
28 the cost of raw materials, labor, overhead, and delivery, but
29 without profit, and shall be revised from time to time in
30 accordance with changing cost factors. The department
31 ~~commission~~ shall make such rules and regulations regarding

1 specifications, time of delivery, and assignment of products
 2 and services to be supplied by nonprofit agencies for the
 3 blind or by agencies for the other severely handicapped, with
 4 priority for assignment of products to agencies for the blind,
 5 authorization of a central nonprofit agency to facilitate the
 6 allocation of orders among qualified nonprofit agencies for
 7 the blind, authorization of a central nonprofit agency to
 8 facilitate the allocation of orders among qualified nonprofit
 9 agencies for other severely handicapped, and other relevant
 10 matters of procedure as shall be necessary to carry out the
 11 purposes of this act. The department ~~commission~~ shall
 12 authorize the purchase of products and services elsewhere when
 13 requisitions cannot reasonably be complied with through the
 14 nonprofit agencies for the blind and other severely
 15 handicapped.

16 (2) The department ~~commission~~ shall establish and
 17 publish a list of products and services provided by any
 18 qualified nonprofit agency for the blind and any nonprofit
 19 agency for the other severely handicapped, which the
 20 department ~~commission~~ determines are suitable for procurement
 21 by agencies of the state pursuant to this act. This
 22 procurement list and revision thereof shall be distributed to
 23 all purchasing officers of the state and its political
 24 subdivisions. All products offered for purchase to a state
 25 agency by a qualified nonprofit agency shall have significant
 26 value added by blind or severely handicapped persons, as
 27 determined by the department.

28 Section 40. Section 413.036, Florida Statutes, is
 29 amended to read:

30 413.036 Procurement of services by agencies; authority
 31 of department ~~commission~~.--

1 (1) If any agency intends to procure any product or
 2 service on the procurement list, that agency shall, in
 3 accordance with rules and regulations of the department
 4 ~~commission~~, procure such product or service at the price
 5 established by the department ~~commission~~ from a qualified
 6 nonprofit agency for the blind or for the other severely
 7 handicapped if the product or service is available within a
 8 reasonable delivery time. This act shall not apply in any
 9 case in which products or services are available for
 10 procurement from any agency of the state and procurement
 11 therefrom is required under the provision of any law currently
 12 in effect. However, this act shall have precedence over any
 13 law requiring state agency procurement of products or services
 14 from any other nonprofit corporation unless such precedence is
 15 waived by the department ~~commission~~ in accordance with its
 16 rules.

17 (2) The provisions of part I of chapter 287 do not
 18 apply to any purchase of commodities or contractual services
 19 made by any legislative, executive, or judicial agency of the
 20 state from a qualified nonprofit agency for the blind or for
 21 the other severely handicapped.

22 (3) If, pursuant to a contract between any
 23 legislative, executive, or judicial agency of the state and
 24 any private contract vendor, a product or service is required
 25 by the Department of Management Services or on behalf of any
 26 state agency that is included on the procurement list
 27 established by the commission pursuant to s. 413.035(2), the
 28 contract must contain the following language:

29 "IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY
 30 ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT,
 31 THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR

1 THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED
2 PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER
3 AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1)
4 AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT
5 THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE
6 PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED
7 FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED
8 NONPROFIT AGENCY ARE CONCERNED."

9 (4) No similar product or service of comparable price
10 and quality found necessary for use by any state agency may be
11 purchased from any source other than the nonprofit agency for
12 the blind or for the severely handicapped if the nonprofit
13 agency certifies that the product is manufactured by, or the
14 service is provided by, the blind or the severely handicapped
15 and the product or service meets the comparable performance
16 specifications and comparable price and quality requirements
17 as determined by the department or an agency. The purchasing
18 authority of any such state agency may make reasonable
19 determinations of need, price, and quality with reference to
20 products or services available from the nonprofit agency.

21 Section 41. Section 413.037, Florida Statutes, is
22 amended to read:

23 413.037 Cooperation with department ~~commission~~
24 required; duties of state agencies.--

25 (1) In furtherance of the purposes of this act and in
26 order to contribute to the economy of state government, it is
27 the intent of the Legislature that there be close cooperation
28 between the department ~~commission~~ and any agency of the state
29 from which procurement of products or services is required
30 under the provision of any law currently in effect. The
31 department ~~commission~~ and any such agency of the state are

1 authorized to enter into such contractual agreements,
2 cooperative working relationships, or other arrangements as
3 may be determined to be necessary for effective coordination
4 and efficient realization of the objectives of this act and
5 any other law requiring procurement of products or services
6 from any agency of the state.

7 (2) The department ~~commission~~ may secure directly from
8 any agency of the state information necessary to enable it to
9 carry out this act. Upon request of the department ~~chair of~~
10 ~~the commission~~, the head of the agency shall furnish such
11 information to the department ~~commission~~.

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

15 Section 42. Paragraph (c) of subsection (5) of section
16 445.024, Florida Statutes, is amended to read:

17 445.024 Work requirements.--

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

22 (c) Notwithstanding the exemption from the competitive
23 sealed bid requirements provided in s. 287.057(5)(f) ~~s.~~
24 ~~287.057(4)(f)~~ for certain contractual services, each contract
25 awarded under this chapter must be awarded on the basis of a
26 competitive sealed bid, except for a contract with a
27 governmental entity as determined by the regional workforce
28 board.

29 Section 43. Paragraph (d) of subsection (2) of section
30 455.2177, Florida Statutes, is amended to read:

31

1 455.2177 Monitoring of compliance with continuing
2 education requirements.--

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

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

9 Section 44. Section 413.034, Florida Statutes, is
10 repealed.

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