

1 A bill to be entitled
 2 An act relating to procurement; amending s. 20.22, F.S.;
 3 providing for a Center for Efficient Government within
 4 the Department of Management Services; amending s.
 5 255.0525, F.S.; providing for electronic website posting
 6 of certain solicitations; amending s. 287.012, F.S.;
 7 revising definitions; providing additional definitions;
 8 renumbering and amending s. 287.017, F.S., as s. 287.028,
 9 F.S.; specifying procurement categories and threshold
 10 amounts; requiring use of certain methodologies to value
 11 contracts or arrangements for certain purposes; providing
 12 requirements; creating s. 287.019, F.S.; providing for
 13 eligibility to contract or subcontract; creating s.
 14 287.0265, F.S.; creating the Center for Efficient
 15 Government for certain purposes; establishing a board for
 16 the center; providing for membership; providing
 17 responsibilities of the center and the board; providing
 18 requirements for a review and approval process for
 19 procurements; requiring agencies to provide certain
 20 information; creating s. 287.0330, F.S.; specifying
 21 methods for source selection; authorizing the Department
 22 of Management Services to adopt rules; creating s.
 23 287.0331, F.S.; providing for invitations to bid;
 24 creating s. 287.0332, F.S.; providing for requests for
 25 proposals; requiring procurement by competitive sealed
 26 proposals for certain procurement contracts under certain
 27 circumstances; creating s. 287.0333, F.S.; providing for
 28 invitations to negotiate; creating s. 287.03335, F.S.;
 29 providing for award of certain contracts to be awarded by

30 reverse auction; providing for invitations to
31 participate; providing procedures, requirements, and
32 limitations; creating s. 287.0334, F.S.; requiring the
33 department to adopt rules establishing small purchase
34 procedures; creating s. 287.0335, F.S.; providing for
35 single source procurement; creating s. 287.0336, F.S.;
36 providing for emergency procurements; creating s.
37 287.0337, F.S.; providing for state term contracts for
38 certain commodities or contractual services; authorizing
39 the department to restrict certain purchases from term
40 contracts under certain circumstances; creating s.
41 287.0341, F.S.; providing general provisions; specifying
42 department responsibilities; requiring agencies to use
43 department definitions and classes of commodities and
44 contractual services in procurement; creating s. 287.036,
45 F.S.; providing for evaluation teams and certified
46 negotiators; requiring a certified negotiator for certain
47 contracts; creating s. 287.037, F.S.; providing for
48 vendors to provide certain financial information for
49 certain contracts; providing procedures and requirements;
50 providing for audit of a contractor's books and records;
51 providing for modifying contracts under certain
52 circumstances; providing definitions; creating s.
53 287.038, F.S.; providing for a review and approval
54 process; creating s. 287.026, F.S.; revising the powers,
55 duties, and functions of the department; deleting a
56 provision authorizing the department to collect certain
57 fees; requiring the department to adopt rules for use by
58 agencies for share-in-savings contracts; creating s.

59 287.027, F.S.; providing for online procurement of
 60 commodities and services; renumbering and amending s.
 61 287.045, F.S., as s. 287.128, F.S.; revising provisions
 62 relating to procurement of products and materials with
 63 recycled content; creating ss. 287.0439, 287.044,
 64 287.046, 287.047, and 287.048, F.S.; providing
 65 definitions; providing for outsourcing or privatizing
 66 certain functions or responsibilities of agencies;
 67 providing criteria, requirements, procedures,
 68 limitations, and exceptions; requiring agencies to
 69 develop a business case for certain purposes; providing
 70 requirements; providing contract requirements; requiring
 71 reports and information to be provided to the Legislature
 72 for certain outsourcing or privatization initiatives;
 73 providing for contract review and objections; providing
 74 for independence of Cabinet agencies for certain
 75 purposes; requiring contractors to provide agency access
 76 to certain records; specifying that agency actions are
 77 not grounds for an administrative protest; creating s.
 78 287.122, F.S.; providing for purchases from correctional
 79 industry programs and from qualified nonprofit agencies
 80 for persons with disabilities; providing requirements and
 81 procedures; creating s. 287.123, F.S.; exempting certain
 82 contractual service and commodity purchases from
 83 competitive solicitation requirements; renumbering and
 84 amending s. 287.025, F.S., as s. 287.1241, F.S., to
 85 conform; renumbering and amending s. 287.055, F.S., as s.
 86 287.125, F.S., to conform; renumbering and amending s.
 87 287.058, F.S., as s. 287.31, F.S.; revising contract

88 document requirements; authorizing agencies or
 89 contractors to levy or impose fees, taxes, or charges on
 90 persons not parties to a contract only pursuant to law;
 91 providing share-in-savings contract requirements;
 92 creating s. 287.321, F.S.; providing for a contract
 93 manager, contract administrator, and contract files;
 94 creating s. 287.34, F.S.; prohibiting agencies from
 95 approving accounts or requesting payments from accounts
 96 except pursuant to rule; creating s. 287.55, F.S.;
 97 providing for bid protests; renumbering and amending s.
 98 287.132, F.S., as s. 287.561, F.S.; requiring public
 99 employees to discharge duties to assure fair competitive
 100 access to procurement; renumbering and amending s.
 101 287.133, F.S., as s. 287.562, F.S., to conform; creating
 102 s. 287.57, F.S.; providing for cooperative purchasing;
 103 renumbering and amending s. 287.16, F.S., as s. 287.65,
 104 F.S., to conform; renumbering and amending s. 287.161,
 105 F.S., as s. 287.655, F.S., to conform; renumbering and
 106 amending s. 287.17, F.S., as s. 287.66, F.S., to conform;
 107 amending s. 287.057, F.S., to conform; amending s.
 108 119.0721, F.S.; providing a definition; correcting a
 109 cross reference; repealing s. 14.203, F.S., relating to
 110 the State Council on Competitive Government; repealing s.
 111 283.30, F.S., relating to definitions; repealing s.
 112 283.31, F.S., relating to records of executive agency
 113 publications; repealing s. 283.32, F.S., relating to use
 114 of recycled paper; repealing s. 283.33, F.S., relating to
 115 printing of publications and lowest bidder awards;
 116 repealing s. 283.34, F.S., relating to state officer

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117 prohibition against interests in certain printing
 118 contracts; repealing s. 283.43, F.S., relating to public
 119 information printing services; repealing s. 283.56, F.S.,
 120 relating to preparation of agency publications; repealing
 121 s. 287.0731, F.S., relating to a team for certain
 122 contract negotiations; repealing s. 287.1345, F.S.,
 123 relating to a surcharge on users of certain state term
 124 contracts; providing an effective date.

125

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

127

128 Section 1. Paragraph (d) of subsection (2) of section
 129 20.22, Florida Statutes, is amended to read:

130 20.22 Department of Management Services.--There is created
 131 a Department of Management Services.

132 (2) The following divisions and programs within the
 133 Department of Management Services are established:

134 (d)1. Support Program.

135 2. Federal Property Assistance Program.

136 3. The Center for Efficient Government.

137 Section 2. Subsections (1) and (2) of section 255.0525,
 138 Florida Statutes, are amended to read:

139 255.0525 Advertising for competitive bids or proposals.--

140 (1) The solicitation of competitive bids or proposals for
 141 any state construction project that is projected to cost more
 142 than \$200,000 shall be publicly advertised once in the Florida
 143 Administrative Weekly at least 21 days prior to the established
 144 bid opening. For state construction projects that are projected
 145 to cost more than \$500,000, the advertisement shall be published

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146 in the Florida Administrative Weekly at least 30 days prior to
 147 the established bid opening and at least once in a newspaper of
 148 general circulation in the county where the project is located
 149 at least 30 days prior to the established bid opening and at
 150 least 5 days prior to any scheduled prebid conference. In
 151 addition to advertisement in the Florida Administrative Weekly
 152 and, as appropriate, a newspaper of general circulation, as
 153 provided in this subsection, such solicitations may be
 154 electronically posted as defined in s. 287.012(14), on a
 155 centralized Internet website designated by the Department of
 156 Management Services for this purpose at least 21 or 30 days, as
 157 appropriate, prior to the established bid opening. The bids or
 158 proposals shall be received and opened publicly at the location,
 159 date, and time established in the bid or proposal advertisement.
 160 In cases of emergency, the Secretary of Management Services may
 161 alter the procedures required in this section in any manner that
 162 is reasonable under the emergency circumstances.

163 (2) The solicitation of competitive bids or proposals for
 164 any county, municipality, or other political subdivision
 165 construction project that is projected to cost more than
 166 \$200,000 shall be publicly advertised at least once in a
 167 newspaper of general circulation in the county where the project
 168 is located at least 21 days prior to the established bid opening
 169 and at least 5 days prior to any scheduled prebid conference.
 170 The solicitation of competitive bids or proposals for any
 171 county, municipality, or other political subdivision
 172 construction project that is projected to cost more than
 173 \$500,000 shall be publicly advertised at least once in a
 174 newspaper of general circulation in the county where the project

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175 is located at least 30 days prior to the established bid opening
 176 and at least 5 days prior to any scheduled prebid conference. In
 177 addition to an advertisement in a newspaper of general
 178 circulation as provided in this subsection, solicitations may be
 179 electronically posted on a centralized Internet website
 180 designated by the county, municipality, or other political
 181 subdivision. Bids or proposals shall be received and opened at
 182 the location, date, and time established in the bid or proposal
 183 advertisement. In cases of emergency, the procedures required in
 184 this section may be altered by the local governmental entity in
 185 any manner that is reasonable under the emergency circumstances.

186 Section 3. Section 287.012, Florida Statutes, is amended
 187 to read:

188 287.012 Definitions.--As used in parts I-VII ~~this part~~,
 189 unless the context clearly indicates otherwise, the term:

190 (1) "Agency" means any of the various state officers,
 191 departments, boards, commissions, divisions, bureaus, and
 192 councils and any other unit of organization, however designated,
 193 of the executive branch of state government. "Agency" does not
 194 include the university and college boards of trustees or the
 195 state universities and colleges.

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

199 (3) "Artist" means an individual or group of individuals
 200 who profess and practice a demonstrated creative talent and
 201 skill in the area of music, dance, drama, folk art, creative
 202 writing, painting, sculpture, photography, graphic arts, craft
 203 arts, industrial design, costume design, fashion design, motion

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204 pictures, television, radio, or tape and sound recording or in
 205 any other related field.

206 (4) "Best value" means the highest overall value to the
 207 state based on objective factors that include, but are not
 208 limited to, consideration, price, quality, design,
 209 functionality, and workmanship.

210 (5) "Board" means the board of the center.

211 (6) "Center" means the Center for Efficient Government
 212 created within the department.

213 ~~(7)(5)~~ "Commodity" means any of the various supplies,
 214 materials, goods, merchandise, food, equipment, information
 215 technology, duplicating, printing of publications, forms and
 216 related materials, and other personal property, including a
 217 mobile home, trailer, or other portable structure with floor
 218 space of less than 5,000 square feet, purchased, leased, or
 219 otherwise contracted for by the state and its agencies.
 220 "Commodity" also includes interest on deferred-payment commodity
 221 contracts approved pursuant to s. 287.137 ~~287.063~~ entered into
 222 by an agency for the purchase of other commodities. ~~However,~~
 223 ~~commodities purchased for resale are excluded from this~~
 224 ~~definition.~~ Further, a prescribed drug, medical supply, or
 225 device required by a licensed health care provider as a part of
 226 providing health services involving examination, diagnosis,
 227 treatment, prevention, medical consultation, or administration
 228 for clients at the time the service is provided is not
 229 considered to be a "commodity." The provisions of s. 946.515(4)
 230 shall not apply to purchases of printing. ~~Printing of~~
 231 ~~publications shall be considered a commodity when let upon~~

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232 ~~contract pursuant to s. 283.33, whether purchased for resale or~~
 233 ~~not.~~

234 (8)(6) "Competitive sealed bids," "competitive sealed
 235 proposals," or "competitive sealed replies" means the process of
 236 receiving two or more sealed bids, proposals, or replies
 237 submitted by responsive vendors and includes bids, proposals, or
 238 replies transmitted by electronic means in lieu of or in
 239 addition to written bids, proposals, or replies.

240 (9)(7) "Competitive solicitation" or "solicitation" means
 241 an invitation to bid, a request for proposals, or an invitation
 242 to negotiate.

243 (10) "Consideration" means something of value provided to
 244 a contractor in exchange for commodities or contractual
 245 services. The term may include, but is not limited to, one or
 246 more of following:

- 247 (a) State moneys; or
- 248 (b) An authorization for a contractor to:
 - 249 1. Act on behalf of the state;
 - 250 2. Use the state's assets or resources;
 - 251 3. Receive revenue or shared savings generated by the
 252 contractual arrangement;
 - 253 4. Use taxes or licenses; or
 - 254 5. Collect or use fees.

255 (11)(8) "Contractor" means a person who contracts to sell
 256 commodities or contractual services to an agency or the public
 257 on behalf of or in cooperation with an agency. The term also
 258 refers to a person who enters into an arrangement, such as an
 259 alliance, partnership, or consortium with an agency, the purpose
 260 of which arrangement is to acquire commodities or contractual

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261 services. The term also refers to the entity created by such
 262 arrangement.

263 (12)(9) "Contractual service" means the rendering by a
 264 contractor of its time and effort rather than the furnishing of
 265 specific commodities. The term includes the acquisition by an
 266 agency of anything other than a commodity and ~~applies only to~~
 267 ~~those services rendered by individuals and firms who are~~
 268 ~~independent contractors, and such services~~ may include, but is
 269 ~~are~~ not limited to, evaluations; consultations; maintenance;
 270 accounting; security; management systems; management consulting;
 271 educational training programs; research and development studies
 272 or reports on the findings of consultants engaged thereunder;
 273 concessions or contracts which generate revenue for the state;
 274 and professional, technical, and social services. "Contractual
 275 service" does not include any contract for the furnishing of
 276 labor or materials for the construction, renovation, repair,
 277 modification, or demolition of any facility, building, portion
 278 of building, utility, park, parking lot, or structure or other
 279 improvement to real property entered into pursuant to chapter
 280 255 and rules adopted thereunder.

281 (13)(10) "Department" means the Department of Management
 282 Services.

283 (14)(11) "Electronic posting" or "electronically post"
 284 means the posting of solicitations, agency decisions or intended
 285 decisions, or other matters relating to procurement on a
 286 centralized Internet website designated by the department for
 287 this purpose.

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288 (15)~~(12)~~ "Eligible user" means any person or entity
 289 authorized by the department pursuant to rule to purchase from
 290 state term contracts or to use the on-line procurement system.

291 (16)~~(13)~~ "Exceptional purchase" means any purchase of
 292 commodities or contractual services excepted by law or rule from
 293 the requirements for competitive solicitation, including, but
 294 not limited to, purchases from a single source; purchases upon
 295 receipt of less than two responsive bids, proposals, or replies;
 296 purchases made by an agency, after receiving approval from the
 297 department, from a contract procured, pursuant to s. 287.0331,
 298 s. 287.0332, or s. 287.0333 ~~287.057(1), (2), or (3)~~, by another
 299 agency; and purchases made without advertisement in the manner
 300 required by s. 287.0341(1)(a) and (b) ~~287.042(3)(b)~~. The term
 301 "exceptional purchase" does not include purchases made pursuant
 302 to s. 287.123.

303 (17)~~(14)~~ "Extension" means an increase in the time allowed
 304 for the contract period due to circumstances which, without
 305 fault of either party, make performance impracticable or
 306 impossible, or which prevent a new contract from being executed,
 307 with or without a proportional increase in the total dollar
 308 amount, with any increase to be based on the method and rate
 309 previously established in the contract.

310 (18)~~(15)~~ "Information technology" has the meaning ascribed
 311 in s. 282.0041.

312 (19)~~(16)~~ "Invitation to bid" means a written solicitation
 313 for competitive sealed bids. The invitation to bid is used when
 314 the agency is capable of specifically defining the scope of work
 315 for which a contractual service is required or when the agency
 316 is capable of establishing precise specifications defining the

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317 actual commodity or group of commodities required. A written
 318 solicitation includes a solicitation that is electronically
 319 posted.

320 (20)~~(17)~~ "Invitation to negotiate" means a written
 321 solicitation for competitive sealed replies to select one or
 322 more vendors with which to commence negotiations for the
 323 procurement of commodities or contractual services. The
 324 invitation to negotiate is used when the agency determines that
 325 negotiations may be necessary for the state to receive the best
 326 value. A written solicitation includes a solicitation that is
 327 electronically posted.

328 (21) "Invitation to participate" means a written
 329 solicitation for bids during participation in a reverse auction.
 330 A written solicitation includes a solicitation that is
 331 electronically posted.

332 (22)~~(18)~~ "Minority business enterprise" has the meaning
 333 ascribed in s. 288.703.

334 (23)~~(19)~~ "Office" means the Office of Supplier Diversity
 335 of the Department of Management Services.

336 (24) "Outsource" means to create a contractual
 337 relationship between an agency and another entity for the
 338 provision in whole or in part of a public function or
 339 responsibility whereby the agency is accountable for the
 340 provision of the function or responsibility and the entity
 341 performs the function or responsibility.

342 (25) "Privatize" means to shift completely an agency-
 343 controlled and agency-operated service to private sector
 344 control, operation, and ownership, such that the private sector

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345 is solely and fully responsible for the provision of the
 346 affected service.

347 (26) "Procurement of commodities or contractual services"
 348 means the providing of state moneys or consideration for the
 349 acquisition by an agency of any commodity or contractual
 350 service, whether for use by or benefit to the agency or for sale
 351 or other conveyance to a person who is not a party to the
 352 contract.

353 (27)~~(20)~~ "Renewal" means contracting with the same
 354 contractor for an additional contract period after the initial
 355 contract period, only if pursuant to contract terms specifically
 356 providing for such renewal.

357 (28)~~(21)~~ "Request for information" means a written request
 358 made by an agency to vendors for information concerning
 359 commodities or contractual services. Responses to these requests
 360 are not offers and may not be accepted by the agency to form a
 361 binding contract.

362 (29)~~(22)~~ "Request for proposals" means a written
 363 solicitation for competitive sealed proposals. The request for
 364 proposals is used when it is not practicable for the agency to
 365 specifically define the scope of work for which the commodity,
 366 group of commodities, or contractual service is required and
 367 when the agency is requesting that a responsible vendor propose
 368 a commodity, group of commodities, or contractual service to
 369 meet the specifications of the solicitation document. A written
 370 solicitation includes a solicitation that is electronically
 371 posted.

372 (30)~~(23)~~ "Request for a quote" means an oral or written
 373 request for written pricing or services information from a state

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374 term contract vendor for commodities or contractual services
 375 available on a state term contract from that vendor.

376 ~~(31)(24)~~ "Responsible vendor" means a vendor who has the
 377 capability in all respects to fully perform the contract
 378 requirements and the integrity and reliability that will assure
 379 good faith performance.

380 ~~(32)(25)~~ "Responsive bid," "responsive proposal," or
 381 "responsive reply" means a bid, or proposal, or reply submitted
 382 by a responsive and responsible vendor that conforms in all
 383 material respects to the solicitation.

384 ~~(33)(26)~~ "Responsive vendor" means a vendor that has
 385 submitted a bid, proposal, or reply that conforms in all
 386 material respects to the solicitation.

387 (34) "Reverse auction" means an on-line purchasing process
 388 in which vendors compete to provide commodities or contractual
 389 services at the lowest price in an open and interactive
 390 environment wherein vendors may submit pricing multiple times
 391 during a specified time period.

392 (35) "Secretary" means the Secretary of Management
 393 Services.

394 ~~(36)(27)~~ "State term contract" means a term contract that
 395 is competitively procured by the department pursuant to s.
 396 287.057 and that is used by agencies and eligible users pursuant
 397 to s. 287.056.

398 ~~(37)(28)~~ "Term contract" means an indefinite quantity
 399 contract to furnish commodities or contractual services during a
 400 defined period.

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401 Section 4. Section 287.017, Florida Statutes, is
 402 renumbered as section 287.028, Florida Statutes, and amended to
 403 read:

404 287.028 ~~287.017~~ Procurement Purchasing categories,
 405 ~~threshold amounts~~; procedures for automatic adjustment by
 406 department.--

407 (1)(a) The following procurement purchasing categories and
 408 corresponding threshold amounts are hereby created:

409 1.~~(a)~~ CATEGORY ONE: \$15,000.

410 2.~~(b)~~ CATEGORY TWO: \$25,000.

411 3.~~(c)~~ CATEGORY THREE: \$50,000.

412 4.~~(d)~~ CATEGORY FOUR: \$150,000.

413 5.~~(e)~~ CATEGORY FIVE: \$250,000.

414 (b)~~(2)~~ The department shall adopt rules to adjust the
 415 amounts provided in paragraph (a) ~~subsection (1)~~ based upon the
 416 rate of change of a nationally recognized price index. Such
 417 rules shall include, but not be limited to, the following:

418 1.~~(a)~~ Designation of the nationally recognized price index
 419 or component thereof used to calculate the proper adjustment
 420 authorized in this section.

421 2.~~(b)~~ The procedure for rounding results.

422 3.~~(c)~~ The effective date of each adjustment based upon the
 423 previous calendar year data.

424 (2)(a) The following methodologies shall be used to value
 425 the contract to determine the appropriate procurement category
 426 in this subsection for any procurement of commodities or
 427 contractual services:

428 1. If state moneys are the exclusive consideration to be
 429 provided by an agency, the procurement category shall be based

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430 upon the total of state moneys to be expended by the agency over
 431 the term of the contract; or

432 2. If state moneys are not the exclusive consideration to
 433 be provided by an agency, the procurement category shall be
 434 based upon the greater of the following totals:

435 a. The sum of gross revenues or shared savings to be
 436 generated for the state and contractor over the term of the
 437 contract added to the sum of state moneys, if any, that the
 438 agency may be required to expend over the term of the contract;
 439 or

440 b. The costs avoided by the state over the term of the
 441 contract, added to the sum of state moneys, if any, that the
 442 agency may be required to expend over the term of the contract.

443 (b) If none of the methodologies set forth in paragraph
 444 (a) are applicable to a procurement of commodities or
 445 contractual services, the agency shall develop an alternative
 446 methodology to determine the appropriate procurement category.
 447 Prior to proceeding with such a procurement, the methodology
 448 developed by the agency must be approved in writing by the
 449 agency head and the secretary.

450 Section 5. Subsection (18) of section 287.057, Florida
 451 Statutes, is transferred to section 287.019, Florida Statutes,
 452 which is created, and amended to read:

453 287.019 Eligibility to contract or subcontract.--

454 ~~(18)~~ A person who receives a contract that has not been
 455 procured pursuant to ss. 287.0331-287.0333 ~~subsections (1)~~
 456 ~~through (5)~~ to perform a feasibility study of the potential
 457 implementation of a subsequent contract, who participates in the
 458 drafting of a solicitation or who develops a program for future

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459 implementation, is not eligible to contract or subcontract,
 460 directly or indirectly, with the agency for any other contracts
 461 dealing with that specific subject matter, and any firm in which
 462 such person has any interest is not eligible to receive such
 463 contract or subcontract. However, this prohibition does not
 464 prevent a vendor who responds to a request for information from
 465 being eligible to contract with an agency.

466 Section 6. Section 287.0265, Florida Statutes, is created
 467 to read:

468 287.0265 Center for Efficient Government.--

469 (1) The Center for Efficient Government is created in the
 470 department to establish and promote best business practices in
 471 procurement in order to improve the delivery of services to
 472 citizens by agencies under the control of the Governor. Cabinet
 473 agencies are encouraged, but shall not be required, to comply
 474 with this section. The secretary or his or her designee shall
 475 serve as the head of the center.

476 (2) A board is established within the center to oversee
 477 agency procurement. The secretary shall serve as chair of the
 478 board. The Governor shall appoint four other agency heads to
 479 serve on the board, who shall serve on the board at the pleasure
 480 of the Governor. No member of the board shall be disqualified
 481 from participating in board review of a procurement solely
 482 because the member's agency is involved in the procurement. The
 483 members of the board may not delegate their membership to a
 484 subordinate.

485 (3) The center shall:

486 (a) Create a centralized process for initiating,
 487 reviewing, and evaluating agency procurements. The center and

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488 any agency may initiate procurements.

489 (b) Develop standards, processes, templates, and
490 guidelines for use by agencies during the procurement process.

491 (c) Implement a system for providing information and
492 documentation to the Legislature and Governor on behalf of
493 agencies and in compliance with the provisions of this chapter.

494 (d) Assist agencies in the procurement process, including
495 but not limited to, developing and updating business cases and
496 solicitation documents and supporting contract negotiations,
497 contract drafting, change management, performance measurement,
498 and contract management.

499 (e) Create and maintain a database of new and existing
500 state procurements which shall include, but not be limited to,
501 those subject to part III. At a minimum, the database shall
502 contain the following information in regard to contractual
503 services:

504 1. The agency name, the name and description of the
505 contractual service procured, and the names of the prime
506 contractor and any subcontractors.

507 2. Projected and actual completion dates by project phase.

508 3. A description of performance measures contained in the
509 contract, projected performance, and actual performance.

510 4. Projected costs and revenues, as applicable, and actual
511 costs and revenues.

512 (f) Submit to the Governor, the President of the Senate,
513 and the Speaker of the House of Representatives, by July 1,
514 2004, by September 15, 2005, and by September 15 annually
515 thereafter, a list of potential outsourcing initiatives
516 identified by agencies and the center.

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517 (g) Develop and implement, in consultation with the
 518 Agency for Workforce Innovation, a program for assisting
 519 employees whose jobs are eliminated because of procurements.

520 (4) The board shall:

521 (a) Oversee the center.

522 (b) Implement a process for review and approval of the
 523 business aspects of a proposed new or renewal procurement at
 524 specific points in the procurement process, as required by part
 525 III.

526 (c) Implement any other process for review of procurements
 527 that do not require review under part III.

528 (d) Oversee the implementation of procurements after
 529 contract execution, including, but not limited to, change
 530 management, contract management, and performance measurement.

531 (5) The process for review of state procurements shall
 532 require:

533 (a) Board review at the conclusion of important stages in
 534 the procurement process for those procurements subject to review
 535 by law.

536 (b) The center, at the board's direction, to furnish to
 537 the President of the Senate and the Speaker of the House of
 538 Representatives all documents required by part III at each of
 539 the important stages in the procurement process, together with
 540 the board's certification that the requirements of this section,
 541 the center, and the board have been met.

542 (6) Agencies shall submit to the center all information,
 543 documents, or other materials required by center or board policy
 544 or this chapter. Agencies required by part III, or by board
 545 policy, to cooperate with the center shall do so.

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546 Section 7. Subsection (1) of section 287.056, Florida
 547 Statutes, is transferred to section 287.0330, Florida Statutes,
 548 which is created, and amended to read:

549 287.0330 Method of source selection.--

550 (1) Unless otherwise authorized by law, all agency
 551 procurements of commodities or contractual services shall be
 552 made using one of the following methods:

- 553 (a) Invitation to bid;
- 554 (b) Request for proposals;
- 555 (c) Invitation to negotiate;
- 556 (d) Invitation to participate;
- 557 (e) Small procurement procedures;
- 558 (f) Single source procurement;
- 559 (g) Emergency procurement; or
- 560 (h) State term contracts and purchasing agreements.

561 (2)(1) Agencies shall, and eligible users may, procure
 562 purchase commodities and contractual services from purchasing
 563 agreements established and state term contracts procured,
 564 pursuant to s. 287.057, by the department. The department may
 565 adopt rules, pursuant to ss. 120.536(1) and 120.54, which exempt
 566 agencies from this subsection when commodities and contractual
 567 services available from such purchasing agreements and state
 568 term contracts cannot meet agency needs.

569 (3) Unless otherwise authorized by law, all contracts for
 570 the procurement of commodities or contractual services valued in
 571 excess of the threshold amount provided in s. 287.028 for
 572 CATEGORY TWO shall be awarded by competitive solicitation.

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573 Section 8. Subsection (1) of section 287.057, Florida
 574 Statutes, is transferred to section 287.0331, Florida Statutes,
 575 which is created, and amended to read:

576 287.0331 Invitation to bid.--

577 (1)~~(a)~~ Unless otherwise authorized by law, all contracts
 578 required to be awarded by competitive solicitation ~~for the~~
 579 ~~purchase of commodities or contractual services in excess of the~~
 580 ~~threshold amount provided in s. 287.017 for CATEGORY TWO~~ shall
 581 be awarded by competitive sealed bidding. An invitation to bid
 582 shall be made available simultaneously to all vendors and must
 583 include a detailed description of the commodities or contractual
 584 services sought; the time and date for the receipt of bids and
 585 of the public opening; and all contractual terms and conditions
 586 applicable to the procurement, including the criteria to be used
 587 in determining acceptability of the bid. If the agency
 588 contemplates renewal of the contract, that fact must be stated
 589 in the invitation to bid. The bid shall include the
 590 consideration or price for each year for which the contract may
 591 be renewed. Evaluation of bids shall take into account ~~include~~
 592 ~~consideration of~~ the total cost for each year as submitted by
 593 the vendor. Criteria that were not set forth in the invitation
 594 to bid may not be used in determining acceptability of the bid.

595 (2)~~(b)~~ The contract shall be awarded with reasonable
 596 promptness by written notice to the responsible and responsive
 597 vendor that submits the lowest responsive bid. This bid must be
 598 determined in writing to meet the requirements and criteria set
 599 forth in the invitation to bid.

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600 Section 9. Subsection (2) of section 287.057, Florida
 601 Statutes, is transferred to section 287.0332, Florida Statutes,
 602 which is created, and amended to read:

603 287.0332 Request for proposals.--

604 (1)(2)(a) If an agency determines in writing that the use
 605 of an invitation to bid is not practicable, commodities or
 606 contractual services required to be awarded by competitive
 607 solicitation shall be procured by competitive sealed proposals.
 608 A request for proposals shall be made available simultaneously
 609 to all vendors, and must include a statement of the commodities
 610 or contractual services sought; the time and date for the
 611 receipt of proposals and of the public opening; and all
 612 contractual terms and conditions applicable to the procurement,
 613 including the criteria, which shall include, but is need not be
 614 limited to, consideration or price, to be used in determining
 615 acceptability of the proposal. The relative importance of
 616 consideration or price and other evaluation criteria shall be
 617 indicated. If the agency contemplates renewal of the commodities
 618 or contractual services contract, that fact must be stated in
 619 the request for proposals. The proposal shall include the price
 620 for each year for which the contract may be renewed. Evaluation
 621 of proposals shall take into account ~~include consideration of~~
 622 the total consideration or price ~~cost~~ for each year as submitted
 623 by the vendor.

624 (2)(b) The contract shall be awarded to the responsible
 625 and responsive vendor whose proposal is determined in writing to
 626 result in the best value ~~be the most advantageous~~ to the state,
 627 taking into account ~~consideration~~ the consideration or price and
 628 the other criteria set forth in the request for proposals. The

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629 contract file shall contain documentation supporting the basis
 630 on which the award is made.

631 Section 10. Subsection (3) of section 287.057, Florida
 632 Statutes, is transferred to section 287.0333, Florida Statutes,
 633 which is created, and amended to read:

634 287.0333 Invitation to negotiate.--

635 (1)(3)(a) If the agency determines in writing that the use
 636 of an invitation to bid or a request for proposals is not likely
 637 to will not result in the best value to the state, the agency
 638 may procure commodities and contractual services by competitive
 639 sealed replies. The agency's written determination must specify
 640 reasons that explain why negotiation may be necessary in order
 641 for the state to achieve the best value and must be approved in
 642 writing by the agency head or his or her designee prior to the
 643 advertisement of an invitation to negotiate. An invitation to
 644 negotiate shall be made available to all vendors simultaneously
 645 and must include a statement of the commodities or contractual
 646 services sought; the time and date for the receipt of replies
 647 and of the public opening; and all terms and conditions
 648 applicable to the procurement, including the criteria to be used
 649 in determining the acceptability of the reply. If the agency
 650 contemplates renewal of the contract, that fact must be stated
 651 in the invitation to negotiate. The reply shall include the
 652 consideration or price for each year for which the contract may
 653 be renewed.

654 (2)(b) The agency shall evaluate and rank responsive
 655 replies against all evaluation criteria set forth in the
 656 invitation to negotiate and shall select, based on the ranking,
 657 one or more vendors with which to commence negotiations. After

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658 negotiations are conducted, the agency shall award the contract
 659 to the responsible and responsive vendor that the agency
 660 determines will provide the best value to the state. The
 661 contract file must contain a short plain statement that explains
 662 the basis for vendor selection and that sets forth the vendor's
 663 deliverables and price, pursuant to the contract, with an
 664 explanation of how these deliverables and price provide the best
 665 value to the state.

666 Section 11. Section 287.03335, Florida Statutes, is
 667 created to read:

668 287.03335 Invitation to participate.--

669 (1)(a) Unless otherwise authorized by law, contracts for the
 670 procurement of commodities or contractual services valued in
 671 excess of the threshold amount provided in s. 287.028 for
 672 CATEGORY TWO may be awarded by reverse auction. An invitation to
 673 participate shall be made available simultaneously to all
 674 vendors and must include:

675 1. A detailed description of the commodities or contractual
 676 services sought.

677 2. The date of and the specific time period during which
 678 price or consideration offers may be submitted.

679 3. The date and time for the public opening.

680 4. All contractual terms and conditions applicable to the
 681 procurement, including the criteria to be used in determining
 682 acceptability of the offer.

683 (b) If the agency contemplates renewal of the contract, that
 684 fact must be stated in the invitation to participate. The offer
 685 shall include the consideration or price for each year for which
 686 the contract may be renewed. Evaluation of offers shall take

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687 into account the total cost for each year as submitted by the
 688 vendor. Criteria that were not set forth in the invitation to
 689 participate may not be used in determining acceptability of the
 690 offer.

691 (2) The contract shall be awarded with reasonable promptness
 692 by written notice to the responsible and responsive vendor that
 693 submits the responsive offer that provides for the lowest price
 694 or amount of consideration to be provided by the state. This
 695 offer must be determined in writing to meet the requirements and
 696 criteria set forth in the invitation to participate.

697 Section 12. Subsection (10) of section 287.057, Florida
 698 Statutes, is transferred to section 287.0334, Florida Statutes,
 699 which is created, and amended to read:

700 287.0334 Small procurement procedures.--In order to obtain
 701 the best value to the state, the department shall adopt rules,
 702 pursuant to ss. 120.536(1) and 120.54, which prescribe the
 703 methods for the procurement of commodities or contractual
 704 services which do not exceed the threshold amount provided in s.
 705 287.028 for CATEGORY TWO.

706 ~~(10)~~ An agency shall not divide the procurement of
 707 commodities or contractual services so as to avoid the
 708 requirements of ss. 287.0331-287.0333 ~~subsections (1) through~~
 709 ~~(5)~~.

710 Section 13. Paragraph (c) of subsection (5) of section
 711 287.057, Florida Statutes, is transferred to section 287.0335,
 712 Florida Statutes, which is created, and amended to read:

713 287.0335 Single source procurement.--

714 ~~(e)~~ Commodities or contractual services available only
 715 from a single source may be excepted from the competitive-

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716 solicitation requirements. When an agency believes that
 717 commodities or contractual services are available only from a
 718 single source, the agency shall electronically post a
 719 description, in a form prescribed by the department, of the
 720 commodities or contractual services sought for a period of at
 721 least 7 business days. The description must include a request
 722 that prospective vendors provide information regarding their
 723 ability to supply the commodities or contractual services
 724 described. If it is determined in writing by the agency, after
 725 reviewing any information received from prospective vendors,
 726 that the commodities or contractual services are available only
 727 from a single source, the agency shall:

728 (1)1- Provide notice, in a form prescribed by the
 729 department, of its intended decision to enter a single-source
 730 procurement ~~purchase~~ contract in the manner specified in s.
 731 120.57(3), if the value ~~amount~~ of the contract does not exceed
 732 the threshold amount provided in s. 287.028 ~~287.017~~ for CATEGORY
 733 FOUR.

734 (2)2- Request approval from the department for the single-
 735 source purchase, if the value ~~amount~~ of the contract exceeds the
 736 threshold amount provided in s. 287.028 ~~287.017~~ for CATEGORY
 737 FOUR. The agency shall initiate its request for approval in a
 738 form prescribed by the department, which request may be
 739 electronically transmitted. The failure of the department to
 740 approve or disapprove the agency's request for approval within
 741 21 days after receiving such request shall constitute prior
 742 approval of the department. If the department approves the
 743 agency's request, the agency shall provide notice of its

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744 intended decision to enter a single-source contract in the
 745 manner specified in s. 120.57(3).

746 Section 14. The introductory paragraph and paragraph (a)
 747 of subsection (5) of section 287.057, Florida Statutes, are
 748 transferred to section 287.0336, Florida Statutes, which is
 749 created, and amended to read:

750 287.0336 Emergency procurements.--

751 ~~(5)~~ When the purchase price of commodities or contractual
 752 services exceeds the threshold amount provided in s. 287.028
 753 ~~287.017~~ for CATEGORY TWO, a procurement ~~no purchase~~ of
 754 commodities or contractual services may be excepted from
 755 competitive solicitation requirements if made without receiving
 756 ~~competitive sealed bids, competitive sealed proposals, or~~
 757 ~~competitive sealed replies unless:~~

758 ~~(a)~~ the agency head determines in writing that an
 759 immediate danger to the public health, safety, or welfare or
 760 other substantial loss to the state requires emergency action.
 761 After the agency head makes such a written determination, the
 762 agency may proceed with the procurement of commodities or
 763 contractual services necessitated by the immediate danger,
 764 without receiving competitive sealed bids, competitive sealed
 765 proposals, or competitive sealed replies. However, such
 766 emergency procurement shall be made by obtaining pricing
 767 information from at least two prospective vendors, which must be
 768 retained in the contract file, unless the agency determines in
 769 writing that the time required to obtain pricing information
 770 will increase the immediate danger to the public health, safety,
 771 or welfare or other substantial loss to the state. The agency
 772 shall furnish copies of all written determinations certified

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773 under oath and any other documents relating to the emergency
774 action to the department. A copy of the statement shall be
775 furnished to the Chief Financial Officer with the voucher
776 authorizing payment. The individual purchase of personal
777 clothing, shelter, or supplies which are needed on an emergency
778 basis to avoid institutionalization or placement in a more
779 restrictive setting is an emergency for the purposes of this
780 ~~section paragraph~~, and the filing with the department of such
781 statement is not required in such circumstances. In the case of
782 the emergency purchase of insurance, the period of coverage of
783 such insurance shall not exceed a period of 30 days, and all
784 such emergency purchases shall be reported to the department.

785 Section 15. Paragraph (b) of subsection (5) of section
786 287.057, Florida Statutes, and subsection (3) of section
787 287.056, Florida Statutes, are transferred to section 287.0337,
788 Florida Statutes, which is created, and amended to read:

789 287.0337 State term contract.--

790 (1) Commodities or contractual services with a value
791 exceeding the threshold amount provided in s. 287.028 for
792 CATEGORY TWO shall be excepted from competitive solicitation
793 requirements if procured

794 ~~(b) The purchase is made~~ by an agency from a state term
795 contract procured, pursuant to s. 287.0331, s. 287.0332, or s.
796 287.0333 ~~this section~~, by the department or by an agency, after
797 receiving approval from the department, from a contract
798 procured, pursuant to s. 287.0331 subsection (1), s. 287.0332
799 ~~subsection (2), or s. 287.0333 subsection (3)~~, by another
800 agency.

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801 (2)~~(3)~~ Agencies and eligible users may use a request for
 802 quote to obtain written pricing or services information from a
 803 state term contract vendor for commodities or contractual
 804 services available on state term contract from that vendor. The
 805 purpose of a request for quote is to determine whether a price,
 806 term, or condition more favorable to the agency or eligible user
 807 than that provided in the state term contract is available. Use
 808 of a request for quote does not constitute a decision or
 809 intended decision that is subject to protest under s. 120.57(3).

810 (3) The department may restrict purchases from term
 811 contracts to state agencies only for those term contracts for
 812 which the inclusion of other governmental entities will have an
 813 adverse effect on competition or to those federal facilities
 814 located in this state.

815 (4) When procuring state term contracts, the department
 816 shall obtain expert advice and assistance from personnel of
 817 using agencies in the development of specifications.

818 Section 16. Paragraphs (b), (c), (d), (f), and (g) of
 819 subsection (3) and subsection (13) of section 287.042, Florida
 820 Statutes, and subsections (4), (6), (7), and (20) of section
 821 287.057, Florida Statutes, are transferred to section 287.0341,
 822 Florida Statutes, which is created, and amended to read:

823 287.0341 General provisions.--

824 (1) The department shall develop:

825 (a)~~(b)~~1. ~~Development of~~ Procedures for advertising
 826 solicitations. These procedures must provide for electronic
 827 posting of solicitations for at least 10 days before the date
 828 set for receipt of bids, proposals, or replies, unless the
 829 department or other agency determines in writing that a shorter

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830 period of time is necessary to avoid harming the interests of
 831 the state. The Office of Supplier Diversity may consult with the
 832 department regarding the development of solicitation
 833 distribution procedures to ensure that maximum distribution is
 834 afforded to certified minority business enterprises as defined
 835 in s. 288.703.

836 (b)2. ~~Development of~~ Procedures for electronic posting.
 837 The department shall designate a centralized website on the
 838 Internet for the department and other agencies to electronically
 839 post solicitations, decisions or intended decisions, and other
 840 matters relating to procurement. ~~From July 1, 2002, until July~~
 841 ~~1, 2003, the department shall publish a notice in each edition~~
 842 ~~of the Florida Administrative Weekly which indicates the~~
 843 ~~specific URL or Internet address for the centralized website.~~

844 (c) ~~Development of~~ Procedures for the receipt and opening
 845 of bids, proposals, or replies by an agency. Such procedures
 846 shall provide the Office of Supplier Diversity an opportunity to
 847 monitor and ensure that the contract award is consistent with
 848 the requirements of s. 287.4471 ~~287.09451~~.

849 (d) ~~Development of~~ Procedures to be used by an agency in
 850 deciding to contract, including, but not limited to, identifying
 851 and assessing in writing project needs and requirements,
 852 availability of agency employees, budgetary constraints or
 853 availability, facility equipment availability, current and
 854 projected agency workload capabilities, and the ability of any
 855 other state agency to perform the services.

856 (e)(f) ~~Development of~~ Procedures to be used by an agency
 857 for issuing solicitations that include requirements to describe

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858 commodities, services, scope of work, and deliverables in a
859 manner that promotes competition.

860 ~~(f)(g)~~ ~~Development of~~ Procedures to be used by an agency
861 when issuing requests for information and requests for quotes.

862 (2) Agencies shall use the definitions and classes of
863 commodities and contractual services established by the
864 department in acquiring or purchasing commodities or contractual
865 services.

866 ~~(3)(4)~~ Prior to the time for receipt of bids, proposals,
867 or replies, an agency may conduct a conference or written
868 question and answer period for purposes of assuring the vendor's
869 full understanding of the solicitation requirements. The vendors
870 shall be accorded fair and equal treatment.

871 ~~(4)(6)~~ If less than two responsive bids, proposals, or
872 replies for commodity or contractual services purchases are
873 received, the department or other agency may negotiate on the
874 best terms and conditions. The department or other agency shall
875 document the reasons that such action is in the best interest of
876 the state in lieu of resoliciting competitive sealed bids,
877 proposals, or replies. ~~Each agency shall report all such actions~~
878 ~~to the department on a quarterly basis, in a manner and form~~
879 ~~prescribed by the department.~~

880 ~~(5)(7)~~ Upon issuance of any solicitation, an agency shall,
881 upon request by the department, forward to the department one
882 copy of each solicitation for all commodity and contractual
883 services purchases in excess of the threshold amount provided in
884 s. 287.028 ~~287.017~~ for CATEGORY TWO. An agency shall also, upon
885 request, furnish a copy of all competitive-solicitation
886 tabulations. The Office of Supplier Diversity may also request

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887 from the agencies any information submitted to the department
 888 pursuant to this subsection.

889 (6)(20) In any procurement with a value exceeding that
 890 ~~costs more than~~ the threshold amount provided for in s. 287.028
 891 ~~287.017~~ for CATEGORY TWO and is accomplished without
 892 competition, the individuals taking part in the development or
 893 selection of criteria for evaluation, the evaluation process,
 894 and the award process shall attest in writing that they are
 895 independent of, and have no conflict of interest in, the
 896 entities evaluated and selected.

897 (7)(13) If the department determines in writing that it is
 898 in the best interest of the state, the department may ~~to~~ award
 899 to multiple suppliers contracts for commodities and contractual
 900 services established by the department for use by all agencies.
 901 Such awards may be on a statewide or regional basis. If regional
 902 contracts are established by the department, multiple supplier
 903 awards may be based upon multiple awards for regions. Agencies
 904 may award contracts to a responsible and responsive vendor on a
 905 statewide or regional basis.

906 Section 17. Subsection (17) of section 287.057, Florida
 907 Statutes, is transferred to section 287.036, Florida Statutes,
 908 which is created, and amended to read:

909 287.036 Evaluation teams; certified negotiators.--

910 ~~(17)~~ For a contract the value of which is in excess of the
 911 threshold amount provided in s. 287.028 ~~287.017~~ for CATEGORY
 912 FOUR, the agency head shall appoint:

913 (1)(a) At least three persons to evaluate proposals and
 914 replies who collectively have experience and knowledge in the

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915 program areas and service requirements for which commodities or
 916 contractual services are sought.

917 (2)(b) At least three persons to conduct negotiations
 918 during a competitive sealed reply procurement who collectively
 919 have experience and knowledge in negotiating contracts, contract
 920 procurement, and the program areas and service requirements for
 921 which commodities or contractual services are sought. When the
 922 value of the procurement is in excess of \$1 million, at least
 923 one of the persons conducting negotiations must be a certified
 924 negotiator as established by the department in rule. If the
 925 agency does not have an employee who has the requisite
 926 certification, the department shall select a certified
 927 negotiator from another agency to participate in the
 928 negotiations on behalf of the procuring agency.

929 Section 18. Section 287.037, Florida Statutes, is created
 930 to read:

931 287.037 Cost or pricing data; truth-in-negotiation
 932 certificate.--

933 (1) The head of the procuring agency shall require vendors
 934 or contractors to provide data regarding cost, pricing, or
 935 consideration available prior to the award of a contract or
 936 modification of a contract if the price, cost, or consideration
 937 required by the contract exceeds \$1 million and the price, cost,
 938 or consideration is not:

- 939 (a) Based on adequate price competition;
- 940 (b) Based on established catalog or market prices; or
- 941 (c) Set by law or regulation.

942 (2) Notwithstanding subsection (1), the head of the
 943 procuring agency may require a vendor to submit data about cost,

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944 pricing, or consideration if the head of the procuring agency
 945 determines that such data are necessary for the evaluation by
 946 the agency of the reasonableness of the price, cost, or
 947 consideration required by a contract or a modification to a
 948 contract. The procuring agency shall document in writing the
 949 reason for such requirement.

950 (3) Data about cost, pricing, or consideration required by
 951 this section shall be submitted to the procuring agency within
 952 10 calendar days after the request, unless an extension is
 953 granted in writing by the head of the procuring agency. The
 954 vendor or contractor shall be required to execute a sworn truth-
 955 in-negotiation certificate stating that the data about cost,
 956 pricing, or consideration submitted is accurate, complete, and
 957 current.

958 (4)(a) The agency may, at reasonable times and places,
 959 audit the books and records of any contractor who has submitted
 960 data about cost, pricing, or consideration pursuant to this
 961 section to the extent that such books and records relate to that
 962 data. A request by the agency to audit the contractor's books
 963 and records pursuant to this subsection may be made no later
 964 than 1 year after the termination of the contract.

965 (b) Except as provided in the contract or otherwise by
 966 law, any contractor who receives a contract or contract
 967 modification for which such data is required shall maintain such
 968 books and records that relate to such data:

969 1. If no request to audit is made by the agency within 1
 970 year after the date of contract termination, for 1 year after
 971 contract termination; or

972 2. If a request to audit is made by the agency within 1

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973 year after the date of contract termination:

974 a. Until notice is received by the contractor that the
975 agency will not demand a contract adjustment pursuant to
976 subsection (5); or

977 b. Until resolution of any contract adjustment demanded by
978 an agency according to the provision of subsection (5),

979
980 whichever is later.

981 (5) A contract or contract modification under which sworn
982 data about cost, pricing, or consideration is required shall
983 contain a provision that the price, cost, or consideration
984 required by the contract to the state, including any profit or
985 fee, shall be adjusted to exclude any significant sums by which
986 the agency determines the contract price was increased due to
987 inaccurate, incomplete, or noncurrent data about cost, pricing,
988 or consideration. The procuring agency may demand such a
989 contract adjustment within 1 year after complete and accurate
990 data is obtained by the agency about actual prices, costs, or
991 consideration following the termination of the contract.

992 (6) As used in this section, the term "data about cost,
993 pricing, or consideration" means all facts that a prudent buyer
994 or seller would reasonably expect to affect price, cost, or
995 consideration negotiations as of the date of the agreement on
996 the price of a contract, the date of the contract modification,
997 or another date agreed upon between the parties. The term does
998 not include information that is in the form of opinion or
999 conjecture, but does include factual information from which an
1000 opinion or conjecture regarding cost, pricing, or consideration
1001 may be derived.

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1002 Section 19. Subsection (19) of section 287.057, Florida
 1003 Statutes, is transferred to section 287.038, Florida Statutes,
 1004 which is created, and amended to read:

1005 287.038 Review and approval process.--

1006 ~~(19)~~ Each agency shall establish a review and approval
 1007 process for all contractual services contracts valued in excess
 1008 of costing more than the threshold amount provided for in s.
 1009 287.028 ~~287.017~~ for CATEGORY THREE which shall include, but not
 1010 be limited to, program, financial, and legal review and
 1011 approval. Such reviews and approvals shall be obtained before
 1012 the contract is executed.

1013 Section 20. The section number, catchline, introductory
 1014 paragraph, paragraphs (a), (b), and (h) of subsection (1),
 1015 paragraph (a) of subsection (2), subsection (3), paragraph (a)
 1016 of subsection (4), subsections (5), (6), (7), (8), (9), (10),
 1017 (11), (12), and (14) of section 287.042, Florida Statutes, are
 1018 transferred to section 287.026, Florida Statutes, which is
 1019 created, and amended to read:

1020 287.026 ~~287.042~~ Powers, duties, and functions.--The
 1021 department shall have the following powers, duties, and
 1022 functions:

1023 (1)(a) To canvass all sources of supply, establish ~~and~~
 1024 ~~maintain~~ a vendor list to be maintained by classes of
 1025 commodities and contractual services, and contract for the
 1026 purchase, lease, or acquisition, including purchase by
 1027 installment sales or lease-purchase contracts which may provide
 1028 for the payment of interest on unpaid portions of the purchase
 1029 price, of all commodities and contractual services required by
 1030 any agency under this chapter. Any contract providing for

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1031 deferred payments and the payment of interest shall be subject
 1032 to specific rules adopted by the department.

1033 (b) The department may remove from its vendor list any
 1034 source of supply which fails to fulfill any of its duties
 1035 specified in a contract with the state. It may reinstate any
 1036 such source of supply when it is satisfied that further
 1037 instances of default will not occur.

1038 ~~(h) The department may collect fees for the use of its
 1039 electronic information services. The fees may be imposed on an
 1040 individual transaction basis or as a fixed subscription for a
 1041 designated period of time. At a minimum, the fees shall be
 1042 determined in an amount sufficient to cover the department's
 1043 projected costs of such services, including overhead in
 1044 accordance with the policies of the Department of Management
 1045 Services for computing its administrative assessment. All fees
 1046 collected pursuant to this paragraph shall be deposited in the
 1047 Grants and Donations Trust Fund for disbursement as provided by
 1048 law.~~

1049 (2)(a) To establish purchasing agreements and procure
 1050 state term contracts for commodities and contractual services,
 1051 pursuant to ss. 287.0331-287.03335 ~~s. 287.057~~, under which state
 1052 agencies shall, and eligible users may, make purchases pursuant
 1053 to ss. 287.0330 and 287.0337 ~~s. 287.056~~. ~~The department may
 1054 restrict purchases from some term contracts to state agencies
 1055 only for those term contracts where the inclusion of other
 1056 governmental entities will have an adverse effect on competition
 1057 or to those federal facilities located in this state. In such
 1058 planning or purchasing the Office of Supplier Diversity may
 1059 monitor to ensure that opportunities are afforded for~~

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1060 contracting with minority business enterprises. The department,
 1061 for state term contracts, and all agencies, for multiyear
 1062 contractual services or term contracts, shall explore reasonable
 1063 and economical means to utilize certified minority business
 1064 enterprises. Purchases by any county, municipality, private
 1065 nonprofit community transportation coordinator designated
 1066 pursuant to chapter 427, while conducting business related
 1067 solely to the Commission for the Transportation Disadvantaged,
 1068 or other local public agency under the provisions in the state
 1069 purchasing contracts, and purchases, from the corporation
 1070 operating the correctional work programs, of products or
 1071 services that are subject to s. 287.122(1)(c) ~~paragraph (1)(f)~~,
 1072 are exempt from the competitive solicitation requirements
 1073 otherwise applying to their purchases.

1074 (3) To establish a system of coordinated, uniform
 1075 procurement policies, procedures, and practices to be used by
 1076 agencies in acquiring commodities and contractual services,
 1077 ~~which shall include, but not be limited to:~~

1078 ~~(a) Development of a list of interested vendors to be~~
 1079 ~~maintained by classes of commodities and contractual services.~~
 1080 ~~This list shall not be used to prequalify vendors or to exclude~~
 1081 ~~any interested vendor from bidding.~~

1082 ~~(b)1. Development of procedures for advertising~~
 1083 ~~solicitations. These procedures must provide for electronic~~
 1084 ~~posting of solicitations for at least 10 days before the date~~
 1085 ~~set for receipt of bids, proposals, or replies, unless the~~
 1086 ~~department or other agency determines in writing that a shorter~~
 1087 ~~period of time is necessary to avoid harming the interests of~~
 1088 ~~the state. The Office of Supplier Diversity may consult with the~~

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1089 ~~department regarding the development of solicitation~~
1090 ~~distribution procedures to ensure that maximum distribution is~~
1091 ~~afforded to certified minority business enterprises as defined~~
1092 ~~in s. 288.703.~~

1093 ~~2. Development of procedures for electronic posting. The~~
1094 ~~department shall designate a centralized website on the Internet~~
1095 ~~for the department and other agencies to electronically post~~
1096 ~~solicitations, decisions or intended decisions, and other~~
1097 ~~matters relating to procurement. From July 1, 2002, until July~~
1098 ~~1, 2003, the department shall publish a notice in each edition~~
1099 ~~of the Florida Administrative Weekly which indicates the~~
1100 ~~specific URL or Internet address for the centralized website.~~

1101 ~~(c) Development of procedures for the receipt and opening~~
1102 ~~of bids, proposals, or replies by an agency. Such procedures~~
1103 ~~shall provide the Office of Supplier Diversity an opportunity to~~
1104 ~~monitor and ensure that the contract award is consistent with~~
1105 ~~the requirements of s. 287.09451.~~

1106 ~~(d) Development of procedures to be used by an agency in~~
1107 ~~deciding to contract, including, but not limited to, identifying~~
1108 ~~and assessing in writing project needs and requirements,~~
1109 ~~availability of agency employees, budgetary constraints or~~
1110 ~~availability, facility equipment availability, current and~~
1111 ~~projected agency workload capabilities, and the ability of any~~
1112 ~~other state agency to perform the services.~~

1113 ~~(e) Development of procedures to be used by an agency in~~
1114 ~~maintaining a contract file for each contract which shall~~
1115 ~~include, but not be limited to, all pertinent information~~
1116 ~~relating to the contract during the preparatory stages; a copy~~
1117 ~~of the solicitation; documentation relating to the solicitation~~

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1118 ~~process; opening of bids, proposals, or replies; evaluation and~~
 1119 ~~tabulation of bids, proposals, or replies; and determination and~~
 1120 ~~notice of award of contract.~~

1121 ~~(f) Development of procedures to be used by an agency for~~
 1122 ~~issuing solicitations that include requirements to describe~~
 1123 ~~commodities, services, scope of work, and deliverables in a~~
 1124 ~~manner that promotes competition.~~

1125 ~~(g) Development of procedures to be used by an agency when~~
 1126 ~~issuing requests for information and requests for quotes.~~

1127 (4)(a) To prescribe the methods of securing competitive
 1128 sealed bids, proposals, and replies. Such methods may include,
 1129 but are not limited to, procedures for identifying vendors;
 1130 setting qualifications; conducting conferences or written
 1131 question and answer periods for purposes of responding to vendor
 1132 questions; evaluating bids, proposals, and replies; ranking and
 1133 selecting vendors; and conducting negotiations.

1134 (5) To prescribe specific commodities and quantities to be
 1135 purchased locally.

1136 (6)(a) To govern the purchase by any agency of any
 1137 commodity or contractual service and to establish standards and
 1138 specifications for any commodity.

1139 (b) Except for the purchase of insurance, the department
 1140 may delegate to agencies the authority for the procurement of
 1141 and contracting for commodities or contractual services.

1142 (7) To establish definitions and classes of commodities
 1143 and contractual services. ~~Agencies shall follow the definitions~~
 1144 ~~and classes of commodities and contractual services established~~
 1145 ~~by the department in acquiring or purchasing commodities or~~
 1146 ~~contractual services.~~ The authority of the department under this

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1147 section shall not be construed to impair or interfere with the
 1148 determination by state agencies of their need for, or their use
 1149 of, services including particular specifications.

1150 ~~(8) To provide any commodity and contractual service~~
 1151 ~~purchasing rules to the Chief Financial Officer and all agencies~~
 1152 ~~through an electronic medium or other means. Agencies may not~~
 1153 ~~approve any account or request any payment of any account for~~
 1154 ~~the purchase of any commodity or the procurement of any~~
 1155 ~~contractual service covered by a purchasing or contractual~~
 1156 ~~service rule except as authorized therein. The department shall~~
 1157 ~~furnish copies of rules adopted by the department to any county,~~
 1158 ~~municipality, or other local public agency requesting them.~~

1159 (8)(9) To require that every agency furnish information
 1160 relative to its commodity and contractual services purchases and
 1161 methods of purchasing commodities and contractual services to
 1162 the department when so requested.

1163 (9)(10) To prepare statistical data concerning the method
 1164 of procurement, terms, usage, and disposition of commodities and
 1165 contractual services by agencies. All agencies shall furnish
 1166 such information for this purpose to the office and to the
 1167 department, as the department or office may call for, but no
 1168 less frequently than annually, on such forms or in such manner
 1169 as the department may prescribe.

1170 (10)(11) To establish and maintain programs for the
 1171 purpose of disseminating information to government, industry,
 1172 educational institutions, and the general public concerning
 1173 policies, procedures, rules, and forms for the procurement of
 1174 commodities and contractual services. The department shall

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1175 furnish copies of rules adopted by the department to any county,
 1176 municipality, or other local public agency requesting them.

1177 (11)~~(12)~~ Except as otherwise provided herein, to adopt
 1178 rules necessary to carry out the purposes of this chapter
 1179 ~~section~~, including the authority to delegate to any agency any
 1180 and all of the responsibility conferred by this chapter unless
 1181 otherwise provided by law ~~section~~, retaining to the department
 1182 any and all authority for supervision thereof. Such purchasing
 1183 of commodities and procurement of contractual services by state
 1184 agencies shall be in strict accordance with the rules and
 1185 procedures prescribed by the department.

1186 (12)~~(14)~~ To procure and distribute federal surplus
 1187 tangible personal property allocated to the state by the Federal
 1188 Government.

1189 (13) To develop, in consultation with the Department of
 1190 Financial Services, rules for use by agencies for share-in-
 1191 savings contracts in which the contractor receives a percentage
 1192 of the savings that the contractor generates.

1193 Section 21. Subsection (23) of section 287.057, Florida
 1194 Statutes, is transferred to section 287.027, Florida Statutes,
 1195 which is created, and amended to read:

1196 287.027 Online procurement of commodities and services.--

1197 ~~(23)~~(a) The department, in consultation with the State
 1198 Technology Office and the Chief Financial Officer ~~Comptroller~~,
 1199 shall develop a program for on-line procurement of commodities
 1200 and contractual services. To enable the state to promote open
 1201 competition and to leverage its buying power, agencies shall,
 1202 and eligible users may, procure commodities and contractual
 1203 services through ~~participate in~~ the on-line procurement program.

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1204 ~~and eligible users may participate in the program.~~ Only vendors
 1205 prequalified as meeting mandatory requirements and
 1206 qualifications criteria shall be permitted to participate in on-
 1207 line procurement. The department, in consultation with the State
 1208 Technology Office, may contract for equipment and services
 1209 necessary to develop and implement on-line procurement.

1210 ~~(1)(b)~~ The department, in consultation with the State
 1211 Technology Office, shall adopt rules, pursuant to ss. 120.536(1)
 1212 and 120.54, to administer the program for on-line procurement.
 1213 The rules shall include, but not be limited to:

1214 ~~(a)1.~~ Determining the requirements and qualification
 1215 criteria for prequalifying vendors.

1216 ~~(b)2.~~ Establishing the procedures for conducting on-line
 1217 procurement.

1218 ~~3. Establishing the criteria for eligible commodities and~~
 1219 ~~contractual services.~~

1220 ~~(c)4.~~ Establishing the procedures for providing access to
 1221 on-line procurement.

1222 ~~(d)5.~~ Determining the criteria warranting any exceptions
 1223 to the requirement that agencies procure commodities and
 1224 contractual services through participation in the on-line
 1225 procurement program.

1226 ~~(2)(e)~~ The department may collect fees for the use of the
 1227 on-line procurement systems. The fees may be imposed on an
 1228 individual transaction basis or as a fixed percentage of the
 1229 cost savings generated. At a minimum, the fees must be set in an
 1230 amount sufficient to cover the projected costs of such services,
 1231 including administrative and project service costs in accordance
 1232 with the policies of the department; however, fees imposed on an

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1233 individual transaction basis may not exceed 1 percent of the
 1234 transaction amount. ~~For the purposes of compensating the~~
 1235 ~~provider, the department may authorize the provider to collect~~
 1236 ~~and retain a portion of the fees. The providers may withhold the~~
 1237 ~~portion retained from the amount of fees to be remitted to the~~
 1238 ~~department. The department may negotiate the retainage as a~~
 1239 ~~percentage of such fees charged to users, as a flat amount, or~~
 1240 ~~as any other method the department deems feasible. All fees and~~
 1241 ~~surcharges collected under this subsection paragraph shall be~~
 1242 ~~deposited in the Grants and Donation Trust Fund as provided by~~
 1243 ~~law.~~

1244 Section 22. Section 287.045, Florida Statutes, is
 1245 renumbered as section 287.128, Florida Statutes, and amended to
 1246 read:

1247 287.128 ~~287.045~~ Procurement of products and materials with
 1248 recycled content.--

1249 (1)~~(a)~~ The department, ~~in cooperation with the Department~~
 1250 ~~of Environmental Protection,~~ shall adopt rules, pursuant to ss.
 1251 120.536(1) and 120.54, which provide review and revise existing
 1252 procurement procedures and specifications for the purchase and
 1253 use by the department, agencies, and contractors contracting
 1254 with agencies of products and materials to eliminate any
 1255 procedures and specifications that explicitly discriminate
 1256 against products and materials with recycled content or that may
 1257 be recycled or reused when these products or materials are
 1258 discarded. Such rules shall encourage the use of such products
 1259 or materials except in cases in which use would be detrimental
 1260 to ~~where such procedures and specifications are necessary to~~
 1261 ~~protect~~ the public health, safety, and welfare.

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1262 ~~(b) Each agency shall review and revise its procurement~~
1263 ~~procedures and specifications for the purchase of products and~~
1264 ~~materials to eliminate any procedures and specifications that~~
1265 ~~explicitly discriminate against products and materials with~~
1266 ~~recycled content, except if such procedures and specifications~~
1267 ~~are necessary to protect the public health, safety, and welfare.~~

1268 ~~(2)(a) The department and each agency shall review and~~
1269 ~~revise its procurement procedures and specifications for the~~
1270 ~~purchase of products and materials to ensure to the maximum~~
1271 ~~extent feasible that each agency uses state contracts to~~
1272 ~~purchase products or materials that may be recycled or reused~~
1273 ~~when these products or materials are discarded.~~

1274 ~~(b) The Auditor General shall assist in monitoring the~~
1275 ~~product procurement requirements.~~

1276 ~~(3) As part of the review and revision required in~~
1277 ~~subsection (2), the department and each agency shall review its~~
1278 ~~procurement provisions and specifications for the purchase of~~
1279 ~~products and materials to determine which products or materials~~
1280 ~~with recycled content could be procured by the department or~~
1281 ~~other agencies and the amount of recycled content that can~~
1282 ~~technologically be contained in such products or materials. The~~
1283 ~~department and other agencies must use the amounts of recycled~~
1284 ~~content and postconsumer recovered material determined by the~~
1285 ~~department in issuing solicitations for contracts for the~~
1286 ~~purchase of such products or materials.~~

1287 ~~(4) Upon completion of the review required in subsection~~
1288 ~~(3), the department and other agencies shall require that a~~
1289 ~~person who submits a bid, proposal, or reply for a contract for~~
1290 ~~the purchase of products or materials identified in subsection~~

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1291 ~~(3) and who wishes to be considered for the price preference~~
 1292 ~~described in subsection (5) certify in writing the percentage of~~
 1293 ~~recycled content in the product or material that is subject to~~
 1294 ~~the bid, proposal, or reply. A person may certify that the~~
 1295 ~~product or material contains no recycled content.~~

1296 ~~(5) Upon evaluation of bids, proposals, or replies for~~
 1297 ~~every public contract that involves the purchase of products or~~
 1298 ~~materials identified in subsection (3), the department or other~~
 1299 ~~agency shall identify the lowest responsible and responsive~~
 1300 ~~vendor and other responsible and responsive vendors who have~~
 1301 ~~certified that the products or materials contain at least the~~
 1302 ~~minimum percentage of recycled content and postconsumer~~
 1303 ~~recovered material that is set forth in the solicitation.~~

1304 (2) The department or agency may consider life-cycle
 1305 costing when evaluating a bid, proposal, or reply on a product
 1306 that consists of recycled materials. The department shall adopt
 1307 rules that specify the criteria to be used when considering
 1308 life-cycle costing in evaluating bids, proposals, or replies.
 1309 The rules must take into account ~~consideration~~ the specified
 1310 warranty periods for products and the comparative expected
 1311 service life relative to the cost of the products.

1312 (3) The rules may allow ~~In awarding a contract for the~~
 1313 ~~purchase of products or materials,~~ the department or other
 1314 agency to grant ~~may allow~~ up to a 10-percent price preference to
 1315 a responsible and responsive vendor who has certified that the
 1316 products or materials contain at least the minimum percentage of
 1317 recycled content and postconsumer recovered material and up to
 1318 an additional 5-percent price preference to a responsible and
 1319 responsive vendor who has certified that the products or

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1320 material are made of materials recovered in this state. The
 1321 amount of the price preference must be commensurate with the
 1322 certified amounts of recycled material and postconsumer
 1323 recovered material and materials recycled from products in this
 1324 state, contained in the product or materials on a sliding scale
 1325 as established by department rule, ~~which rule shall not become~~
 1326 ~~effective prior to November 1, 1994. Reusable materials and~~
 1327 ~~products shall be used where economically and technically~~
 1328 ~~feasible. If no vendors offer products or materials with~~
 1329 ~~measurable life-cycle costing factors or the minimum prescribed~~
 1330 ~~recycled and postconsumer content, the contract must be awarded~~
 1331 ~~to the lowest qualified responsible and responsive vendor.~~

1332 ~~(6) For the purposes of this section, the term "recycled~~
 1333 ~~content" means materials that have been recycled that are~~
 1334 ~~contained in the products or materials to be procured,~~
 1335 ~~including, but not limited to, paper, aluminum, steel, glass,~~
 1336 ~~plastics, and composted material. The term does not include the~~
 1337 ~~virgin component of internally generated scrap that is commonly~~
 1338 ~~used in industrial or manufacturing processes or such waste or~~
 1339 ~~scrap purchased from another manufacturer who manufactures the~~
 1340 ~~same or a closely related product. Recycled content printing and~~
 1341 ~~fine writing grades of paper shall contain at least 10 percent~~
 1342 ~~postconsumer recovered materials.~~

1343 ~~(7) Any person may request the department to evaluate a~~
 1344 ~~product or material with recycled content if the product or~~
 1345 ~~material is eligible for inclusion under state contracts. The~~
 1346 ~~department shall review each reasonable proposal to determine~~
 1347 ~~its merit and, if it finds that the product or material may be~~

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1348 ~~used beneficially, it may incorporate that product or material~~
 1349 ~~into its procurement procedures.~~

1350 ~~(8) The department and each agency shall review and revise~~
 1351 ~~its procedures and specifications on a continuing basis to~~
 1352 ~~encourage the use of products and materials with recycled~~
 1353 ~~content and postconsumer recovered material and shall, in~~
 1354 ~~developing new procedures and specifications, encourage the use~~
 1355 ~~of products and materials with recycled content and postconsumer~~
 1356 ~~recovered material.~~

1357 ~~(9) After November 1, 1994, the department may discontinue~~
 1358 ~~contracting for products or materials the recycled content of~~
 1359 ~~which does not meet the requirements of subsection (3) if it~~
 1360 ~~determines that products or materials meeting those requirements~~
 1361 ~~are available at a cost not to exceed an additional 10 percent~~
 1362 ~~of comparable virgin products.~~

1363 ~~(10) An agency, or a vendor contracting with such agency~~
 1364 ~~with respect to work performed under contract, must procure~~
 1365 ~~products or materials with recycled content if the department~~
 1366 ~~determines that those products or materials are available~~
 1367 ~~pursuant to subsection (5). Notwithstanding any other provision~~
 1368 ~~to the contrary, for the purpose of this section, the term~~
 1369 ~~"agency" means any of the various state officers, departments,~~
 1370 ~~boards, commissions, divisions, bureaus, and councils and any~~
 1371 ~~other unit of organization, however designated, of the executive~~
 1372 ~~branch including the Department of the Lottery, the legislative~~
 1373 ~~branch, the judicial branch, the university and college boards~~
 1374 ~~of trustees, and the state universities and colleges. A decision~~
 1375 ~~not to procure such items must be based on the department's~~
 1376 ~~determination that such procurement is not reasonably available~~

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1377 ~~within an acceptable period of time or fails to meet the~~
 1378 ~~performance standards set forth in the applicable specifications~~
 1379 ~~or fails to meet the performance standards of the agency.~~

1380 ~~(11) Each agency shall report annually to the department~~
 1381 ~~its total expenditures on, and use of, products with recycled~~
 1382 ~~content and the percentage of its budget that represents~~
 1383 ~~purchases of similar products made from virgin materials. The~~
 1384 ~~department shall design a uniform reporting mechanism and~~
 1385 ~~prepare annual summaries of statewide purchases delineating~~
 1386 ~~those with recycled content to be submitted to the Governor, the~~
 1387 ~~President of the Senate, and the Speaker of the House of~~
 1388 ~~Representatives.~~

1389 Section 23. Part III of chapter 287, Florida Statutes,
 1390 consisting of sections 287.0439, 287.044, 287.046, 287.047, and
 1391 287.048, Florida Statutes, is created to read:

1392 PART III

1393 OUTSOURCING

1394 287.0439 Definitions.--As used in this part, the term:

1395 (1) "Cost" means the reasonable, relevant, and verifiable
 1396 cost, which may include, but not be limited to, such elements as
 1397 personnel costs, materials and supplies, services, equipment,
 1398 capital depreciation cost, rent, maintenance and repairs,
 1399 utilities, insurance, personnel travel, overhead, profit, and
 1400 interim and final payments. The appropriate elements shall
 1401 depend on the nature of the specific outsourcing or
 1402 privatization initiative.

1403 (2) "Savings" means the difference between the recurring
 1404 operating appropriations or actual expenditures, whichever is
 1405 less, in the full fiscal year immediately prior to the signing

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1406 of the contract for outsourcing compared to the cost for the
1407 outsourced functions or programs in any succeeding state fiscal
1408 year during the term of the contract.

1409 287.044 General requirements.--

1410 (1) An agency seeking to, or directed by the Legislature
1411 to, outsource or privatize a function or a responsibility,
1412 whether initially or after the expiration of a contract to
1413 outsource or privatize, must comply with the requirements of
1414 this part and the requirements of the Center for Efficient
1415 Government as specified in part I if:

1416 (a)1. The proposed outsourcing or privatization initiative
1417 will transfer or shift work currently performed by state
1418 employees to another entity, resulting in those state employees
1419 no longer performing the work;

1420 2. A current outsourcing or privatization initiative has
1421 transferred or shifted work that had previously been performed
1422 by state employees to another entity; or

1423 3. The outsourcing or privatization initiative involves a
1424 function or responsibility that is not currently being performed
1425 by the state either by state employees or by a contractor; and

1426 (b) The outsourcing or privatization initiative meets one
1427 of the following criteria:

1428 1. The value of the contract, as provided in s. 287.028,
1429 over the proposed term of the contract is projected to exceed
1430 the lesser of 5 percent of the implementing agency or agencies'
1431 total budget or \$10 million;

1432 2. Reductions during the proposed term of the contract are
1433 projected to exceed the lesser of 50 full-time-equivalent
1434 positions, 5 percent of the agency's or agencies' authorized

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1435 full-time-equivalent positions, or 5 percent of the agency's or
 1436 agencies' authorized salaries and benefits; or

1437 3. The Legislature directs that the outsourcing or
 1438 privatization initiative comply with this part.

1439
 1440 An agency or agencies shall not divide the outsourcing
 1441 initiative so as to avoid being subject to this part.

1442 (2) Notwithstanding subsection (1), an outsourcing or
 1443 privatization initiative is not subject to this part if the
 1444 agency seeking to or directed by the Legislature to continue
 1445 outsourcing or privatizing a function or responsibility executed
 1446 a contract prior to July 1, 1994, to outsource or privatize that
 1447 function or responsibility and such continued outsourcing or
 1448 privatization would be substantially similar in nature and
 1449 purpose to the original outsourcing or privatization.

1450 287.046 Outsourcing or privatizing of functions or
 1451 responsibilities.--No agency may outsource or privatize any
 1452 function or responsibility without having or seeking authority
 1453 except as authorized by general law, the General Appropriations
 1454 Act, legislation implementing the General Appropriations Act, or
 1455 special appropriations acts, as needed. Prior to outsourcing or
 1456 privatizing a function or responsibility subject to this part,
 1457 the agency shall comply with the requirements of the center and
 1458 the board as specified in s. 287.0265 and the following
 1459 requirements:

1460 (1) BUSINESS CASE.--The agency shall develop a business
 1461 case describing and analyzing the outsourcing or privatization
 1462 initiative. A business case is part of the solicitation process
 1463 and is not a rule subject to challenge pursuant to s. 120.54.

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1464 The business case shall include, but not be limited to, the
1465 following information:

1466 (a) A detailed description of the function or
1467 responsibility to be outsourced or privatized, a description and
1468 analysis of the agency's current performance, a rationale for
1469 the proposed outsourcing or privatization initiative, and a
1470 citation of the existing or proposed legal authority for
1471 outsourcing or privatizing the function or responsibility.

1472 (b) A cost-benefit analysis describing the estimated
1473 specific tangible and intangible costs, savings, performance
1474 improvements, risks, and qualitative and quantitative benefits
1475 involved in or resulting from the outsourcing or privatization.
1476 All elements of cost shall be clearly identified in the cost-
1477 benefit analysis and described in the business case. The agency
1478 shall certify that all costs, savings, and benefits are valid
1479 and achievable.

1480 (c) A statement of the potential impact on state revenues
1481 and expenditures. The statement shall specifically address the
1482 impact on general revenue, trust funds, general revenue service
1483 charges, and interest on trust funds together with the potential
1484 direct or indirect impact on federal funding and cost
1485 allocations.

1486 (d) A plan regarding compliance with public records law,
1487 including:

1488 1. A plan for providing public access to public records at
1489 a cost that does not exceed that provided in chapter 119.

1490 2. A plan ensuring the confidentiality of records which
1491 are exempt or confidential and exempt under law.

1492 3. A plan for meeting all requirements for record

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1493 retention provided by law.

1494 4. A plan for transfer to the state, at no cost, all
1495 public records in possession of the contractor upon termination
1496 of the contract.

1497 (e) An agency transition plan for addressing changes in
1498 organizational structure, affected business processes, and
1499 employee transition issues.

1500 (f) A listing of assets proposed for transfer to or use by
1501 a contractor, a description of the proposed requirements for
1502 maintenance of those assets by the contractor or the agency in
1503 accord with chapter 273, a plan for the disposition of such
1504 assets upon termination of the contract, and a description of
1505 how the planned asset transfer or use by a contractor is in the
1506 best interests of the state.

1507
1508 If an outsourcing or privatization initiative would require
1509 integration with or would in any way impact other state
1510 information technology systems, the agency shall submit the
1511 feasibility study documentation as required by the legislative
1512 budget request instructions established pursuant to s. 216.023.

1513 (2) CONTRACT REQUIREMENTS.--Each outsourcing initiative,
1514 and when appropriate a privatization initiative, shall be
1515 memorialized in a written contract. At a minimum, the contract
1516 shall include:

1517 (a) For an outsourcing contract only, retention of
1518 ultimate responsibility for the function or responsibility by
1519 the agency.

1520 (b) Clear and specific terms and conditions providing a
1521 clearly defined scope of work that is directly related to the

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1522 goals and objectives of the outsourcing or privatization
 1523 initiative. The terms must include:
 1524 1. A detailed scope of work that clearly specifies each
 1525 service and deliverable to be provided.
 1526 2. All service-level agreements describing all necessary
 1527 performance requirements and state and contractor
 1528 responsibilities.
 1529 3. Associated costs and savings, specific payment terms,
 1530 including incentive and penalty provisions, criteria governing
 1531 payment, and a clear and specific schedule that will be
 1532 implemented in order to complete all required outsourcing
 1533 activities needed to transition the outsourced function or
 1534 responsibility from the state to the contractor and operate the
 1535 outsourced function or responsibility successfully.
 1536 (c) Clear and specific identification of all required
 1537 performance measures and levels that shall include, but not be
 1538 limited to:
 1539 1. Detailed measurable acceptance criteria for each
 1540 deliverable and service to be provided to the state under the
 1541 terms of the contract.
 1542 2. A method for monitoring and reporting progress in
 1543 achieving specified performance outcomes and associated
 1544 performance incentives.
 1545 3. The sanctions or penalties that shall be assessed for
 1546 contractor nonperformance.
 1547 (d) A description of deliverables, activities, or events
 1548 that are directly related to the scope of work that are
 1549 quantifiable, measurable, and verifiable.
 1550 (e) An organizational change management plan that clearly

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1551 identifies any changes in organizational structure, including
 1552 staffing and personnel changes in all affected agencies.

1553 (f) A requirement that the contractor maintain adequate
 1554 accounting records.

1555 (g) A requirement authorizing state access to and audit of
 1556 all records related to the contract and outsourced
 1557 responsibilities or functions for state audit purposes and the
 1558 audit of such responsibilities and functions, and a requirement
 1559 for Statement on Auditing Standards 70 audits, if appropriate.

1560 (h) A requirement that ownership of any intellectual
 1561 property critical for the assumption of the outsourced function
 1562 or program by the state or another vendor shall transfer to the
 1563 state in the event a contractor ceases to provide the outsourced
 1564 function or responsibility.

1565 (i) A requirement describing the timing, nature, and
 1566 substance of all status or progress reports that are to be
 1567 provided.

1568 (j) A requirement that the contractor comply with public
 1569 records law. The contractor shall:

1570 1. Keep and maintain the public records that ordinarily
 1571 and necessarily would be required by an agency to perform the
 1572 function or service.

1573 2. Provide public access to such public records on the
 1574 same terms and conditions that an agency would and at a cost
 1575 that does not exceed that provided in chapter 119.

1576 3. Ensure the confidentiality of records which are exempt
 1577 or confidential and exempt under law.

1578 4. Meet all legal requirements for record retention.

1579 5. Transfer to the state, at no cost to the state, all

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1580 public records in possession of the contractor upon termination
 1581 of the contract. All records stored electronically must be
 1582 provided to the state in a format compatible with state
 1583 information technology systems.

1584 (k) Provisions that venue of any action regarding the
 1585 contract shall be in this state and that the contract shall be
 1586 interpreted according to the laws of this state.

1587 (3) REPORTS TO THE LEGISLATURE.--The following reports and
 1588 information shall be furnished to the President of the Senate
 1589 and the Speaker of the House of Representatives by the center on
 1590 behalf of the agency for outsourcing or privatization
 1591 initiatives subject to this part:

1592 (a) When an agency is seeking authority by law to
 1593 outsource or privatize a function or responsibility, the
 1594 business case shall be furnished at least 60 days prior to the
 1595 first day of the regular legislative session.

1596 (b) When an agency has authority provided by law or is
 1597 required by legislative action to outsource or privatize a
 1598 function or responsibility and no business case was furnished
 1599 under paragraph (a), the business case shall be furnished at
 1600 least 30 days prior to the issuance of a solicitation to
 1601 outsource or privatize that function or responsibility.

1602 (c) The solicitation documents for the outsourcing or
 1603 privatization initiative, a current and updated business case,
 1604 and a detailed listing of the changes to the business case in
 1605 the update shall be furnished at the time the solicitation is
 1606 advertised.

1607 (d) A current and updated business case reflecting the
 1608 proposed contract, together with a detailed listing of the

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1609 changes to the business case in the update, shall be furnished
1610 at least 15 days prior to contract execution if the quantitative
1611 aspects of the updated business case's objectives, business
1612 benefits, costs, savings, and benefits, project scope,
1613 implementation approach, or timeline, as compared to those in
1614 the business case provided with the solicitation documents, have
1615 changed by 10 percent or more or the qualitative aspects have
1616 changed significantly.

1617 (e) An executed contract, a current and updated business
1618 case, and a detailed listing of the changes to the business case
1619 in the update shall be furnished no later than 15 days after
1620 execution.

1621 (f) Upon request by the Legislature, the agency shall
1622 furnish a project status report for the outsourcing or
1623 privatization initiative describing the progress made to date,
1624 actual completion dates, actual costs incurred, current issues
1625 requiring resolution, and planned project milestones,
1626 deliverables, expenditures or consideration for the next
1627 reporting period, and any other information the Legislature may
1628 request.

1629 (g) Notice of a proposed renewal of a contract for
1630 outsourcing or privatization shall be furnished at least 15 days
1631 prior to the execution of the contract for renewal, which notice
1632 shall include a copy of the proposed renewal contract and an
1633 updated business case complying with subsection (1).

1634 (4) CONTRACT REVIEW AND OBJECTION.--If the proposed
1635 contract terms result in a change in the updated business case
1636 as compared to the business case provided with the solicitation
1637 documents such that the quantitative aspects have changed by 10

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1638 percent or more as provided in paragraph (3)(d), or the
 1639 qualitative aspects have changed significantly, the Legislature
 1640 may object to the procurement as provided in s. 216.177(2)(b)
 1641 within 15 days after the receipt of the updated business case
 1642 reflecting the proposed final contract. Any such objection shall
 1643 be transmitted to the center and the agency. An agency shall not
 1644 execute the proposed final contract unless the objection is
 1645 withdrawn.

1646 (5) CABINET AGENCIES.--Cabinet agencies may act on their
 1647 own behalf without the involvement or assistance of the center
 1648 when complying with this part.

1649 287.047 Access to records.--A contractor shall make
 1650 available for review any program-related records that it
 1651 produces or collects to the same extent those records would be
 1652 available from a state agency.

1653 287.048 Agency actions.--The actions of agencies in
 1654 accordance with this part are not grounds for protest under
 1655 chapter 120.

1656 Section 24. Paragraphs (d), (e), (f), and (g) of
 1657 subsection (1) of section 287.042, Florida Statutes, are
 1658 transferred to section 287.122, Florida Statutes, which is
 1659 created, and amended to read:

1660 287.122 Purchases from correctional industry programs;
 1661 purchases from qualified nonprofit agencies for persons with
 1662 disabilities.--

1663 (1)(d) With regard to the corporation operating the
 1664 correctional industry program provided for in s. 946.502, the
 1665 department shall: ~~The department shall issue commodity numbers~~

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1666 ~~for all products of the corporation operating the correctional~~
 1667 ~~industry program which meet or exceed department specifications.~~

1668 (a) Issue commodity numbers for all products of the
 1669 corporation operating the correctional industry program which
 1670 meet or exceed department specifications.

1671 ~~(b)(e)~~ The department shall include the products offered
 1672 by the corporation on any listing prepared by the department
 1673 which lists state term contracts executed by the department. The
 1674 products offered by the corporation and listed by the department
 1675 may be listed on a state term contract or listed as an exception
 1676 to the state term contract as determined by the department. The
 1677 products or services shall be placed on such list in a category
 1678 based upon specification criteria developed through a joint
 1679 effort of the department and the corporation and approved by the
 1680 department.

1681 ~~(c)(f)~~ Allow the corporation to ~~may~~ submit products and
 1682 services to the department for testing, analysis, and review
 1683 relating to the quality and cost comparability. If, after review
 1684 and testing, the department approves of the products and
 1685 services, the department shall give written notice thereof to
 1686 the corporation. The corporation shall pay a reasonable fee
 1687 charged for testing its products ~~by the Department of~~
 1688 ~~Agriculture and Consumer Services.~~

1689 ~~(2)(g)~~ The department shall include products and services
 1690 that are offered by a qualified nonprofit agency for persons
 1691 with disabilities ~~the blind or for the other severely~~
 1692 ~~handicapped~~ organized pursuant to chapter 413 and that have been
 1693 determined to be suitable for purchase pursuant to s. 413.035 on
 1694 any department listing of state term contracts. The products and

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1695 services shall be placed on such list in a category based upon
 1696 specification criteria developed by the department in
 1697 consultation with the qualified nonprofit agency. The products
 1698 offered by a qualified nonprofit agency for persons with
 1699 disabilities and listed by the department may be listed on a
 1700 state term contract or listed as an exception to the state term
 1701 contract as determined by the department.

1702 Section 25. Paragraphs (e), (f), and (g) of subsection (5)
 1703 and subsection (11) of section 287.057, Florida Statutes, are
 1704 transferred to section 287.123, Florida Statutes, which is
 1705 created, and amended to read:

1706 287.123 Purchases exempt from competitive solicitation
 1707 requirements.--The following contractual services and
 1708 commodities are not subject to the competitive-solicitation
 1709 requirements of part II:

1710 (1)(e) Prescriptive assistive devices for the purpose of
 1711 medical, developmental, or vocational rehabilitation of clients,
 1712 which are excepted from competitive solicitation requirements
 1713 and shall be procured pursuant to an established fee schedule or
 1714 by any other method which ensures the best price for the state,
 1715 taking into account consideration the needs of the client.

1716 Prescriptive assistive devices include, but are not limited to,
 1717 prosthetics, orthotics, and wheelchairs. For purchases made
 1718 pursuant to this subsection paragraph, state agencies shall
 1719 annually file with the department a description of the purchases
 1720 and methods of procurement.

1721 ~~(f) The following contractual services and commodities are~~
 1722 ~~not subject to the competitive solicitation requirements of this~~
 1723 ~~section.~~

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- 1724 (2)~~1~~. Artistic services.
- 1725 (3)~~2~~. Academic program reviews.
- 1726 (4)~~3~~. Lectures by individuals.
- 1727 (5)~~4~~. Auditing services.
- 1728 (6)~~5~~. Legal services, including attorney, paralegal,
- 1729 expert witness, appraisal, or mediator services.
- 1730 (7)~~6~~. Health services involving examination, diagnosis,
- 1731 treatment, prevention, medical consultation, or administration.
- 1732 (8)~~7~~. Services provided to persons with mental or physical
- 1733 disabilities by not-for-profit corporations which have obtained
- 1734 exemptions under the provisions of s. 501(c)(3) of the United
- 1735 States Internal Revenue Code or when such services are governed
- 1736 by the provisions of Office of Management and Budget Circular A-
- 1737 122. However, in acquiring such services, the agency shall
- 1738 consider the ability of the vendor, past performance,
- 1739 willingness to meet time requirements, and price.
- 1740 (9)~~8~~. Medicaid services delivered to an eligible Medicaid
- 1741 recipient by a health care provider who has not previously
- 1742 applied for and received a Medicaid provider number from the
- 1743 Agency for Health Care Administration. However, this exception
- 1744 shall be valid for a period not to exceed 90 days after the date
- 1745 of delivery to the Medicaid recipient and shall not be renewed
- 1746 by the agency.
- 1747 (10)~~9~~. Family placement services.
- 1748 (11)~~10~~. Prevention services related to mental health,
- 1749 including drug abuse prevention programs, child abuse prevention
- 1750 programs, and shelters for runaways, operated by not-for-profit
- 1751 corporations. However, in acquiring such services, the agency

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1752 shall consider the ability of the vendor, past performance,
 1753 willingness to meet time requirements, and price.

1754 ~~(12)~~¹¹ Training and education services provided to
 1755 injured employees pursuant to s. 440.49(1).

1756 ~~(13)~~¹² Contracts entered into pursuant to s. 337.11.

1757 ~~(14)~~¹³ Services or commodities provided by political
 1758 subdivisions of the state, governmental agencies, state
 1759 universities and colleges, independent nonprofit colleges or
 1760 universities located within the state and accredited by the
 1761 Southern Association of Colleges and Schools, the Federal
 1762 Government or any department, commission, agency, or other
 1763 instrumentality thereof, and other states and their agencies.

1764 ~~(15)~~^(g) Continuing education events or programs that are
 1765 offered to the general public and for which fees have been
 1766 collected that pay all expenses associated with the event or
 1767 program are ~~exempt from requirements for competitive~~
 1768 ~~solicitation.~~

1769 ~~(16)~~⁽¹¹⁾ A contract for commodities or contractual
 1770 services may be awarded without competition if state or federal
 1771 law prescribes with whom the agency must contract or if the rate
 1772 of payment is established during the appropriations process.

1773 Section 26. Section 287.025, Florida Statutes, is
 1774 renumbered as section 287.1241, Florida Statutes, and amended to
 1775 read:

1776 287.1241 ~~287.025~~ Prohibition against certain insurance
 1777 coverage on specified state property or insurable subjects.--

1778 (1) No primary contract of insurance shall be procured
 1779 ~~purchased~~ on insurable subjects or property titled in the name
 1780 of the state or its departments, divisions, bureaus,

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1781 commissions, or agencies with respect to any of the following
 1782 properties, coverages, or insurable subjects:

1783 (a) Physical damage insurance on motor vehicles which are
 1784 licensed for use on the public highways of this state. For the
 1785 purpose of this chapter, the term "physical damage insurance"
 1786 means coverage against collision, upset or overturn, fire,
 1787 theft, combined additional coverage, or comprehensive;

1788 (b) Physical damage insurance on watercraft and related
 1789 equipment;

1790 (c) Loss of rental income on any buildings unless the
 1791 buildings are financed in whole or in part by revenue bonds or
 1792 certificates the terms of which require such coverage or unless
 1793 otherwise authorized by law;

1794 (d) Miscellaneous equipment which is subject to a
 1795 transportation feature and subject to ordinarily being covered
 1796 by an inland marine insurance floater. The term "miscellaneous
 1797 equipment" does not include boilers and machinery or nuclear
 1798 equipment;

1799 ~~(e) Museum collections, artifacts, relics, or fine arts;~~

1800 (e)~~(f)~~ Hull coverage on aircraft;

1801 (f)~~(g)~~ Glass insurance;

1802 (g)~~(h)~~ Coverage for loss against vandalism or malicious
 1803 mischief unless these perils are included within an all-risks-
 1804 of-physical-loss form; and

1805 (h)~~(i)~~ Insurance against loss or damage to livestock and
 1806 services of a veterinary for such animals.

1807 (2) Excess insurance may be procured ~~purchased~~ to cover
 1808 loss for physical damage on the above-described properties or
 1809 risk if the aggregate exposure at any one location or actual

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1810 cash value of any one item exceeds the sum of \$10,000. However,
 1811 no excess insurance shall be purchased on any items listed in
 1812 paragraphs (1)(c), (f)~~(e)~~, (g), and (h), ~~and (i)~~, regardless of
 1813 value or risk.

1814 (3) Any items, property, or insurable subjects titled in
 1815 the name of the state or its departments, divisions, bureaus,
 1816 commissions, or agencies which are not included or insured by
 1817 the State Risk Management Trust Fund under chapter 284 or
 1818 specifically designated not to be insured by this section shall
 1819 be eligible subjects for insurance coverage through commercial
 1820 insurance carriers as otherwise provided by law.

1821 (4) No primary insurance contracts shall be procured
 1822 ~~purchased~~ on any property or insurable subjects when the same is
 1823 loaned to, leased by, or intended to be leased by, the state or
 1824 its departments, divisions, bureaus, commissions, or agencies
 1825 unless such coverage is required by the terms of the lease
 1826 agreement and unless the insurance coverages required by the
 1827 provisions of the lease are approved in writing by the
 1828 Department of Management Services.

1829 Section 27. Section 287.055, Florida Statutes, is
 1830 renumbered as section 287.125, Florida Statutes, and subsections
 1831 (2) and (7) and paragraph (c) of subsection (9) of said section
 1832 are amended, to read:

1833 287.125 ~~287.055~~ Acquisition of professional architectural,
 1834 engineering, landscape architectural, or surveying and mapping
 1835 services; definitions; procedures; contingent fees prohibited;
 1836 penalties.--

1837 (2) DEFINITIONS.--For purposes of this section:

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1838 (a)~~(b)~~ "Agency" means the state, a state agency, a
 1839 municipality, a political subdivision, a school district, or a
 1840 school board. The term "agency" does not extend to a
 1841 nongovernmental developer that contributes public facilities to
 1842 a political subdivision under s. 380.06 or ss. 163.3220-
 1843 163.3243.

1844 (b)~~(e)~~ "Agency official" means any elected or appointed
 1845 officeholder, employee, consultant, person in the category of
 1846 other personal service or any other person receiving
 1847 compensation from the state, a state agency, municipality, or
 1848 political subdivision, a school district or a school board.

1849 (c)~~(d)~~ "Compensation" means the total amount paid by the
 1850 agency for professional services.

1851 (d)~~(g)~~ A "Continuing contract" means ~~is~~ a contract for
 1852 professional services entered into in accordance with all the
 1853 procedures of this act between an agency and a firm whereby the
 1854 firm provides professional services to the agency for projects
 1855 in which construction costs do not exceed \$1 million, for study
 1856 activity when the fee for such professional service does not
 1857 exceed \$50,000, or for work of a specified nature as outlined in
 1858 the contract required by the agency, with no time limitation
 1859 except that the contract must provide a termination clause.

1860 (e) "Department" means the Department of Management
 1861 Services.

1862 (f)~~(i)~~ A "Design-build contract" means a single contract
 1863 with a design-build firm for the design and construction of a
 1864 public construction project.

1865 (g)~~(h)~~ A "Design-build firm" means a partnership,
 1866 corporation, or other legal entity that:

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1867 1. Is certified under s. 489.119 to engage in contracting
 1868 through a certified or registered general contractor or a
 1869 certified or registered building contractor as the qualifying
 1870 agent; or

1871 2. Is certified under s. 471.023 to practice or to offer
 1872 to practice engineering; certified under s. 481.219 to practice
 1873 or to offer to practice architecture; or certified under s.
 1874 481.319 to practice or to offer to practice landscape
 1875 architecture.

1876 (h)~~(j)~~ A "Design criteria package" means concise,
 1877 performance-oriented drawings or specifications of the public
 1878 construction project. The purpose of the design criteria package
 1879 is to furnish sufficient information to permit design-build
 1880 firms to prepare a bid or a response to an agency's request for
 1881 proposal, or to permit an agency to enter into a negotiated
 1882 design-build contract. The design criteria package must specify
 1883 performance-based criteria for the public construction project,
 1884 including the legal description of the site, survey information
 1885 concerning the site, interior space requirements, material
 1886 quality standards, schematic layouts and conceptual design
 1887 criteria of the project, cost or budget estimates, design and
 1888 construction schedules, site development requirements,
 1889 provisions for utilities, stormwater retention and disposal, and
 1890 parking requirements applicable to the project.

1891 (i)~~(k)~~ A "Design criteria professional" means a firm who
 1892 holds a current certificate of registration under chapter 481 to
 1893 practice architecture or landscape architecture or a firm who
 1894 holds a current certificate as a registered engineer under
 1895 chapter 471 to practice engineering and who is employed by or

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1896 under contract to the agency for the providing of professional
 1897 architect services, landscape architect services, or engineering
 1898 services in connection with the preparation of the design
 1899 criteria package.

1900 (j)~~(e)~~ "Firm" means any individual, firm, partnership,
 1901 corporation, association, or other legal entity permitted by law
 1902 to practice architecture, engineering, or surveying and mapping
 1903 in the state.

1904 (k)~~(a)~~ "Professional services" means those services within
 1905 the scope of the practice of architecture, professional
 1906 engineering, landscape architecture, or registered surveying and
 1907 mapping, as defined by the laws of the state, or those performed
 1908 by any architect, professional engineer, landscape architect, or
 1909 registered surveyor and mapper in connection with his or her
 1910 professional employment or practice.

1911 (l)~~(f)~~ "Project" means that fixed capital outlay study or
 1912 planning activity described in the public notice of the state or
 1913 a state agency under paragraph (3)(a). A project may include:

- 1914 1. A grouping of minor construction, rehabilitation, or
 1915 renovation activities.
- 1916 2. A grouping of substantially similar construction,
 1917 rehabilitation, or renovation activities.

1918 (7) AUTHORITY OF DEPARTMENT OF MANAGEMENT
 1919 SERVICES.--Notwithstanding any other provision of this section,
 1920 the department of ~~Management Services~~ shall be the agency of
 1921 state government which is solely and exclusively authorized and
 1922 empowered to administer and perform the functions described in
 1923 subsections (3), (4), and (5) respecting all projects for which
 1924 the funds necessary to complete same are appropriated to the

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1925 ~~department of Management Services~~, irrespective of whether such
 1926 projects are intended for the use and benefit of the department
 1927 ~~of Management Services~~ or any other agency of government.
 1928 However, nothing herein shall be construed to be in derogation
 1929 of any authority conferred on the department ~~of Management~~
 1930 ~~Services~~ by other express provisions of law. Additionally, any
 1931 agency of government may, with the approval of the department ~~of~~
 1932 ~~Management Services~~, delegate to the department ~~of Management~~
 1933 ~~Services~~ authority to administer and perform the functions
 1934 described in subsections (3), (4), and (5). Under the terms of
 1935 the delegation, the agency may reserve its right to accept or
 1936 reject a proposed contract.

1937 (9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.--

1938 (c) Except as otherwise provided in s. 337.11(7), the
 1939 department ~~of Management Services~~ shall adopt rules for the
 1940 award of design-build contracts to be followed by state
 1941 agencies. Each other agency must adopt rules or ordinances for
 1942 the award of design-build contracts. Municipalities, political
 1943 subdivisions, school districts, and school boards shall award
 1944 design-build contracts by the use of a competitive proposal
 1945 selection process as described in this subsection, or by the use
 1946 of a qualifications-based selection process pursuant to
 1947 subsections (3), (4), and (5) for entering into a contract
 1948 whereby the selected firm will subsequently establish a
 1949 guaranteed maximum price and guaranteed completion date. If the
 1950 procuring agency elects the option of qualifications-based
 1951 selection, during the selection of the design-build firm the
 1952 procuring agency shall employ or retain a licensed design
 1953 professional appropriate to the project to serve as the agency's

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1954 representative. Procedures for the use of a competitive proposal
 1955 selection process must include as a minimum the following:

1956 1. The preparation of a design criteria package for the
 1957 design and construction of the public construction project.

1958 2. The qualification and selection of no fewer than three
 1959 design-build firms as the most qualified, based on the
 1960 qualifications, availability, and past work of the firms,
 1961 including the partners or members thereof.

1962 3. The criteria, procedures, and standards for the
 1963 evaluation of design-build contract proposals or bids, based on
 1964 price, technical, and design aspects of the public construction
 1965 project, weighted for the project.

1966 4. The solicitation of competitive proposals, pursuant to
 1967 a design criteria package, from those qualified design-build
 1968 firms and the evaluation of the responses or bids submitted by
 1969 those firms based on the evaluation criteria and procedures
 1970 established prior to the solicitation of competitive proposals.

1971 5. For consultation with the employed or retained design
 1972 criteria professional concerning the evaluation of the responses
 1973 or bids submitted by the design-build firms, the supervision or
 1974 approval by the agency of the detailed working drawings of the
 1975 project; and for evaluation of the compliance of the project
 1976 construction with the design criteria package by the design
 1977 criteria professional.

1978 6. In the case of public emergencies, for the agency head
 1979 to declare an emergency and authorize negotiations with the best
 1980 qualified design-build firm available at that time.

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1981 Section 28. Section 287.058, Florida Statutes, is
 1982 renumbered as section 287.31, Florida Statutes, and amended to
 1983 read:

1984 287.31 ~~287.058~~ Contract document.--

1985 (1) Every procurement of contractual services valued in
 1986 excess of the threshold amount provided in s. 287.028 ~~287.017~~
 1987 for CATEGORY TWO, except for the providing of health and mental
 1988 health services or drugs in the examination, diagnosis, or
 1989 treatment of sick or injured state employees or the providing of
 1990 other benefits as required by the provisions of chapter 440,
 1991 shall be evidenced by a written agreement embodying all
 1992 provisions and conditions of the procurement of such services,
 1993 which provisions and conditions shall, where applicable,
 1994 include, but shall not be limited to:

1995 (a) A provision that bills for fees or other compensation
 1996 for services or expenses be submitted in detail sufficient for a
 1997 proper preaudit and postaudit thereof.

1998 (b) A provision that bills for any travel expenses be
 1999 submitted in accordance with s. 112.061. A state agency may
 2000 establish rates lower than the maximum provided in s. 112.061.

2001 (c) A provision allowing unilateral cancellation by the
 2002 agency for refusal by the contractor to allow public access to
 2003 all documents, papers, letters, or other material made or
 2004 received by the contractor in conjunction with the contract,
 2005 unless the records are exempt from s. 24(a) of Art. I of the
 2006 State Constitution and s. 119.07(1).

2007 (d) A provision dividing the contract into units of
 2008 deliverables, which shall include, but not be limited to,

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2009 reports, findings, and drafts, that must be received and
 2010 accepted in writing by the contract manager prior to payment.

2011 (e) A provision specifying the criteria and the final date
 2012 by which such criteria must be met for completion of the
 2013 contract.

2014 (f) A provision specifying that the contract may be
 2015 renewed for a period that may not exceed 3 years or the term of
 2016 the original contract, whichever period is longer, specifying
 2017 the renewal price for the contractual service as set forth in
 2018 the bid, proposal, or reply, specifying that costs for the
 2019 renewal may not be charged, and specifying that renewals shall
 2020 be contingent upon satisfactory performance evaluations by the
 2021 agency and subject to the availability of funds. Exceptional
 2022 purchase contracts pursuant to ss. 287.0335 and 287.0336 ~~ss.~~
 2023 ~~287.057(5)(a) and (e)~~ may not be renewed.

2024
 2025 In lieu of a written agreement, the department may authorize the
 2026 use of a purchase order for classes of contractual services, if
 2027 the provisions of paragraphs (a)-(f) are included in the
 2028 purchase order or solicitation. The purchase order must include,
 2029 but need not be limited to, an adequate description of the
 2030 services, the contract period, and the method of payment. ~~In~~
 2031 ~~lieu of printing the provisions of paragraphs (a)-(f) in the~~
 2032 ~~contract document or purchase order, agencies may incorporate~~
 2033 ~~the requirements of paragraphs (a)-(f) by reference.~~

2034 (2) The written agreement shall be signed by the agency
 2035 head and the contractor prior to the rendering of any
 2036 contractual service the value of which is in excess of the
 2037 threshold amount provided in s. 287.028 ~~287.017~~ for CATEGORY

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2038 TWO, except in the case of a valid emergency as certified by the
 2039 agency head. The certification of an emergency shall be prepared
 2040 within 30 days after the contractor begins rendering the service
 2041 and shall state the particular facts and circumstances which
 2042 precluded the execution of the written agreement prior to the
 2043 rendering of the service. If the agency fails to have the
 2044 contract signed by the agency head and the contractor prior to
 2045 rendering the contractual service, and if an emergency does not
 2046 exist, the agency head shall, no later than 30 days after the
 2047 contractor begins rendering the service, certify the specific
 2048 conditions and circumstances to the department as well as
 2049 describe actions taken to prevent recurrence of such
 2050 noncompliance. The agency head may delegate the certification
 2051 only to other senior management agency personnel. A copy of the
 2052 certification shall be furnished to the Chief Financial Officer
 2053 with the voucher authorizing payment. The department shall
 2054 report repeated instances of noncompliance by an agency to the
 2055 Auditor General. Nothing in this subsection shall be deemed to
 2056 authorize additional compensation prohibited by s. 215.425. The
 2057 procurement of contractual services shall not be divided so as
 2058 to avoid the provisions of this section.

2059 (3) Notwithstanding the provisions of subsections (1) and
 2060 (2), in those cases in which state agencies are unable to
 2061 procure a written agreement for the providing of health and
 2062 mental health services or drugs in the examination, diagnosis,
 2063 or treatment of sick or injured persons in the care or custody
 2064 of a state agency, those services and drugs may be obtained by
 2065 purchase order. The purchase order shall contain sufficient

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2066 detail for a proper audit and shall be signed by purchasing or
 2067 contracting personnel acting on behalf of the agency.

2068 (4) Every procurement of contractual services of the value
 2069 of the threshold amount provided in s. 287.028 ~~287.017~~ for
 2070 CATEGORY TWO or less, except for the providing of health and
 2071 mental health services or drugs in the examination, diagnosis,
 2072 or treatment of sick or injured state employees or the providing
 2073 of other benefits as required by the provisions of chapter 440,
 2074 shall be evidenced by a written agreement or purchase order. The
 2075 written agreement or purchase order must contain sufficient
 2076 detail for a proper audit, must be signed by purchasing or
 2077 contracting personnel acting on behalf of the agency, and may
 2078 contain the provisions and conditions provided in subsection
 2079 (1).

2080 (5) An agency or contractor may, directly or indirectly,
 2081 require from or levy or impose upon a person who is not a party
 2082 to a contract a fee, tax, or other charge only if specifically
 2083 authorized by law to do so.

2084 (6) For share-in-savings contracts as defined in s.
 2085 287.026(13), the contract shall include, but not be limited to:

2086 (a) Clearly defined outcomes.

2087 (b) A relevant, objective, and reliable baseline that
 2088 incorporates a measure of the costs incurred during the baseline
 2089 period as well as a measure of the operating efficiency and
 2090 effectiveness of the baseline period for comparison purposes to
 2091 the costs and operating efficiencies and effectiveness
 2092 experienced after project implementation. The baseline shall be
 2093 established prior to the signing of the contract and be reviewed

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2094 and approved by the department and the Chief Financial Officer
 2095 for relevance, accuracy, and completeness.

2096 (c) A provision establishing the methodology for
 2097 calculating and documenting savings to be produced by the
 2098 project. The methodology shall require that the calculation be
 2099 documented and supported by verifiable information included in
 2100 the agency's records and shall include amounts paid to the
 2101 contractor.

2102 (d) A provision specifying the financial arrangement if
 2103 certain savings or revenues are not realized as expected.

2104 (e) A compensation cap, if appropriate to ensure that the
 2105 amount paid is reasonable in relation to the value of the
 2106 services received by the state.

2107 (f) A clause describing the steps that will be taken to
 2108 settle disputes over share-in-savings payments.

2109 (g) A provision identifying agency staff responsible for
 2110 maintaining the baseline and monitoring cost savings
 2111 calculations.

2112 (7)(5) Unless otherwise provided in the General
 2113 Appropriations Act or the substantive bill implementing the
 2114 General Appropriations Act, the Chief Financial Officer may
 2115 waive the requirements of subsections (1)-(4) ~~this section~~ for
 2116 services which are included in s. 287.123(2)-(14) ~~287.057(5)(f)~~.

2117 Section 29. Subsections (15) and (16) of section 287.0567,
 2118 Florida Statutes, and paragraph (e) of subsection (3) of section
 2119 287.042, Florida Statutes, are transferred to section 287.321,
 2120 Florida Statutes, which is created, and amended to read:

2121 287.321 Contract manager; contract administrator; contract
 2122 file.--

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2123 (1)~~(15)~~ For each contractual services contract, the agency
 2124 shall designate an employee to function as contract manager who
 2125 shall be responsible for enforcing performance of the contract
 2126 terms and conditions and serve as a liaison with the contractor.
 2127 The agency shall establish procedures to ensure that contractual
 2128 services have been rendered in accordance with the contract
 2129 terms prior to processing the invoice for payment.

2130 (2)~~(16)~~ Each agency shall designate at least one employee
 2131 who shall serve as a contract administrator responsible for
 2132 maintaining a contract file and financial information on all
 2133 contractual services contracts and who shall serve as a liaison
 2134 with the contract managers and the department.

2135 (3)~~(e)~~ The department shall develop ~~Development of~~
 2136 procedures to be used by an agency in maintaining a contract
 2137 file for each contract which shall include, but not be limited
 2138 to, all pertinent information relating to the contract during
 2139 the preparatory stages; a copy of the solicitation;
 2140 documentation relating to the solicitation process; opening of
 2141 bids, proposals, or replies; evaluation and tabulation of bids,
 2142 proposals, or replies; and determination and notice of award of
 2143 contract.

2144 Section 30. Section 287.34, Florida Statutes, is created
 2145 to read:

2146 287.34 Approval of accounts; request for
 2147 payment.--Agencies may not approve any account or request any
 2148 payment of any account for the procurement of any commodity or
 2149 contractual service covered by a purchasing or contractual
 2150 service rule except as authorized in the rule.

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2151 Section 31. Paragraphs (b) and (c) of subsection (2) of
 2152 section 287.042, Florida Statutes, are transferred to section
 2153 287.55, which is created, and amended to read:

2154 287.55 Bid protests.--

2155 (1)(b) As an alternative to any provision in s.
 2156 120.57(3)(c), the department or agency may proceed with the
 2157 competitive solicitation or contract award process of a term
 2158 contract when the secretary of the department, the agency head,
 2159 or his or her designee sets forth in writing particular facts
 2160 and circumstances which demonstrate that the delay incident to
 2161 staying the solicitation or contract award process would be
 2162 detrimental to the interests of the state. After the award of a
 2163 contract resulting from a competitive solicitation in which a
 2164 timely protest was received and in which the state did not
 2165 prevail, the contract may be canceled and reawarded.

2166 (2)(e) Any person who files an action protesting a
 2167 decision or intended decision pertaining to contracts
 2168 administered by the department, a water management district, or
 2169 an agency pursuant to s. 120.57(3)(b) shall post with the
 2170 department, the water management district, or the agency at the
 2171 time of filing the formal written protest a bond payable to the
 2172 department, the water management district, or agency in an
 2173 amount equal to 1 percent of the estimated contract amount. For
 2174 protests of decisions or intended decisions pertaining to
 2175 exceptional purchases, the bond shall be in an amount equal to 1
 2176 percent of the estimated contract amount for the exceptional
 2177 purchase. The estimated contract amount shall be based upon the
 2178 contract price submitted by the protestor or, if no contract
 2179 price was submitted, the department, water management district,

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2180 or agency shall estimate the contract amount based on factors
 2181 including, but not limited to, the price of previous or existing
 2182 contracts for similar commodities or contractual services, the
 2183 amount appropriated by the Legislature for the contract, or the
 2184 fair market value of similar commodities or contractual
 2185 services. The agency shall provide the estimated contract amount
 2186 to the vendor within 72 hours, excluding Saturdays, Sundays, and
 2187 state holidays, after the filing of the notice of protest by the
 2188 vendor. The estimated contract amount is not subject to protest
 2189 pursuant to s. 120.57(3). The bond shall be conditioned upon the
 2190 payment of all costs and charges that are adjudged against the
 2191 protestor in the administrative hearing in which the action is
 2192 brought and in any subsequent appellate court proceeding. In
 2193 lieu of a bond, the department, the water management district,
 2194 or agency may, in either case, accept a cashier's check,
 2195 official bank check, or money order in the amount of the bond.
 2196 If, after completion of the administrative hearing process and
 2197 any appellate court proceedings, the department, water
 2198 management district, or agency prevails, it shall recover all
 2199 costs and charges which shall be included in the final order or
 2200 judgment, excluding attorney's fees. This section shall not
 2201 apply to protests filed by the Office of Supplier Diversity.
 2202 Upon payment of such costs and charges by the protestor, the
 2203 bond, cashier's check, official bank check, or money order shall
 2204 be returned to the protestor. If, after the completion of the
 2205 administrative hearing process and any appellate court
 2206 proceedings, the protestor prevails, the protestor shall recover
 2207 from the department, water management district, or agency all

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2208 costs and charges which shall be included in the final order or
 2209 judgment, excluding attorney's fees.

2210 Section 32. Section 287.132, Florida Statutes, is
 2211 renumbered as section 287.561, Florida Statutes, and amended to
 2212 read:

2213 287.561 ~~287.132~~ Legislative intent with respect to
 2214 integrity of public contracting and purchasing
 2215 process.--Recognizing that the preservation of the integrity of
 2216 the public contracting and purchasing process of the state is
 2217 vital and is a matter of interest to all the people of the
 2218 state, the Legislature determines and declares that:

2219 (1) The procedures of public entities for determining with
 2220 whom they transact business exist to secure for the public the
 2221 benefits of free, fair, and open competition among those persons
 2222 whose conduct reflects good citizenship.

2223 (2) Public employees must discharge their duties
 2224 impartially so as to assure fair competitive access to
 2225 governmental procurement by responsible vendors and contractors.
 2226 Moreover, public employees should conduct themselves in such a
 2227 manner as to foster public confidence in the integrity of the
 2228 procurement process.

2229 ~~(3)~~~~(2)~~ The opportunity to bid on public entity contracts
 2230 or to supply goods and services to public entities or to
 2231 otherwise transact business with public entities is a privilege,
 2232 not a right.

2233 ~~(4)~~~~(3)~~ In order to preserve the integrity of the public
 2234 contracting and purchasing process, the privilege of transacting
 2235 business with public entities should be denied to persons
 2236 involved in certain crimes.

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2237 (5)~~(4)~~ Persons involved in certain crimes should be denied
 2238 the privilege of transacting business with public entities and
 2239 the opportunity of obtaining economic benefit through the
 2240 transaction of business of any kind with public entities.

2241
 2242 To these ends, it is the intent of the Legislature to provide
 2243 sufficient authority to the state, its departments and agencies,
 2244 and political subdivisions to ensure the integrity of public
 2245 contracting and purchasing.

2246 Section 33. Section 287.133, Florida Statutes, is
 2247 renumbered as section 287.562, Florida Statutes, and paragraph
 2248 (f) of subsection (3) of said section is amended, to read:

2249 287.562 ~~287.133~~ Public entity crime; denial or revocation
 2250 of the right to transact business with public entities.--

2251 (3)

2252 (f)1. A person on the convicted vendor list may petition
 2253 for removal from the list no sooner than 6 months from the date
 2254 a final order is entered disqualifying that person from the
 2255 public purchasing and contracting process pursuant to this
 2256 section, but may petition for removal at any time if the
 2257 petition is based upon a reversal of the conviction on appellate
 2258 review or pardon. The petition shall be filed with the
 2259 department, and the proceeding shall be conducted pursuant to
 2260 the procedures and requirements of this subsection.

2261 2. A person may be removed from the convicted vendor list
 2262 subject to such terms and conditions as may be prescribed by the
 2263 administrative law judge upon a determination that removal is in
 2264 the public interest. In determining whether removal would be in
 2265 the public interest, the administrative law judge shall take

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2266 into account ~~give consideration to~~ any relevant factors,
 2267 including, but not limited to, the factors identified in
 2268 subparagraph (e)3. Upon proof that a person's conviction has
 2269 been reversed on appellate review or that he or she has been
 2270 pardoned, the administrative law judge shall determine that
 2271 removal of the person or an affiliate of that person from the
 2272 convicted vendor list is in the public interest.

2273 3. If a petition for removal is denied, the person or
 2274 affiliate may not petition for another hearing on removal for a
 2275 period of 9 months after the date of denial, unless the petition
 2276 is based upon a reversal of the conviction on appellate review
 2277 or a pardon. The department may petition for removal prior to
 2278 the expiration of such period if, in its discretion, it
 2279 determines that removal would be in the public interest.

2280 Section 34. Subsections (15) and (16) of section 287.042,
 2281 Florida Statutes, are transferred to section 287.57, Florida
 2282 Statutes, which is created, and amended to read:

2283 287.57 Cooperative purchasing.--The department may:

2284 (1)(15)(a) ~~To~~ Enter into joint agreements with
 2285 governmental agencies, as defined in s. 163.3164(10), for the
 2286 purpose of pooling funds for the purchase of commodities or
 2287 information technology that can be used by multiple agencies.
 2288 However, the department shall consult with the State Technology
 2289 Office on joint agreements that involve the purchase of
 2290 information technology. Agencies entering into joint purchasing
 2291 agreements with the department or the State Technology Office
 2292 shall authorize the department or the State Technology Office to
 2293 contract for such purchases on their behalf.

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2294 (b) Each agency that has been appropriated or has existing
 2295 funds for such purchases, shall, upon contract award by the
 2296 department, transfer their portion of the funds into the
 2297 department's Grants and Donations Trust Fund for payment by the
 2298 department. These funds shall be transferred by the Executive
 2299 Office of the Governor pursuant to the agency budget amendment
 2300 request provisions in chapter 216.

2301 (c) Agencies that sign such joint agreements are
 2302 financially obligated for their portion of the agreed-upon
 2303 funds. If any agency becomes more than 90 days delinquent in
 2304 paying such funds, the department shall certify to the Chief
 2305 Financial Officer the amount due, and the Chief Financial
 2306 Officer shall transfer the amount due to the Grants and
 2307 Donations Trust Fund of the department from any of the agency's
 2308 available funds. The Chief Financial Officer shall report all
 2309 such transfers and the reasons for such transfers to the
 2310 Executive Office of the Governor and the legislative
 2311 appropriations committees.

2312 (2)~~(16)~~(a) ~~To~~ Evaluate contracts let by the Federal
 2313 Government, another state, or a political subdivision for the
 2314 provision of commodities and contractual ~~contract~~ services, and,
 2315 when it is determined in writing to be cost-effective and in the
 2316 best interest of the state, to enter into a written agreement
 2317 authorizing an agency to make purchases under a contract
 2318 approved by the department and let by the Federal Government,
 2319 another state, or a political subdivision.

2320 (b) For contracts pertaining to the provision of
 2321 information technology, the State Technology Office, in
 2322 consultation with the department, shall assess the technological

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2323 needs of a particular agency, evaluate the contracts, and
 2324 determine whether to enter into a written agreement with the
 2325 letting federal, state, or political subdivision body to provide
 2326 information technology for a particular agency.

2327 Section 35. Section 287.16, Florida Statutes, is
 2328 renumbered as section 287.65, Florida Statutes, and subsection
 2329 (2) of said section is amended, to read:

2330 287.65 ~~287.16~~ Powers and duties of department.--The
 2331 Department of Management Services shall have the following
 2332 powers, duties, and responsibilities:

2333 (2) To establish and operate central facilities for the
 2334 acquisition, disposal, operation, ~~maintenance, repair, storage,~~
 2335 supervision, control, and regulation of all state-owned or
 2336 state-leased aircraft, watercraft, and motor vehicles and to
 2337 operate any state facilities for those purposes. Acquisition may
 2338 be by purchase, lease, loan, or in any other legal manner. The
 2339 department may contract for the maintenance of motor vehicles.

2340 Section 36. Section 287.161, Florida Statutes, is
 2341 renumbered as section 287.655, Florida Statutes, and amended to
 2342 read:

2343 287.655 ~~287.161~~ Executive aircraft pool; assignment of
 2344 aircraft; charge for transportation.--

2345 (1) There is created within the Department of Management
 2346 Services an executive aircraft pool consisting of state-owned or
 2347 leased aircraft for the purpose of furnishing executive air
 2348 travel. Such aircraft shall not be a model in excess of a two-
 2349 engine jet. Aircraft included in the executive aircraft pool may
 2350 not be specifically assigned to any department or agency on any
 2351 basis.

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2352 (2) The Department of Management Services shall charge all
 2353 persons receiving transportation from the executive aircraft
 2354 pool a rate not less than the mileage allowance fixed by the
 2355 Legislature for the use of privately owned vehicles. ~~However,~~
 2356 ~~state employees traveling on a space-available basis may not be~~
 2357 ~~charged more than the vehicle mileage allowance.~~

2358 (3) Fees collected for persons traveling by aircraft in
 2359 the executive aircraft pool shall be deposited into the Bureau
 2360 of Aircraft Trust Fund and shall be expended for fuel,
 2361 maintenance, or other costs incurred to operate the aircraft
 2362 management activities of the department. It is the intent of the
 2363 Legislature that the executive aircraft pool be operated on a
 2364 full cost-recovery basis, less available funds in accordance
 2365 ~~with rules adopted pursuant to s. 287.16.~~

2366 ~~(4) Notwithstanding the requirements of subsections (2)~~
 2367 ~~and (3) and for the 2003-2004 fiscal year only, the Department~~
 2368 ~~of Management Services shall charge all persons receiving~~
 2369 ~~transportation from the executive aircraft pool a rate not less~~
 2370 ~~than the mileage allowance fixed by the Legislature for the use~~
 2371 ~~of privately owned vehicles. Fees collected for persons~~
 2372 ~~traveling by aircraft in the executive aircraft pool shall be~~
 2373 ~~deposited into the Bureau of Aircraft Trust Fund and shall be~~
 2374 ~~expended for costs incurred to operate the aircraft management~~
 2375 ~~activities of the department. It is the intent of the~~
 2376 ~~Legislature that the executive aircraft pool be operated on a~~
 2377 ~~full cost recovery basis, less available funds. This subsection~~
 2378 ~~expires July 1, 2004.~~

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2379 Section 37. Section 287.17, Florida Statutes, is
 2380 renumbered as section 287.66, Florida Statutes, and subsection
 2381 (5) of said section is amended, to read:

2382 287.66 ~~287.17~~ Limitation on use of motor vehicles and
 2383 aircraft.--

2384 (5) Each state agency's head shall, by December 31 of each
 2385 year, ~~2000~~, conduct a review of motor vehicle utilization with
 2386 oversight from the agency's inspector general. This review shall
 2387 consist of two parts. The first part of the review shall
 2388 determine the number of miles that each assigned motor vehicle
 2389 has been driven on official state business in the past fiscal
 2390 year. Commuting mileage shall be excluded from calculating
 2391 vehicle use. The purpose of this review is to determine whether
 2392 employees with assigned motor vehicles are driving the vehicles
 2393 a sufficient number of miles to warrant continued vehicle
 2394 assignment. The second part of the review shall identify
 2395 employees who have driven personal vehicles extensively on state
 2396 business in the past fiscal year. The purpose of this review is
 2397 to determine whether it would be cost-effective to provide state
 2398 motor vehicles to such employees. In making this determination,
 2399 the inspector general shall use the break-even mileage criteria
 2400 developed by the Department of Management Services. A copy of
 2401 the review shall be presented to the department ~~Office of~~
 2402 ~~Program Policy Analysis and Government Accountability~~.

2403 Section 38. The section number, catchline, and subsections
 2404 (21) and (22) of section 287.057, Florida Statutes, are amended
 2405 to read:

2406 ~~287.057 Procurement of commodities or contractual~~
 2407 ~~services.--~~

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2408 ~~(21) Nothing in this section shall affect the validity or~~
 2409 ~~effect of any contract in existence on October 1, 1990.~~

2410 ~~(22) An agency may contract for services with any~~
 2411 ~~independent, nonprofit college or university which is located~~
 2412 ~~within the state and is accredited by the Southern Association~~
 2413 ~~of Colleges and Schools, on the same basis as it may contract~~
 2414 ~~with any state university and college.~~

2415 Section 39. Subsection (3) of section 119.0721, Florida
 2416 Statutes, is amended to read:

2417 119.0721 Social security number exemption.--

2418 (3) An agency shall not deny a commercial entity engaged
 2419 in the performance of a commercial activity, which for purposes
 2420 of this subsection means an activity that provides a product or
 2421 service that is available from a private source, as defined in
 2422 ~~s. 14.203~~ or its agents, employees, or contractors, access to
 2423 social security numbers, provided the social security numbers
 2424 will be used only in the normal course of business for
 2425 legitimate business purposes, and provided the commercial entity
 2426 makes a written request for social security numbers, verified as
 2427 provided in s. 92.525, legibly signed by an authorized officer,
 2428 employee, or agent of the commercial entity. The verified
 2429 written request must contain the commercial entity's name,
 2430 business mailing and location addresses, business telephone
 2431 number, and a statement of the specific purposes for which it
 2432 needs the social security numbers and how the social security
 2433 numbers will be used in the normal course of business for
 2434 legitimate business purposes. The aggregate of these requests
 2435 shall serve as the basis for the agency report required in
 2436 subsection (7). An agency may request any other information as

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2437 may be reasonably necessary to verify the identity of the entity
 2438 requesting the social security numbers and the specific purposes
 2439 for which such numbers will be used; however, an agency has no
 2440 duty to inquire beyond the information contained in the verified
 2441 written request. A legitimate business purpose includes
 2442 verification of the accuracy of personal information received by
 2443 a commercial entity in the normal course of its business; use in
 2444 a civil, criminal, or administrative proceeding; use for
 2445 insurance purposes; use in law enforcement and investigation of
 2446 crimes; use in identifying and preventing fraud; use in
 2447 matching, verifying, or retrieving information; and use in
 2448 research activities. A legitimate business purpose does not
 2449 include the display or bulk sale of social security numbers to
 2450 the general public or the distribution of such numbers to any
 2451 customer that is not identifiable by the distributor.

2452 Section 40. Sections 14.203, 283.30, 283.31, 287.32,
 2453 283.33, 283.34, 283.43, 283.56, 287.0731, and 287.1345, Florida
 2454 Statutes, are repealed.

2455 Section 41. This act shall take effect July 1, 2004.