

Bill No. SB 2518

Barcode 880112

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity  
(Argenziano) recommended the following amendment:

**Senate Amendment**

On page 13, line 26, through  
page 15, line 12, delete those lines

and insert:

(5) In addition to the contract requirements provided  
in s. 287.058, each contract for a proposed outsourcing,  
pursuant to s. 287.0574, must include, but need not be limited  
to, the following contractual provisions:

(a) A scope-of-work provision that clearly specifies  
each service or deliverable to be provided, including a  
description of each deliverable or activity that is  
quantifiable, measurable, and verifiable. This provision must  
include a clause that states if a particular service or  
deliverable is inadvertently omitted or not clearly specified  
but determined to be operationally necessary and verified to  
have been performed by the agency within the 12 months before  
the execution of the contract, such service or deliverable

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1 will be provided by the contractor through the identified  
2 contract-amendment process.

3 (b) A service-level-agreement provision describing all  
4 services to be provided under the terms of the agreement, the  
5 state agency's service requirements and performance  
6 objectives, specific responsibilities of the state agency and  
7 the contractor, and the process for amending any portion of  
8 the service-level agreement. Each service-level agreement must  
9 contain an exclusivity clause that allows the state agency to  
10 retain the right to perform the service or activity, directly  
11 or with another contractor, if service levels are not being  
12 achieved.

13 (c) A provision that identifies all associated costs,  
14 specific payment terms, and payment schedules, including  
15 provisions governing incentives and financial disincentives  
16 and criteria governing payment.

17 (d) A provision that identifies a clear and specific  
18 transition plan that will be implemented in order to complete  
19 all required activities needed to transfer the service or  
20 activity from the state agency to the contractor and operate  
21 the service or activity successfully.

22 (e) A performance-standards provision that identifies  
23 all required performance standards, which must include, at a  
24 minimum:

25 1. Detailed and measurable acceptance criteria for  
26 each deliverable and service to be provided to the state  
27 agency under the terms of the contract which document the  
28 required performance level.

29 2. A method for monitoring and reporting progress in  
30 achieving specified performance standards and levels.

31 3. The sanctions or disincentives that shall be

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1 imposed for nonperformance by the contractor or state agency.

2 (f) A provision that requires the contractor and its  
3 subcontractors to maintain adequate accounting records that  
4 comply with all applicable federal and state laws and  
5 generally accepted accounting principles.

6 (g) A provision that authorizes the state agency to  
7 have access to and to audit all records related to the  
8 contract and subcontracts, or any responsibilities or  
9 functions under the contract and subcontracts, for purposes of  
10 legislative oversight, and a requirement for audits by a  
11 service organization in accordance with professional auditing  
12 standards, if appropriate.

13 (h) A provision that requires the contractor to  
14 interview and consider for employment with the contractor each  
15 displaced state employee who is interested in such employment.

16 (i) A contingency-plan provision that describes the  
17 mechanism for continuing the operation of the service or  
18 activity, including transferring the service or activity back  
19 to the state agency or successor contractor if the contractor  
20 fails to perform and comply with the performance standards and  
21 levels of the contract and the contract is terminated.

22 (j) A provision that requires the contractor and its  
23 subcontractors to comply with public-records laws,  
24 specifically to:

25 1. Keep and maintain the public records that  
26 ordinarily and necessarily would be required by the state  
27 agency in order to perform the service or activity.

28 2. Provide the public with access to such public  
29 records on the same terms and conditions that the state agency  
30 would provide the records and at a cost that does not exceed  
31 that provided in chapter 119 or as otherwise provided by law.

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1           3. Ensure that records that are exempt or records that  
2 are confidential and exempt are not disclosed except as  
3 authorized by law.

4           4. Meet all requirements for retaining records and  
5 transfer to the state agency, at no cost, all public records  
6 in possession of the contractor upon termination of the  
7 contract and destroy any duplicate public records that are  
8 exempt or confidential and exempt. All records stored  
9 electronically must be provided to the state agency in a  
10 format that is compatible with the information technology  
11 systems of the state agency.

12           (k) A provision that specifies the ownership of  
13 intellectual property and any rights of the state agency to  
14 use, modify, reproduce, or disseminate the intellectual  
15 property if the contract involves the development or creation  
16 of such intellectual property. This paragraph does not provide  
17 the specific authority needed by an agency to obtain a  
18 copyright or trademark.

19           (l) A provision that states that the agency retains  
20 the right, in its sole discretion, to co-negotiate any  
21 third-party or subcontractor contracts, excluding any terms  
22 relating to financial compensation.

23           (m) If applicable, a provision that allows the agency  
24 to purchase from the contractor, at its depreciated value,  
25 assets used by the contractor in the performance of the  
26 contract. If assets have not depreciated, the agency shall  
27 retain the right to negotiate to purchase at an agreed-upon  
28 cost.

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