

1 WHEREAS, as part of the Florida Efficient Government
2 Act, section 287.0571(4), Florida Statutes, exempts
3 procurements of certain commodities and contractual services
4 from the provisions of the act, and

5 WHEREAS, among those exempt commodities and contractual
6 services are artistic services; academic program reviews;
7 lectures by individuals; auditing services; legal services;
8 health services involving examination, diagnosis, treatment,
9 prevention, medical consultation, or administration; services
10 provided to persons with mental or physical disabilities by
11 certain not-for-profit corporations; family placement
12 services; and prevention services related to mental health,
13 including drug abuse prevention programs, child abuse
14 prevention programs, and shelters for runaways, operated by
15 not-for-profit corporations, and

16 WHEREAS, though the Florida Efficient Government Act
17 makes great strides in accomplishing its intended purposes,
18 there are managing entities and service providers who
19 currently provide human services related to mental health,
20 substance abuse, child welfare, and juvenile justice under
21 outsourcing contracts with the Department of Juvenile Justice,
22 the Department of Corrections, the Department of Children and
23 Family Services, and the Agency for Health Care Administration
24 who should be included within the exemption provisions of
25 section 287.0571(4), Florida Statutes, and

26 WHEREAS, these entities provide critical assistance to
27 the Department of Juvenile Justice, the Department of
28 Corrections, the Department of Children and Family Services,
29 and the Agency for Health Care Administration in fulfilling
30 their missions, and
31

1 WHEREAS, these managing entities and service providers
2 want to ensure full accountability of the managing entity, the
3 service provider, and the contracting agency by requiring
4 transparency in negotiations and contracting and by
5 instituting equitable and reasonable requirements with respect
6 to oversight, monitoring, and regulation of the services
7 provided, and

8 WHEREAS, because it is also a primary concern of these
9 managing entities and service providers to ensure continuity
10 of care, optimal levels of service that are not subject to
11 fluctuation, and stability for the client, it is essential
12 that such outsourcing contracts be required to define
13 standards of performance and measurement that are based upon
14 evidence-based best practices and national outcome-related
15 standards or measures, and

16 WHEREAS, it is of equal importance that contracts for
17 such services contain requirements for stringent, independent,
18 and formalized audit procedures and improved reporting to the
19 Legislature in order to ensure the continuing efficiency and
20 accountability of these contracts, NOW, THEREFORE,

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (4) of section 287.0571, Florida
25 Statutes, is amended to read:

26 287.0571 Applicability of ss. 287.0571-287.0574.--

27 (4) Sections 287.0571-287.0574 do not apply to:

28 (a) A procurement of commodities and contractual
29 services listed in s. 287.057(5)(e), (f), and (g) and (22).

30 (b) A procurement of contractual services subject to
31 s. 287.055.

1 ~~(c)~~ A procurement of contractual services subject to
2 s. 287.0575.

3 ~~(d)(e)~~ A contract in support of the planning,
4 development, implementation, operation, or maintenance of the
5 road, bridge, and public transportation construction program
6 of the Department of Transportation.

7 ~~(e)(d)~~ A procurement of commodities or contractual
8 services which does not constitute an outsourcing of services
9 or activities.

10 Section 2. Section 287.0575, Florida Statutes, is
11 created to read:

12 287.0575 Requirements for outsourcing of human
13 services related to mental health, substance abuse, child
14 welfare, and juvenile justice by the Department of Juvenile
15 Justice, the Department of Corrections, the Department of
16 Children and Family Services, and the Agency for Health Care
17 Administration.--The outsourcing of human services related to
18 mental health, substance abuse, child welfare, and juvenile
19 justice by the Department of Juvenile Justice, the Department
20 of Corrections, the Department of Children and Family
21 Services, or the Agency for Health Care Administration are
22 subject to the following requirements:

23 (1) The Department of Juvenile Justice, the Department
24 of Corrections, the Department of Children and Family
25 Services, and the Agency for Health Care Administration shall,
26 with respect to a contract to outsource human services related
27 to mental health, substance abuse, child welfare, and juvenile
28 justice:

29 (a) Recognize and accept accreditation by national
30 accreditation organizations as providing appropriate
31 credentials for service providers so as to reduce paperwork,

1 reduce required monitoring, and otherwise assist in meeting
2 required oversight functions, where applicable.

3 (b) Establish model rates of payment for services
4 based on the variable costs of providing services in different
5 geographical regions of the state.

6 (c) Prohibit cost reimbursement as a method of
7 payment.

8 (d) Implement a mechanism to annually adjust model
9 rates of payment for services which is based on the Consumer
10 Price Index.

11 (e)1. Require that negotiations be reopened with
12 providers in order to make any modifications to the scope of
13 work of an executed contract;

14 2. Require cost-benefit analysis to be utilized as a
15 part of any negotiation;

16 3. Provide that amendments to a contract resulting
17 from negotiations be justified by need; and

18 4. Provide for adequate compensation for any
19 modification.

20 (f) Establish and require a reasonable period of time
21 for negotiation and execution of a contract after the award.

22 (g) Provide for an ombudsman and a procedure to
23 facilitate or assist in resolving contract disputes.

24 (h) Provide for an annual report to the Legislature
25 based upon evidence-based best practices and national
26 outcome-related standards or measures.

27 (i) Provide for reimbursement for the extra day of
28 services provided during a leap year.

29 (j)1. Provide for monthly reimbursement within a
30 prescribed timeframe; and

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1 2. Where there are disputed issues, ensure that
2 payment will be made on all items not under dispute and that
3 in no event will payment be withheld on undisputed issues
4 pending the resolution of disputed issues.

5 (k) Provide that funds required to ensure cash flow
6 and program expansion and development cannot be considered as
7 excess revenue.

8 (2) A contract to outsource human services related to
9 mental health, substance abuse, child welfare, and juvenile
10 justice on behalf of the Department of Juvenile Justice, the
11 Department of Corrections, the Department of Children and
12 Family Services, or the Agency for Health Care Administration
13 shall include provisions that:

14 (a) Require contract deliverables to be based on the
15 requirements of the contracting agency or, in the case of a
16 multi-agency contract, the primary contracting agency,
17 applicable state laws, and national outcome-related standards
18 or measures. In the event that there are no best practices or
19 national outcome-related standards or measures upon which to
20 base the deliverable, the initial contract shall be utilized
21 to establish baseline measures and deliverables for future
22 contracts, based upon experience and baseline data collected
23 during the initial contract. Under no circumstances shall
24 deliverables other than the requirements of the contracting
25 agency to the state or those requirements specified in state
26 law be established without data to support them, except when
27 establishing baseline measures.

28 (b)1. Contain clear measures and specifications when
29 deliverables are placed in a contract that will allow for
30 accurate determinations regarding the fulfillment of contract
31 requirements; and

1 2. Take into consideration the fact that, when dealing
2 with human health and behavioral issues, a wide range of
3 variables exists. Therefore, to the extent possible, the
4 contract shall provide established measures and specifications
5 to be stated within established parameters.

6 (c) Specify a reasonable number of annual monitoring
7 visits to ensure that appropriate oversight will occur without
8 impeding the efficient provision of the services. These may be
9 modified if the performance of the managing entity or service
10 provider dictates otherwise. Whenever possible, monitoring
11 shall be combined so that interruptions to the agency and
12 services are minimized.

13 (d) Require all financial audits to be conducted in
14 accordance with generally accepted accounting principles.

15 Section 3. This act shall take effect July 1, 2007.