

1 A bill to be entitled
 2 An act relating to procurement of contractual services by
 3 a state agency; amending s. 287.057, F.S.; providing that
 4 contracts to outsource human services related to mental
 5 health, substance abuse, or child welfare are not subject
 6 to competitive solicitation requirements; creating s.
 7 287.0575, F.S.; defining "material adverse financial
 8 impact"; providing requirements with respect to outsourced
 9 human services contracts related to mental health,
 10 substance abuse, or child welfare; requiring a contracting
 11 agency to negotiate a contract amendment with a human
 12 services provider if a material change to the scope of the
 13 contract is imposed upon a service provider and compliance
 14 with such change will have a material adverse financial
 15 impact on the service provider; providing an effective
 16 date.

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

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 20 Section 1. Paragraph (f) of subsection (5) of section
 21 287.057, Florida Statutes, is amended to read:

22 287.057 Procurement of commodities or contractual
 23 services.--

24 (5) When the purchase price of commodities or contractual
 25 services exceeds the threshold amount provided in s. 287.017 for
 26 CATEGORY TWO, no purchase of commodities or contractual services
 27 may be made without receiving competitive sealed bids,

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28 competitive sealed proposals, or competitive sealed replies
29 unless:

30 (f) The following contractual services and commodities are
31 not subject to the competitive-solicitation requirements of this
32 section:

33 1. Artistic services.

34 2. Academic program reviews.

35 3. Lectures by individuals.

36 4. Auditing services.

37 5. Legal services, including attorney, paralegal, expert
38 witness, appraisal, or mediator services.

39 6. Health services involving examination, diagnosis,
40 treatment, prevention, medical consultation, or administration.

41 7. Services provided to persons with mental or physical
42 disabilities by not-for-profit corporations which have obtained
43 exemptions under the provisions of s. 501(c)(3) of the United
44 States Internal Revenue Code or when such services are governed
45 by the provisions of Office of Management and Budget Circular A-
46 122. However, in acquiring such services, the agency shall
47 consider the ability of the vendor, past performance,
48 willingness to meet time requirements, and price.

49 8. Medicaid services delivered to an eligible Medicaid
50 recipient by a health care provider who has not previously
51 applied for and received a Medicaid provider number from the
52 Agency for Health Care Administration. However, this exception
53 shall be valid for a period not to exceed 90 days after the date
54 of delivery to the Medicaid recipient and shall not be renewed
55 by the agency.

- 56 9. Family placement services.
- 57 10. Prevention services related to mental health,
- 58 including drug abuse prevention programs, child abuse prevention
- 59 programs, and shelters for runaways, operated by not-for-profit
- 60 corporations. However, in acquiring such services, the agency
- 61 shall consider the ability of the vendor, past performance,
- 62 willingness to meet time requirements, and price.
- 63 11. Training and education services provided to injured
- 64 employees pursuant to s. 440.491(6).
- 65 12. Contracts entered into pursuant to s. 337.11.
- 66 13. Services or commodities provided by governmental
- 67 agencies.
- 68 14. Contracts to outsource human services related to
- 69 mental health, substance abuse, or child welfare.

70 Section 2. Section 287.0575, Florida Statutes, is created
 71 to read:

72 287.0575 Outsourced contracts for human services related
 73 to mental health, substance abuse, or child welfare.--

74 (1) For the purposes of this section, "material adverse
 75 financial impact" means:

76 (a) An increase in the reasonable costs to the contractor
 77 in performing the contract of 15 percent of the maximum
 78 obligation amount or unit price of the contract; or

79 (b) An action that affects the core purpose and primary
 80 intent of the contract.

81 (2) Contracts to outsource human services related to
 82 mental health, substance abuse, or child welfare shall:

83 (a) Provide that, in the event that a material change to
84 the scope of the contract is imposed upon a service provider and
85 compliance with such change will have a material adverse
86 financial impact on the service provider, the contracting agency
87 shall negotiate a contract amendment with the service provider
88 to increase the maximum obligation amount or unit price of the
89 contract to offset the material adverse financial impact of the
90 change, provided the service provider furnishes evidence to the
91 contracting agency of such material adverse financial impact
92 along with a request to renegotiate the contract based on the
93 proposed change.

94 (b) Ensure that payment will be made on all items not
95 under dispute and that in no event will payment be withheld on
96 undisputed issues pending the resolution of disputed issues.

97 (c) Provide that any dispersed funds that remain
98 unexpended during the contract term be considered as authorized
99 revenue for the purposes of cash flow, program expansion and
100 development, and administrative costs.

101 (d) Specify an exact number of agency monitoring visits
102 based on the performance of the managing entity or service
103 provider for the contracted year to ensure that appropriate
104 oversight will occur without impeding efficient provision of
105 services. Monitoring by multiple agencies shall be combined so
106 that interruptions to the agency and to the services provided
107 are minimized.

108 Section 3. This act shall take effect July 1, 2008.