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1                   A bill to be entitled  
2     An act relating to state contracting; amending s.  
3     11.45, F.S.; conforming provisions to changes made by  
4     the act; amending s. 215.971, F.S.; requiring  
5     agreements funded with state or federal financial  
6     assistance to include a performance measure for each  
7     deliverable, to be reviewed and approved in accordance  
8     with rules adopted by the Department of Financial  
9     Services, and to have the contracting entity assign a  
10    grants manager who is responsible for enforcing  
11    performance of the agreement; amending s. 215.985,  
12    F.S.; revising provisions relating to the Chief  
13    Financial Officer's intergovernmental contract  
14    tracking system under the Transparency Florida Act;  
15    specifying the entities that are included in the  
16    tracking system; requiring that exempt and  
17    confidential information be redacted from contracts  
18    and procurement documents posted on the system;  
19    authorizing the Chief Financial Officer to make  
20    available the information posted on the system to the  
21    public through a secure website; repealing s.  
22    216.0111, F.S., relating to a requirement that state  
23    agencies report certain contract information to the  
24    Department of Financial Services and transferring that  
25    requirement to s. 215.985, F.S.; amending s. 287.032,  
26    F.S.; dividing the responsibilities of the Department  
27    of Management Services under ch. 287, F.S., with the  
28    Department of Financial Services; amending s. 287.042,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 F.S.; limiting the duties of the Department of  
30 Management Services to the procurement of commodities  
31 and contractual services; directing the department to  
32 develop a list of interested vendors; deleting  
33 provisions requiring that the department perform  
34 duties relating to procurement and contracting  
35 policies and procedures; creating s. 287.044, F.S.;  
36 assigning duties relating to procurement and  
37 contracting policies and procedures to the Department  
38 of Financial Services; requiring the department to  
39 develop a list of vendors not allowed to do business  
40 with the state; requiring the department to review and  
41 approve contracts in accordance with rules adopted by  
42 the department; providing that the department have  
43 authority to waive procedures under certain  
44 circumstances; providing that the department have  
45 flexibility in accomplishing its duties and  
46 responsibilities including the use of different  
47 contracting methods on a pilot basis; amending s.  
48 287.057, F.S.; revising the list of contractual  
49 services and commodities that are exempt from  
50 competitive solicitation to delete certain services  
51 from the exemption; revising provisions prohibiting an  
52 agency from dividing a solicitation; authorizing an  
53 agency to purchase commodities or services through  
54 another agency's contract; amending s. 287.058, F.S.;  
55 requiring contracts to include a performance measure  
56 for each deliverable; creating s. 287.1312, F.S.;

57 requiring certification of contract managers by the  
58 Department of Financial Services for contracts of more  
59 than a certain amount; requiring the training program  
60 for the certification to provide training in certain  
61 areas; authorizing the department to adopt rules to  
62 administer the program; amending s. 287.133, F.S.;  
63 revising the definition of "department" to mean the  
64 Department of Financial Services rather than the  
65 Department of Management Services with respect to  
66 provisions governing public entity crimes and  
67 placement on the convicted vendor list; amending ss.  
68 255.25, 287.012, 402.7305, 427.0135, and 946.515,  
69 F.S.; conforming cross-references; providing state  
70 policies with regards to procurement and requiring the  
71 Chief Financial Officer to conduct a study of current  
72 procurement laws pursuant to such policies; requiring  
73 that the Chief Financial Officer submit a report to  
74 the Legislature and Governor by a certain date on such  
75 study; repealing ch. 287, F.S., on a future date;  
76 providing an appropriation; providing an effective  
77 date.

78  
79 WHEREAS, during the 2010-2011 fiscal year, the state spent  
80 nearly \$51 billion, or approximately 57 percent, of the state  
81 budget on contracts and agreements for goods and services, and

82 WHEREAS, during the same fiscal year, the Department of  
83 Financial Services reviewed 364 contract and grant agreements,  
84 each valued at \$1 million or more, and found that 26 percent had

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85 significant deficiencies in their scope of work, deliverables,  
86 or performance standards, and

87 WHEREAS, if this 26 percent error rate applied to the total  
88 contractual amount spent during the fiscal year, approximately  
89 \$13 billion in taxpayer dollars was obligated to poorly written  
90 contracts, and

91 WHEREAS, the state does not have uniform standards for  
92 state contracts which incorporate a comprehensive and precise  
93 scope of work, clearly defined deliverables, and minimum  
94 performance standards that include financial consequences for  
95 failing to deliver goods and services, and

96 WHEREAS, the Legislature believes that there is an acute  
97 need to initiate reforms that ensure that the state contracting  
98 process reflects the highest ethical and fiscal standards; is  
99 clear, consistent, and measurable; and is conducted in the most  
100 efficient manner possible while delivering goods and services to  
101 state residents, and

102 WHEREAS, the Legislature recognizes that the poor  
103 management of a good contract could lead to the waste and misuse  
104 of tax dollars, and

105 WHEREAS, the Legislature believes that state residents  
106 deserve to receive the goods and services for which they are  
107 paying, and

108 WHEREAS, the Legislature also believes that this state is a  
109 business-friendly state where people doing business with the  
110 state provide goods and services in good faith and deserve to  
111 know what is expected of them, and

112 WHEREAS, there remains an acute need to provide greater

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113 transparency and accountability in public transactions, and  
 114 WHEREAS, the Legislature supports additional high-level  
 115 training and certification of state contract managers,  
 116 especially as it relates to contracts valued at \$325,000 or  
 117 more, and

118 WHEREAS, the Legislature believes that a thorough review of  
 119 the state's procurement system to evaluate its efficiency and  
 120 effectiveness has not been performed for many years, and

121 WHEREAS, the Legislature has determined that the Chief  
 122 Financial Officer should conduct an evaluation of the state  
 123 procurement process of the executive branch of government, and

124 WHEREAS, the Legislature fully supports promoting the  
 125 value, integrity, transparency, accountability of, and the  
 126 public confidence in, the state's procurement and contracting  
 127 processes, NOW, THEREFORE,

128  
 129 Be It Enacted by the Legislature of the State of Florida:

130  
 131 Section 1. Paragraphs (a) and (i) of subsection (7) of  
 132 section 11.45, Florida Statutes, are amended to read:

133 11.45 Definitions; duties; authorities; reports; rules.—

134 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

135 (a) The Auditor General must ~~shall~~ notify the Legislative  
 136 Auditing Committee of any local governmental entity, district  
 137 school board, charter school, or charter technical career center  
 138 that does not comply with the reporting requirements of s.

139 215.985 or s. 218.39.

140 (i) Beginning in 2012, the Auditor General shall annually

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141 transmit by July 15, to the President of the Senate, the Speaker  
 142 of the House of Representatives, and the Department of Financial  
 143 Services, a list of all school districts, charter schools,  
 144 charter technical career centers, Florida College System  
 145 institutions, state universities, and water management districts  
 146 that have failed to comply with the transparency requirements of  
 147 s. 215.985 as identified in the audit reports reviewed pursuant  
 148 to paragraph (b) and those conducted pursuant to subsection (2).

149 Section 2. Section 215.971, Florida Statutes, is amended  
 150 to read:

151 215.971 Agreements funded with federal and state  
 152 assistance.—

153 (1) For an agency agreement that provides state financial  
 154 assistance to a recipient or subrecipient, as those terms are  
 155 defined in s. 215.97, or that provides federal financial  
 156 assistance to a subrecipient, as defined by applicable United  
 157 States Office of Management and Budget circulars, the agreement  
 158 must ~~shall~~ include a provision:

159 (a) ~~(1)~~ ~~A provision~~ Specifying a scope of work that clearly  
 160 establishes the tasks that the recipient or subrecipient is  
 161 required to perform; and

162 (b) ~~(2)~~ ~~A provision~~ Dividing the agreement into  
 163 quantifiable units of deliverables which ~~that~~ must be received  
 164 and accepted in writing by the agency before payment. Each  
 165 deliverable must be directly related to the scope of work and  
 166 ~~must~~ specify a performance measure. As used in this paragraph,  
 167 the term "performance measure" means the required minimum level  
 168 of service to be performed and the criteria for evaluating the

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169 successful completion of each deliverable.

170 (2) Before execution, agreements to be funded with state  
171 or federal financial assistance must be submitted for review and  
172 approval in accordance with rules adopted by the Department of  
173 Financial Services. The review must ensure that the agreement  
174 document contains a clear statement of work, quantifiable and  
175 measureable deliverables, performance measures, and financial  
176 consequences for nonperformance. An agreement that does not  
177 comply with this subsection may be rejected and returned to the  
178 submitting agency for revision.

179 (3) For each agreement funded with federal or state  
180 assistance, the contracting agency shall designate an employee  
181 to function as grant manager who shall be responsible for  
182 enforcing performance of the agreement terms and conditions and  
183 serve as a liaison with the recipient. A grant manager who is  
184 responsible for one or more agreements in excess of the  
185 threshold amount provided in s. 287.017 for CATEGORY FIVE must  
186 be certified under s. 287.1312. The Chief Financial Officer  
187 shall establish and disseminate uniform procedures for payment  
188 requests pursuant to s. 17.03(3) to ensure that services are  
189 rendered in accordance with the agreement terms before the  
190 agency processes an invoice for payment. The procedures must  
191 include, but need not be limited to, procedures for monitoring  
192 and documenting a recipient's performance, reviewing and  
193 documenting all deliverables for which payment is requested by  
194 the recipient, and providing written certification by the grant  
195 manager of the agency's receipt of goods and services.

196 Section 3. Subsection (16) of section 215.985, Florida

197 Statutes, is amended to read:

198 215.985 Transparency in government spending.—

199 (16) The Chief Financial Officer shall establish a secure,  
 200 shared, intergovernmental contract tracking ~~provide public~~  
 201 ~~access to a state contract management system.~~

202 (a) Within 30 calendar days after executing a contract,  
 203 each state agency as defined in s. 216.011(1), and, effective  
 204 October 1, 2013, each local governmental entity and independent  
 205 special district as defined in s. 218.31, each district school  
 206 board as described in s. 1001.32, the Board of Governors of the  
 207 State University System as described in s. 1001.70, and each  
 208 Florida College System institution board of trustees as  
 209 described in s. 1001.61 must post the following ~~that provides~~  
 210 information and documentation relating to ~~that contract on the~~  
 211 contract tracking system: contracts procured by governmental  
 212 entities.

- 213 1. The name of the contracting entities;
- 214 2. The procurement method;
- 215 3. The contract beginning and ending dates;
- 216 4. The nature or type of the commodities or services  
 217 purchased;
- 218 5. Applicable contract unit prices and deliverables;
- 219 6. Total compensation to be paid or received under the  
 220 contract;
- 221 7. All payments made to the contract vendor to date;
- 222 8. All commodities or services received from the contract  
 223 vendor to date;
- 224 9. Applicable contract performance measures;



225        10. Contract extensions or renewals, if any;  
 226        11. The justification for not using competitive  
 227 solicitation to procure the contract, including citation to any  
 228 statutory exemption or exception from competitive solicitation,  
 229 if applicable;  
 230        12. Electronic copies of the contract and procurement  
 231 documents, including any provision that may have been redacted  
 232 to conceal exempt or confidential information; and  
 233        13. Any other information regarding the contract or the  
 234 procurement which may be required by the Department of Financial  
 235 Services.  
 236        ~~(a) The data collected in the system must include, but~~  
 237 ~~need not be limited to, the contracting agency; the procurement~~  
 238 ~~method; the contract beginning and ending dates; the type of~~  
 239 ~~commodity or service; the purpose of the commodity or service;~~  
 240 ~~the compensation to be paid; compliance information, such as~~  
 241 ~~performance metrics for the service or commodity; contract~~  
 242 ~~violations; the number of extensions or renewals; and the~~  
 243 ~~statutory authority for providing the service.~~  
 244        (b) Within 30 calendar days after a major modification or  
 245 amendment ~~change~~ to an existing contract, ~~or the execution of a~~  
 246 ~~new contract, agency procurement staff of the affected state~~  
 247 ~~governmental~~ entity must ~~shall~~ update the necessary information  
 248 described in paragraph (a) in the ~~state~~ contract tracking  
 249 management system. A major modification or amendment ~~change~~ to a  
 250 contract includes, but is not limited to, a renewal,  
 251 termination, or extension of the contract, or an amendment to  
 252 the contract as determined by the Chief Financial Officer.

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253 (c) Each entity identified in paragraph (a) must redact,  
254 as defined in s. 119.011, any exempt or confidential  
255 information, including trade secrets as defined in s. 688.002 or  
256 s. 812.081, from the contract or procurement documents before  
257 posting an electronic copy of such documents on the contract  
258 tracking system.

259 1. If an entity becomes aware that an electronic copy of a  
260 contract or procurement document that it posted has not been  
261 properly redacted, the entity must replace the electronic copy  
262 of the documents with a redacted copy.

263 2. If a party to a contract, or an authorized  
264 representative thereof, discovers that an electronic copy of a  
265 contract or procurement document on the system has not been  
266 properly redacted, the party or representative may request the  
267 entity that posted the document to redact the exempt or  
268 confidential information. Upon receipt of a request in  
269 compliance with this subparagraph, the entity that posted the  
270 document shall redact the exempt or confidential information.

271 a. Such request must be in writing and delivered by mail,  
272 facsimile, or electronic transmission, or in person to the  
273 entity that posted the information. The request must identify  
274 the specific document, the page numbers that include the exempt  
275 or confidential information, the information that is exempt or  
276 confidential, and the relevant statutory exemption. A fee may  
277 not be charged for a redaction made pursuant to such request.

278 b. If necessary, a party to the contract may petition the  
279 circuit court for an order directing compliance with this  
280 paragraph.

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281 3. The Chief Financial Officer, the Department of  
282 Financial Services, or any officer, employee, or contractor  
283 thereof, is not responsible for redacting exempt or confidential  
284 information from an electronic copy of a contract or procurement  
285 document posted by another entity on the system, and is not  
286 liable for the failure of the entity to redact the exempt or  
287 confidential information. The Department of Financial Services  
288 may notify the posting entity if it discovers that a document  
289 posted on the tracking system contains exempt or confidential  
290 information.

291 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial  
292 Officer may make information posted on the contract tracking  
293 system available for viewing and downloading by the public  
294 through a secure website. Unless otherwise provided by law,  
295 information retrieved electronically pursuant to this paragraph  
296 is not admissible in court as an authenticated document.

297 1. The Chief Financial Officer may regulate and prohibit  
298 the posting of records that could facilitate identity theft or  
299 fraud, such as signatures; compromise or reveal an agency  
300 investigation; reveal the identity of undercover personnel;  
301 reveal proprietary confidential business information or trade  
302 secrets; reveal an individual's medical information; or reveal  
303 any other record or information that the Chief Financial Officer  
304 believes may jeopardize the health, safety, or welfare of the  
305 public. However, such prohibition does not eliminate the duty of  
306 an entity to provide a copy of a public record upon request. The  
307 Chief Financial Officer shall use appropriate Internet security  
308 measures to ensure that no person has the ability to alter or

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309 modify records available on the website.

310 2. Records made available on the website, including  
311 electronic copies of contracts or procurement documents, may not  
312 reveal information made exempt or confidential by law. Notice of  
313 the right of an affected party to request redaction of exempt or  
314 confidential information pursuant to paragraph (c) must be  
315 conspicuously and clearly displayed on the website. This  
316 includes, but is not limited to:

317 a. Criminal intelligence or criminal investigative  
318 information as defined in s. 119.011;

319 b. Surveillance techniques or procedures or personnel;

320 c. The identity of a confidential informant or  
321 confidential source;

322 d. The identify of undercover personnel of a criminal  
323 justice agency;

324 e. A security system plan; or

325 f. Trade secret as defined in s. 688.002 or s. 812.081.

326 (e) The posting of information on the contract tracking  
327 system or the provision of contract information on a website for  
328 public viewing and downloading does not eliminate the duty of an  
329 entity to respond to a public record request for such  
330 information or to a subpoena for such information.

331 1. A request for a copy of a contract or procurement  
332 document or a certified copy of a contract or procurement  
333 document shall be made to the entity that is party to the  
334 contract and that maintains the original documents. Such request  
335 may not be made to the Chief Financial Officer or the Department  
336 of Financial Services or any officer, employee, or contractor

337 thereof unless the Chief Financial Officer or the department is  
 338 a party to the contract.

339 2. A subpoena for a copy of a contract or procurement  
 340 document or certified copy of a contract or procurement document  
 341 must be served on the entity that is a party to the contract and  
 342 that maintains the original documents. The Chief Financial  
 343 Officer or the Department of Financial Services or any officer,  
 344 employee, or contractor thereof may not be served a subpoena for  
 345 those records unless the Chief Financial Officer or the  
 346 department is a party to the contract.

347 (f) The Department of Financial Services may adopt rules  
 348 to administer this subsection.

349 Section 4. Section 216.0111, Florida Statutes, is  
 350 repealed.

351 Section 5. Section 287.032, Florida Statutes, is amended  
 352 to read:

353 287.032 Departmental responsibility ~~purpose of~~  
 354 ~~department.~~ Pursuant to the administration of this chapter:

355 (1) It shall be The responsibility ~~purpose~~ of the  
 356 Department of Management Services is to:

357 (a) (1) To Promote efficiency, economy, and the  
 358 conservation of energy and ~~coordinate to effect coordination in~~  
 359 the purchase of commodities and contractual services for the  
 360 state.

361 ~~(2) To provide uniform commodity and contractual service~~  
 362 ~~procurement policies, rules, procedures, and forms for use by~~  
 363 ~~agencies and eligible users.~~

364 (b) (3) To Procure and distribute federal surplus tangible

365 personal property allocated to the state by the Federal  
 366 Government.

367 (2) The responsibility of the Department of Financial  
 368 Services is to:

369 (a) Provide uniform commodity and contractual service  
 370 procurement policies, rules, procedures, and forms for use by  
 371 agencies and eligible users.

372 (b) Monitor agencies with respect to compliance with  
 373 established policies, rules, and procedures.

374 Section 6. Section 287.042, Florida Statutes, is amended  
 375 to read:

376 287.042 Powers, duties, and functions of the Department of  
 377 Management Services.—The department is responsible for the  
 378 procurement of commodities and contractual services for agencies  
 379 and has ~~shall have~~ the following powers, duties, and functions:

380 (1) ~~(a)~~ To canvass all sources of supply, establish and  
 381 maintain a vendor list, and contract for the purchase, lease, or  
 382 acquisition, including purchase by installment sales or lease-  
 383 purchase contracts which may provide for the payment of interest  
 384 on unpaid portions of the purchase price, of all commodities and  
 385 contractual services required by an ~~any~~ agency under this  
 386 chapter. A ~~Any~~ contract providing for deferred payments and the  
 387 payment of interest is ~~shall be~~ subject to specific rules  
 388 adopted by the Department of Financial Services.

389 ~~(a)~~ (b) The department shall develop a list of interested  
 390 vendors to be maintained by classes of commodities and  
 391 contractual services. The list may not be used to prequalify a  
 392 vendor or to exclude an interested vendor from bidding. However,

393 a vendor barred by the Chief Financial Officer pursuant to s.  
 394 287.044(7) may not be included on the list. The department may  
 395 remove from the ~~its~~ vendor list any source of supply which fails  
 396 to fulfill any of its duties specified in a contract with the  
 397 state. The department ~~It~~ may reinstate ~~any~~ such source of supply  
 398 if the department ~~when it~~ is satisfied that further instances of  
 399 default will not occur.

400 (b) ~~(e)~~ In order to promote the cost-effective procurement  
 401 of commodities and contractual services, the department or an  
 402 agency may enter into contracts that limit the liability of a  
 403 vendor consistent with s. 672.719.

404 ~~(d) The department shall issue commodity numbers for all~~  
 405 ~~products of the corporation operating the correctional industry~~  
 406 ~~program which meet or exceed department specifications.~~

407 (c) ~~(e)~~ The department shall include the products offered  
 408 by the corporation operating the correctional industry program  
 409 on any listing prepared by the department which lists state term  
 410 contracts executed by the department. The products or services  
 411 shall be placed on such list in a category based upon  
 412 specification criteria developed through a joint effort of the  
 413 department and the corporation and approved by the department.

414 1. ~~(f)~~ The corporation may submit products and services to  
 415 the department for testing, analysis, and review relating to the  
 416 quality and cost comparability. If, after review and testing,  
 417 the department approves ~~of~~ the products and services, the  
 418 department shall give written notice ~~thereof~~ to the corporation.  
 419 The corporation shall pay a reasonable fee ~~charged~~ for the  
 420 testing of its products by the Department of Agriculture and

421 Consumer Services.

422 2. The department shall issue a commodity number for all  
 423 products of the corporation which meet or exceed department  
 424 specifications.

425 (d)~~(g)~~ The department shall include products and services  
 426 that are offered by a qualified nonprofit agency for the blind  
 427 or for the other severely handicapped ~~organized pursuant to~~  
 428 ~~chapter 413~~ and that have been determined to be suitable for  
 429 purchase pursuant to s. 413.035 on a ~~any~~ department listing of  
 430 state term contracts. The products and services shall be placed  
 431 on such list in a category based upon specification criteria  
 432 developed by the department in consultation with the ~~qualified~~  
 433 nonprofit agency.

434 (e)~~(h)~~ The department may collect fees for the use of its  
 435 electronic information services. The fees may be imposed on an  
 436 individual transaction basis or as a fixed subscription for a  
 437 designated period of time. At a minimum, the fees shall be  
 438 determined in an amount sufficient to cover the department's  
 439 projected costs for ~~of~~ the services, including overhead, in  
 440 accordance with the policies of the department ~~of Management~~  
 441 ~~Services~~ for computing its administrative assessment. All fees  
 442 collected under this paragraph shall be deposited in the  
 443 Operating Trust Fund for disbursement as provided by law.

444 (2)~~(a)~~ To establish purchasing agreements and procure  
 445 state term contracts for commodities and contractual services,  
 446 pursuant to s. 287.057, under which state agencies shall, and  
 447 eligible users may, make purchases pursuant to s. 287.056.

448 (a) The department may restrict purchases by ~~from some~~



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449 ~~term contracts to~~ state agencies from ~~only for these~~ term  
450 contracts if ~~where~~ the inclusion of other governmental entities  
451 will have an adverse effect on competition or on ~~to these~~  
452 federal facilities located in this state. In such planning or  
453 purchasing, the office ~~of Supplier Diversity~~ may monitor to  
454 ensure that opportunities are afforded for contracting with  
455 minority business enterprises. The department, for state term  
456 contracts, and all agencies, for multiyear contractual services  
457 or term contracts, shall explore reasonable and economical means  
458 to use ~~utilize~~ certified minority business enterprises.  
459 Purchases by any county, municipality, private nonprofit  
460 community transportation coordinator designated pursuant to  
461 chapter 427, ~~while~~ conducting business related solely to the  
462 Commission for the Transportation Disadvantaged, or other local  
463 public agency under the provisions in the state purchasing  
464 contracts, and purchases, from the corporation operating the  
465 correctional work programs, of products or services that are  
466 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the  
467 competitive solicitation requirements otherwise applying to  
468 their purchases.

469 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),  
470 the department may proceed with the competitive solicitation or  
471 contract award process of a term contract if ~~when~~ the secretary  
472 of the department or his or her designee sets forth in writing  
473 particular facts and circumstances that ~~which~~ demonstrate that  
474 the delay incident to staying the solicitation or contract award  
475 process would be detrimental to the interests of the state. If,  
476 after the award of the ~~a~~ contract resulting from a competitive

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477 solicitation in which a timely protest was received and in which  
478 the state did not prevail, the contract may be canceled and  
479 reawarded.

480 (c) Any person who files an action protesting a decision  
481 or intended decision pertaining to contracts administered by the  
482 department, a water management district, or an agency pursuant  
483 to s. 120.57(3)(b) shall, at the same time, also post a bond  
484 equal to 1 percent of the estimated contract amount with, and  
485 payable to, the department, the water management district, or  
486 the agency, as applicable ~~at the time of filing the formal~~  
487 ~~written protest a bond payable to the department, the water~~  
488 ~~management district, or agency in an amount equal to 1 percent~~  
489 ~~of the estimated contract amount.~~ For protests of decisions or  
490 intended decisions pertaining to exceptional purchases, the bond  
491 must ~~shall be in an amount~~ equal ~~to~~ 1 percent of the estimated  
492 contract amount for the exceptional purchase.

493 1. The estimated contract amount shall be based upon the  
494 contract price submitted by the protestor or, if no contract  
495 price was submitted, the department, water management district,  
496 or agency shall estimate the contract amount based on factors,  
497 including, but not limited to, the price of previous or existing  
498 contracts for similar commodities or contractual services, the  
499 amount appropriated by the Legislature for the contract, or the  
500 fair market value of similar commodities or contractual  
501 services. The agency shall provide the estimated contract amount  
502 to the vendor within 72 hours, excluding Saturdays, Sundays, and  
503 state holidays, after the filing of the notice of protest by the  
504 vendor. The estimated contract amount is not subject to protest

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505 pursuant to s. 120.57(3).

506 2. The bond shall be conditioned upon the payment of all  
507 costs and charges that are adjudged against the protestor in the  
508 administrative hearing in which the action is brought and in any  
509 subsequent appellate court proceeding.

510 3. In lieu of a bond, the department, ~~the~~ water management  
511 district, or agency may, ~~in either case,~~ accept a cashier's  
512 check, official bank check, or money order in the amount of the  
513 bond.

514 4. If, after completion of the administrative hearing  
515 process and any appellate court proceedings, the department,  
516 water management district, or agency prevails, it shall recover  
517 all costs and charges, which must ~~shall~~ be included in the final  
518 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~  
519 ~~section shall not apply to protests filed by the Office of~~  
520 ~~Supplier Diversity.~~ Upon payment of such costs and charges by  
521 the protestor, the bond, cashier's check, official bank check,  
522 or money order shall be returned to the protestor. If, after the  
523 completion of the administrative hearing process and any  
524 appellate court proceedings, the protestor prevails, the  
525 protestor may ~~shall~~ recover from the department, water  
526 management district, or agency all costs and charges that are  
527 ~~which shall be~~ included in the final order or judgment,  
528 excluding attorney ~~attorney's~~ fees.

529 5. This paragraph does not apply to protests filed by the  
530 office.

531 ~~(3) To establish a system of coordinated, uniform~~  
532 ~~procurement policies, procedures, and practices to be used by~~

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533 ~~agencies in acquiring commodities and contractual services,~~  
534 ~~which shall include, but not be limited to:~~

535 ~~(a) Development of a list of interested vendors to be~~  
536 ~~maintained by classes of commodities and contractual services.~~  
537 ~~This list shall not be used to prequalify vendors or to exclude~~  
538 ~~any interested vendor from bidding.~~

539 ~~(b)1. Development of procedures for advertising~~  
540 ~~solicitations. These procedures must provide for electronic~~  
541 ~~posting of solicitations for at least 10 days before the date~~  
542 ~~set for receipt of bids, proposals, or replies, unless the~~  
543 ~~department or other agency determines in writing that a shorter~~  
544 ~~period of time is necessary to avoid harming the interests of~~  
545 ~~the state. The Office of Supplier Diversity may consult with the~~  
546 ~~department regarding the development of solicitation~~  
547 ~~distribution procedures to ensure that maximum distribution is~~  
548 ~~afforded to certified minority business enterprises as defined~~  
549 ~~in s. 288.703.~~

550 ~~2. Development of procedures for electronic posting. The~~  
551 ~~department shall designate a centralized website on the Internet~~  
552 ~~for the department and other agencies to electronically post~~  
553 ~~solicitations, decisions or intended decisions, and other~~  
554 ~~matters relating to procurement.~~

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

560 ~~(d) Development of procedures to be used by an agency in~~

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561 ~~deciding to contract, including, but not limited to, identifying~~  
562 ~~and assessing in writing project needs and requirements,~~  
563 ~~availability of agency employees, budgetary constraints or~~  
564 ~~availability, facility equipment availability, current and~~  
565 ~~projected agency workload capabilities, and the ability of any~~  
566 ~~other state agency to perform the services.~~

567 ~~(e) Development of procedures to be used by an agency in~~  
568 ~~maintaining a contract file for each contract which shall~~  
569 ~~include, but not be limited to, all pertinent information~~  
570 ~~relating to the contract during the preparatory stages; a copy~~  
571 ~~of the solicitation; documentation relating to the solicitation~~  
572 ~~process; opening of bids, proposals, or replies; evaluation and~~  
573 ~~tabulation of bids, proposals, or replies; and determination and~~  
574 ~~notice of award of contract.~~

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

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

581 ~~(h) Development of procedures to be used by state agencies~~  
582 ~~when procuring information technology commodities and~~  
583 ~~contractual services that ensure compliance with public records~~  
584 ~~requirements and records retention and archiving requirements.~~

585 ~~(4) (a) To prescribe the methods of securing competitive~~  
586 ~~sealed bids, proposals, and replies. Such methods may include,~~  
587 ~~but are not limited to, procedures for identifying vendors;~~  
588 ~~setting qualifications; conducting conferences or written~~

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589 ~~question and answer periods for purposes of responding to vendor~~  
590 ~~questions; evaluating bids, proposals, and replies; ranking and~~  
591 ~~selecting vendors; and conducting negotiations.~~

592 ~~(b) To prescribe procedures for procuring information~~  
593 ~~technology and information technology consultant services that~~  
594 ~~provide for public announcement and qualification, competitive~~  
595 ~~solicitations, contract award, and prohibition against~~  
596 ~~contingent fees. Such procedures are limited to information~~  
597 ~~technology consultant contracts for which the total project~~  
598 ~~costs, or planning or study activities, are estimated to exceed~~  
599 ~~the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

600 ~~(3)(5) To prescribe specific commodities and quantities to~~  
601 ~~be purchased locally.~~

602 ~~(6)(a) To govern the purchase by any agency of any~~  
603 ~~commodity or contractual service and to establish standards and~~  
604 ~~specifications for any commodity.~~

605 ~~(4)(b) Except for the purchase of insurance, to the~~  
606 ~~department may delegate to agencies the authority for the~~  
607 ~~procurement of and contracting for commodities or contractual~~  
608 ~~services.~~

609 ~~(7) To establish definitions and classes of commodities~~  
610 ~~and contractual services. Agencies shall follow the definitions~~  
611 ~~and classes of commodities and contractual services established~~  
612 ~~by the department in acquiring or purchasing commodities or~~  
613 ~~contractual services. The authority of the department under this~~  
614 ~~section shall not be construed to impair or interfere with the~~  
615 ~~determination by state agencies of their need for, or their use~~  
616 ~~of, services including particular specifications.~~

617 ~~(8) To provide any commodity and contractual service~~  
 618 ~~purchasing rules to the Chief Financial Officer and all agencies~~  
 619 ~~through an electronic medium or other means. Agencies may not~~  
 620 ~~approve any account or request any payment of any account for~~  
 621 ~~the purchase of any commodity or the procurement of any~~  
 622 ~~contractual service covered by a purchasing or contractual~~  
 623 ~~service rule except as authorized therein. The department shall~~  
 624 ~~furnish copies of rules adopted by the department to any county,~~  
 625 ~~municipality, or other local public agency requesting them.~~

626 (5)~~(9)~~ To require that every agency furnish information  
 627 relative to its commodity and contractual services purchases and  
 628 methods of purchasing commodities and contractual services to  
 629 the department when so requested.

630 (6)~~(10)~~ To prepare statistical data concerning the method  
 631 of procurement, terms, usage, and disposition of commodities and  
 632 contractual services by agencies. All agencies shall furnish  
 633 such information for this purpose to the office and to the  
 634 department, as the department or office may call for, but at  
 635 least ~~no less frequently than~~ annually, on such forms or in such  
 636 manner as the department may prescribe.

637 ~~(11) To establish and maintain programs for the purpose of~~  
 638 ~~disseminating information to government, industry, educational~~  
 639 ~~institutions, and the general public concerning policies,~~  
 640 ~~procedures, rules, and forms for the procurement of commodities~~  
 641 ~~and contractual services.~~

642 (7)~~(12)~~ Except as otherwise provided in this section  
 643 herein, to adopt rules necessary to carry out the purposes of  
 644 this section, including the authority to delegate to any agency

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645 any and all of the responsibility conferred by this section,  
646 retaining to the department any and all authority for  
647 supervision thereof. Such purchasing of commodities and  
648 procurement of contractual services by state agencies must also  
649 ~~shall~~ be in strict accordance with the rules and procedures  
650 prescribed by the Department of Financial Services.

651 (8) ~~(13)~~ If the department determines in writing that it is  
652 in the best interest of the state, to award to multiple  
653 suppliers contracts for commodities and contractual services  
654 established by the department for use by all agencies. Such  
655 awards may be on a statewide or regional basis. If regional  
656 contracts are established by the department, multiple supplier  
657 awards may be based upon multiple awards for regions. Agencies  
658 may award contracts to a responsible and responsive vendor on a  
659 statewide or regional basis.

660 (9) ~~(14)~~ To procure and distribute federal surplus tangible  
661 personal property allocated to the state by the Federal  
662 Government.

663 (10) ~~(15)~~ To enter into joint agreements with governmental  
664 agencies, as defined in s. 163.3164, for the purpose of pooling  
665 funds for the purchase of commodities or information technology  
666 that can be used by multiple agencies.

667 (a) Each agency that has been appropriated or has existing  
668 funds for such purchase, shall, upon contract award by the  
669 department, transfer their portion of the funds into the  
670 department's Operating Trust Fund for payment by the department.  
671 The funds shall be transferred by the Executive Office of the  
672 Governor pursuant to the agency budget amendment request



673 provisions in chapter 216.

674 (b) Agencies that sign the joint agreements are  
 675 financially obligated for their portion of the agreed-upon  
 676 funds. If an agency becomes more than 90 days delinquent in  
 677 paying the funds, the department shall certify to the Chief  
 678 Financial Officer the amount due, and the Chief Financial  
 679 Officer shall transfer the amount due to the Operating Trust  
 680 Fund of the department from any of the agency's available funds.  
 681 The Chief Financial Officer shall report these transfers and the  
 682 reasons for the transfers to the Executive Office of the  
 683 Governor and the legislative appropriations committees.

684 (11)~~(16)~~ To evaluate contracts let by the Federal  
 685 Government, another state, or a political subdivision for the  
 686 provision of commodities and contract services, and, if it is  
 687 determined in writing to be cost-effective and in the best  
 688 interest of the state, to enter into a written agreement  
 689 authorizing an agency to make purchases under such contract.

690 (12)~~(17)~~ ~~(a)~~ To enter into contracts pursuant to chapter  
 691 957 for the designing, financing, acquiring, leasing,  
 692 constructing, or operating of private correctional facilities.  
 693 The department shall enter into such ~~a contract or~~ contracts  
 694 with one contractor per facility ~~for the designing, acquiring,~~  
 695 ~~financing, leasing, constructing, and operating of that facility~~  
 696 or may, if specifically authorized by the Legislature,  
 697 separately contract for each of ~~any~~ such services.

698 (a)~~(b)~~ The department shall also ~~To~~ manage and enforce  
 699 compliance with existing or future contracts entered into  
 700 pursuant to chapter 957.

701           **(b)** The department may not delegate the responsibilities  
 702 conferred by this subsection.

703           Section 7. Section 287.044, Florida Statutes, is created  
 704 to read:

705           287.044 Powers, duties, and functions of the Department of  
 706 Financial Services.—The Department of Financial Services is  
 707 responsible for establishing and enforcing procurement and  
 708 contracting policies and procedures for the Department of  
 709 Management Services and all agencies. The Department of  
 710 Financial Services has the following powers, duties, and  
 711 functions:

712           **(1)** To establish a system of coordinated and uniform  
 713 procurement policies, procedures, and practices to be used by  
 714 agencies when acquiring commodities and contractual services,  
 715 which includes, but is not limited to:

716           **(a)** The development of procedures to be used by an agency  
 717 for issuing or advertising solicitations which include  
 718 requirements for the agency to describe commodities, services,  
 719 scope of work, and deliverables in a manner that promotes  
 720 competition.

721           **1.** Such procedures must provide for electronic posting of  
 722 solicitations at least 10 days before the date set for receipt  
 723 of bids, proposals, or replies, unless the agency determines in  
 724 writing that a shorter period of time is necessary to avoid  
 725 harming the interests of the state.

726           **2.** The office may consult with the department regarding  
 727 the development of solicitation distribution procedures to  
 728 ensure that maximum distribution is afforded to certified

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729 minority business enterprises as defined in s. 288.703.

730 3. The department shall designate a centralized website on  
731 the Internet for the department and other agencies to  
732 electronically post solicitations, decisions or intended  
733 decisions, and other matters relating to procurement.

734 4. State agencies shall be prepared to provide an  
735 explanation to unsuccessful bidders, if requested, of the  
736 reasons for which the bidders did not win a bid, in order to  
737 improve the bidders' chances for future success and encourage  
738 greater competition in the marketplace.

739 (b) The development of procedures to be used by an agency  
740 when issuing requests for information and requests for quotes.

741 (c) The development of procedures to be used by state  
742 agencies when procuring information technology commodities and  
743 contractual services which ensure compliance with public records  
744 requirements and records retention and archiving requirements.

745 (d) The development of procedures for the receipt and  
746 opening of bids, proposals, or replies by an agency. Such  
747 procedures must provide the office an opportunity to monitor and  
748 to ensure that the contract award is consistent with the  
749 requirements of s. 287.09451.

750 (e) The development of procedures to be used by an agency  
751 in deciding to contract, including, but not limited to,  
752 identifying and assessing in writing project needs and  
753 requirements, availability of agency employees, budgetary  
754 availability or constraints, availability of facility equipment,  
755 current and projected agency workload capabilities, and the  
756 ability of another state agency to perform the services.

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757 (f) The development of a methodology to calculate cost  
758 savings or cost avoidance achieved under a contract. Each agency  
759 must annually report any action taken and the amount of cost  
760 savings or cost avoidance which resulted from using the  
761 methodology developed by the department. At a minimum, the  
762 methodology should address:

- 763 1. The assessment of financial consequences for  
764 nonperformance.
- 765 2. Criteria for renegotiating the contract.
- 766 3. Refinement of the scope of work or deliverables.
- 767 4. The use of additional competition during the  
768 procurement process which results in awarding the contract at a  
769 lower price than the previous award.

770 (g) The development of procedures for recording and  
771 maintaining support documentation for a cost or price analysis  
772 to be performed before the award of a contract in excess of the  
773 threshold amount provided in s. 287.017 for CATEGORY FOUR. The  
774 cost or price analysis shall be used to validate the  
775 reasonableness of bids, proposals, or replies.

776 (h) The development of procedures to be used by state  
777 agencies when entering into contracts which ensure standard  
778 formats, quantifiable and measurable deliverables, performance  
779 measures, and financial consequences for nonperformance.

780 (i) The development of procedures to be used by an agency  
781 in maintaining a contract file for each contract which includes,  
782 but is not limited to, all pertinent information relating to the  
783 contract during the preparatory stages; the solicitation  
784 process, including a copy of the solicitation; the opening of

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785 bids, proposals, or replies; the evaluation and tabulation of  
786 bids, proposals, or replies; and the determination and notice of  
787 contract award.

788 (2) To prescribe the methods of securing competitive  
789 sealed bids, proposals, and replies. Such methods may include,  
790 but are not limited to, procedures for identifying vendors;  
791 setting qualifications; conducting conferences or written  
792 question and answer periods for purposes of responding to vendor  
793 questions; evaluating bids, proposals, and replies; ranking and  
794 selecting vendors; and conducting negotiations.

795 (3) To prescribe procedures for procuring information  
796 technology and information technology consultant services which  
797 provide for public announcement and qualification, competitive  
798 solicitations, the contract award, and a prohibition against  
799 contingent fees. Such procedures are limited to information  
800 technology consultant contracts for which the total project  
801 costs, or planning or study activities, are estimated to exceed  
802 the threshold amount provided in s. 287.017 for CATEGORY TWO.

803 (4) To govern the purchase by an agency of any commodity  
804 or contractual service and to establish standards and  
805 specifications for a commodity. The Chief Financial Officer  
806 shall establish definitions and classes of commodities and  
807 contractual services which agencies must adhere to in acquiring  
808 or purchasing commodities or contractual services. The  
809 department's authority under this section may not impair or  
810 interfere with an agency's determination of its need for, or use  
811 of, services that include particular specifications.

812 (5) To provide to agencies through an electronic medium or

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813 other means rules for purchasing commodities and contractual  
814 services. Agencies may not approve any account, or request  
815 payment of any account, for the purchase of any commodity or the  
816 procurement of any contractual service covered by a purchasing  
817 or contractual service rule except as authorized by such rule.  
818 The department shall furnish copies of rules adopted by the  
819 department to any county, municipality, or other local public  
820 agency requesting them.

821 (6) To establish and maintain programs that disseminate  
822 information to governmental entities, industry vendors,  
823 educational institutions, and the general public concerning  
824 policies, procedures, rules, and forms for the procurement of  
825 commodities and contractual services.

826 (7) To establish and maintain a list of vendors that are  
827 not allowed to do business with the state pursuant to ss.  
828 287.132(4) and 287.133. The department may add to the list  
829 vendors that are not compliant with federal or state laws, or  
830 that the department determines have uncollected accounts that  
831 are owed to the state.

832 (8) To review and approve contracts subject to this  
833 chapter before the execution of such contracts in accordance  
834 with rules adopted by the department. The review must ensure  
835 that all contracting laws have been met; that the contract  
836 document contains a clear statement of work, quantifiable and  
837 measureable deliverables, performance measures, financial  
838 consequences for nonperformance, and clear terms and conditions  
839 that protect the interests of the state; that documentation is  
840 available to support the contract; and that the associated costs

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841 of the contract are not unreasonable or inappropriate. A  
842 contract that does not comply with this subsection may be  
843 rejected and returned to the submitting agency for revision.

844 (a) For contracts in excess of the threshold amount  
845 provided in s. 287.017 for CATEGORY THREE, the review must  
846 include, but need not be limited to:

847 1. Evidence of advertising the procurement opportunity, if  
848 applicable;

849 2. The bid, proposal, or reply itself, whether an  
850 invitation to bid, request for proposals, or invitation to  
851 negotiate, as applicable;

852 3. The preprocurement conference questions and answers;

853 4. Any additional documentation provided to bidders,  
854 proposers, or repliers;

855 5. The list of bidders, proposers, or repliers solicited;

856 6. The evaluation instrument and process description  
857 related to the contract;

858 7. The bid tabulation or evaluation record;

859 8. Documentation that supports the agency's determination  
860 of vendor responsibility;

861 9. The successful bid, proposal, or reply in addition to  
862 the unsuccessful bids, proposals, or replies;

863 10. Documentation that supports the selection of the  
864 contractor;

865 11. The reasonableness of the price;

866 12. Verification that all statutory and regulatory  
867 requirements have been met; and

868 13. The proposed contract.

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869        (b) The department shall verify that a competitive process  
870 was used if required by law and that the contract was  
871 appropriately awarded on the basis of lowest price or best value  
872 to a responsive and reasonable bidder, proposer, or replier. For  
873 contracts not competitively awarded, the procurement record  
874 shall be reviewed for restrictive specifications and the  
875 agency's justification for the noncompetitive method used in  
876 awarding the contract, including justification for the selection  
877 of the vendor and the reasonableness of the terms.

878        (c) The department has 90 days to make a final  
879 determination regarding approval of a contract. The department  
880 and the agency entering into the contract may agree to a longer  
881 review period to ensure the thorough consideration of the  
882 procurement process and its results.

883        (d) In order to ensure that the parties to the contract  
884 are aware that a contract is not effective unless approved by  
885 the department, the following language must be included in each  
886 state contract or amendment to such contract:

887  
888        If this contract, or an amendment to a contract, is  
889 valued at or greater than \$65,000 or if the state  
890 agrees to give something other than money, which  
891 consideration has a value or reasonably estimated  
892 value at or greater than \$35,000, the contract or  
893 amendment is not valid, effective, or binding upon the  
894 state unless the contract or amendment has been  
895 approved by the Chief Financial Officer.  
896



897       (e) Contracts and grants or grants-type contracts must be  
 898 treated similarly. Therefore, if a for-profit entity joins the  
 899 competition for a grant, normal contract rules apply even though  
 900 they may not be appropriate for a grant procurement.

901       (9) To waive minor deviations from current procedures in  
 902 order to prevent a delay in awarding an otherwise favorable  
 903 contract if a vendor is not adversely affected and current law  
 904 is not violated. The Chief Financial Officer shall provide  
 905 recommendations to the Legislature to resolve such deviations,  
 906 where appropriate, at the next regular legislative session.

907       (10) To have flexibility in accomplishing the intent of  
 908 this section. If situations arise that current law does not  
 909 anticipate, the department may work with state agencies to use  
 910 different contracting methods on a pilot basis for the remainder  
 911 of the calendar year. The Chief Financial Officer must provide  
 912 recommendations to the Legislature to resolve such situations,  
 913 where appropriate, at the next regular legislative session.

914       Section 8. Paragraph (f) of subsection (3), subsection  
 915 (9), and subsection (14) of section 287.057, Florida Statutes,  
 916 are amended, and subsection (24) is added to that section, to  
 917 read:

918       287.057 Procurement of commodities or contractual  
 919 services.—

920       (3) When the purchase price of commodities or contractual  
 921 services exceeds the threshold amount provided in s. 287.017 for  
 922 CATEGORY TWO, no purchase of commodities or contractual services  
 923 may be made without receiving competitive sealed bids,  
 924 competitive sealed proposals, or competitive sealed replies

925 unless:

926 (f) The following contractual services and commodities are  
 927 not subject to the competitive-solicitation requirements of this  
 928 section:

929 ~~1. Artistic services. For the purposes of this subsection,~~  
 930 ~~the term "artistic services" does not include advertising or~~  
 931 ~~typesetting. As used in this subparagraph, the term~~  
 932 ~~"advertising" means the making of a representation in any form~~  
 933 ~~in connection with a trade, business, craft, or profession in~~  
 934 ~~order to promote the supply of commodities or services by the~~  
 935 ~~person promoting the commodities or contractual services.~~

936 ~~2. Academic program reviews if the fee for such services~~  
 937 ~~does not exceed \$50,000.~~

938 ~~3. Lectures by individuals.~~

939 1.4. Legal services, including attorney, paralegal, expert  
 940 witness, appraisal, or mediator services.

941 2.5.a. Health services involving examination, diagnosis,  
 942 treatment, prevention, medical consultation, or administration,  
 943 and,

944 ~~b.~~ beginning January 1, 2011, health services, including,  
 945 but not limited to, substance abuse and mental health services,  
 946 involving examination, diagnosis, treatment, prevention, or  
 947 medical consultation, if ~~when~~ such services are offered to  
 948 eligible individuals participating in a specific program that  
 949 qualifies multiple providers and uses a standard payment  
 950 methodology. Reimbursement of administrative costs for providers  
 951 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.  
 952 For purposes of this subparagraph ~~sub-subparagraph~~, the term

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953 "providers" means health professionals, health facilities, or  
954 organizations that deliver or arrange for the delivery of health  
955 services.

956 ~~3.6.~~ Services provided to persons with mental or physical  
957 disabilities by not-for-profit corporations that ~~which~~ have  
958 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the  
959 United States Internal Revenue Code or if ~~when~~ such services are  
960 governed by the provisions of Office of Management and Budget  
961 Circular A-122. However, in acquiring such services, the agency  
962 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past  
963 performance, willingness to meet time requirements, and price.

964 ~~4.7.~~ Medicaid services delivered to an eligible Medicaid  
965 recipient, unless the agency is directed otherwise in law.

966 ~~5.8.~~ Family placement services.

967 ~~6.9.~~ Prevention services related to mental health,  
968 including drug abuse prevention programs, child abuse prevention  
969 programs, and shelters for runaways, operated by not-for-profit  
970 corporations. However, in acquiring such services, the agency  
971 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past  
972 performance, willingness to meet time requirements, and price.

973 ~~10.~~ Training and education services provided to injured  
974 employees pursuant to s. 440.491(6).

975 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

976 ~~8.12.~~ Services or commodities provided by governmental  
977 agencies.

978 (9) An agency may ~~shall~~ not divide the solicitation of  
979 commodities or contractual services so as to avoid the  
980 requirements of subsections (1)-(3) and reduce the ability of

981 businesses to openly compete. For the purposes of this  
 982 subsection, state agencies shall consider all purchases of the  
 983 same commodity or service during one year to be part of a single  
 984 purchase.

985 (14) For each contractual services contract, the agency  
 986 shall designate an employee to function as contract manager who  
 987 shall be responsible for enforcing performance of the contract  
 988 terms and conditions and serve as a liaison with the contractor.  
 989 Each contract manager who is responsible for one or more  
 990 contracts in excess of the threshold amount provided under s.  
 991 287.017 for CATEGORY FIVE TWO must be certified pursuant to s.  
 992 287.1312 attend training conducted by the Chief Financial  
 993 Officer for accountability in contracts and grant management.  
 994 The Chief Financial Officer shall establish and disseminate  
 995 uniform procedures pursuant to s. 17.03(3) to ensure that  
 996 contractual services have been rendered in accordance with the  
 997 contract terms before the agency processes the invoice for  
 998 payment. The procedures must ~~shall~~ include, but need not be  
 999 limited to, procedures for monitoring and documenting contractor  
 1000 performance, reviewing and documenting all deliverables for  
 1001 which payment is requested by vendors, and providing written  
 1002 certification by contract managers of the agency's receipt of  
 1003 goods and services.

1004 (24) An agency may purchase commodities or services  
 1005 through another agency's existing contract rather than through  
 1006 competitive competition if the use of such contract is in the  
 1007 best interest of the state.

1008 Section 9. Paragraph (e) of subsection (1) of section

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1009 287.058, Florida Statutes, is amended to read:

1010 287.058 Contract document.—

1011 (1) Every procurement of contractual services in excess of  
 1012 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
 1013 except for the providing of health and mental health services or  
 1014 drugs in the examination, diagnosis, or treatment of sick or  
 1015 injured state employees or the providing of other benefits as  
 1016 required by the provisions of chapter 440, shall be evidenced by  
 1017 a written agreement embodying all provisions and conditions of  
 1018 the procurement of such services, which shall, where applicable,  
 1019 include, but not be limited to, a provision:

1020 (e) Dividing the contract into quantifiable, measurable,  
 1021 and verifiable units of deliverables which ~~that~~ must be received  
 1022 and accepted in writing by the contract manager before payment.  
 1023 Each deliverable must be directly related to the scope of work  
 1024 and specify a performance measure. As used in this paragraph,  
 1025 the term "performance measure" means the required minimum level  
 1026 of service to be performed and criteria for evaluating the  
 1027 successful completion of each deliverable.

1028  
 1029 In lieu of a written agreement, the department may authorize the  
 1030 use of a purchase order for classes of contractual services, if  
 1031 the provisions of paragraphs (a)-(i) are included in the  
 1032 purchase order or solicitation. The purchase order must include,  
 1033 but need not be limited to, an adequate description of the  
 1034 services, the contract period, and the method of payment. In  
 1035 lieu of printing the provisions of paragraphs (a)-(i) in the  
 1036 contract document or purchase order, agencies may incorporate

1037 the requirements of paragraphs (a)-(i) by reference.

1038 Section 10. Section 287.1312, Florida Statutes, is created  
 1039 to read:

1040 287.1312 Contract manager certification.-

1041 (1) The Department of Financial Services shall establish a  
 1042 certification program for contract and grant managers. A state  
 1043 employee may not manage a contract or grant agreement in excess  
 1044 of the threshold amount provided in s. 287.017 for CATEGORY FIVE  
 1045 without obtaining a valid certification from the Department of  
 1046 Financial Services under this section. The program must include  
 1047 training in the following areas:

1048 (a) Procurement and the development of contracts.

1049 (b) Development and administration of grant agreements  
 1050 involving federal and state financial assistance.

1051 (c) Responsibilities of a contract manager in the  
 1052 management of state contracts and grant agreements.

1053 (d) Federal and state audit and reporting requirements.

1054 (e) Laws and rules relating to procurement and contract  
 1055 administration.

1056 (f) Any other subject matter that the Chief Financial  
 1057 Officer determines will promote accountability in contract and  
 1058 grant management.

1059 (2) The program shall provide for periodic  
 1060 recertification, as necessary. The Department of Financial  
 1061 Services shall determine course requirements, maintain  
 1062 information on certifications, and monitor the performance of  
 1063 contract and grant managers. As part of such monitoring, the  
 1064 department shall annually publish the results of agency manager

1065 audits and error rates related to contract and grant management  
 1066 on its website.

1067 (3) The Department of Financial Services may revoke a  
 1068 manager's certification for incompetence or conduct inconsistent  
 1069 with the responsibilities of contract or grant management.

1070 (4) The Department of Financial Services shall adopt rules  
 1071 to administer this section.

1072 Section 11. Paragraph (d) of subsection (1) of section  
 1073 287.133, Florida Statutes, is amended to read:

1074 287.133 Public entity crime; denial or revocation of the  
 1075 right to transact business with public entities.—

1076 (1) As used in this section:

1077 (d) "Department" means the Department of Financial  
 1078 ~~Management~~ Services.

1079 Section 12. Paragraph (h) of subsection (3) of section  
 1080 255.25, Florida Statutes, is amended to read:

1081 255.25 Approval required prior to construction or lease of  
 1082 buildings.—

1083 (3)

1084 (h) ~~The Department of Management Services may,~~ Pursuant to  
 1085 s. 287.042(2) ~~(a)~~, the department shall procure a term contract  
 1086 for real estate consulting and brokerage services. A state  
 1087 agency may not purchase services from the contract unless the  
 1088 contract has been procured under s. 287.057(1) after March 1,  
 1089 2007, and contains the following provisions or requirements:

1090 1. Awarded brokers ~~must~~ maintain an office or presence in  
 1091 the market served. In awarding the contract, preference must be  
 1092 given to brokers who ~~that~~ are licensed in this state under

1093 chapter 475 and who ~~that~~ have 3 or more years of experience in  
 1094 the market served. The contract may be made with up to three  
 1095 tenant brokers in order to serve the marketplace in the north,  
 1096 central, and south areas of the state.

1097 2. Each contracted tenant broker works ~~shall work~~ under  
 1098 the direction, supervision, and authority of the state agency,  
 1099 subject to the rules governing lease procurements.

1100 3. The department provides ~~shall provide~~ training for the  
 1101 awarded tenant brokers concerning the rules governing the  
 1102 procurement of leases.

1103 4. Tenant brokers ~~must~~ comply with all applicable  
 1104 provisions of s. 475.278.

1105 5. Real estate consultants and tenant brokers are ~~shall be~~  
 1106 compensated by the state agency, subject to the provisions of  
 1107 the term contract, and such compensation is subject to  
 1108 appropriation by the Legislature. A real estate consultant or  
 1109 tenant broker may not receive compensation directly from a  
 1110 lessor for services that are rendered under the term contract.  
 1111 Moneys paid by a lessor to the state agency under a facility  
 1112 leasing arrangement are not subject to the charges imposed under  
 1113 s. 215.20. All terms relating to the compensation of the real  
 1114 estate consultant or tenant broker must ~~shall~~ be specified in  
 1115 the term contract and may not be supplemented or modified by the  
 1116 state agency using the contract.

1117 6. The department conducts ~~shall conduct~~ periodic  
 1118 customer-satisfaction surveys.

1119 7. Each state agency reports ~~shall report~~ the following  
 1120 information to the department:



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1121 a. The number of leases that adhere to the goal of the  
 1122 workspace-management initiative of 180 square feet per full-time  
 1123 employee FTE.

1124 b. The quality of space leased and the adequacy of tenant-  
 1125 improvement funds.

1126 c. The timeliness of lease procurement, measured from the  
 1127 date of the agency's request to the finalization of the lease.

1128 d. Whether cost-benefit analyses were performed before  
 1129 execution of the lease in order to ensure that the lease is in  
 1130 the best interest of the state.

1131 e. The lease costs compared to market rates for similar  
 1132 types and classifications of space according to the official  
 1133 classifications of the Building Owners and Managers Association.

1134 Section 13. Subsection (12) of section 287.012, Florida  
 1135 Statutes, is amended to read:

1136 287.012 Definitions.—As used in this part, the term:

1137 (12) "Exceptional purchase" means any purchase of  
 1138 commodities or contractual services excepted by law or rule from  
 1139 the requirements for competitive solicitation, including, but  
 1140 not limited to, purchases from a single source; purchases upon  
 1141 receipt of fewer ~~less~~ than two responsive bids, proposals, or  
 1142 replies; purchases made by an agency, after receiving approval  
 1143 from the department, from a contract procured, pursuant to s.  
 1144 287.057(1), or by another agency; and purchases made without  
 1145 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)  
 1146 ~~287.042(3)(b)~~.

1147 Section 14. Paragraph (a) of subsection (2) of section  
 1148 402.7305, Florida Statutes, is amended to read:

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1149 402.7305 Department of Children and Family Services;  
 1150 procurement of contractual services; contract management.—  
 1151 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—  
 1152 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~,  
 1153 if ~~whenever~~ the department intends to contract with a public  
 1154 postsecondary institution to provide a service, the department  
 1155 must allow all public postsecondary institutions in this state  
 1156 which ~~that~~ are accredited by the Southern Association of  
 1157 Colleges and Schools to bid on the contract. Thereafter,  
 1158 notwithstanding any other provision of law ~~to the contrary~~, if a  
 1159 public postsecondary institution intends to subcontract for any  
 1160 service awarded in the contract, the subcontracted service must  
 1161 be procured by competitive procedures.

1162 Section 15. Subsection (3) of section 427.0135, Florida  
 1163 Statutes, is amended to read:

1164 427.0135 Purchasing agencies; duties and  
 1165 responsibilities.—Each purchasing agency, in carrying out the  
 1166 policies and procedures of the commission, shall:

1167 (3) Not procure transportation disadvantaged services  
 1168 without initially negotiating with the commission, as provided  
 1169 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise  
 1170 authorized by statute. If the purchasing agency, after  
 1171 consultation with the commission, determines that it cannot  
 1172 reach mutually acceptable contract terms with the commission,  
 1173 the purchasing agency may contract for the same transportation  
 1174 services provided in a more cost-effective manner and of  
 1175 comparable or higher quality and standards. The Medicaid agency  
 1176 shall implement this subsection in a manner consistent with s.

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1177 409.908(18) and as otherwise limited or directed by the General  
 1178 Appropriations Act.

1179 Section 16. Subsection (2) of section 946.515, Florida  
 1180 Statutes, is amended to read:

1181 946.515 Use of goods and services produced in correctional  
 1182 work programs.—

1183 (2) A ~~No~~ similar product or service of comparable price  
 1184 and quality found necessary for use by any state agency may not  
 1185 be purchased from any source other than the corporation if the  
 1186 corporation certifies that the product is manufactured by, or  
 1187 the service is provided by, inmates and the product or service  
 1188 meets the comparable performance specifications and comparable  
 1189 price and quality requirements as specified under s.

1190 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual  
 1191 agency as provided in this section. The purchasing authority of  
 1192 ~~any~~ such state agency may make reasonable determinations of  
 1193 need, price, and quality with reference to products or services  
 1194 available from the corporation. In the event of a dispute  
 1195 between the corporation and a ~~any~~ purchasing authority based  
 1196 upon price or quality under this section or s. 287.042(1)(c)  
 1197 ~~287.042(1)(f)~~, either party may request a hearing with the  
 1198 Department of Management Services and, if not resolved, ~~either~~  
 1199 ~~party~~ may request a proceeding pursuant to ss. 120.569 and  
 1200 120.57, which shall be referred to the Division of  
 1201 Administrative Hearings within 60 days after such request, to  
 1202 resolve any dispute under this section. A ~~No~~ party is not  
 1203 entitled to any appeal pursuant to s. 120.68.

1204 Section 17. Procurement review and report.—

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1205       (1) It is the policy of this state to promote the  
1206 effective procurement of goods, services, and facilities by and  
1207 for the executive branch of state government through the  
1208 following:

1209       (a) Establishment of policies, procedures, and practices  
1210 that require the state to procure goods, services, and  
1211 facilities in a timely manner, of requisite quality, and at the  
1212 lowest reasonable cost, using competitive bidding to the maximum  
1213 extent possible.

1214       (b) Improvement in the quality, efficiency, economy, and  
1215 performance of organizations and personnel involved in the  
1216 procurement of goods, services, and facilities by the state.

1217       (c) Elimination of unnecessary, overlapping, or  
1218 duplication of procurement and related activities, such as in  
1219 contract administration.

1220       (d) Elimination of unnecessary or redundant requirements  
1221 placed on contractors or on officials in charge of state  
1222 procurement procedures.

1223       (e) Identification of gaps, omissions, or inconsistencies  
1224 in state laws, rules, and directives relating to state  
1225 procurement which should be brought to the attention of the  
1226 Legislature.

1227       (f) Attainment of greater uniformity in and simplification  
1228 of procurement procedures, whenever appropriate.

1229       (g) Coordination of the procurement policies and programs  
1230 of the various state agencies, whenever possible.

1231       (h) Conformation of procurement policies and programs to  
1232 other successfully established state policies and programs,

1233 whenever appropriate.

1234 (i) Minimization of the possible disruptive effects of  
 1235 state procurement on particular industries, areas, or  
 1236 occupations.

1237 (j) Improvement of training with respect to, and the  
 1238 understanding of, the laws and policies of the state relating to  
 1239 state procurement, not only within state government but on the  
 1240 part of organizations and individuals doing business with the  
 1241 state.

1242 (k) Promotion of fair dealing and equitable relationships  
 1243 among the parties to state contracting.

1244 (l) Promotion of economy, efficiency, and effectiveness in  
 1245 state procurement organizations, operations, and the uniform  
 1246 reporting of procurement activities by any means that the Chief  
 1247 Financial Officer deems beneficial and appropriate.

1248 (m) Special consideration given to the procurement laws,  
 1249 policies, procedures, practices, organization, staffing,  
 1250 leadership, and controls of the procurement processes of the  
 1251 Federal Government and other states.

1252 (n) Promotion of economy, efficiency, and effectiveness in  
 1253 procurement, contract management, and project management  
 1254 operations.

1255 (2) In keeping with the policies expressed in subsection  
 1256 (1), the Chief Financial Officer shall review and investigate:

1257 (a) All current state laws that govern the state  
 1258 procurement of goods, services, and facilities;

1259 (b) The procurement policies, rules, procedures, and  
 1260 practices followed by the state agencies, boards, commissions,

1261 offices, and other instrumentalities of the executive branch of  
 1262 state government;

1263 (c) The organization and management processes involved in  
 1264 the state procurement of goods, services, and facilities before  
 1265 the award of a state procurement contract, during the  
 1266 solicitation of bids, the evaluation, and the negotiation of a  
 1267 contract, and subsequent to the award of the contract to  
 1268 determine the extent to which these organization and management  
 1269 processes facilitate the legislative policy set forth in this  
 1270 act; and

1271 (d) Any other areas that the Chief Financial Officer deems  
 1272 relevant to facilitating the policies expressed in subsection  
 1273 (1).

1274 (3) In order to accomplish the procurement review directed  
 1275 by this section, the Chief Financial Officer may:

1276 (a) Acquire information directly from the head of any  
 1277 state department or agency for the purpose of conducting this  
 1278 review. All departments and agencies shall cooperate with the  
 1279 Chief Financial Officer and furnish all information requested to  
 1280 the extent permitted by law.

1281 (b) Procure the services of experts and consultants.

1282 (c) Contract with private organizations and nonprofit  
 1283 institutions to carry out studies and prepare reports to  
 1284 facilitate the review.

1285 (4) By December 31, 2012, the Chief Financial Officer  
 1286 shall submit to the Governor, the President of the Senate, and  
 1287 the Speaker of the House of Representatives a report of findings  
 1288 and recommendations for changes in statutes, rules, policies,

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1289 procedures, and organization necessary to carry out the policies  
1290 set forth in this act.

1291 Section 18. The Legislature recognizes the need to reform  
1292 the purchasing cycle, from the development of a purchasing  
1293 agreement to the payment for goods or services provided to the  
1294 state. Therefore, chapter 287, Florida Statutes, is repealed  
1295 effective July 30, 2014.

1296 Section 19. (1) For the 2012-2013 fiscal year, the sum of  
1297 \$400,000 in nonrecurring funds is appropriated from the  
1298 Administrative Trust Fund in the Department of Financial  
1299 Services to contract for the Chief Financial Officer's review of  
1300 the state's procurement process.

1301 (2) For the 2012-2013 fiscal year, the sum of \$400,000 in  
1302 recurring funds from the General Revenue fund and full-time  
1303 equivalent positions and associated salary rate of are  
1304 appropriated to the Chief Financial Officer for the purpose of  
1305 implementing the Chief Financial Officer's expanded contract  
1306 auditing responsibilities under this act. Funds remaining  
1307 unexpended or unencumbered from this appropriation as of June  
1308 30, 2013, shall revert and be reappropriated for the same  
1309 purpose in the 2013-2014 fiscal year.

1310 Section 20. This act shall take effect July 1, 2012.