

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 or confidential
17 information be redacted from contracts and procurement
18 documents posted on the system; authorizing the Chief
19 Financial Officer to make available the information
20 posted on the system to the public through a secure
21 website; authorizing the Department of Financial
22 Services to adopt rules; repealing s. 216.0111, F.S.,
23 relating to a requirement that state agencies report
24 certain contract information to the Department of
25 Financial Services and transferring that requirement
26 to s. 215.985, F.S.; amending s. 287.032, F.S.;
27 dividing the responsibilities of the Department of
28 Management Services under ch. 287, F.S., with the

29 Department of Financial Services; amending s. 287.042,
30 F.S.; limiting the duties of the Department of
31 Management Services to the procurement of commodities
32 and contractual services; directing the department to
33 develop a list of interested vendors; deleting
34 provisions requiring that the department perform
35 duties relating to procurement and contracting
36 policies and procedures; creating s. 287.044, F.S.;
37 assigning duties relating to procurement and
38 contracting policies and procedures to the Department
39 of Financial Services; requiring the department to
40 develop a list of vendors not allowed to do business
41 with the state; amending s. 287.057, F.S.; revising
42 the list of contractual services and commodities that
43 are exempt from competitive solicitation to delete
44 certain services from the exemption; revising
45 provisions prohibiting an agency from dividing a
46 solicitation; conforming provisions to changes made by
47 the act; authorizing an agency or other eligible user
48 to purchase commodities or services through another
49 agency's contract; amending s. 287.058, F.S.;
50 requiring contracts to include a performance measure
51 for each deliverable; authorizing the Chief Financial
52 Officer to review and approve contracts; providing
53 requirements for such reviews; authorizing the Chief
54 Financial Officer to establish dollar thresholds and
55 other criteria for sampling agreements that are to be
56 reviewed before execution; providing criteria for the

57 department's review of contract documentation;
58 requiring that the department verify that a
59 competitive process was used and that a contract was
60 appropriately awarded; providing for the review of
61 procurement record for contracts not competitively
62 awarded; specifying the number of days that the
63 department must make its final determination regarding
64 the approval of a contract; authorizing the department
65 and the agency to agree to a longer review period;
66 repealing s. 287.095(3), F.S., relating to certain
67 products produced by inmate labor; creating s.
68 287.1312, F.S.; requiring certification of contract
69 managers by the Department of Financial Services for
70 contracts of more than a certain amount; requiring the
71 training program for the certification to provide
72 training in certain areas; authorizing the department
73 to adopt rules to administer the program; amending s.
74 287.133, F.S.; revising the definition of "department"
75 to mean the Department of Financial Services rather
76 than the Department of Management Services with
77 respect to provisions governing public entity crimes
78 and placement on the convicted vendor list; amending
79 ss. 255.25, 287.012, 402.7305, 427.0135, and 946.515,
80 F.S.; conforming cross-references; requiring the Chief
81 Financial Officer to conduct a study of current
82 procurement laws pursuant to such policies; requiring
83 that the Chief Financial Officer submit a report to
84 the Legislature and Governor by a certain date on such

85 study; repealing ch. 287, F.S., on a future date;
 86 providing appropriations; providing effective dates.

87

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

89

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

92 11.45 Definitions; duties; authorities; reports; rules.—

93 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

94 (a) The Auditor General must ~~shall~~ notify the Legislative
 95 Auditing Committee of any local governmental entity, district
 96 school board, charter school, or charter technical career center
 97 that does not comply with the reporting requirements of s.
 98 215.985 or s. 218.39.

99 (i) Beginning in 2012, the Auditor General shall annually
 100 transmit by July 15, to the President of the Senate, the Speaker
 101 of the House of Representatives, and the Department of Financial
 102 Services, a list of all school districts, charter schools,
 103 charter technical career centers, Florida College System
 104 institutions, state universities, and water management districts
 105 that have failed to comply with the transparency requirements of
 106 s. 215.985 as identified in the audit reports reviewed pursuant
 107 to paragraph (b) and those conducted pursuant to subsection (2).

108 Section 2. Section 215.971, Florida Statutes, is amended
 109 to read:

110 215.971 Agreements funded with federal and state
 111 assistance.—

112 (1) For an agency agreement that provides state financial

113 assistance to a recipient or subrecipient, as those terms are
114 defined in s. 215.97, or that provides federal financial
115 assistance to a subrecipient, as defined by applicable United
116 States Office of Management and Budget circulars, the agreement
117 must ~~shall~~ include a provision:

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

121 (b) (2) ~~A provision~~ Dividing the agreement into
122 quantifiable units of deliverables which that must be received
123 and accepted in writing by the agency before payment. Each
124 deliverable must be directly related to the scope of work and
125 ~~must~~ specify a performance measure. As used in this paragraph,
126 the term "performance measure" means the required minimum level
127 of service to be performed and the criteria for evaluating the
128 successful completion of each deliverable.

129 (2) Effective October 1, 2012, before execution,
130 agreements to be funded with state or federal financial
131 assistance must be submitted for review and approval in
132 accordance with rules adopted by the Department of Financial
133 Services. The review must ensure that the agreement document
134 contains a clear statement of work, quantifiable and measureable
135 deliverables, performance measures, and financial consequences
136 for nonperformance. An agreement that does not comply with this
137 subsection may be rejected and returned to the submitting agency
138 for revision.

139 (3) The Chief Financial Officer may establish dollar
140 thresholds and other criteria for sampling the agreements that

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141 are to be reviewed prior to execution. The Chief Financial
142 Officer may revise such thresholds and other criteria for an
143 agency or the unit of any agency as he or she deems appropriate.

144 (4) The department has 30 days to make a final
145 determination regarding approval of an agreement. The department
146 and the agency entering into the agreement may agree to a longer
147 review period to ensure the thorough consideration of the
148 procurement process and its results.

149 (5) For each agreement funded with federal or state
150 assistance, the contracting agency shall designate an employee
151 to function as grant manager who shall be responsible for
152 enforcing performance of the agreement terms and conditions and
153 serve as a liaison with the recipient. A grant manager who is
154 responsible for one or more agreements in excess of the
155 threshold amount provided in s. 287.017 for CATEGORY FIVE must
156 be certified under s. 287.1312. The Chief Financial Officer
157 shall establish and disseminate uniform procedures for payment
158 requests pursuant to s. 17.03(3) to ensure that services are
159 rendered in accordance with the agreement terms before the
160 agency processes an invoice for payment. The procedures must
161 include, but need not be limited to, procedures for monitoring
162 and documenting a recipient's performance, reviewing and
163 documenting all deliverables for which payment is requested by
164 the recipient, and providing written certification by the grant
165 manager of the agency's receipt of goods and services.

166 Section 3. Subsection (16) of section 215.985, Florida
167 Statutes, is amended to read:

168 215.985 Transparency in government spending.—

169 (16) The Chief Financial Officer shall establish and
 170 maintain a secure, shared, intergovernmental contract tracking
 171 ~~provide public access to a state contract management system.~~

172 (a) Within 30 calendar days after executing a contract,
 173 each state agency as defined in s. 216.011(1), and, effective
 174 November 1, 2013, each local governmental entity and independent
 175 special district as defined in s. 218.31, each district school
 176 board as described in s. 1001.32, the Board of Governors of the
 177 State University System as described in s. 1001.70, and each
 178 Florida College System institution board of trustees as
 179 described in s. 1001.61 must post the following ~~that provides~~
 180 information and documentation relating to that contract on the
 181 contract tracking system: ~~contracts procured by governmental~~
 182 entities.

- 183 1. The name of the contracting entities;
- 184 2. The procurement method;
- 185 3. The contract beginning and ending dates;
- 186 4. The nature or type of the commodities or services
 187 purchased;
- 188 5. Applicable contract unit prices and deliverables;
- 189 6. Total compensation to be paid or received under the
 190 contract;
- 191 7. All payments made to the contract vendor to date;
- 192 8. All commodities or services received from the contract
 193 vendor to date;
- 194 9. Applicable contract performance measures;
- 195 10. Contract extensions or renewals, if any;
- 196 11. The justification for not using competitive

197 solicitation to procure the contract, including citation to any
 198 statutory exemption or exception from competitive solicitation,
 199 if applicable;

200 12. Electronic copies of the contract and procurement
 201 documents, including any provision that may have been redacted
 202 to conceal exempt or confidential information; and

203 13. Any other information regarding the contract or the
 204 procurement which may be required by the Department of Financial
 205 Services.

206 ~~(a) The data collected in the system must include, but~~
 207 ~~need not be limited to, the contracting agency; the procurement~~
 208 ~~method; the contract beginning and ending dates; the type of~~
 209 ~~commodity or service; the purpose of the commodity or service;~~
 210 ~~the compensation to be paid; compliance information, such as~~
 211 ~~performance metrics for the service or commodity; contract~~
 212 ~~violations; the number of extensions or renewals; and the~~
 213 ~~statutory authority for providing the service.~~

214 (b) Within 30 calendar days after a major modification or
 215 amendment ~~change~~ to an existing contract, ~~or the execution of a~~
 216 ~~new contract, agency procurement staff of the affected state~~
 217 ~~governmental~~ entity must ~~shall~~ update the ~~necessary~~ information
 218 described in paragraph (a) in the state contract tracking
 219 management system. A major modification or amendment ~~change~~ to a
 220 contract includes, but is not limited to, a renewal,
 221 termination, or extension of the contract, or an amendment to
 222 the contract as determined by the Chief Financial Officer.

223 (c) Each entity identified in paragraph (a) must redact,
 224 as defined in s. 119.011, any exempt or confidential information

225 from the contract or procurement documents before posting an
226 electronic copy of such documents on the contract tracking
227 system.

228 1. If an entity becomes aware that an electronic copy of a
229 contract or procurement document that it posted has not been
230 properly redacted, the entity must replace the electronic copy
231 of the documents with a redacted copy.

232 2. If a party to a contract, or an authorized
233 representative thereof, discovers that an electronic copy of a
234 contract or procurement document on the system has not been
235 properly redacted, the party or representative may request the
236 entity that posted the document to redact the exempt or
237 confidential information. Upon receipt of a request in
238 compliance with this subparagraph, the entity that posted the
239 document shall redact the exempt or confidential information.

240 a. Such request must be in writing and delivered by mail,
241 facsimile, or electronic transmission, or in person to the
242 entity that posted the information. The request must identify
243 the specific document, the page numbers that include the exempt
244 or confidential information, the information that is exempt or
245 confidential, and the relevant statutory exemption. A fee may
246 not be charged for a redaction made pursuant to such request.

247 b. If necessary, a party to the contract may petition the
248 circuit court for an order directing compliance with this
249 paragraph.

250 3. The Chief Financial Officer, the Department of
251 Financial Services, or any officer, employee, or contractor
252 thereof, is not responsible for redacting exempt or confidential

253 information from an electronic copy of a contract or procurement
254 document posted by another entity on the system, and is not
255 liable for the failure of the entity to redact the exempt or
256 confidential information. The Department of Financial Services
257 may notify the posting entity if it discovers that a document
258 posted on the tracking system contains exempt or confidential
259 information.

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

266 1. The Chief Financial Officer may regulate and prohibit
267 the posting of records that could facilitate identity theft or
268 fraud, such as signatures; compromise or reveal an agency
269 investigation; reveal the identity of undercover personnel;
270 reveal proprietary confidential business information or trade
271 secrets; reveal an individual's medical information; or reveal
272 any other record or information that the Chief Financial Officer
273 believes may jeopardize the health, safety, or welfare of the
274 public. However, such prohibition does not eliminate the duty of
275 an entity to provide a copy of a public record upon request. The
276 Chief Financial Officer shall use appropriate Internet security
277 measures to ensure that no person has the ability to alter or
278 modify records available on the website.

279 2. Records made available on the website, including
280 electronic copies of contracts or procurement documents, may not

281 reveal information made exempt or confidential by law. Notice of
 282 the right of an affected party to request redaction of exempt or
 283 confidential information pursuant to paragraph (c) must be
 284 conspicuously and clearly displayed on the website.

285 (e) The posting of information on the contract tracking
 286 system or the provision of contract information on a website for
 287 public viewing and downloading does not eliminate the duty of an
 288 entity to respond to a public record request for such
 289 information or to a subpoena for such information.

290 1. A request for a copy of a contract or procurement
 291 document or a certified copy of a contract or procurement
 292 document shall be made to the entity that is party to the
 293 contract and that maintains the original documents. Such request
 294 may not be made to the Chief Financial Officer or the Department
 295 of Financial Services or any officer, employee, or contractor
 296 thereof unless the Chief Financial Officer or the department is
 297 a party to the contract.

298 2. A subpoena for a copy of a contract or procurement
 299 document or certified copy of a contract or procurement document
 300 must be served on the entity that is a party to the contract and
 301 that maintains the original documents. The Chief Financial
 302 Officer or the Department of Financial Services or any officer,
 303 employee, or contractor thereof may not be served a subpoena for
 304 those records unless the Chief Financial Officer or the
 305 department is a party to the contract.

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

308 Section 4. Section 216.0111, Florida Statutes, is

309 repealed.

310 Section 5. Effective October 1, 2013, section 287.032,
 311 Florida Statutes, is amended to read:

312 287.032 Departmental responsibility ~~purpose of~~
 313 ~~department.~~ Pursuant to the administration of this chapter:

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

316 (a) ~~(1)~~ ~~To~~ Promote efficiency, economy, and the
 317 conservation of energy and coordinate ~~to effect coordination in~~
 318 the purchase of commodities and contractual services for the
 319 state.

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

323 (b) ~~(3)~~ ~~To~~ Procure and distribute federal surplus tangible
 324 personal property allocated to the state by the Federal
 325 Government.

326 (2) The responsibility of the Department of Financial
 327 Services is to:

328 (a) Provide uniform commodity and contractual service
 329 procurement policies, rules, procedures, and forms for use by
 330 agencies and eligible users.

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

333 Section 6. Effective October 1, 2013, section 287.042,
 334 Florida Statutes, is amended to read:

335 287.042 Powers, duties, and functions of the Department of
 336 Management Services. ~~The department~~ is responsible for the

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337 procurement of commodities and contractual services for agencies
338 and has ~~shall have~~ the following powers, duties, and functions:

339 (1) ~~(a)~~ To canvass all sources of supply, establish and
340 maintain a vendor list, and contract for the purchase, lease, or
341 acquisition, including purchase by installment sales or lease-
342 purchase contracts which may provide for the payment of interest
343 on unpaid portions of the purchase price, of all commodities and
344 contractual services required by an ~~any~~ agency under this
345 chapter. A ~~Any~~ contract providing for deferred payments and the
346 payment of interest is ~~shall be~~ subject to specific rules
347 adopted by the Department of Financial Services.

348 ~~(a)~~ ~~(b)~~ The department shall develop a list of interested
349 vendors to be maintained by classes of commodities and
350 contractual services. The list may not be used to prequalify a
351 vendor or to exclude an interested vendor from bidding. However,
352 a vendor barred by the Chief Financial Officer pursuant to s.
353 287.044(7) may not be included on the list. The department may
354 remove from the ~~its~~ vendor list any source of supply which fails
355 to fulfill any of its duties specified in a contract with the
356 state. The department ~~It~~ may reinstate ~~any~~ such source of supply
357 if the department ~~when it~~ is satisfied that further instances of
358 default will not occur.

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

363 ~~(d)~~ ~~The department shall issue commodity numbers for all~~
364 ~~products of the corporation operating the correctional industry~~

365 ~~program which meet or exceed department specifications.~~

366 (c)~~(e)~~ The department shall include the products offered
 367 by the corporation operating the correctional industry program
 368 on any listing prepared by the department which lists state term
 369 contracts executed by the department. The products or services
 370 shall be placed on such list in a category based upon
 371 specification criteria developed through a joint effort of the
 372 department and the corporation and approved by the department.

373 1.~~(f)~~ The corporation may submit products and services to
 374 the department for testing, analysis, and review relating to the
 375 quality and cost comparability. If, after review and testing,
 376 the department approves ~~of~~ the products and services, the
 377 department shall give written notice ~~thereof~~ to the corporation.
 378 The corporation shall pay a reasonable fee ~~charged~~ for the
 379 testing of its products by the Department of Agriculture and
 380 Consumer Services.

381 2. The department shall issue a commodity number for all
 382 products of the corporation which meet or exceed department
 383 specifications.

384 (d)~~(g)~~ The department shall include products and services
 385 that are offered by a qualified nonprofit agency for the blind
 386 or for the other severely handicapped ~~organized pursuant to~~
 387 ~~chapter 413~~ and that have been determined to be suitable for
 388 purchase pursuant to s. 413.035 on a ~~any~~ department listing of
 389 state term contracts. The products and services shall be placed
 390 on such list in a category based upon specification criteria
 391 developed by the department in consultation with the ~~qualified~~
 392 nonprofit agency.

393 (e) ~~(h)~~ The department may collect fees for the use of its
 394 electronic information services. The fees may be imposed on an
 395 individual transaction basis or as a fixed subscription for a
 396 designated period of time. At a minimum, the fees shall be
 397 determined in an amount sufficient to cover the department's
 398 projected costs for ~~of~~ the services, including overhead, in
 399 accordance with the policies of the department ~~of Management~~
 400 ~~Services~~ for computing its administrative assessment. All fees
 401 collected under this paragraph shall be deposited in the
 402 Operating Trust Fund for disbursement as provided by law.

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

407 (a) The department may restrict purchases by ~~from some~~
 408 ~~term contracts to~~ state agencies from ~~only for these~~ term
 409 contracts if ~~where~~ the inclusion of other governmental entities
 410 will have an adverse effect on competition or on ~~to these~~
 411 federal facilities located in this state. In such planning or
 412 purchasing, the office ~~of Supplier Diversity~~ may monitor to
 413 ensure that opportunities are afforded for contracting with
 414 minority business enterprises. The department, for state term
 415 contracts, and all agencies, for multiyear contractual services
 416 or term contracts, shall explore reasonable and economical means
 417 to use ~~utilize~~ certified minority business enterprises.
 418 Purchases by any county, municipality, private nonprofit
 419 community transportation coordinator designated pursuant to
 420 chapter 427, ~~while~~ conducting business related solely to the

421 Commission for the Transportation Disadvantaged, or other local
 422 public agency under the provisions in the state purchasing
 423 contracts, and purchases, from the corporation operating the
 424 correctional work programs, of products or services that are
 425 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the
 426 competitive solicitation requirements otherwise applying to
 427 their purchases.

428 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),
 429 the department may proceed with the competitive solicitation or
 430 contract award process of a term contract if ~~when~~ the secretary
 431 of the department or his or her designee sets forth in writing
 432 particular facts and circumstances that ~~which~~ demonstrate that
 433 the delay incident to staying the solicitation or contract award
 434 process would be detrimental to the interests of the state. If,
 435 after the award of the ~~a~~ contract resulting from a competitive
 436 solicitation in which a timely protest was received and in which
 437 the state did not prevail, the contract may be canceled and
 438 reawarded.

439 (c) Any person who files an action protesting a decision
 440 or intended decision pertaining to contracts administered by the
 441 department, a water management district, or an agency pursuant
 442 to s. 120.57(3)(b) shall post with the department, the water
 443 management district, or the agency at the time of filing the
 444 formal written protest a bond payable to the department, the
 445 water management district, or agency in an amount equal to 1
 446 percent of the estimated contract amount. For protests of
 447 decisions or intended decisions pertaining to exceptional
 448 purchases, the bond must ~~shall be in an amount~~ equal ~~to~~ 1

449 percent of the estimated contract amount for the exceptional
450 purchase.

451 1. The estimated contract amount shall be based upon the
452 contract price submitted by the protestor or, if no contract
453 price was submitted, the department, water management district,
454 or agency shall estimate the contract amount based on factors,
455 including, but not limited to, the price of previous or existing
456 contracts for similar commodities or contractual services, the
457 amount appropriated by the Legislature for the contract, or the
458 fair market value of similar commodities or contractual
459 services. The agency shall provide the estimated contract amount
460 to the vendor within 72 hours, excluding Saturdays, Sundays, and
461 state holidays, after the filing of the notice of protest by the
462 vendor. The estimated contract amount is not subject to protest
463 pursuant to s. 120.57(3).

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

468 3. In lieu of a bond, the department, ~~the~~ water management
469 district, or agency may, ~~in either case,~~ accept a cashier's
470 check, official bank check, or money order in the amount of the
471 bond.

472 4. If, after completion of the administrative hearing
473 process and any appellate court proceedings, the department,
474 water management district, or agency prevails, it shall recover
475 all costs and charges, which must ~~shall~~ be included in the final
476 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~

477 ~~section shall not apply to protests filed by the Office of~~
 478 ~~Supplier Diversity.~~ Upon payment of such costs and charges by
 479 the protestor, the bond, cashier's check, official bank check,
 480 or money order shall be returned to the protestor. If, after the
 481 completion of the administrative hearing process and any
 482 appellate court proceedings, the protestor prevails, the
 483 protestor may ~~shall~~ recover from the department, water
 484 management district, or agency all costs and charges that are
 485 ~~which shall be~~ included in the final order or judgment,
 486 excluding attorney ~~attorney's~~ fees.

487 5. This paragraph does not apply to protests filed by the
 488 office.

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

493 ~~(a) Development of a list of interested vendors to be~~
 494 ~~maintained by classes of commodities and contractual services.~~
 495 ~~This list shall not be used to prequalify vendors or to exclude~~
 496 ~~any interested vendor from bidding.~~

497 ~~(b)1. Development of procedures for advertising~~
 498 ~~solicitations. These procedures must provide for electronic~~
 499 ~~posting of solicitations for at least 10 days before the date~~
 500 ~~set for receipt of bids, proposals, or replies, unless the~~
 501 ~~department or other agency determines in writing that a shorter~~
 502 ~~period of time is necessary to avoid harming the interests of~~
 503 ~~the state. The Office of Supplier Diversity may consult with the~~
 504 ~~department regarding the development of solicitation~~

505 ~~distribution procedures to ensure that maximum distribution is~~
506 ~~afforded to certified minority business enterprises as defined~~
507 ~~in s. 288.703.~~

508 ~~2. Development of procedures for electronic posting. The~~
509 ~~department shall designate a centralized website on the Internet~~
510 ~~for the department and other agencies to electronically post~~
511 ~~solicitations, decisions or intended decisions, and other~~
512 ~~matters relating to procurement.~~

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

518 ~~(d) Development of procedures to be used by an agency in~~
519 ~~deciding to contract, including, but not limited to, identifying~~
520 ~~and assessing in writing project needs and requirements,~~
521 ~~availability of agency employees, budgetary constraints or~~
522 ~~availability, facility equipment availability, current and~~
523 ~~projected agency workload capabilities, and the ability of any~~
524 ~~other state agency to perform the services.~~

525 ~~(e) Development of procedures to be used by an agency in~~
526 ~~maintaining a contract file for each contract which shall~~
527 ~~include, but not be limited to, all pertinent information~~
528 ~~relating to the contract during the preparatory stages; a copy~~
529 ~~of the solicitation; documentation relating to the solicitation~~
530 ~~process; opening of bids, proposals, or replies; evaluation and~~
531 ~~tabulation of bids, proposals, or replies; and determination and~~
532 ~~notice of award of contract.~~

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

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

539 ~~(h) Development of procedures to be used by state agencies~~
540 ~~when procuring information technology commodities and~~
541 ~~contractual services that ensure compliance with public records~~
542 ~~requirements and records retention and archiving requirements.~~

543 ~~(4) (a) To prescribe the methods of securing competitive~~
544 ~~sealed bids, proposals, and replies. Such methods may include,~~
545 ~~but are not limited to, procedures for identifying vendors;~~
546 ~~setting qualifications; conducting conferences or written~~
547 ~~question and answer periods for purposes of responding to vendor~~
548 ~~questions; evaluating bids, proposals, and replies; ranking and~~
549 ~~selecting vendors; and conducting negotiations.~~

550 ~~(b) To prescribe procedures for procuring information~~
551 ~~technology and information technology consultant services that~~
552 ~~provide for public announcement and qualification, competitive~~
553 ~~solicitations, contract award, and prohibition against~~
554 ~~contingent fees. Such procedures are limited to information~~
555 ~~technology consultant contracts for which the total project~~
556 ~~costs, or planning or study activities, are estimated to exceed~~
557 ~~the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

558 ~~(3) (5)~~ To prescribe specific commodities and quantities to
559 be purchased locally.

560 ~~(6) (a) To govern the purchase by any agency of any~~

561 ~~commodity or contractual service and to establish standards and~~
562 ~~specifications for any commodity.~~

563 (4)~~(b)~~ Except for the purchase of insurance, to the
564 ~~department may~~ delegate to agencies the authority for the
565 procurement of and contracting for commodities or contractual
566 services.

567 ~~(7) To establish definitions and classes of commodities~~
568 ~~and contractual services. Agencies shall follow the definitions~~
569 ~~and classes of commodities and contractual services established~~
570 ~~by the department in acquiring or purchasing commodities or~~
571 ~~contractual services. The authority of the department under this~~
572 ~~section shall not be construed to impair or interfere with the~~
573 ~~determination by state agencies of their need for, or their use~~
574 ~~of, services including particular specifications.~~

575 ~~(8) To provide any commodity and contractual service~~
576 ~~purchasing rules to the Chief Financial Officer and all agencies~~
577 ~~through an electronic medium or other means. Agencies may not~~
578 ~~approve any account or request any payment of any account for~~
579 ~~the purchase of any commodity or the procurement of any~~
580 ~~contractual service covered by a purchasing or contractual~~
581 ~~service rule except as authorized therein. The department shall~~
582 ~~furnish copies of rules adopted by the department to any county,~~
583 ~~municipality, or other local public agency requesting them.~~

584 (5)~~(9)~~ To require that every agency furnish information
585 relative to its commodity and contractual services purchases and
586 methods of purchasing commodities and contractual services to
587 the department when so requested.

588 (6)~~(10)~~ To prepare statistical data concerning the method

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589 of procurement, terms, usage, and disposition of commodities and
590 contractual services by agencies. All agencies shall furnish
591 such information for this purpose to the office and to the
592 department, as the department or office may call for, but at
593 least ~~no less frequently than~~ annually, on such forms or in such
594 manner as the department may prescribe.

595 ~~(11) To establish and maintain programs for the purpose of~~
596 ~~disseminating information to government, industry, educational~~
597 ~~institutions, and the general public concerning policies,~~
598 ~~procedures, rules, and forms for the procurement of commodities~~
599 ~~and contractual services.~~

600 (7) ~~(12)~~ Except as otherwise provided in this section
601 ~~herein~~, to adopt rules necessary to carry out the purposes of
602 this section, including the authority to delegate to any agency
603 any and all of the responsibility conferred by this section,
604 retaining to the department any and all authority for
605 supervision thereof. Such purchasing of commodities and
606 procurement of contractual services by state agencies must also
607 ~~shall~~ be in strict accordance with the rules and procedures
608 prescribed by the Department of Financial Services.

609 (8) ~~(13)~~ If the department determines in writing that it is
610 in the best interest of the state, to award to multiple
611 suppliers contracts for commodities and contractual services
612 established by the department for use by all agencies. Such
613 awards may be on a statewide or regional basis. If regional
614 contracts are established by the department, multiple supplier
615 awards may be based upon multiple awards for regions. Agencies
616 may award contracts to a responsible and responsive vendor on a

617 statewide or regional basis.

618 (9)~~(14)~~ To procure and distribute federal surplus tangible
 619 personal property allocated to the state by the Federal
 620 Government.

621 (10)~~(15)~~ To enter into joint agreements with governmental
 622 agencies, as defined in s. 163.3164, for the purpose of pooling
 623 funds for the purchase of commodities or information technology
 624 that can be used by multiple agencies.

625 (a) Each agency that has been appropriated or has existing
 626 funds for such purchase, shall, upon contract award by the
 627 department, transfer their portion of the funds into the
 628 department's Operating Trust Fund for payment by the department.
 629 The funds shall be transferred by the Executive Office of the
 630 Governor pursuant to the agency budget amendment request
 631 provisions in chapter 216.

632 (b) Agencies that sign the joint agreements are
 633 financially obligated for their portion of the agreed-upon
 634 funds. If an agency becomes more than 90 days delinquent in
 635 paying the funds, the department shall certify to the Chief
 636 Financial Officer the amount due, and the Chief Financial
 637 Officer shall transfer the amount due to the Operating Trust
 638 Fund of the department from any of the agency's available funds.
 639 The Chief Financial Officer shall report these transfers and the
 640 reasons for the transfers to the Executive Office of the
 641 Governor and the legislative appropriations committees.

642 (11)~~(16)~~ To evaluate contracts let by the Federal
 643 Government, another state, or a political subdivision for the
 644 provision of commodities and contract services, and, if it is

645 determined in writing to be cost-effective and in the best
 646 interest of the state, to enter into a written agreement
 647 authorizing an agency to make purchases under such contract.

648 ~~(12)-(17)-(a)~~ To enter into contracts pursuant to chapter
 649 957 for the designing, financing, acquiring, leasing,
 650 constructing, or operating of private correctional facilities.
 651 The department shall enter into such ~~a contract or~~ contracts
 652 with one contractor per facility ~~for the designing, acquiring,~~
 653 ~~financing, leasing, constructing, and operating of that facility~~
 654 or may, if specifically authorized by the Legislature,
 655 separately contract for each of ~~any~~ such services.

656 ~~(a)-(b)~~ The department shall also ~~To~~ manage and enforce
 657 compliance with existing or future contracts entered into
 658 pursuant to chapter 957.

659 (b) The department may not delegate the responsibilities
 660 conferred by this subsection.

661 Section 7. Effective October 1, 2013, section 287.044,
 662 Florida Statutes, is created to read:

663 287.044 Powers, duties, and functions of the Department of
 664 Financial Services.—The Department of Financial Services is
 665 responsible for establishing and enforcing procurement and
 666 contracting policies and procedures for the Department of
 667 Management Services and all agencies. The Department of
 668 Financial Services has the following powers, duties, and
 669 functions:

670 (1) To establish a system of coordinated and uniform
 671 procurement policies, procedures, and practices to be used by
 672 agencies when acquiring commodities and contractual services,

673 which includes, but is not limited to:

674 (a) The development of procedures to be used by an agency
675 for issuing or advertising solicitations which include
676 requirements for the agency to describe commodities, services,
677 scope of work, and deliverables in a manner that promotes
678 competition.

679 1. Such procedures must provide for electronic posting of
680 solicitations at least 10 days before the date set for receipt
681 of bids, proposals, or replies, unless the agency determines in
682 writing that a shorter period of time is necessary to avoid
683 harming the interests of the state.

684 2. The office may consult with the department regarding
685 the development of solicitation distribution procedures to
686 ensure that maximum distribution is afforded to certified
687 minority business enterprises as defined in s. 288.703.

688 3. The department shall designate a centralized website on
689 the Internet for the department and other agencies to
690 electronically post solicitations, decisions or intended
691 decisions, and other matters relating to procurement.

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

694 (c) The development of procedures to be used by state
695 agencies when procuring information technology commodities and
696 contractual services which ensure compliance with public records
697 requirements and records retention and archiving requirements.

698 (d) The development of procedures for the receipt and
699 opening of bids, proposals, or replies by an agency. Such
700 procedures must provide the office an opportunity to monitor and

701 to ensure that the contract award is consistent with the
 702 requirements of s. 287.09451.

703 (e) The development of procedures to be used by an agency
 704 in deciding to contract, including, but not limited to,
 705 identifying and assessing in writing project needs and
 706 requirements, availability of agency employees, budgetary
 707 availability or constraints, availability of facility equipment,
 708 current and projected agency workload capabilities, and the
 709 ability of another state agency to perform the services.

710 (f) The development of procedures for recording and
 711 maintaining support documentation for a cost or price analysis
 712 to be performed before the award of a contract in excess of the
 713 threshold amount provided in s. 287.017 for CATEGORY FOUR. The
 714 cost or price analysis shall be used to validate the
 715 reasonableness of bids, proposals, or replies.

716 (g) The development of procedures to be used by state
 717 agencies when entering into contracts which ensure standard
 718 formats, quantifiable and measurable deliverables, performance
 719 measures, and financial consequences for nonperformance.

720 (h) The development of procedures to be used by an agency
 721 in maintaining a contract file for each contract which includes,
 722 but is not limited to, all pertinent information relating to the
 723 contract during the preparatory stages; the solicitation
 724 process, including a copy of the solicitation; the opening of
 725 bids, proposals, or replies; the evaluation and tabulation of
 726 bids, proposals, or replies; and the determination and notice of
 727 contract award.

728 (2) To prescribe the methods of securing competitive

729 sealed bids, proposals, and replies. Such methods may include,
730 but are not limited to, procedures for identifying vendors;
731 setting qualifications; conducting conferences or written
732 question and answer periods for purposes of responding to vendor
733 questions; evaluating bids, proposals, and replies; ranking and
734 selecting vendors; and conducting negotiations.

735 (3) To prescribe procedures for procuring information
736 technology and information technology consultant services which
737 provide for public announcement and qualification, competitive
738 solicitations, the contract award, and a prohibition against
739 contingent fees. Such procedures are limited to information
740 technology consultant contracts for which the total project
741 costs, or planning or study activities, are estimated to exceed
742 the threshold amount provided in s. 287.017 for CATEGORY TWO.

743 (4) To govern the purchase by an agency of any commodity
744 or contractual service and to establish standards and
745 specifications for a commodity. The Chief Financial Officer
746 shall establish definitions and classes of commodities and
747 contractual services which agencies must adhere to in acquiring
748 or purchasing commodities or contractual services. The
749 department's authority under this section may not impair or
750 interfere with an agency's determination of its need for, or use
751 of, services that include particular specifications.

752 (5) To provide to agencies through an electronic medium or
753 other means rules for purchasing commodities and contractual
754 services. Agencies may not approve any account, or request
755 payment of any account, for the purchase of any commodity or the
756 procurement of any contractual service covered by a purchasing

757 or contractual service rule except as authorized by such rule.
 758 The department shall furnish copies of rules adopted by the
 759 department to any county, municipality, or other local public
 760 agency requesting them.

761 (6) To establish and maintain programs that disseminate
 762 information to governmental entities, industry vendors,
 763 educational institutions, and the general public concerning
 764 policies, procedures, rules, and forms for the procurement of
 765 commodities and contractual services.

766 (7) To establish and maintain a list of vendors that are
 767 not allowed to do business with the state pursuant to ss.
 768 287.132(4) and 287.133. The department may add to the list
 769 vendors that are not compliant with federal or state laws, or
 770 that the department determines have uncollected accounts that
 771 are owed to the state.

772 Section 8. Paragraph (f) of subsection (3) and subsections
 773 (9), (14), and (16) of section 287.057, Florida Statutes, are
 774 amended, and subsection (24) is added to that section, to read:
 775 287.057 Procurement of commodities or contractual
 776 services.—

777 (3) When the purchase price of commodities or contractual
 778 services exceeds the threshold amount provided in s. 287.017 for
 779 CATEGORY TWO, no purchase of commodities or contractual services
 780 may be made without receiving competitive sealed bids,
 781 competitive sealed proposals, or competitive sealed replies
 782 unless:

783 (f) The following contractual services and commodities are
 784 not subject to the competitive-solicitation requirements of this

785 section:

786 ~~1. Artistic services. For the purposes of this subsection,~~
 787 ~~the term "artistic services" does not include advertising or~~
 788 ~~typesetting. As used in this subparagraph, the term~~
 789 ~~"advertising" means the making of a representation in any form~~
 790 ~~in connection with a trade, business, craft, or profession in~~
 791 ~~order to promote the supply of commodities or services by the~~
 792 ~~person promoting the commodities or contractual services.~~

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

795 ~~3. Lectures by individuals.~~

796 1.4. Legal services, including attorney, paralegal, expert
 797 witness, appraisal, or mediator services.

798 2.5.a. Health services involving examination, diagnosis,
 799 treatment, prevention, medical consultation, or administration,
 800 and,

801 ~~b.~~ beginning January 1, 2011, health services, including,
 802 but not limited to, substance abuse and mental health services,
 803 involving examination, diagnosis, treatment, prevention, or
 804 medical consultation, if ~~when~~ such services are offered to
 805 eligible individuals participating in a specific program that
 806 qualifies multiple providers and uses a standard payment
 807 methodology. Reimbursement of administrative costs for providers
 808 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.
 809 For purposes of this subparagraph ~~sub-subparagraph~~, the term
 810 "providers" means health professionals, health facilities, or
 811 organizations that deliver or arrange for the delivery of health
 812 services.

813 ~~3.6.~~ Services provided to persons with mental or physical
814 disabilities by not-for-profit corporations that ~~which~~ have
815 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
816 United States Internal Revenue Code or if ~~when~~ such services are
817 governed by the provisions of Office of Management and Budget
818 Circular A-122. However, in acquiring such services, the agency
819 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
820 performance, willingness to meet time requirements, and price.

821 ~~4.7.~~ Medicaid services delivered to an eligible Medicaid
822 recipient, unless the agency is directed otherwise in law.

823 ~~5.8.~~ Family placement services.

824 ~~6.9.~~ Prevention services related to mental health,
825 including drug abuse prevention programs, child abuse prevention
826 programs, and shelters for runaways, operated by not-for-profit
827 corporations. However, in acquiring such services, the agency
828 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
829 performance, willingness to meet time requirements, and price.

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

832 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

833 ~~8.12.~~ Services or commodities provided by governmental
834 agencies.

835 (9) An agency may ~~shall~~ not divide the solicitation of
836 commodities or contractual services so as to avoid the
837 requirements of subsections (1)-(3) and reduce the ability of
838 businesses to openly compete.

839 (14) For each contractual services contract, the agency
840 shall designate an employee to function as contract manager who

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841 shall be responsible for enforcing performance of the contract
842 terms and conditions and serve as a liaison with the contractor.
843 Each contract manager who is responsible for one or more
844 contracts in excess of the threshold amount provided under s.
845 287.017 for CATEGORY FIVE ~~TWO~~ must be certified pursuant to s.
846 287.1312 ~~attend training conducted by the Chief Financial~~
847 ~~Officer for accountability in contracts and grant management.~~
848 The Chief Financial Officer shall establish and disseminate
849 uniform procedures pursuant to s. 17.03(3) to ensure that
850 contractual services have been rendered in accordance with the
851 contract terms before the agency processes the invoice for
852 payment. The procedures must ~~shall~~ include, but need not be
853 limited to, procedures for monitoring and documenting contractor
854 performance, reviewing and documenting all deliverables for
855 which payment is requested by vendors, and providing written
856 certification by contract managers of the agency's receipt of
857 goods and services.

858 (16) For a contract in excess of the threshold amount
859 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
860 appoint:

861 (a) At least three persons to evaluate proposals and
862 replies who collectively have experience and knowledge in the
863 program areas and service requirements for which commodities or
864 contractual services are sought.

865 (b) At least three persons to conduct negotiations during
866 a competitive sealed reply procurement who collectively have
867 experience and knowledge in negotiating contracts, contract
868 procurement, and the program areas and service requirements for

869 | which commodities or contractual services are sought. When the
870 | value of a contract is in excess of \$1 million in any fiscal
871 | year, at least one of the persons conducting negotiations must
872 | be certified as a contract negotiator based upon rules adopted
873 | by the Department of Financial Services ~~Management Services~~ in
874 | order to ensure that certified contract negotiators are
875 | knowledgeable about effective negotiation strategies, capable of
876 | successfully implementing those strategies, and involved
877 | appropriately in the procurement process. At a minimum, the
878 | rules must address the qualifications required for
879 | certification, the method of certification, and the procedure
880 | for involving the certified negotiator. If the value of a
881 | contract is in excess of \$10 million in any fiscal year, at
882 | least one of the persons conducting negotiations must be a
883 | Project Management Professional, as certified by the Project
884 | Management Institute.

885 | (24) An agency or other eligible user may purchase
886 | commodities or services through another agency's existing
887 | contract rather than through competitive solicitation if the use
888 | of such contract is in the best interest of the state.

889 | Section 9. Paragraph (e) of subsection (1) of section
890 | 287.058, Florida Statutes, is amended, and subsections (7)
891 | through (11) are added to that section, to read:

892 | 287.058 Contract document.—

893 | (1) Every procurement of contractual services in excess of
894 | the threshold amount provided in s. 287.017 for CATEGORY TWO,
895 | except for the providing of health and mental health services or
896 | drugs in the examination, diagnosis, or treatment of sick or

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897 injured state employees or the providing of other benefits as
898 required by the provisions of chapter 440, shall be evidenced by
899 a written agreement embodying all provisions and conditions of
900 the procurement of such services, which shall, where applicable,
901 include, but not be limited to, a provision:

902 (e) Dividing the contract into quantifiable, measurable,
903 and verifiable units of deliverables which ~~that~~ must be received
904 and accepted in writing by the contract manager before payment.
905 Each deliverable must be directly related to the scope of work
906 and specify a performance measure. As used in this paragraph,
907 the term "performance measure" means the required minimum level
908 of service to be performed and criteria for evaluating the
909 successful completion of each deliverable.

910
911 In lieu of a written agreement, the department may authorize the
912 use of a purchase order for classes of contractual services, if
913 the provisions of paragraphs (a)-(i) are included in the
914 purchase order or solicitation. The purchase order must include,
915 but need not be limited to, an adequate description of the
916 services, the contract period, and the method of payment. In
917 lieu of printing the provisions of paragraphs (a)-(i) in the
918 contract document or purchase order, agencies may incorporate
919 the requirements of paragraphs (a)-(i) by reference.

920 (7) The Chief Financial Officer may review and approve
921 contracts subject to this chapter before the execution of such
922 contracts in accordance with rules adopted by the department.
923 The review must ensure that all contracting laws have been met;
924 that the contract document contains a clear statement of work,

925 quantifiable and measureable deliverables, performance measures,
926 financial consequences for nonperformance, and clear terms and
927 conditions that protect the interests of the state; that
928 documentation is available to support the contract; and that the
929 associated costs of the contract are not unreasonable or
930 inappropriate. A contract that does not comply with this
931 subsection may be rejected and returned to the submitting agency
932 for revision.

933 (8) The Chief Financial Officer may establish dollar
934 thresholds and other criteria for sampling the agreements that
935 are to be reviewed prior to execution. The Chief Financial
936 Officer may revise such thresholds and other criteria for an
937 agency or the unit of any agency as he or she deems appropriate.

938 (9) The department's review of contract documentation may
939 include, but need not be limited to:

940 (a) Evidence of advertising the procurement opportunity,
941 if applicable;

942 (b) The bid, proposal, or reply itself, whether an
943 invitation to bid, request for proposals, or invitation to
944 negotiate, as applicable;

945 (c) The preprocurement conference questions and answers;

946 (d) Any additional documentation provided to bidders,
947 proposers, or repliers;

948 (e) The list of bidders, proposers, or repliers solicited;

949 (f) The evaluation instrument and process description
950 related to the contract;

951 (g) The bid tabulation or evaluation record;

952 (h) Documentation that supports the agency's determination

953 of vendor responsibility;

954 (i) The successful bid, proposal, or reply in addition to
955 the unsuccessful bids, proposals, or replies;

956 (j) Documentation that supports the selection of the
957 contractor;

958 (k) The reasonableness of the price;

959 (l) Verification that all statutory and regulatory
960 requirements have been met; and

961 (m) The proposed contract.

962 (10) The department shall verify that a competitive
963 process was used, if required by law, and that the contract was
964 appropriately awarded on the basis of lowest price or best value
965 to a responsive and reasonable bidder, proposer, or replier. For
966 contracts not competitively awarded, the procurement record
967 shall be reviewed for restrictive specifications and the
968 agency's justification for the noncompetitive method used in
969 awarding the contract, including justification for the selection
970 of the vendor and the reasonableness of the terms.

971 (11) The department has 30 days to make a final
972 determination regarding approval of a contract. The department
973 and the agency entering into the contract may agree to a longer
974 review period to ensure the thorough consideration of the
975 procurement process and its results.

976 Section 10. Subsection (3) of section 287.095, Florida
977 Statutes, is repealed.

978 Section 11. Section 287.1312, Florida Statutes, is created
979 to read:

980 287.1312 Contract manager certification.—

981 (1) The Department of Financial Services shall establish a
982 training certification program for contract and grant managers
983 and negotiators of contracts and grants. A state employee may
984 not manage a contract or grant agreement in excess of the
985 threshold amount provided in s. 287.017 for CATEGORY FIVE
986 without obtaining a valid certification from the Department of
987 Financial Services under this section. The program must include
988 training in the following areas:

989 (a) Procurement and the development of contracts.

990 (b) Development and administration of grant agreements
991 involving federal and state financial assistance.

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

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

995 (e) Laws and rules relating to procurement and contract
996 administration.

997 (f) Any other subject matter that the Chief Financial
998 Officer determines will promote accountability in contract and
999 grant management.

1000 (2) The program shall provide for periodic
1001 recertification, as necessary. The Department of Financial
1002 Services shall determine course requirements, maintain
1003 information on certifications, and monitor the performance of
1004 contract and grant managers. As part of such monitoring, the
1005 department shall annually publish the results of agency manager
1006 audits and error rates related to contract and grant management
1007 on its website.

1008 (3) The Department of Financial Services may revoke a

1009 manager's certification for incompetence or conduct inconsistent
 1010 with the responsibilities of contract or grant management.

1011 (4) The Department of Financial Services shall adopt rules
 1012 to administer this section.

1013 Section 12. Paragraph (d) of subsection (1) of section
 1014 287.133, Florida Statutes, is amended to read:

1015 287.133 Public entity crime; denial or revocation of the
 1016 right to transact business with public entities.—

1017 (1) As used in this section:

1018 (d) "Department" means the Department of Financial
 1019 ~~Management~~ Services.

1020 Section 13. Paragraph (h) of subsection (3) of section
 1021 255.25, Florida Statutes, is amended to read:

1022 255.25 Approval required prior to construction or lease of
 1023 buildings.—

1024 (3)

1025 (h) ~~The Department of Management Services may,~~ Pursuant to
 1026 s. 287.042(2) ~~(a)~~, the department shall procure a term contract
 1027 for real estate consulting and brokerage services. A state
 1028 agency may not purchase services from the contract unless the
 1029 contract has been procured under s. 287.057(1) after March 1,
 1030 2007, and contains the following provisions or requirements:

1031 1. Awarded brokers ~~must~~ maintain an office or presence in
 1032 the market served. In awarding the contract, preference must be
 1033 given to brokers who ~~that~~ are licensed in this state under
 1034 chapter 475 and who ~~that~~ have 3 or more years of experience in
 1035 the market served. The contract may be made with up to three
 1036 tenant brokers in order to serve the marketplace in the north,

1037 central, and south areas of the state.

1038 2. Each contracted tenant broker works ~~shall work~~ under
 1039 the direction, supervision, and authority of the state agency,
 1040 subject to the rules governing lease procurements.

1041 3. The department provides ~~shall provide~~ training for the
 1042 awarded tenant brokers concerning the rules governing the
 1043 procurement of leases.

1044 4. Tenant brokers ~~must~~ comply with all applicable
 1045 provisions of s. 475.278.

1046 5. Real estate consultants and tenant brokers are ~~shall be~~
 1047 compensated by the state agency, subject to the provisions of
 1048 the term contract, and such compensation is subject to
 1049 appropriation by the Legislature. A real estate consultant or
 1050 tenant broker may not receive compensation directly from a
 1051 lessor for services that are rendered under the term contract.
 1052 Moneys paid by a lessor to the state agency under a facility
 1053 leasing arrangement are not subject to the charges imposed under
 1054 s. 215.20. All terms relating to the compensation of the real
 1055 estate consultant or tenant broker must ~~shall~~ be specified in
 1056 the term contract and may not be supplemented or modified by the
 1057 state agency using the contract.

1058 6. The department conducts ~~shall conduct~~ periodic
 1059 customer-satisfaction surveys.

1060 7. Each state agency reports ~~shall report~~ the following
 1061 information to the department:

1062 a. The number of leases that adhere to the goal of the
 1063 workspace-management initiative of 180 square feet per full-time
 1064 employee FTE.

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1065 b. The quality of space leased and the adequacy of tenant-
1066 improvement funds.

1067 c. The timeliness of lease procurement, measured from the
1068 date of the agency's request to the finalization of the lease.

1069 d. Whether cost-benefit analyses were performed before
1070 execution of the lease in order to ensure that the lease is in
1071 the best interest of the state.

1072 e. The lease costs compared to market rates for similar
1073 types and classifications of space according to the official
1074 classifications of the Building Owners and Managers Association.

1075 Section 14. Subsection (12) of section 287.012, Florida
1076 Statutes, is amended to read:

1077 287.012 Definitions.—As used in this part, the term:

1078 (12) "Exceptional purchase" means any purchase of
1079 commodities or contractual services excepted by law or rule from
1080 the requirements for competitive solicitation, including, but
1081 not limited to, purchases from a single source; purchases upon
1082 receipt of fewer ~~less~~ than two responsive bids, proposals, or
1083 replies; purchases made by an agency, after receiving approval
1084 from the department, from a contract procured, pursuant to s.
1085 287.057(1), or by another agency; and purchases made without
1086 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)
1087 ~~287.042(3)(b)~~.

1088 Section 15. Paragraph (a) of subsection (2) of section
1089 402.7305, Florida Statutes, is amended to read:

1090 402.7305 Department of Children and Family Services;
1091 procurement of contractual services; contract management.—

1092 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

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1093 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~,
 1094 ~~if whenever~~ the department intends to contract with a public
 1095 postsecondary institution to provide a service, the department
 1096 must allow all public postsecondary institutions in this state
 1097 which ~~that~~ are accredited by the Southern Association of
 1098 Colleges and Schools to bid on the contract. Thereafter,
 1099 notwithstanding any other provision of law ~~to the contrary~~, if a
 1100 public postsecondary institution intends to subcontract for any
 1101 service awarded in the contract, the subcontracted service must
 1102 be procured by competitive procedures.

1103 Section 16. Subsection (3) of section 427.0135, Florida
 1104 Statutes, is amended to read:

1105 427.0135 Purchasing agencies; duties and
 1106 responsibilities.—Each purchasing agency, in carrying out the
 1107 policies and procedures of the commission, shall:

1108 (3) Not procure transportation disadvantaged services
 1109 without initially negotiating with the commission, as provided
 1110 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise
 1111 authorized by statute. If the purchasing agency, after
 1112 consultation with the commission, determines that it cannot
 1113 reach mutually acceptable contract terms with the commission,
 1114 the purchasing agency may contract for the same transportation
 1115 services provided in a more cost-effective manner and of
 1116 comparable or higher quality and standards. The Medicaid agency
 1117 shall implement this subsection in a manner consistent with s.
 1118 409.908(18) and as otherwise limited or directed by the General
 1119 Appropriations Act.

1120 Section 17. Subsection (2) of section 946.515, Florida

1121 Statutes, is amended to read:
 1122 946.515 Use of goods and services produced in correctional
 1123 work programs.—

1124 (2) A ~~No~~ similar product or service of comparable price
 1125 and quality found necessary for use by any state agency may not
 1126 be purchased from any source other than the corporation if the
 1127 corporation certifies that the product is manufactured by, or
 1128 the service is provided by, inmates and the product or service
 1129 meets the comparable performance specifications and comparable
 1130 price and quality requirements as specified under s.

1131 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual
 1132 agency as provided in this section. The purchasing authority of
 1133 ~~any~~ such state agency may make reasonable determinations of
 1134 need, price, and quality with reference to products or services
 1135 available from the corporation. In the event of a dispute
 1136 between the corporation and a ~~any~~ purchasing authority based
 1137 upon price or quality under this section or s. 287.042(1)(c)
 1138 ~~287.042(1)(f)~~, either party may request a hearing with the
 1139 Department of Management Services and, if not resolved, ~~either~~
 1140 ~~party~~ may request a proceeding pursuant to ss. 120.569 and
 1141 120.57, which shall be referred to the Division of
 1142 Administrative Hearings within 60 days after such request, to
 1143 resolve any dispute under this section. A ~~No~~ party is not
 1144 entitled to any appeal pursuant to s. 120.68.

1145 Section 18. Procurement review and report.—

1146 (1) The Chief Financial Officer shall review and
 1147 investigate:

1148 (a) All current state laws that govern the state

1149 procurement of goods, services, and facilities;

1150 (b) The procurement policies, rules, procedures, and
1151 practices followed by the state agencies, boards, commissions,
1152 offices, and other instrumentalities of the executive branch of
1153 state government;

1154 (c) The organization and management processes involved in
1155 the state procurement of goods, services, and facilities before
1156 the award of a state procurement contract, during the
1157 solicitation of bids, the evaluation, and the negotiation of a
1158 contract, and subsequent to the award of the contract to
1159 determine the extent to which these organization and management
1160 processes facilitate the legislative policy set forth in this
1161 act; and

1162 (d) Any other areas that the Chief Financial Officer deems
1163 relevant to the review and investigation.

1164 (2) In order to accomplish the procurement review directed
1165 by this section, the Chief Financial Officer may:

1166 (a) Acquire information directly from the head of any
1167 state department or agency for the purpose of conducting this
1168 review. All departments and agencies shall cooperate with the
1169 Chief Financial Officer and furnish all information requested to
1170 the extent permitted by law.

1171 (b) Procure the services of experts and consultants.

1172 (c) Contract with private organizations and nonprofit
1173 institutions to carry out studies and prepare reports to
1174 facilitate the review.

1175 (3) By December 31, 2012, the Chief Financial Officer
1176 shall submit to the Governor, the President of the Senate, and

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1177 the Speaker of the House of Representatives a report of findings
1178 and recommendations for changes in statutes, rules, policies,
1179 procedures, and organization necessary to carry out the policies
1180 set forth in this act.

1181 Section 19. The Legislature recognizes the need to reform
1182 the purchasing cycle, from the development of a purchasing
1183 agreement to the payment for goods or services provided to the
1184 state. Therefore, chapter 287, Florida Statutes, is repealed
1185 effective July 30, 2014.

1186 Section 20. (1) For the 2012-2013 fiscal year, the sum of
1187 \$400,000 in nonrecurring funds is appropriated from the
1188 Administrative Trust Fund in the Department of Financial
1189 Services to contract for the Chief Financial Officer's review of
1190 the state's procurement process.

1191 (2) For the 2012-2013 fiscal year, the sum of \$375,000 in
1192 nonrecurring funds is appropriated from the Administrative Trust
1193 Fund in the Department of Financial Services to contract for the
1194 Chief Financial Officer's administration of the certified
1195 contract manager and negotiator programs.

1196 (3) For the 2012-2013 fiscal year, the sum of \$4,067,000
1197 in recurring funds from the General Revenue fund and 36 full-
1198 time equivalent positions and associated salary rate of
1199 1,902,588 are appropriated to the Chief Financial Officer for
1200 the purpose of implementing the Chief Financial Officer's
1201 expanded contract auditing responsibilities under this act.
1202 Funds remaining unexpended or unencumbered from this
1203 appropriation as of June 30, 2013, shall revert and be
1204 reappropriated for the same purpose in the 2013-2014 fiscal

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1205 | year.

1206 | Section 21. Except as otherwise expressly provided in this
1207 | act, this act shall take effect July 1, 2012.