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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2012	.	
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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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



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14 (i) Beginning in 2012, the Auditor General shall annually
15 transmit by July 15, to the President of the Senate, the Speaker
16 of the House of Representatives, and the Department of Financial
17 Services, a list of all school districts, charter schools,
18 charter technical career centers, Florida College System
19 institutions, state universities, and water management districts
20 that have failed to comply with the transparency requirements of
21 s. 215.985 as identified in the audit reports reviewed pursuant
22 to paragraph (b) and those conducted pursuant to subsection (2).

23 Section 2. Subsection (16) of section 215.985, Florida
24 Statutes, is amended to read

25 215.985 Transparency in government spending.—

26 (16) The Chief Financial Officer shall provide public
27 access to a state contract management system ~~that provides~~
28 ~~information and documentation relating to contracts procured by~~
29 ~~governmental entities.~~

30 (a) Within 30 calendar days after executing a contract,
31 each state agency as defined in s. 216.011(1) must post the
32 following information and documentation relating to that
33 contract on the contract management system:

34 1. The name of the contracting entities;

35 2. The procurement method;

36 3. The contract beginning and ending dates;

37 4. The nature or type of the commodities or services
38 purchased;

39 5. Applicable contract unit prices and deliverables;

40 6. Total compensation to be paid or received under the
41 contract;

42 7. All payments made to the contract vendor to date;



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43 8. All commodities or services received from the contract
44 vendor to date;

45 9. Applicable contract performance measures;

46 10. Contract extensions or renewals, if any;

47 11. The justification for not using competitive
48 solicitation to procure the contract, including citation to any
49 statutory exemption or exception from competitive solicitation,
50 if applicable; and

51 12. Electronic copies of the contract and procurement
52 documents that have been redacted to conceal exempt or
53 confidential information.

54 ~~(a) The data collected in the system must include, but need~~
55 ~~not be limited to, the contracting agency; the procurement~~
56 ~~method; the contract beginning and ending dates; the type of~~
57 ~~commodity or service; the purpose of the commodity or service;~~
58 ~~the compensation to be paid; compliance information, such as~~
59 ~~performance metrics for the service or commodity; contract~~
60 ~~violations; the number of extensions or renewals; and the~~
61 ~~statutory authority for providing the service.~~

62 (b) Within 30 calendar days after a major modification or
63 amendment ~~change~~ to an existing contract, ~~or the execution of a~~
64 ~~new contract, agency procurement staff of the affected state~~
65 ~~governmental entity~~ must ~~shall~~ update the ~~necessary~~ information
66 described in paragraph (a) in the state contract management
67 system. A major modification or amendment ~~change~~ to a contract
68 includes, but is not limited to, a renewal, termination, or
69 extension of the contract, or an amendment to the contract.

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



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72 from the contract or procurement documents before posting an
73 electronic copy of such documents on the contract tracking
74 system.

75 1. If an entity becomes aware that an electronic copy of a
76 contract or procurement document that it posted has not been
77 properly redacted, the entity must replace the electronic copy
78 of the documents with a redacted copy.

79 2. If a party to a contract, or an authorized
80 representative thereof, discovers that an electronic copy of a
81 contract or procurement document on the system has not been
82 properly redacted, the party or representative may request the
83 entity that posted the document to redact the exempt or
84 confidential information. Upon receipt of a request in
85 compliance with this subparagraph, the entity that posted the
86 document shall redact the exempt or confidential information.

87 a. Such request must be in writing and delivered by mail,
88 facsimile, or electronic transmission, or in person to the
89 entity that posted the information. The request must identify
90 the specific document, the page numbers that include the exempt
91 or confidential information, the information that is exempt or
92 confidential, and the relevant statutory exemption. A fee may
93 not be charged for a redaction made pursuant to such request.

94 b. If necessary, a party to the contract may petition the
95 circuit court for an order directing compliance with this
96 paragraph.

97 3. The Chief Financial Officer, the Department of Financial
98 Services, or any officer, employee, or contractor thereof, is
99 not responsible for redacting exempt or confidential information
100 from an electronic copy of a contract or procurement document



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101 posted by another entity on the system, and is not liable for
102 the failure of the entity to redact the exempt or confidential
103 information. The Department of Financial Services may notify the
104 posting entity if it discovers that a document posted on the
105 tracking system contains exempt or confidential information.

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

112 1. The Chief Financial Officer may regulate and prohibit
113 the posting of records that could facilitate identity theft or
114 fraud, such as signatures; compromise or reveal an agency
115 investigation; reveal the identity of undercover personnel;
116 reveal proprietary confidential business information or trade
117 secrets; reveal an individual's medical information; or reveal
118 any other record or information that the Chief Financial Officer
119 believes may jeopardize the health, safety, or welfare of the
120 public. However, such prohibition does not eliminate the duty of
121 an entity to provide a copy of a public record upon request. The
122 Chief Financial Officer shall use appropriate Internet security
123 measures to ensure that no person has the ability to alter or
124 modify records available on the website.

125 2. Records made available on the website, including
126 electronic copies of contracts or procurement documents, may not
127 reveal information made exempt or confidential by law. Notice of
128 the right of an affected party to request redaction of exempt or
129 confidential information pursuant to paragraph (c) must be



130 conspicuously and clearly displayed on the website.

131 (e) The posting of information on the contract tracking
132 system or the provision of contract information on a website for
133 public viewing and downloading does not eliminate the duty of an
134 entity to respond to a public record request for such
135 information or to a subpoena for such information.

136 1. A request for a copy of a contract or procurement
137 document or a certified copy of a contract or procurement
138 document shall be made to the entity that is party to the
139 contract. Such request may not be made to the Chief Financial
140 Officer or the Department of Financial Services or any officer,
141 employee, or contractor thereof unless the Chief Financial
142 Officer or the department is a party to the contract.

143 2. A subpoena for a copy of a contract or procurement
144 document or certified copy of a contract or procurement document
145 must be served on the entity that is a party to the contract and
146 that maintains the original documents. The Chief Financial
147 Officer or the Department of Financial Services or any officer,
148 employee, or contractor thereof may not be served a subpoena for
149 those records unless the Chief Financial Officer or the
150 department is a party to the contract.

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

153 Section 3. Section 216.0111, Florida Statutes, is repealed.

154 Section 4. This act shall take effect July 1, 2012.

155
156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:

158 Delete everything before the enacting clause



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159 and insert:

160 A bill to be entitled

161 An act relating to state contracting; amending s.
162 11.45, F.S.; conforming provisions to changes made by
163 the act; amending s. 215.985, F.S.; revising
164 provisions relating to the Chief Financial Officer's
165 intergovernmental contract tracking system under the
166 Transparency Florida Act; requiring state agencies to
167 post certain information in the tracking system and to
168 update that information; requiring that exempt and
169 confidential information be redacted from contracts
170 and procurement documents posted on the system;
171 authorizing the Chief Financial Officer to make
172 available the information posted on the system to the
173 public through a secure website; authorizing the
174 Department of Financial Services to adopt rules;
175 repealing s. 216.0111, F.S., relating to a requirement
176 that state agencies report certain contract
177 information to the Department of Financial Services
178 and transferring that requirement to s. 215.985, F.S.;
179 providing an effective date.