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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2012	.	
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The Committee on Banking and Insurance (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.



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13 215.985 or s. 218.39.

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. Section 215.971, Florida Statutes, is amended to  
24 read:

25 215.971 Agreements funded with federal and state  
26 assistance.—

27 (1) For an agency agreement that provides state financial  
28 assistance to a recipient or subrecipient, as those terms are  
29 defined in s. 215.97, or that provides federal financial  
30 assistance to a subrecipient, as defined by applicable United  
31 States Office of Management and Budget circulars, the agreement  
32 must ~~shall~~ include a provision:

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

36 (b) ~~(2)~~ ~~A provision~~ Dividing the agreement into quantifiable  
37 units of deliverables which ~~that~~ must be received and accepted  
38 in writing by the agency before payment. Each deliverable must  
39 be directly related to the scope of work and ~~must~~ specify a  
40 performance measure. As used in this paragraph, the term  
41 "performance measure" means the required minimum level of



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42 service to be performed and the criteria for evaluating the  
43 successful completion of each deliverable.

44 (2) Effective October 1, 2012, before execution, agreements  
45 to be funded with state or federal financial assistance must be  
46 submitted for review and approval in accordance with rules  
47 adopted by the Department of Financial Services. The review must  
48 ensure that the agreement document contains a clear statement of  
49 work, quantifiable and measureable deliverables, performance  
50 measures, and financial consequences for nonperformance. An  
51 agreement that does not comply with this subsection may be  
52 rejected and returned to the submitting agency for revision.

53 (3) The Chief Financial Officer may establish dollar  
54 thresholds and other criteria for sampling the agreements that  
55 are to be reviewed prior to execution. The Chief Financial  
56 Officer may revise such thresholds and other criteria for an  
57 agency or the unit of any agency as he or she deems appropriate.

58 (4) The department has 30 days to make a final  
59 determination regarding approval of an agreement. The department  
60 and the agency entering into the agreement may agree to a longer  
61 review period to ensure the thorough consideration of the  
62 procurement process and its results.

63 (5) For each agreement funded with federal or state  
64 assistance, the contracting agency shall designate an employee  
65 to function as grant manager who shall be responsible for  
66 enforcing performance of the agreement terms and conditions and  
67 serve as a liaison with the recipient. A grant manager who is  
68 responsible for one or more agreements in excess of the  
69 threshold amount provided in s. 287.017 for CATEGORY FIVE must  
70 be certified under s. 287.1312. The Chief Financial Officer



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71 shall establish and disseminate uniform procedures for payment  
72 requests pursuant to s. 17.03(3) to ensure that services are  
73 rendered in accordance with the agreement terms before the  
74 agency processes an invoice for payment. The procedures must  
75 include, but need not be limited to, procedures for monitoring  
76 and documenting a recipient's performance, reviewing and  
77 documenting all deliverables for which payment is requested by  
78 the recipient, and providing written certification by the grant  
79 manager of the agency's receipt of goods and services.

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

82 215.985 Transparency in government spending.—

83 (16) The Chief Financial Officer shall establish and  
84 maintain a secure, shared, intergovernmental contract tracking  
85 provide public access to a state contract management system.

86 (a) Within 30 calendar days after executing a contract,  
87 each state agency as defined in s. 216.011(1), and, effective  
88 November 1, 2013, each local governmental entity and independent  
89 special district as defined in s. 218.31, each district school  
90 board as described in s. 1001.32, the Board of Governors of the  
91 State University System as described in s. 1001.70, and each  
92 Florida College System institution board of trustees as  
93 described in s. 1001.61 must post the following that provides  
94 information and documentation relating to that contract on the  
95 contract tracking system: ~~contracts procured by governmental~~  
96 entities.

- 97 1. The name of the contracting entities;  
98 2. The procurement method;  
99 3. The contract beginning and ending dates;



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- 100        4. The nature or type of the commodities or services  
101 purchased;
- 102        5. Applicable contract unit prices and deliverables;
- 103        6. Total compensation to be paid or received under the  
104 contract;
- 105        7. All payments made to the contract vendor to date;
- 106        8. All commodities or services received from the contract  
107 vendor to date;
- 108        9. Applicable contract performance measures;
- 109        10. Contract extensions or renewals, if any;
- 110        11. The justification for not using competitive  
111 solicitation to procure the contract, including citation to any  
112 statutory exemption or exception from competitive solicitation,  
113 if applicable;
- 114        12. Electronic copies of the contract and procurement  
115 documents, including any provision that may have been redacted  
116 to conceal exempt or confidential information; and
- 117        13. Any other information regarding the contract or the  
118 procurement which may be required by the Department of Financial  
119 Services.
- 120        ~~(a) The data collected in the system must include, but need~~  
121 ~~not be limited to, the contracting agency; the procurement~~  
122 ~~method; the contract beginning and ending dates; the type of~~  
123 ~~commodity or service; the purpose of the commodity or service;~~  
124 ~~the compensation to be paid; compliance information, such as~~  
125 ~~performance metrics for the service or commodity; contract~~  
126 ~~violations; the number of extensions or renewals; and the~~  
127 ~~statutory authority for providing the service.~~
- 128        (b) Within 30 calendar days after a major modification or



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129 amendment change to an existing contract, ~~or the execution of a~~  
130 ~~new contract, agency procurement staff of the affected state~~  
131 ~~governmental entity~~ must shall update the ~~necessary~~ information  
132 described in paragraph (a) in the state contract tracking  
133 ~~management~~ system. A major modification or amendment change to a  
134 contract includes, but is not limited to, a renewal,  
135 termination, or extension of the contract, or an amendment to  
136 the contract as determined by the Chief Financial Officer.

137 (c) Each entity identified in paragraph (a) must redact, as  
138 defined in s. 119.011, any exempt or confidential information,  
139 including trade secrets as defined in s. 688.002 or s. 812.081,  
140 from the contract or procurement documents before posting an  
141 electronic copy of such documents on the contract tracking  
142 system.

143 1. If an entity becomes aware that an electronic copy of a  
144 contract or procurement document that it posted has not been  
145 properly redacted, the entity must replace the electronic copy  
146 of the documents with a redacted copy.

147 2. If a party to a contract, or an authorized  
148 representative thereof, discovers that an electronic copy of a  
149 contract or procurement document on the system has not been  
150 properly redacted, the party or representative may request the  
151 entity that posted the document to redact the exempt or  
152 confidential information. Upon receipt of a request in  
153 compliance with this subparagraph, the entity that posted the  
154 document shall redact the exempt or confidential information.

155 a. Such request must be in writing and delivered by mail,  
156 facsimile, or electronic transmission, or in person to the  
157 entity that posted the information. The request must identify



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158 the specific document, the page numbers that include the exempt  
159 or confidential information, the information that is exempt or  
160 confidential, and the relevant statutory exemption. A fee may  
161 not be charged for a redaction made pursuant to such request.

162 b. If necessary, a party to the contract may petition the  
163 circuit court for an order directing compliance with this  
164 paragraph.

165 3. The Chief Financial Officer, the Department of Financial  
166 Services, or any officer, employee, or contractor thereof, is  
167 not responsible for redacting exempt or confidential information  
168 from an electronic copy of a contract or procurement document  
169 posted by another entity on the system, and is not liable for  
170 the failure of the entity to redact the exempt or confidential  
171 information. The Department of Financial Services may notify the  
172 posting entity if it discovers that a document posted on the  
173 tracking system contains exempt or confidential information.

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

180 1. The Chief Financial Officer may regulate and prohibit  
181 the posting of records that could facilitate identity theft or  
182 fraud, such as signatures; compromise or reveal an agency  
183 investigation; reveal the identity of undercover personnel;  
184 reveal proprietary confidential business information or trade  
185 secrets; reveal an individual's medical information; or reveal  
186 any other record or information that the Chief Financial Officer



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187 believes may jeopardize the health, safety, or welfare of the  
188 public. However, such prohibition does not eliminate the duty of  
189 an entity to provide a copy of a public record upon request. The  
190 Chief Financial Officer shall use appropriate Internet security  
191 measures to ensure that no person has the ability to alter or  
192 modify records available on the website.

193 2. Records made available on the website, including  
194 electronic copies of contracts or procurement documents, may not  
195 reveal information made exempt or confidential by law. Notice of  
196 the right of an affected party to request redaction of exempt or  
197 confidential information pursuant to paragraph (c) must be  
198 conspicuously and clearly displayed on the website. This  
199 includes, but is not limited to:

200 a. Criminal intelligence or criminal investigative  
201 information as defined in s. 119.011;

202 b. Surveillance techniques or procedures or personnel;

203 c. The identity of a confidential informant or confidential  
204 source;

205 d. The identify of undercover personnel of a criminal  
206 justice agency;

207 e. A security system plan; or

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

209 (e) The posting of information on the contract tracking  
210 system or the provision of contract information on a website for  
211 public viewing and downloading does not eliminate the duty of an  
212 entity to respond to a public record request for such  
213 information or to a subpoena for such information.

214 1. A request for a copy of a contract or procurement  
215 document or a certified copy of a contract or procurement





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216 document shall be made to the entity that is party to the  
217 contract and that maintains the original documents. Such request  
218 may not be made to the Chief Financial Officer or the Department  
219 of Financial Services or any officer, employee, or contractor  
220 thereof unless the Chief Financial Officer or the department is  
221 a party to the contract.

222 2. A subpoena for a copy of a contract or procurement  
223 document or certified copy of a contract or procurement document  
224 must be served on the entity that is a party to the contract and  
225 that maintains the original documents. The Chief Financial  
226 Officer or the Department of Financial Services or any officer,  
227 employee, or contractor thereof may not be served a subpoena for  
228 those records unless the Chief Financial Officer or the  
229 department is a party to the contract.

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

232 Section 4. Section 216.0111, Florida Statutes, is repealed.

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

235 287.032 ~~Departmental responsibility purpose of department.~~  
236 Pursuant to the administration of this chapter:

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

239 (a) ~~(1) To~~ Promote efficiency, economy, and the conservation  
240 of energy and coordinate ~~to effect coordination in~~ the purchase  
241 of commodities and contractual services for the state.

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



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245        (b) ~~(3)~~ To Procure and distribute federal surplus tangible  
246 personal property allocated to the state by the Federal  
247 Government.

248        (2) The responsibility of the Department of Financial  
249 Services is to:

250        (a) Provide uniform commodity and contractual service  
251 procurement policies, rules, procedures, and forms for use by  
252 agencies and eligible users.

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

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

257        287.042 Powers, duties, and functions of the Department of  
258 Management Services.—The department is responsible for the  
259 procurement of commodities and contractual services for agencies  
260 and has ~~shall have~~ the following powers, duties, and functions:

261        (1) ~~(a)~~ To canvass all sources of supply, establish and  
262 maintain a vendor list, and contract for the purchase, lease, or  
263 acquisition, including purchase by installment sales or lease-  
264 purchase contracts which may provide for the payment of interest  
265 on unpaid portions of the purchase price, of all commodities and  
266 contractual services required by an any agency under this  
267 chapter. A Any contract providing for deferred payments and the  
268 payment of interest is shall be subject to specific rules  
269 adopted by the Department of Financial Services.

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



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274 a vendor barred by the Chief Financial Officer pursuant to s.  
275 287.044(7) may not be included on the list. The department may  
276 remove from the its vendor list any source of supply which fails  
277 to fulfill any of its duties specified in a contract with the  
278 state. The department ~~It~~ may reinstate ~~any~~ such source of supply  
279 if the department ~~when it~~ is satisfied that further instances of  
280 default will not occur.

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

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

288 (c)(e) The department shall include the products offered by  
289 the corporation operating the correctional industry program on  
290 any listing prepared by the department which lists state term  
291 contracts executed by the department. The products or services  
292 shall be placed on such list in a category based upon  
293 specification criteria developed through a joint effort of the  
294 department and the corporation and approved by the department.

295 1.(f) The corporation may submit products and services to  
296 the department for testing, analysis, and review relating to the  
297 quality and cost comparability. If, after review and testing,  
298 the department approves ~~of~~ the products and services, the  
299 department shall give written notice ~~thereof~~ to the corporation.  
300 The corporation shall pay a reasonable fee ~~charged~~ for the  
301 testing of its products by the Department of Agriculture and  
302 Consumer Services.



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303           2. The department shall issue a commodity number for all  
304 products of the corporation which meet or exceed department  
305 specifications.

306           (d)~~(g)~~ The department shall include products and services  
307 that are offered by a qualified nonprofit agency for the blind  
308 or for the other severely handicapped ~~organized pursuant to~~  
309 ~~chapter 413~~ and that have been determined to be suitable for  
310 purchase pursuant to s. 413.035 on a a ~~any~~ department listing of  
311 state term contracts. The products and services shall be placed  
312 on such list in a category based upon specification criteria  
313 developed by the department in consultation with the ~~qualified~~  
314 nonprofit agency.

315           (e)~~(h)~~ The department may collect fees for the use of its  
316 electronic information services. The fees may be imposed on an  
317 individual transaction basis or as a fixed subscription for a  
318 designated period of time. At a minimum, the fees shall be  
319 determined in an amount sufficient to cover the department's  
320 projected costs for ~~of~~ the services, including overhead, in  
321 accordance with the policies of the department ~~of Management~~  
322 ~~Services~~ for computing its administrative assessment. All fees  
323 collected under this paragraph shall be deposited in the  
324 Operating Trust Fund for disbursement as provided by law.

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

329           (a) The department may restrict purchases by ~~from some term~~  
330 ~~contracts to~~ state agencies from ~~only for those~~ term contracts  
331 if ~~where~~ the inclusion of other governmental entities will have



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332 an adverse effect on competition or on ~~to these~~ federal  
333 facilities located in this state. In such planning or  
334 purchasing, the office of ~~Supplier Diversity~~ may monitor to  
335 ensure that opportunities are afforded for contracting with  
336 minority business enterprises. The department, for state term  
337 contracts, and all agencies, for multiyear contractual services  
338 or term contracts, shall explore reasonable and economical means  
339 to use ~~utilize~~ certified minority business enterprises.  
340 Purchases by any county, municipality, private nonprofit  
341 community transportation coordinator designated pursuant to  
342 chapter 427, ~~while~~ conducting business related solely to the  
343 Commission for the Transportation Disadvantaged, or other local  
344 public agency under the provisions in the state purchasing  
345 contracts, and purchases, from the corporation operating the  
346 correctional work programs, of products or services that are  
347 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the  
348 competitive solicitation requirements otherwise applying to  
349 their purchases.

350 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),  
351 the department may proceed with the competitive solicitation or  
352 contract award process of a term contract if ~~when~~ the secretary  
353 of the department or his or her designee sets forth in writing  
354 particular facts and circumstances that ~~which~~ demonstrate that  
355 the delay incident to staying the solicitation or contract award  
356 process would be detrimental to the interests of the state. If,  
357 after the award of the ~~a~~ contract resulting from a competitive  
358 solicitation in which a timely protest was received and in which  
359 the state did not prevail, the contract may be canceled and  
360 reawarded.



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361 (c) Any person who files an action protesting a decision or  
362 intended decision pertaining to contracts administered by the  
363 department, a water management district, or an agency pursuant  
364 to s. 120.57(3) (b) shall post with the department, the water  
365 management district, or the agency at the time of filing the  
366 formal written protest a bond payable to the department, the  
367 water management district, or agency in an amount equal to 1  
368 percent of the estimated contract amount. For protests of  
369 decisions or intended decisions pertaining to exceptional  
370 purchases, the bond must ~~shall be in an amount~~ equal to 1  
371 percent of the estimated contract amount for the exceptional  
372 purchase.

373 1. The estimated contract amount shall be based upon the  
374 contract price submitted by the protestor or, if no contract  
375 price was submitted, the department, water management district,  
376 or agency shall estimate the contract amount based on factors,  
377 including, but not limited to, the price of previous or existing  
378 contracts for similar commodities or contractual services, the  
379 amount appropriated by the Legislature for the contract, or the  
380 fair market value of similar commodities or contractual  
381 services. The agency shall provide the estimated contract amount  
382 to the vendor within 72 hours, excluding Saturdays, Sundays, and  
383 state holidays, after the filing of the notice of protest by the  
384 vendor. The estimated contract amount is not subject to protest  
385 pursuant to s. 120.57(3).

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



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390           3. In lieu of a bond, the department, ~~the~~ water management  
391 district, or agency may, ~~in either case,~~ accept a cashier's  
392 check, official bank check, or money order in the amount of the  
393 bond.

394           4. If, after completion of the administrative hearing  
395 process and any appellate court proceedings, the department,  
396 water management district, or agency prevails, it shall recover  
397 all costs and charges, which must shall be included in the final  
398 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~  
399 ~~section shall not apply to protests filed by the Office of~~  
400 ~~Supplier Diversity.~~ Upon payment of such costs and charges by  
401 the protestor, the bond, cashier's check, official bank check,  
402 or money order shall be returned to the protestor. If, after the  
403 completion of the administrative hearing process and any  
404 appellate court proceedings, the protestor prevails, the  
405 protestor may shall recover from the department, water  
406 management district, or agency all costs and charges that are  
407 ~~which shall be~~ included in the final order or judgment,  
408 excluding attorney ~~attorney's~~ fees.

409           5. This paragraph does not apply to protests filed by the  
410 office.

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

415           ~~(a) Development of a list of interested vendors to be~~  
416 ~~maintained by classes of commodities and contractual services.~~  
417 ~~This list shall not be used to prequalify vendors or to exclude~~  
418 ~~any interested vendor from bidding.~~



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419           ~~(b)1. Development of procedures for advertising~~  
420 ~~solicitations. These procedures must provide for electronic~~  
421 ~~posting of solicitations for at least 10 days before the date~~  
422 ~~set for receipt of bids, proposals, or replies, unless the~~  
423 ~~department or other agency determines in writing that a shorter~~  
424 ~~period of time is necessary to avoid harming the interests of~~  
425 ~~the state. The Office of Supplier Diversity may consult with the~~  
426 ~~department regarding the development of solicitation~~  
427 ~~distribution procedures to ensure that maximum distribution is~~  
428 ~~afforded to certified minority business enterprises as defined~~  
429 ~~in s. 288.703.~~

430           ~~2. Development of procedures for electronic posting. The~~  
431 ~~department shall designate a centralized website on the Internet~~  
432 ~~for the department and other agencies to electronically post~~  
433 ~~solicitations, decisions or intended decisions, and other~~  
434 ~~matters relating to procurement.~~

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

440           ~~(d) Development of procedures to be used by an agency in~~  
441 ~~deciding to contract, including, but not limited to, identifying~~  
442 ~~and assessing in writing project needs and requirements,~~  
443 ~~availability of agency employees, budgetary constraints or~~  
444 ~~availability, facility equipment availability, current and~~  
445 ~~projected agency workload capabilities, and the ability of any~~  
446 ~~other state agency to perform the services.~~

447           ~~(e) Development of procedures to be used by an agency in~~





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448 ~~maintaining a contract file for each contract which shall~~  
449 ~~include, but not be limited to, all pertinent information~~  
450 ~~relating to the contract during the preparatory stages; a copy~~  
451 ~~of the solicitation; documentation relating to the solicitation~~  
452 ~~process; opening of bids, proposals, or replies; evaluation and~~  
453 ~~tabulation of bids, proposals, or replies; and determination and~~  
454 ~~notice of award of contract.~~

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

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

461 ~~(h) Development of procedures to be used by state agencies~~  
462 ~~when procuring information technology commodities and~~  
463 ~~contractual services that ensure compliance with public records~~  
464 ~~requirements and records retention and archiving requirements.~~

465 ~~(4) (a) To prescribe the methods of securing competitive~~  
466 ~~sealed bids, proposals, and replies. Such methods may include,~~  
467 ~~but are not limited to, procedures for identifying vendors;~~  
468 ~~setting qualifications; conducting conferences or written~~  
469 ~~question and answer periods for purposes of responding to vendor~~  
470 ~~questions; evaluating bids, proposals, and replies; ranking and~~  
471 ~~selecting vendors; and conducting negotiations.~~

472 ~~(b) To prescribe procedures for procuring information~~  
473 ~~technology and information technology consultant services that~~  
474 ~~provide for public announcement and qualification, competitive~~  
475 ~~solicitations, contract award, and prohibition against~~  
476 ~~contingent fees. Such procedures are limited to information~~



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477 ~~technology consultant contracts for which the total project~~  
478 ~~costs, or planning or study activities, are estimated to exceed~~  
479 ~~the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

480 ~~(3)(5) To prescribe specific commodities and quantities to~~  
481 ~~be purchased locally.~~

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

485 ~~(4)(b) Except for the purchase of insurance, to the~~  
486 ~~department may delegate to agencies the authority for the~~  
487 ~~procurement of and contracting for commodities or contractual~~  
488 ~~services.~~

489 ~~(7) To establish definitions and classes of commodities and~~  
490 ~~contractual services. Agencies shall follow the definitions and~~  
491 ~~classes of commodities and contractual services established by~~  
492 ~~the department in acquiring or purchasing commodities or~~  
493 ~~contractual services. The authority of the department under this~~  
494 ~~section shall not be construed to impair or interfere with the~~  
495 ~~determination by state agencies of their need for, or their use~~  
496 ~~of, services including particular specifications.~~

497 ~~(8) To provide any commodity and contractual service~~  
498 ~~purchasing rules to the Chief Financial Officer and all agencies~~  
499 ~~through an electronic medium or other means. Agencies may not~~  
500 ~~approve any account or request any payment of any account for~~  
501 ~~the purchase of any commodity or the procurement of any~~  
502 ~~contractual service covered by a purchasing or contractual~~  
503 ~~service rule except as authorized therein. The department shall~~  
504 ~~furnish copies of rules adopted by the department to any county,~~  
505 ~~municipality, or other local public agency requesting them.~~



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506        (5)~~(9)~~ To require that every agency furnish information  
507 relative to its commodity and contractual services purchases and  
508 methods of purchasing commodities and contractual services to  
509 the department when so requested.

510        (6)~~(10)~~ To prepare statistical data concerning the method  
511 of procurement, terms, usage, and disposition of commodities and  
512 contractual services by agencies. All agencies shall furnish  
513 such information for this purpose to the office and to the  
514 department, as the department or office may call for, but at  
515 least ~~no less frequently than~~ annually, on such forms or in such  
516 manner as the department may prescribe.

517        ~~(11) To establish and maintain programs for the purpose of~~  
518 ~~disseminating information to government, industry, educational~~  
519 ~~institutions, and the general public concerning policies,~~  
520 ~~procedures, rules, and forms for the procurement of commodities~~  
521 ~~and contractual services.~~

522        (7)~~(12)~~ Except as otherwise provided in this section  
523 ~~herein~~, to adopt rules necessary to carry out the purposes of  
524 this section, including the authority to delegate to any agency  
525 any and all of the responsibility conferred by this section,  
526 retaining to the department any and all authority for  
527 supervision thereof. Such purchasing of commodities and  
528 procurement of contractual services by state agencies must also  
529 ~~shall~~ be in strict accordance with the rules and procedures  
530 prescribed by the Department of Financial Services.

531        (8)~~(13)~~ If the department determines in writing that it is  
532 in the best interest of the state, to award to multiple  
533 suppliers contracts for commodities and contractual services  
534 established by the department for use by all agencies. Such



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535 awards may be on a statewide or regional basis. If regional  
536 contracts are established by the department, multiple supplier  
537 awards may be based upon multiple awards for regions. Agencies  
538 may award contracts to a responsible and responsive vendor on a  
539 statewide or regional basis.

540 (9)~~(14)~~ To procure and distribute federal surplus tangible  
541 personal property allocated to the state by the Federal  
542 Government.

543 (10)~~(15)~~ To enter into joint agreements with governmental  
544 agencies, as defined in s. 163.3164, for the purpose of pooling  
545 funds for the purchase of commodities or information technology  
546 that can be used by multiple agencies.

547 (a) Each agency that has been appropriated or has existing  
548 funds for such purchase, shall, upon contract award by the  
549 department, transfer their portion of the funds into the  
550 department's Operating Trust Fund for payment by the department.  
551 The funds shall be transferred by the Executive Office of the  
552 Governor pursuant to the agency budget amendment request  
553 provisions in chapter 216.

554 (b) Agencies that sign the joint agreements are financially  
555 obligated for their portion of the agreed-upon funds. If an  
556 agency becomes more than 90 days delinquent in paying the funds,  
557 the department shall certify to the Chief Financial Officer the  
558 amount due, and the Chief Financial Officer shall transfer the  
559 amount due to the Operating Trust Fund of the department from  
560 any of the agency's available funds. The Chief Financial Officer  
561 shall report these transfers and the reasons for the transfers  
562 to the Executive Office of the Governor and the legislative  
563 appropriations committees.



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564           ~~(11)-(16)~~ To evaluate contracts let by the Federal  
565 Government, another state, or a political subdivision for the  
566 provision of commodities and contract services, and, if it is  
567 determined in writing to be cost-effective and in the best  
568 interest of the state, to enter into a written agreement  
569 authorizing an agency to make purchases under such contract.

570           ~~(12)-(17)~~ (a) To enter into contracts pursuant to chapter 957  
571 for the designing, financing, acquiring, leasing, constructing,  
572 or operating of private correctional facilities. The department  
573 shall enter into such ~~a contract or~~ contracts with one  
574 contractor per facility ~~for the designing, acquiring, financing,~~  
575 ~~leasing, constructing, and operating of that facility~~ or may, if  
576 specifically authorized by the Legislature, separately contract  
577 for each of ~~any~~ such services.

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

581           ~~(b)~~ The department may not delegate the responsibilities  
582 conferred by this subsection.

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

585           287.044 Powers, duties, and functions of the Department of  
586 Financial Services.—The Department of Financial Services is  
587 responsible for establishing and enforcing procurement and  
588 contracting policies and procedures for the Department of  
589 Management Services and all agencies. The Department of  
590 Financial Services has the following powers, duties, and  
591 functions:

592           (1) To establish a system of coordinated and uniform



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593 procurement policies, procedures, and practices to be used by  
594 agencies when acquiring commodities and contractual services,  
595 which includes, but is not limited to:

596 (a) The development of procedures to be used by an agency  
597 for issuing or advertising solicitations which include  
598 requirements for the agency to describe commodities, services,  
599 scope of work, and deliverables in a manner that promotes  
600 competition.

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

606 2. The office may consult with the department regarding the  
607 development of solicitation distribution procedures to ensure  
608 that maximum distribution is afforded to certified minority  
609 business enterprises as defined in s. 288.703.

610 3. The department shall designate a centralized website on  
611 the Internet for the department and other agencies to  
612 electronically post solicitations, decisions or intended  
613 decisions, and other matters relating to procurement.

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

616 (c) The development of procedures to be used by state  
617 agencies when procuring information technology commodities and  
618 contractual services which ensure compliance with public records  
619 requirements and records retention and archiving requirements.

620 (d) The development of procedures for the receipt and  
621 opening of bids, proposals, or replies by an agency. Such



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622 procedures must provide the office an opportunity to monitor and  
623 to ensure that the contract award is consistent with the  
624 requirements of s. 287.09451.

625 (e) The development of procedures to be used by an agency  
626 in deciding to contract, including, but not limited to,  
627 identifying and assessing in writing project needs and  
628 requirements, availability of agency employees, budgetary  
629 availability or constraints, availability of facility equipment,  
630 current and projected agency workload capabilities, and the  
631 ability of another state agency to perform the services.

632 (f) The development of procedures for recording and  
633 maintaining support documentation for a cost or price analysis  
634 to be performed before the award of a contract in excess of the  
635 threshold amount provided in s. 287.017 for CATEGORY FOUR. The  
636 cost or price analysis shall be used to validate the  
637 reasonableness of bids, proposals, or replies.

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

642 (h) The development of procedures to be used by an agency  
643 in maintaining a contract file for each contract which includes,  
644 but is not limited to, all pertinent information relating to the  
645 contract during the preparatory stages; the solicitation  
646 process, including a copy of the solicitation; the opening of  
647 bids, proposals, or replies; the evaluation and tabulation of  
648 bids, proposals, or replies; and the determination and notice of  
649 contract award.

650 (2) To prescribe the methods of securing competitive sealed



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651 bids, proposals, and replies. Such methods may include, but are  
652 not limited to, procedures for identifying vendors; setting  
653 qualifications; conducting conferences or written question and  
654 answer periods for purposes of responding to vendor questions;  
655 evaluating bids, proposals, and replies; ranking and selecting  
656 vendors; and conducting negotiations.

657 (3) To prescribe procedures for procuring information  
658 technology and information technology consultant services which  
659 provide for public announcement and qualification, competitive  
660 solicitations, the contract award, and a prohibition against  
661 contingent fees. Such procedures are limited to information  
662 technology consultant contracts for which the total project  
663 costs, or planning or study activities, are estimated to exceed  
664 the threshold amount provided in s. 287.017 for CATEGORY TWO.

665 (4) To govern the purchase by an agency of any commodity or  
666 contractual service and to establish standards and  
667 specifications for a commodity. The Chief Financial Officer  
668 shall establish definitions and classes of commodities and  
669 contractual services which agencies must adhere to in acquiring  
670 or purchasing commodities or contractual services. The  
671 department's authority under this section may not impair or  
672 interfere with an agency's determination of its need for, or use  
673 of, services that include particular specifications.

674 (5) To provide to agencies through an electronic medium or  
675 other means rules for purchasing commodities and contractual  
676 services. Agencies may not approve any account, or request  
677 payment of any account, for the purchase of any commodity or the  
678 procurement of any contractual service covered by a purchasing  
679 or contractual service rule except as authorized by such rule.





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680 The department shall furnish copies of rules adopted by the  
681 department to any county, municipality, or other local public  
682 agency requesting them.

683 (6) To establish and maintain programs that disseminate  
684 information to governmental entities, industry vendors,  
685 educational institutions, and the general public concerning  
686 policies, procedures, rules, and forms for the procurement of  
687 commodities and contractual services.

688 (7) To establish and maintain a list of vendors that are  
689 not allowed to do business with the state pursuant to ss.  
690 287.132(4) and 287.133. The department may add to the list  
691 vendors that are not compliant with federal or state laws, or  
692 that the department determines have uncollected accounts that  
693 are owed to the state.

694 Section 8. Paragraph (f) of subsection (3) and subsections  
695 (9), (14), and (16) of section 287.057, Florida Statutes, are  
696 amended, and subsection (24) is added to that section, to read:  
697 287.057 Procurement of commodities or contractual  
698 services.—

699 (3) When the purchase price of commodities or contractual  
700 services exceeds the threshold amount provided in s. 287.017 for  
701 CATEGORY TWO, no purchase of commodities or contractual services  
702 may be made without receiving competitive sealed bids,  
703 competitive sealed proposals, or competitive sealed replies  
704 unless:

705 (f) The following contractual services and commodities are  
706 not subject to the competitive-solicitation requirements of this  
707 section:

708 ~~1. Artistic services. For the purposes of this subsection,~~



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709 ~~the term "artistic services" does not include advertising or~~  
710 ~~typesetting. As used in this subparagraph, the term~~  
711 ~~"advertising" means the making of a representation in any form~~  
712 ~~in connection with a trade, business, craft, or profession in~~  
713 ~~order to promote the supply of commodities or services by the~~  
714 ~~person promoting the commodities or contractual services.~~

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

717 ~~3. Lectures by individuals.~~

718 ~~1.4.~~ Legal services, including attorney, paralegal, expert  
719 witness, appraisal, or mediator services.

720 ~~2.5.a.~~ Health services involving examination, diagnosis,  
721 treatment, prevention, medical consultation, or administration,  
722 and,

723 ~~b.~~ beginning January 1, 2011, health services, including,  
724 but not limited to, substance abuse and mental health services,  
725 involving examination, diagnosis, treatment, prevention, or  
726 medical consultation, if ~~when~~ such services are offered to  
727 eligible individuals participating in a specific program that  
728 qualifies multiple providers and uses a standard payment  
729 methodology. Reimbursement of administrative costs for providers  
730 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.  
731 For purposes of this subparagraph ~~sub-subparagraph~~, the term  
732 "providers" means health professionals, health facilities, or  
733 organizations that deliver or arrange for the delivery of health  
734 services.

735 ~~3.6.~~ Services provided to persons with mental or physical  
736 disabilities by not-for-profit corporations that ~~which~~ have  
737 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the



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738 United States Internal Revenue Code or if ~~when~~ such services are  
739 governed by the provisions of Office of Management and Budget  
740 Circular A-122. However, in acquiring such services, the agency  
741 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past  
742 performance, willingness to meet time requirements, and price.

743 ~~4.7.~~ Medicaid services delivered to an eligible Medicaid  
744 recipient, unless the agency is directed otherwise in law.

745 ~~5.8.~~ Family placement services.

746 ~~6.9.~~ Prevention services related to mental health,  
747 including drug abuse prevention programs, child abuse prevention  
748 programs, and shelters for runaways, operated by not-for-profit  
749 corporations. However, in acquiring such services, the agency  
750 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past  
751 performance, willingness to meet time requirements, and price.

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

754 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

755 ~~8.12.~~ Services or commodities provided by governmental  
756 agencies.

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

761 (14) For each contractual services contract, the agency  
762 shall designate an employee to function as contract manager who  
763 shall be responsible for enforcing performance of the contract  
764 terms and conditions and serve as a liaison with the contractor.  
765 Each contract manager who is responsible for one or more  
766 contracts in excess of the threshold amount provided under s.



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767 287.017 for CATEGORY FIVE ~~TWO~~ must be certified pursuant to s.  
768 287.1312 ~~attend training conducted by the Chief Financial~~  
769 ~~Officer for accountability in contracts and grant management.~~  
770 The Chief Financial Officer shall establish and disseminate  
771 uniform procedures pursuant to s. 17.03(3) to ensure that  
772 contractual services have been rendered in accordance with the  
773 contract terms before the agency processes the invoice for  
774 payment. The procedures must ~~shall~~ include, but need not be  
775 limited to, procedures for monitoring and documenting contractor  
776 performance, reviewing and documenting all deliverables for  
777 which payment is requested by vendors, and providing written  
778 certification by contract managers of the agency's receipt of  
779 goods and services.

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

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

787 (b) At least three persons to conduct negotiations during a  
788 competitive sealed reply procurement who collectively have  
789 experience and knowledge in negotiating contracts, contract  
790 procurement, and the program areas and service requirements for  
791 which commodities or contractual services are sought. When the  
792 value of a contract is in excess of \$1 million in any fiscal  
793 year, at least one of the persons conducting negotiations must  
794 be certified as a contract negotiator based upon rules adopted  
795 by the Department of Financial Services ~~Management Services~~ in



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796 order to ensure that certified contract negotiators are  
797 knowledgeable about effective negotiation strategies, capable of  
798 successfully implementing those strategies, and involved  
799 appropriately in the procurement process. At a minimum, the  
800 rules must address the qualifications required for  
801 certification, the method of certification, and the procedure  
802 for involving the certified negotiator. If the value of a  
803 contract is in excess of \$10 million in any fiscal year, at  
804 least one of the persons conducting negotiations must be a  
805 Project Management Professional, as certified by the Project  
806 Management Institute.

807 (24) An agency or other eligible user may purchase  
808 commodities or services through another agency's existing  
809 contract rather than through competitive competition if the use  
810 of such contract is in the best interest of the state.

811 Section 9. Paragraph (e) of subsection (1) of section  
812 287.058, Florida Statutes, is amended, and subsections (7)  
813 through (11) are added to that section, to read:

814 287.058 Contract document.—

815 (1) Every procurement of contractual services in excess of  
816 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
817 except for the providing of health and mental health services or  
818 drugs in the examination, diagnosis, or treatment of sick or  
819 injured state employees or the providing of other benefits as  
820 required by the provisions of chapter 440, shall be evidenced by  
821 a written agreement embodying all provisions and conditions of  
822 the procurement of such services, which shall, where applicable,  
823 include, but not be limited to, a provision:

824 (e) Dividing the contract into quantifiable, measurable,



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825 and verifiable units of deliverables which ~~that~~ must be received  
826 and accepted in writing by the contract manager before payment.  
827 Each deliverable must be directly related to the scope of work  
828 and specify a performance measure. As used in this paragraph,  
829 the term "performance measure" means the required minimum level  
830 of service to be performed and criteria for evaluating the  
831 successful completion of each deliverable.

832  
833 In lieu of a written agreement, the department may authorize the  
834 use of a purchase order for classes of contractual services, if  
835 the provisions of paragraphs (a)-(i) are included in the  
836 purchase order or solicitation. The purchase order must include,  
837 but need not be limited to, an adequate description of the  
838 services, the contract period, and the method of payment. In  
839 lieu of printing the provisions of paragraphs (a)-(i) in the  
840 contract document or purchase order, agencies may incorporate  
841 the requirements of paragraphs (a)-(i) by reference.

842 (7) The Chief Financial Officer may review and approve  
843 contracts subject to this chapter before the execution of such  
844 contracts in accordance with rules adopted by the department.  
845 The review must ensure that all contracting laws have been met;  
846 that the contract document contains a clear statement of work,  
847 quantifiable and measureable deliverables, performance measures,  
848 financial consequences for nonperformance, and clear terms and  
849 conditions that protect the interests of the state; that  
850 documentation is available to support the contract; and that the  
851 associated costs of the contract are not unreasonable or  
852 inappropriate. A contract that does not comply with this  
853 subsection may be rejected and returned to the submitting agency



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854 for revision.

855 (8) The Chief Financial Officer may establish dollar  
856 thresholds and other criteria for sampling the agreements that  
857 are to be reviewed prior to execution. The Chief Financial  
858 Officer may revise such thresholds and other criteria for an  
859 agency or the unit of any agency as he or she deems appropriate.

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

862 (a) Evidence of advertising the procurement opportunity, if  
863 applicable;

864 (b) The bid, proposal, or reply itself, whether an  
865 invitation to bid, request for proposals, or invitation to  
866 negotiate, as applicable;

867 (c) The preprocurement conference questions and answers;

868 (d) Any additional documentation provided to bidders,  
869 proposers, or repliers;

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

871 (f) The evaluation instrument and process description  
872 related to the contract;

873 (g) The bid tabulation or evaluation record;

874 (h) Documentation that supports the agency's determination  
875 of vendor responsibility;

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

878 (j) Documentation that supports the selection of the  
879 contractor;

880 (k) The reasonableness of the price;

881 (l) Verification that all statutory and regulatory  
882 requirements have been met; and



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883           (m) The proposed contract.  
884           (10) The department shall verify that a competitive process  
885 was used, if required by law, and that the contract was  
886 appropriately awarded on the basis of lowest price or best value  
887 to a responsive and reasonable bidder, proposer, or replier. For  
888 contracts not competitively awarded, the procurement record  
889 shall be reviewed for restrictive specifications and the  
890 agency's justification for the noncompetitive method used in  
891 awarding the contract, including justification for the selection  
892 of the vendor and the reasonableness of the terms.

893           (11) The department has 30 days to make a final  
894 determination regarding approval of a contract. The department  
895 and the agency entering into the contract may agree to a longer  
896 review period to ensure the thorough consideration of the  
897 procurement process and its results.

898           Section 10. Section 287.1312, Florida Statutes, is created  
899 to read:

900           287.1312 Contract manager certification.—

901           (1) The Department of Financial Services shall establish a  
902 training certification program for contract and grant managers  
903 and negotiators of contracts and grants. A state employee may  
904 not manage a contract or grant agreement in excess of the  
905 threshold amount provided in s. 287.017 for CATEGORY FIVE  
906 without obtaining a valid certification from the Department of  
907 Financial Services under this section. The program must include  
908 training in the following areas:

909           (a) Procurement and the development of contracts.

910           (b) Development and administration of grant agreements  
911 involving federal and state financial assistance.





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- 912       (c) Responsibilities of a contract manager in the  
913 management of state contracts and grant agreements.
- 914       (d) Federal and state audit and reporting requirements.
- 915       (e) Laws and rules relating to procurement and contract  
916 administration.
- 917       (f) Any other subject matter that the Chief Financial  
918 Officer determines will promote accountability in contract and  
919 grant management.
- 920       (2) The program shall provide for periodic recertification,  
921 as necessary. The Department of Financial Services shall  
922 determine course requirements, maintain information on  
923 certifications, and monitor the performance of contract and  
924 grant managers. As part of such monitoring, the department shall  
925 annually publish the results of agency manager audits and error  
926 rates related to contract and grant management on its website.
- 927       (3) The Department of Financial Services may revoke a  
928 manager's certification for incompetence or conduct inconsistent  
929 with the responsibilities of contract or grant management.
- 930       (4) The Department of Financial Services shall adopt rules  
931 to administer this section.

932       Section 11. Paragraph (d) of subsection (1) of section  
933 287.133, Florida Statutes, is amended to read:

934       287.133 Public entity crime; denial or revocation of the  
935 right to transact business with public entities.—

936       (1) As used in this section:

937       (d) "Department" means the Department of Financial  
938 Management Services.

939       Section 12. Paragraph (h) of subsection (3) of section  
940 255.25, Florida Statutes, is amended to read:



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941           255.25 Approval required prior to construction or lease of  
942 buildings.-

943           (3)

944           (h) ~~The Department of Management Services may,~~ Pursuant to  
945 s. 287.042(2)(a), the department shall procure a term contract  
946 for real estate consulting and brokerage services. A state  
947 agency may not purchase services from the contract unless the  
948 contract has been procured under s. 287.057(1) after March 1,  
949 2007, and contains the following provisions or requirements:

950           1. Awarded brokers ~~must~~ maintain an office or presence in  
951 the market served. In awarding the contract, preference must be  
952 given to brokers who ~~that~~ are licensed in this state under  
953 chapter 475 and who ~~that~~ have 3 or more years of experience in  
954 the market served. The contract may be made with up to three  
955 tenant brokers in order to serve the marketplace in the north,  
956 central, and south areas of the state.

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

960           3. The department provides ~~shall provide~~ training for the  
961 awarded tenant brokers concerning the rules governing the  
962 procurement of leases.

963           4. Tenant brokers ~~must~~ comply with all applicable  
964 provisions of s. 475.278.

965           5. Real estate consultants and tenant brokers are ~~shall be~~  
966 compensated by the state agency, subject to the provisions of  
967 the term contract, and such compensation is subject to  
968 appropriation by the Legislature. A real estate consultant or  
969 tenant broker may not receive compensation directly from a



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970 lessor for services that are rendered under the term contract.  
971 Moneys paid by a lessor to the state agency under a facility  
972 leasing arrangement are not subject to the charges imposed under  
973 s. 215.20. All terms relating to the compensation of the real  
974 estate consultant or tenant broker must ~~shall~~ be specified in  
975 the term contract and may not be supplemented or modified by the  
976 state agency using the contract.

977 6. The department conducts ~~shall conduct~~ periodic customer-  
978 satisfaction surveys.

979 7. Each state agency reports ~~shall report~~ the following  
980 information to the department:

981 a. The number of leases that adhere to the goal of the  
982 workspace-management initiative of 180 square feet per full-time  
983 employee FTE.

984 b. The quality of space leased and the adequacy of tenant-  
985 improvement funds.

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

988 d. Whether cost-benefit analyses were performed before  
989 execution of the lease in order to ensure that the lease is in  
990 the best interest of the state.

991 e. The lease costs compared to market rates for similar  
992 types and classifications of space according to the official  
993 classifications of the Building Owners and Managers Association.

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

996 287.012 Definitions.—As used in this part, the term:

997 (12) "Exceptional purchase" means any purchase of  
998 commodities or contractual services excepted by law or rule from



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999 the requirements for competitive solicitation, including, but  
1000 not limited to, purchases from a single source; purchases upon  
1001 receipt of fewer ~~less~~ than two responsive bids, proposals, or  
1002 replies; purchases made by an agency, after receiving approval  
1003 from the department, from a contract procured, pursuant to s.  
1004 287.057(1), or by another agency; and purchases made without  
1005 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)  
1006 ~~287.042(3)(b)~~.

1007 Section 14. Paragraph (a) of subsection (2) of section  
1008 402.7305, Florida Statutes, is amended to read:

1009 402.7305 Department of Children and Family Services;  
1010 procurement of contractual services; contract management.-

1011 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.-

1012 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, if  
1013 ~~whenever~~ the department intends to contract with a public  
1014 postsecondary institution to provide a service, the department  
1015 must allow all public postsecondary institutions in this state  
1016 which ~~that~~ are accredited by the Southern Association of  
1017 Colleges and Schools to bid on the contract. Thereafter,  
1018 notwithstanding any other provision of law ~~to the contrary~~, if a  
1019 public postsecondary institution intends to subcontract for any  
1020 service awarded in the contract, the subcontracted service must  
1021 be procured by competitive procedures.

1022 Section 15. Subsection (3) of section 427.0135, Florida  
1023 Statutes, is amended to read:

1024 427.0135 Purchasing agencies; duties and responsibilities.-  
1025 Each purchasing agency, in carrying out the policies and  
1026 procedures of the commission, shall:

1027 (3) Not procure transportation disadvantaged services



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1028 without initially negotiating with the commission, as provided  
1029 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise  
1030 authorized by statute. If the purchasing agency, after  
1031 consultation with the commission, determines that it cannot  
1032 reach mutually acceptable contract terms with the commission,  
1033 the purchasing agency may contract for the same transportation  
1034 services provided in a more cost-effective manner and of  
1035 comparable or higher quality and standards. The Medicaid agency  
1036 shall implement this subsection in a manner consistent with s.  
1037 409.908(18) and as otherwise limited or directed by the General  
1038 Appropriations Act.

1039 Section 16. Subsection (2) of section 946.515, Florida  
1040 Statutes, is amended to read:

1041 946.515 Use of goods and services produced in correctional  
1042 work programs.—

1043 (2) A ~~Ne~~ similar product or service of comparable price and  
1044 quality found necessary for use by any state agency may not be  
1045 purchased from any source other than the corporation if the  
1046 corporation certifies that the product is manufactured by, or  
1047 the service is provided by, inmates and the product or service  
1048 meets the comparable performance specifications and comparable  
1049 price and quality requirements as specified under s.

1050 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual  
1051 agency as provided in this section. The purchasing authority of  
1052 ~~any~~ such state agency may make reasonable determinations of  
1053 need, price, and quality with reference to products or services  
1054 available from the corporation. In the event of a dispute  
1055 between the corporation and a ~~any~~ purchasing authority based  
1056 upon price or quality under this section or s. 287.042(1)(c)



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1057 ~~287.042(1)(f)~~, either party may request a hearing with the  
1058 Department of Management Services and, if not resolved, ~~either~~  
1059 ~~party~~ may request a proceeding pursuant to ss. 120.569 and  
1060 120.57, which shall be referred to the Division of  
1061 Administrative Hearings within 60 days after such request, to  
1062 resolve any dispute under this section. A ~~No~~ party is not  
1063 entitled to any appeal pursuant to s. 120.68.

1064 Section 17. Procurement review and report.-

1065 (1) The Chief Financial Officer shall review and  
1066 investigate:

1067 (a) All current state laws that govern the state  
1068 procurement of goods, services, and facilities;

1069 (b) The procurement policies, rules, procedures, and  
1070 practices followed by the state agencies, boards, commissions,  
1071 offices, and other instrumentalities of the executive branch of  
1072 state government;

1073 (c) The organization and management processes involved in  
1074 the state procurement of goods, services, and facilities before  
1075 the award of a state procurement contract, during the  
1076 solicitation of bids, the evaluation, and the negotiation of a  
1077 contract, and subsequent to the award of the contract to  
1078 determine the extent to which these organization and management  
1079 processes facilitate the legislative policy set forth in this  
1080 act; and

1081 (d) Any other areas that the Chief Financial Officer deems  
1082 relevant to the review and investigation.

1083 (2) In order to accomplish the procurement review directed  
1084 by this section, the Chief Financial Officer may:

1085 (a) Acquire information directly from the head of any state



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1086 department or agency for the purpose of conducting this review.  
1087 All departments and agencies shall cooperate with the Chief  
1088 Financial Officer and furnish all information requested to the  
1089 extent permitted by law.

1090 (b) Procure the services of experts and consultants.

1091 (c) Contract with private organizations and nonprofit  
1092 institutions to carry out studies and prepare reports to  
1093 facilitate the review.

1094 (3) By December 31, 2012, the Chief Financial Officer shall  
1095 submit to the Governor, the President of the Senate, and the  
1096 Speaker of the House of Representatives a report of findings and  
1097 recommendations for changes in statutes, rules, policies,  
1098 procedures, and organization necessary to carry out the policies  
1099 set forth in this act.

1100 Section 18. The Legislature recognizes the need to reform  
1101 the purchasing cycle, from the development of a purchasing  
1102 agreement to the payment for goods or services provided to the  
1103 state. Therefore, chapter 287, Florida Statutes, is repealed  
1104 effective July 30, 2014.

1105 Section 19. (1) For the 2012-2013 fiscal year, the sum of  
1106 \$400,000 in nonrecurring funds is appropriated from the  
1107 Administrative Trust Fund in the Department of Financial  
1108 Services to contract for the Chief Financial Officer's review of  
1109 the state's procurement process.

1110 (2) For the 2012-2013 fiscal year, the sum of \$375,000 in  
1111 nonrecurring funds is appropriated from the Administrative Trust  
1112 Fund in the Department of Financial Services to contract for the  
1113 Chief Financial Officer's administration of the certified  
1114 contract manager and negotiator programs.



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1115           (3) For the 2012-2013 fiscal year, the sum of \$X00,000 in  
1116 recurring funds from the General Revenue fund and full-time  
1117 equivalent positions and associated salary rate of are  
1118 appropriated to the Chief Financial Officer for the purpose of  
1119 implementing the Chief Financial Officer's expanded contract  
1120 auditing responsibilities under this act. Funds remaining  
1121 unexpended or unencumbered from this appropriation as of June  
1122 30, 2013, shall revert and be reappropriated for the same  
1123 purpose in the 2013-2014 fiscal year.

1124           Section 20. Except as otherwise expressly provided in this  
1125 act, this act shall take effect July 1, 2012.

1126  
1127 ===== T I T L E   A M E N D M E N T =====

1128 And the title is amended as follows:

1129           Delete everything before the enacting clause  
1130 and insert:

1131                           A bill to be entitled  
1132           An act relating to state contracting; amending s.  
1133           11.45, F.S.; conforming provisions to changes made by  
1134           the act; amending s. 215.971, F.S.; requiring  
1135           agreements funded with state or federal financial  
1136           assistance to include a performance measure for each  
1137           deliverable, to be reviewed and approved in accordance  
1138           with rules adopted by the Department of Financial  
1139           Services, and to have the contracting entity assign a  
1140           grants manager who is responsible for enforcing  
1141           performance of the agreement; amending s. 215.985,  
1142           F.S.; revising provisions relating to the Chief  
1143           Financial Officer's intergovernmental contract





1144 tracking system under the Transparency Florida Act;  
1145 specifying the entities that are included in the  
1146 tracking system; requiring that exempt and  
1147 confidential information be redacted from contracts  
1148 and procurement documents posted on the system;  
1149 authorizing the Chief Financial Officer to make  
1150 available the information posted on the system to the  
1151 public through a secure website; authorizing the  
1152 Department of Financial Services to adopt rules;  
1153 repealing s. 216.0111, F.S., relating to a requirement  
1154 that state agencies report certain contract  
1155 information to the Department of Financial Services  
1156 and transferring that requirement to s. 215.985, F.S.;  
1157 amending s. 287.032, F.S.; dividing the  
1158 responsibilities of the Department of Management  
1159 Services under ch. 287, F.S., with the Department of  
1160 Financial Services; amending s. 287.042, F.S.;  
1161 limiting the duties of the Department of Management  
1162 Services to the procurement of commodities and  
1163 contractual services; directing the department to  
1164 develop a list of interested vendors; deleting  
1165 provisions requiring that the department perform  
1166 duties relating to procurement and contracting  
1167 policies and procedures; creating s. 287.044, F.S.;  
1168 assigning duties relating to procurement and  
1169 contracting policies and procedures to the Department  
1170 of Financial Services; requiring the department to  
1171 develop a list of vendors not allowed to do business  
1172 with the state; amending s. 287.057, F.S.; revising



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1173 the list of contractual services and commodities that  
1174 are exempt from competitive solicitation to delete  
1175 certain services from the exemption; revising  
1176 provisions prohibiting an agency from dividing a  
1177 solicitation; conforming provisions to changes made by  
1178 the act; authorizing an agency or other eligible user  
1179 to purchase commodities or services through another  
1180 agency's contract; amending s. 287.058, F.S.;  
1181 requiring contracts to include a performance measure  
1182 for each deliverable; authorizing the Chief Financial  
1183 Officer to review and approve contracts; providing  
1184 requirements for such reviews; authorizing the Chief  
1185 Financial Officer to establish dollar thresholds and  
1186 another criteria for sampling agreements that are to  
1187 be reviewed before execution; providing criteria for  
1188 the department's review of contract documentation;  
1189 requiring that the department verify that a  
1190 competitive process was used and that a contract was  
1191 appropriately awarded; providing for the review of  
1192 procurement record for contracts not competitively  
1193 awarded; specifying the number of days that the  
1194 department must make its final determination regarding  
1195 the approval of a contract; authorizing the department  
1196 and the agency to agree to a longer review period;  
1197 creating s. 287.1312, F.S.; requiring certification of  
1198 contract managers by the Department of Financial  
1199 Services for contracts of more than a certain amount;  
1200 requiring the training program for the certification  
1201 to provide training in certain areas; authorizing the



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1202 department to adopt rules to administer the program;  
1203 amending s. 287.133, F.S.; revising the definition of  
1204 "department" to mean the Department of Financial  
1205 Services rather than the Department of Management  
1206 Services with respect to provisions governing public  
1207 entity crimes and placement on the convicted vendor  
1208 list; amending ss. 255.25, 287.012, 402.7305,  
1209 427.0135, and 946.515, F.S.; conforming cross-  
1210 references; requiring the Chief Financial Officer to  
1211 conduct a study of current procurement laws pursuant  
1212 to such policies; requiring that the Chief Financial  
1213 Officer submit a report to the Legislature and  
1214 Governor by a certain date on such study; repealing  
1215 ch. 287, F.S., on a future date; providing  
1216 appropriations; providing effective dates.