

By Senator Gaetz

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

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

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

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

82 WHEREAS, during the same fiscal year, the Department of  
83 Financial Services reviewed 364 contract and grant agreements,  
84 each valued at \$1 million or more, and found that 26 percent had  
85 significant deficiencies in their scope of work, deliverables,  
86 or performance standards, and

87 WHEREAS, if this 26 percent error rate applied to the total

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88 contractual amount spent during the fiscal year, approximately  
89 \$13 billion in taxpayer dollars was obligated to poorly written  
90 contracts, and

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

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

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

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

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

112 WHEREAS, there remains an acute need to provide greater  
113 transparency and accountability in public transactions, and

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

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117 more, and

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

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

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

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

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

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

134 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.-

135 (a) The Auditor General must ~~shall~~ notify the Legislative  
136 Auditing Committee of any local governmental entity, district  
137 school board, charter school, or charter technical career center  
138 that does not comply with the reporting requirements of s.  
139 215.985 or s. 218.39.

140 (i) Beginning in 2012, the Auditor General shall annually  
141 transmit by July 15, to the President of the Senate, the Speaker  
142 of the House of Representatives, and the Department of Financial  
143 Services, a list of all school districts, charter schools,  
144 charter technical career centers, Florida College System  
145 institutions, state universities, and water management districts

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146 that have failed to comply with the transparency requirements of  
147 s. 215.985 as identified in the audit reports reviewed pursuant  
148 to paragraph (b) and those conducted pursuant to subsection (2).

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

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

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

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

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

170 (2) Before execution, agreements to be funded with state or  
171 federal financial assistance must be submitted for review and  
172 approval in accordance with rules adopted by the Department of  
173 Financial Services. The review must ensure that the agreement  
174 document contains a clear statement of work, quantifiable and

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175 measureable deliverables, performance measures, and financial  
176 consequences for nonperformance. An agreement that does not  
177 comply with this subsection may be rejected and returned to the  
178 submitting agency for revision.

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

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

198 215.985 Transparency in government spending.—

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

202 (a) Within 30 calendar days after executing a contract,  
203 each state agency as defined in s. 216.011(1), and, effective

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

- 213 1. The name of the contracting entities;
- 214 2. The procurement method;
- 215 3. The contract beginning and ending dates;
- 216 4. The nature or type of the commodities or services  
217 purchased;
- 218 5. Applicable contract unit prices and deliverables;
- 219 6. Total compensation to be paid or received under the  
220 contract;
- 221 7. All payments made to the contract vendor to date;
- 222 8. All commodities or services received from the contract  
223 vendor to date;
- 224 9. Applicable contract performance measures;
- 225 10. Contract extensions or renewals, if any;
- 226 11. The justification for not using competitive  
227 solicitation to procure the contract, including citation to any  
228 statutory exemption or exception from competitive solicitation,  
229 if applicable;
- 230 12. Electronic copies of the contract and procurement  
231 documents, including any provision that may have been redacted  
232 to conceal exempt or confidential information; and



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233 13. Any other information regarding the contract or the  
234 procurement which may be required by the Department of Financial  
235 Services.

236 ~~(a) The data collected in the system must include, but need~~  
237 ~~not be limited to, the contracting agency; the procurement~~  
238 ~~method; the contract beginning and ending dates; the type of~~  
239 ~~commodity or service; the purpose of the commodity or service;~~  
240 ~~the compensation to be paid; compliance information, such as~~  
241 ~~performance metrics for the service or commodity; contract~~  
242 ~~violations; the number of extensions or renewals; and the~~  
243 ~~statutory authority for providing the service.~~

244 (b) Within 30 calendar days after a major modification or  
245 amendment ~~change~~ to an existing contract, ~~or the execution of a~~  
246 ~~new contract, agency procurement staff of the affected state~~  
247 ~~governmental~~ entity must ~~shall~~ update the ~~necessary~~ information  
248 described in paragraph (a) in the state contract tracking  
249 management system. A major modification or amendment ~~change~~ to a  
250 contract includes, but is not limited to, a renewal,  
251 termination, or extension of the contract, or an amendment to  
252 the contract as determined by the Chief Financial Officer.

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

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

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262 of the documents with a redacted copy.

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

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

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

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

290 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial

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

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

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

- 316 a. Criminal intelligence or criminal investigative  
317 information as defined in s. 119.011;  
318 b. Surveillance techniques or procedures or personnel;  
319 c. The identity of a confidential informant or confidential

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320 source;

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

323 e. A security system plan; or

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

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

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

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

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

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

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349 Section 5. Section 287.032, Florida Statutes, is amended to  
350 read:

351 287.032 Departmental responsibility ~~purpose of department.~~  
352 Pursuant to the administration of this chapter:

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

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

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

361 (b)(3) To Procure and distribute federal surplus tangible  
362 personal property allocated to the state by the Federal  
363 Government.

364 (2) The responsibility of the Department of Financial  
365 Services is to:

366 (a) Provide uniform commodity and contractual service  
367 procurement policies, rules, procedures, and forms for use by  
368 agencies and eligible users.

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

371 Section 6. Section 287.042, Florida Statutes, is amended to  
372 read:

373 287.042 Powers, duties, and functions of the Department of  
374 Management Services.—The department is responsible for the  
375 procurement of commodities and contractual services for agencies  
376 and has ~~shall have~~ the following powers, duties, and functions:

377 (1)(a) To canvass all sources of supply, establish and

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

386 (a) ~~(b)~~ The department shall develop a list of interested  
387 vendors to be maintained by classes of commodities and  
388 contractual services. The list may not be used to prequalify a  
389 vendor or to exclude an interested vendor from bidding. However,  
390 a vendor barred by the Chief Financial Officer pursuant to s.  
391 287.044(7) may not be included on the list. The department may  
392 remove from the ~~its~~ vendor list any source of supply which fails  
393 to fulfill any of its duties specified in a contract with the  
394 state. The department ~~It~~ may reinstate ~~any~~ such source of supply  
395 if the department ~~when it~~ is satisfied that further instances of  
396 default will not occur.

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

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

404 (c) ~~(e)~~ The department shall include the products offered by  
405 the corporation operating the correctional industry program on  
406 any listing prepared by the department which lists state term

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407 contracts executed by the department. The products or services  
408 shall be placed on such list in a category based upon  
409 specification criteria developed through a joint effort of the  
410 department and the corporation and approved by the department.

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

419 2. The department shall issue a commodity number for all  
420 products of the corporation which meet or exceed department  
421 specifications.

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

431 (e)~~(h)~~ The department may collect fees for the use of its  
432 electronic information services. The fees may be imposed on an  
433 individual transaction basis or as a fixed subscription for a  
434 designated period of time. At a minimum, the fees shall be  
435 determined in an amount sufficient to cover the department's

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436 projected costs for ~~of~~ the services, including overhead, in  
437 accordance with the policies of the department ~~of Management~~  
438 ~~Services~~ for computing its administrative assessment. All fees  
439 collected under this paragraph shall be deposited in the  
440 Operating Trust Fund for disbursement as provided by law.

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

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



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465 their purchases.

466 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),  
467 the department may proceed with the competitive solicitation or  
468 contract award process of a term contract if ~~when~~ the secretary  
469 of the department or his or her designee sets forth in writing  
470 particular facts and circumstances that ~~which~~ demonstrate that  
471 the delay incident to staying the solicitation or contract award  
472 process would be detrimental to the interests of the state. If,  
473 after the award of the ~~a~~ contract resulting from a competitive  
474 solicitation in which a timely protest was received and in which  
475 the state did not prevail, the contract may be canceled and  
476 reawarded.

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

490 1. The estimated contract amount shall be based upon the  
491 contract price submitted by the protestor or, if no contract  
492 price was submitted, the department, water management district,  
493 or agency shall estimate the contract amount based on factors,

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494 including, but not limited to, the price of previous or existing  
495 contracts for similar commodities or contractual services, the  
496 amount appropriated by the Legislature for the contract, or the  
497 fair market value of similar commodities or contractual  
498 services. The agency shall provide the estimated contract amount  
499 to the vendor within 72 hours, excluding Saturdays, Sundays, and  
500 state holidays, after the filing of the notice of protest by the  
501 vendor. The estimated contract amount is not subject to protest  
502 pursuant to s. 120.57(3).

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

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

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

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523 management district, or agency all costs and charges that are  
524 ~~which shall be~~ included in the final order or judgment,  
525 excluding attorney ~~attorney's~~ fees.

526 5. This paragraph does not apply to protests filed by the  
527 office.

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

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

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

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

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

557 ~~(d) Development of procedures to be used by an agency in~~  
558 ~~deciding to contract, including, but not limited to, identifying~~  
559 ~~and assessing in writing project needs and requirements,~~  
560 ~~availability of agency employees, budgetary constraints or~~  
561 ~~availability, facility equipment availability, current and~~  
562 ~~projected agency workload capabilities, and the ability of any~~  
563 ~~other state agency to perform the services.~~

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

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

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

578 ~~(h) Development of procedures to be used by state agencies~~  
579 ~~when procuring information technology commodities and~~  
580 ~~contractual services that ensure compliance with public records~~

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581 ~~requirements and records retention and archiving requirements.~~

582 ~~(4) (a) To prescribe the methods of securing competitive~~  
583 ~~sealed bids, proposals, and replies. Such methods may include,~~  
584 ~~but are not limited to, procedures for identifying vendors;~~  
585 ~~setting qualifications; conducting conferences or written~~  
586 ~~question and answer periods for purposes of responding to vendor~~  
587 ~~questions; evaluating bids, proposals, and replies; ranking and~~  
588 ~~selecting vendors; and conducting negotiations.~~

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

597 ~~(3) (5) To prescribe specific commodities and quantities to~~  
598 ~~be purchased locally.~~

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

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

606 ~~(7) To establish definitions and classes of commodities and~~  
607 ~~contractual services. Agencies shall follow the definitions and~~  
608 ~~classes of commodities and contractual services established by~~  
609 ~~the department in acquiring or purchasing commodities or~~

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610 ~~contractual services. The authority of the department under this~~  
611 ~~section shall not be construed to impair or interfere with the~~  
612 ~~determination by state agencies of their need for, or their use~~  
613 ~~of, services including particular specifications.~~

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

623 ~~(5)-(9)~~ To require that every agency furnish information  
624 relative to its commodity and contractual services purchases and  
625 methods of purchasing commodities and contractual services to  
626 the department when so requested.

627 ~~(6)-(10)~~ To prepare statistical data concerning the method  
628 of procurement, terms, usage, and disposition of commodities and  
629 contractual services by agencies. All agencies shall furnish  
630 such information for this purpose to the office and to the  
631 department, as the department or office may call for, but at  
632 least ~~no less frequently than~~ annually, on such forms or in such  
633 manner as the department may prescribe.

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

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639        (7)~~(12)~~ Except as otherwise provided in this section  
640 ~~herein~~, to adopt rules necessary to carry out the purposes of  
641 this section, including the authority to delegate to any agency  
642 any and all of the responsibility conferred by this section,  
643 retaining to the department any and all authority for  
644 supervision thereof. Such purchasing of commodities and  
645 procurement of contractual services by state agencies must also  
646 ~~shall~~ be in strict accordance with the rules and procedures  
647 prescribed by the Department of Financial Services.

648        (8)~~(13)~~ If the department determines in writing that it is  
649 in the best interest of the state, to award to multiple  
650 suppliers contracts for commodities and contractual services  
651 established by the department for use by all agencies. Such  
652 awards may be on a statewide or regional basis. If regional  
653 contracts are established by the department, multiple supplier  
654 awards may be based upon multiple awards for regions. Agencies  
655 may award contracts to a responsible and responsive vendor on a  
656 statewide or regional basis.

657        (9)~~(14)~~ To procure and distribute federal surplus tangible  
658 personal property allocated to the state by the Federal  
659 Government.

660        (10)~~(15)~~ To enter into joint agreements with governmental  
661 agencies, as defined in s. 163.3164, for the purpose of pooling  
662 funds for the purchase of commodities or information technology  
663 that can be used by multiple agencies.

664        (a) Each agency that has been appropriated or has existing  
665 funds for such purchase, shall, upon contract award by the  
666 department, transfer their portion of the funds into the  
667 department's Operating Trust Fund for payment by the department.

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668 The funds shall be transferred by the Executive Office of the  
669 Governor pursuant to the agency budget amendment request  
670 provisions in chapter 216.

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

681 (11)~~(16)~~ To evaluate contracts let by the Federal  
682 Government, another state, or a political subdivision for the  
683 provision of commodities and contract services, and, if it is  
684 determined in writing to be cost-effective and in the best  
685 interest of the state, to enter into a written agreement  
686 authorizing an agency to make purchases under such contract.

687 (12)~~(17)~~~~(a)~~ To enter into contracts pursuant to chapter 957  
688 for the designing, financing, acquiring, leasing, constructing,  
689 or operating of private correctional facilities. The department  
690 shall enter into such ~~a contract or~~ contracts with one  
691 contractor per facility ~~for the designing, acquiring, financing,~~  
692 ~~leasing, constructing, and operating of that facility~~ or may, if  
693 specifically authorized by the Legislature, separately contract  
694 for each of ~~any~~ such services.

695 (a)~~(b)~~ The department shall also ~~To~~ manage and enforce  
696 compliance with existing or future contracts entered into



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697 pursuant to chapter 957.

698 (b) The department may not delegate the responsibilities  
699 conferred by this subsection.

700 Section 7. Section 287.044, Florida Statutes, is created to  
701 read:

702 287.044 Powers, duties, and functions of the Department of  
703 Financial Services.—The Department of Financial Services is  
704 responsible for establishing and enforcing procurement and  
705 contracting policies and procedures for the Department of  
706 Management Services and all agencies. The Department of  
707 Financial Services has the following powers, duties, and  
708 functions:

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

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

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

723 2. The office may consult with the department regarding the  
724 development of solicitation distribution procedures to ensure  
725 that maximum distribution is afforded to certified minority

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726 business enterprises as defined in s. 288.703.

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

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

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

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

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

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

754 (f) The development of a methodology to calculate cost

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755 savings or cost avoidance achieved under a contract. Each agency  
756 must annually report any action taken and the amount of cost  
757 savings or cost avoidance which resulted from using the  
758 methodology developed by the department. At a minimum, the  
759 methodology should address:

760 1. The assessment of financial consequences for  
761 nonperformance.

762 2. Criteria for renegotiating the contract.

763 3. Refinement of the scope of work or deliverables.

764 4. The use of additional competition during the procurement  
765 process which results in awarding the contract at a lower price  
766 than the previous award.

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

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

777 (i) The development of procedures to be used by an agency  
778 in maintaining a contract file for each contract which includes,  
779 but is not limited to, all pertinent information relating to the  
780 contract during the preparatory stages; the solicitation  
781 process, including a copy of the solicitation; the opening of  
782 bids, proposals, or replies; the evaluation and tabulation of  
783 bids, proposals, or replies; and the determination and notice of

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784 contract award.

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

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

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

809 (5) To provide to agencies through an electronic medium or  
810 other means rules for purchasing commodities and contractual  
811 services. Agencies may not approve any account, or request  
812 payment of any account, for the purchase of any commodity or the

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813 procurement of any contractual service covered by a purchasing  
814 or contractual service rule except as authorized by such rule.  
815 The department shall furnish copies of rules adopted by the  
816 department to any county, municipality, or other local public  
817 agency requesting them.

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

823 (7) To establish and maintain a list of vendors that are  
824 not allowed to do business with the state pursuant to ss.  
825 287.132(4) and 287.133. The department may add to the list  
826 vendors that are not compliant with federal or state laws, or  
827 that the department determines have uncollected accounts that  
828 are owed to the state.

829 (8) To review and approve contracts subject to this chapter  
830 before the execution of such contracts in accordance with rules  
831 adopted by the department. The review must ensure that all  
832 contracting laws have been met; that the contract document  
833 contains a clear statement of work, quantifiable and measureable  
834 deliverables, performance measures, financial consequences for  
835 nonperformance, and clear terms and conditions that protect the  
836 interests of the state; that documentation is available to  
837 support the contract; and that the associated costs of the  
838 contract are not unreasonable or inappropriate. A contract that  
839 does not comply with this subsection may be rejected and  
840 returned to the submitting agency for revision.

841 (a) For contracts in excess of the threshold amount

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842 provided in s. 287.017 for CATEGORY THREE, the review must  
843 include, but need not be limited to:

- 844 1. Evidence of advertising the procurement opportunity, if  
845 applicable;
- 846 2. The bid, proposal, or reply itself, whether an  
847 invitation to bid, request for proposals, or invitation to  
848 negotiate, as applicable;
- 849 3. The preprocurement conference questions and answers;
- 850 4. Any additional documentation provided to bidders,  
851 proposers, or repliers;
- 852 5. The list of bidders, proposers, or repliers solicited;
- 853 6. The evaluation instrument and process description  
854 related to the contract;
- 855 7. The bid tabulation or evaluation record;
- 856 8. Documentation that supports the agency's determination  
857 of vendor responsibility;
- 858 9. The successful bid, proposal, or reply in addition to  
859 the unsuccessful bids, proposals, or replies;
- 860 10. Documentation that supports the selection of the  
861 contractor;
- 862 11. The reasonableness of the price;
- 863 12. Verification that all statutory and regulatory  
864 requirements have been met; and
- 865 13. The proposed contract.

866 (b) The department shall verify that a competitive process  
867 was used if required by law and that the contract was  
868 appropriately awarded on the basis of lowest price or best value  
869 to a responsive and reasonable bidder, proposer, or replier. For  
870 contracts not competitively awarded, the procurement record

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871 shall be reviewed for restrictive specifications and the  
872 agency's justification for the noncompetitive method used in  
873 awarding the contract, including justification for the selection  
874 of the vendor and the reasonableness of the terms.

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

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

884  
885 If this contract, or an amendment to a contract, is  
886 valued at or greater than \$65,000 or if the state  
887 agrees to give something other than money, which  
888 consideration has a value or reasonably estimated  
889 value at or greater than \$35,000, the contract or  
890 amendment is not valid, effective, or binding upon the  
891 state unless the contract or amendment has been  
892 approved by the Chief Financial Officer.

893  
894 (e) Contracts and grants or grants-type contracts must be  
895 treated similarly. Therefore, if a for-profit entity joins the  
896 competition for a grant, normal contract rules apply even though  
897 they may not be appropriate for a grant procurement.

898 (9) To waive minor deviations from current procedures in  
899 order to prevent a delay in awarding an otherwise favorable

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900 contract if a vendor is not adversely affected and current law  
901 is not violated. The Chief Financial Officer shall provide  
902 recommendations to the Legislature to resolve such deviations,  
903 where appropriate, at the next regular legislative session.

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

911 Section 8. Paragraph (f) of subsection (3), subsection (9),  
912 and subsection (14) of section 287.057, Florida Statutes, are  
913 amended, and subsection (24) is added to that section, to read:

914 287.057 Procurement of commodities or contractual  
915 services.—

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

922 (f) The following contractual services and commodities are  
923 not subject to the competitive-solicitation requirements of this  
924 section:

925 ~~1. Artistic services. For the purposes of this subsection,~~  
926 ~~the term "artistic services" does not include advertising or~~  
927 ~~typesetting. As used in this subparagraph, the term~~  
928 ~~"advertising" means the making of a representation in any form~~



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929 ~~in connection with a trade, business, craft, or profession in~~  
930 ~~order to promote the supply of commodities or services by the~~  
931 ~~person promoting the commodities or contractual services.~~

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

934 ~~3. Lectures by individuals.~~

935 ~~1.4.~~ Legal services, including attorney, paralegal, expert  
936 witness, appraisal, or mediator services.

937 ~~2.5.a.~~ Health services involving examination, diagnosis,  
938 treatment, prevention, medical consultation, or administration,  
939 ~~and,~~

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

952 ~~3.6.~~ Services provided to persons with mental or physical  
953 disabilities by not-for-profit corporations that ~~which~~ have  
954 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the  
955 United States Internal Revenue Code or if when such services are  
956 governed by the provisions of Office of Management and Budget  
957 Circular A-122. However, in acquiring such services, the agency

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958 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past  
959 performance, willingness to meet time requirements, and price.

960 ~~4.7.~~ Medicaid services delivered to an eligible Medicaid  
961 recipient, unless the agency is directed otherwise in law.

962 ~~5.8.~~ Family placement services.

963 ~~6.9.~~ Prevention services related to mental health,  
964 including drug abuse prevention programs, child abuse prevention  
965 programs, and shelters for runaways, operated by not-for-profit  
966 corporations. However, in acquiring such services, the agency  
967 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past  
968 performance, willingness to meet time requirements, and price.

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

971 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

972 ~~8.12.~~ Services or commodities provided by governmental  
973 agencies.

974 (9) An agency may ~~shall~~ not divide the solicitation of  
975 commodities or contractual services so as to avoid the  
976 requirements of subsections (1)-(3) and reduce the ability of  
977 businesses to openly compete. For the purposes of this  
978 subsection, state agencies shall consider all purchases of the  
979 same commodity or service during one year to be part of a single  
980 purchase.

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

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987 287.017 for CATEGORY FIVE ~~TWO~~ must be certified pursuant to s.  
988 287.1312 ~~attend training conducted by the Chief Financial~~  
989 ~~Officer for accountability in contracts and grant management.~~  
990 The Chief Financial Officer shall establish and disseminate  
991 uniform procedures pursuant to s. 17.03(3) to ensure that  
992 contractual services have been rendered in accordance with the  
993 contract terms before the agency processes the invoice for  
994 payment. The procedures must ~~shall~~ include, but need not be  
995 limited to, procedures for monitoring and documenting contractor  
996 performance, reviewing and documenting all deliverables for  
997 which payment is requested by vendors, and providing written  
998 certification by contract managers of the agency's receipt of  
999 goods and services.

1000 (24) An agency may purchase commodities or services through  
1001 another agency's existing contract rather than through  
1002 competitive competition if the use of such contract is in the  
1003 best interest of the state.

1004 Section 9. Paragraph (e) of subsection (1) of section  
1005 287.058, Florida Statutes, is amended to read:

1006 287.058 Contract document.—

1007 (1) Every procurement of contractual services in excess of  
1008 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
1009 except for the providing of health and mental health services or  
1010 drugs in the examination, diagnosis, or treatment of sick or  
1011 injured state employees or the providing of other benefits as  
1012 required by the provisions of chapter 440, shall be evidenced by  
1013 a written agreement embodying all provisions and conditions of  
1014 the procurement of such services, which shall, where applicable,  
1015 include, but not be limited to, a provision:

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1016 (e) Dividing the contract into quantifiable, measurable,  
1017 and verifiable units of deliverables which ~~that~~ must be received  
1018 and accepted in writing by the contract manager before payment.  
1019 Each deliverable must be directly related to the scope of work  
1020 and specify a performance measure. As used in this paragraph,  
1021 the term "performance measure" means the required minimum level  
1022 of service to be performed and criteria for evaluating the  
1023 successful completion of each deliverable.

1024  
1025 In lieu of a written agreement, the department may authorize the  
1026 use of a purchase order for classes of contractual services, if  
1027 the provisions of paragraphs (a)-(i) are included in the  
1028 purchase order or solicitation. The purchase order must include,  
1029 but need not be limited to, an adequate description of the  
1030 services, the contract period, and the method of payment. In  
1031 lieu of printing the provisions of paragraphs (a)-(i) in the  
1032 contract document or purchase order, agencies may incorporate  
1033 the requirements of paragraphs (a)-(i) by reference.

1034 Section 10. Section 287.1312, Florida Statutes, is created  
1035 to read:

1036 287.1312 Contract manager certification.-

1037 (1) The Department of Financial Services shall establish a  
1038 certification program for contract and grant managers. A state  
1039 employee may not manage a contract or grant agreement in excess  
1040 of the threshold amount provided in s. 287.017 for CATEGORY FIVE  
1041 without obtaining a valid certification from the Department of  
1042 Financial Services under this section. The program must include  
1043 training in the following areas:

1044 (a) Procurement and the development of contracts.

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1045 (b) Development and administration of grant agreements  
1046 involving federal and state financial assistance.

1047 (c) Responsibilities of a contract manager in the  
1048 management of state contracts and grant agreements.

1049 (d) Federal and state audit and reporting requirements.

1050 (e) Laws and rules relating to procurement and contract  
1051 administration.

1052 (f) Any other subject matter that the Chief Financial  
1053 Officer determines will promote accountability in contract and  
1054 grant management.

1055 (2) The program shall provide for periodic recertification,  
1056 as necessary. The Department of Financial Services shall  
1057 determine course requirements, maintain information on  
1058 certifications, and monitor the performance of contract and  
1059 grant managers. As part of such monitoring, the department shall  
1060 annually publish the results of agency manager audits and error  
1061 rates related to contract and grant management on its website.

1062 (3) The Department of Financial Services may revoke a  
1063 manager's certification for incompetence or conduct inconsistent  
1064 with the responsibilities of contract or grant management.

1065 (4) The Department of Financial Services shall adopt rules  
1066 to administer this section.

1067 Section 11. Paragraph (d) of subsection (1) of section  
1068 287.133, Florida Statutes, is amended to read:

1069 287.133 Public entity crime; denial or revocation of the  
1070 right to transact business with public entities.—

1071 (1) As used in this section:

1072 (d) "Department" means the Department of Financial  
1073 ~~Management~~ Services.

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1074 Section 12. Paragraph (h) of subsection (3) of section  
1075 255.25, Florida Statutes, is amended to read:

1076 255.25 Approval required prior to construction or lease of  
1077 buildings.—

1078 (3)

1079 (h) ~~The Department of Management Services may,~~ Pursuant to  
1080 s. 287.042(2)(a), the department shall procure a term contract  
1081 for real estate consulting and brokerage services. A state  
1082 agency may not purchase services from the contract unless the  
1083 contract has been procured under s. 287.057(1) after March 1,  
1084 2007, and contains the following provisions or requirements:

1085 1. Awarded brokers ~~must~~ maintain an office or presence in  
1086 the market served. In awarding the contract, preference must be  
1087 given to brokers who ~~that~~ are licensed in this state under  
1088 chapter 475 and who ~~that~~ have 3 or more years of experience in  
1089 the market served. The contract may be made with up to three  
1090 tenant brokers in order to serve the marketplace in the north,  
1091 central, and south areas of the state.

1092 2. Each contracted tenant broker works ~~shall work~~ under the  
1093 direction, supervision, and authority of the state agency,  
1094 subject to the rules governing lease procurements.

1095 3. The department provides ~~shall provide~~ training for the  
1096 awarded tenant brokers concerning the rules governing the  
1097 procurement of leases.

1098 4. Tenant brokers ~~must~~ comply with all applicable  
1099 provisions of s. 475.278.

1100 5. Real estate consultants and tenant brokers are ~~shall be~~  
1101 compensated by the state agency, subject to the provisions of  
1102 the term contract, and such compensation is subject to

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1103 appropriation by the Legislature. A real estate consultant or  
1104 tenant broker may not receive compensation directly from a  
1105 lessor for services that are rendered under the term contract.  
1106 Moneys paid by a lessor to the state agency under a facility  
1107 leasing arrangement are not subject to the charges imposed under  
1108 s. 215.20. All terms relating to the compensation of the real  
1109 estate consultant or tenant broker must ~~shall~~ be specified in  
1110 the term contract and may not be supplemented or modified by the  
1111 state agency using the contract.

1112 6. The department conducts ~~shall conduct~~ periodic customer-  
1113 satisfaction surveys.

1114 7. Each state agency reports ~~shall report~~ the following  
1115 information to the department:

1116 a. The number of leases that adhere to the goal of the  
1117 workspace-management initiative of 180 square feet per full-time  
1118 employee FTE.

1119 b. The quality of space leased and the adequacy of tenant-  
1120 improvement funds.

1121 c. The timeliness of lease procurement, measured from the  
1122 date of the agency's request to the finalization of the lease.

1123 d. Whether cost-benefit analyses were performed before  
1124 execution of the lease in order to ensure that the lease is in  
1125 the best interest of the state.

1126 e. The lease costs compared to market rates for similar  
1127 types and classifications of space according to the official  
1128 classifications of the Building Owners and Managers Association.

1129 Section 13. Subsection (12) of section 287.012, Florida  
1130 Statutes, is amended to read:

1131 287.012 Definitions.—As used in this part, the term:

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1132 (12) "Exceptional purchase" means any purchase of  
1133 commodities or contractual services excepted by law or rule from  
1134 the requirements for competitive solicitation, including, but  
1135 not limited to, purchases from a single source; purchases upon  
1136 receipt of fewer ~~less~~ than two responsive bids, proposals, or  
1137 replies; purchases made by an agency, after receiving approval  
1138 from the department, from a contract procured, pursuant to s.  
1139 287.057(1), or by another agency; and purchases made without  
1140 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)  
1141 ~~287.042(3)(b)~~.

1142 Section 14. Paragraph (a) of subsection (2) of section  
1143 402.7305, Florida Statutes, is amended to read:

1144 402.7305 Department of Children and Family Services;  
1145 procurement of contractual services; contract management.-

1146 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.-

1147 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, if  
1148 ~~whenever~~ the department intends to contract with a public  
1149 postsecondary institution to provide a service, the department  
1150 must allow all public postsecondary institutions in this state  
1151 which ~~that~~ are accredited by the Southern Association of  
1152 Colleges and Schools to bid on the contract. Thereafter,  
1153 notwithstanding any other provision of law ~~to the contrary~~, if a  
1154 public postsecondary institution intends to subcontract for any  
1155 service awarded in the contract, the subcontracted service must  
1156 be procured by competitive procedures.

1157 Section 15. Subsection (3) of section 427.0135, Florida  
1158 Statutes, is amended to read:

1159 427.0135 Purchasing agencies; duties and responsibilities.-  
1160 Each purchasing agency, in carrying out the policies and



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1161 procedures of the commission, shall:

1162 (3) Not procure transportation disadvantaged services  
1163 without initially negotiating with the commission, as provided  
1164 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise  
1165 authorized by statute. If the purchasing agency, after  
1166 consultation with the commission, determines that it cannot  
1167 reach mutually acceptable contract terms with the commission,  
1168 the purchasing agency may contract for the same transportation  
1169 services provided in a more cost-effective manner and of  
1170 comparable or higher quality and standards. The Medicaid agency  
1171 shall implement this subsection in a manner consistent with s.  
1172 409.908(18) and as otherwise limited or directed by the General  
1173 Appropriations Act.

1174 Section 16. Subsection (2) of section 946.515, Florida  
1175 Statutes, is amended to read:

1176 946.515 Use of goods and services produced in correctional  
1177 work programs.—

1178 (2) A ~~No~~ similar product or service of comparable price and  
1179 quality found necessary for use by any state agency may not be  
1180 purchased from any source other than the corporation if the  
1181 corporation certifies that the product is manufactured by, or  
1182 the service is provided by, inmates and the product or service  
1183 meets the comparable performance specifications and comparable  
1184 price and quality requirements as specified under s.  
1185 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual  
1186 agency as provided in this section. The purchasing authority of  
1187 ~~any~~ such state agency may make reasonable determinations of  
1188 need, price, and quality with reference to products or services  
1189 available from the corporation. In the event of a dispute

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1190 between the corporation and a ~~any~~ purchasing authority based  
1191 upon price or quality under this section or s. 287.042(1)(c)  
1192 ~~287.042(1)(f)~~, either party may request a hearing with the  
1193 Department of Management Services and, if not resolved, ~~either~~  
1194 ~~party~~ may request a proceeding pursuant to ss. 120.569 and  
1195 120.57, which shall be referred to the Division of  
1196 Administrative Hearings within 60 days after such request, to  
1197 resolve any dispute under this section. A ~~No~~ party is not  
1198 entitled to any appeal pursuant to s. 120.68.

1199 Section 17. Procurement review and report.-

1200 (1) It is the policy of this state to promote the effective  
1201 procurement of goods, services, and facilities by and for the  
1202 executive branch of state government through the following:

1203 (a) Establishment of policies, procedures, and practices  
1204 that require the state to procure goods, services, and  
1205 facilities in a timely manner, of requisite quality, and at the  
1206 lowest reasonable cost, using competitive bidding to the maximum  
1207 extent possible.

1208 (b) Improvement in the quality, efficiency, economy, and  
1209 performance of organizations and personnel involved in the  
1210 procurement of goods, services, and facilities by the state.

1211 (c) Elimination of unnecessary, overlapping, or duplication  
1212 of procurement and related activities, such as in contract  
1213 administration.

1214 (d) Elimination of unnecessary or redundant requirements  
1215 placed on contractors or on officials in charge of state  
1216 procurement procedures.

1217 (e) Identification of gaps, omissions, or inconsistencies  
1218 in state laws, rules, and directives relating to state

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1219 procurement which should be brought to the attention of the  
1220 Legislature.

1221 (f) Attainment of greater uniformity in and simplification  
1222 of procurement procedures, whenever appropriate.

1223 (g) Coordination of the procurement policies and programs  
1224 of the various state agencies, whenever possible.

1225 (h) Conformation of procurement policies and programs to  
1226 other successfully established state policies and programs,  
1227 whenever appropriate.

1228 (i) Minimization of the possible disruptive effects of  
1229 state procurement on particular industries, areas, or  
1230 occupations.

1231 (j) Improvement of training with respect to, and the  
1232 understanding of, the laws and policies of the state relating to  
1233 state procurement, not only within state government but on the  
1234 part of organizations and individuals doing business with the  
1235 state.

1236 (k) Promotion of fair dealing and equitable relationships  
1237 among the parties to state contracting.

1238 (l) Promotion of economy, efficiency, and effectiveness in  
1239 state procurement organizations, operations, and the uniform  
1240 reporting of procurement activities by any means that the Chief  
1241 Financial Officer deems beneficial and appropriate.

1242 (m) Special consideration given to the procurement laws,  
1243 policies, procedures, practices, organization, staffing,  
1244 leadership, and controls of the procurement processes of the  
1245 Federal Government and other states.

1246 (n) Promotion of economy, efficiency, and effectiveness in  
1247 procurement, contract management, and project management

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1248 operations.

1249 (2) In keeping with the policies expressed in subsection  
1250 (1), the Chief Financial Officer shall review and investigate:

1251 (a) All current state laws that govern the state  
1252 procurement of goods, services, and facilities;

1253 (b) The procurement policies, rules, procedures, and  
1254 practices followed by the state agencies, boards, commissions,  
1255 offices, and other instrumentalities of the executive branch of  
1256 state government;

1257 (c) The organization and management processes involved in  
1258 the state procurement of goods, services, and facilities before  
1259 the award of a state procurement contract, during the  
1260 solicitation of bids, the evaluation, and the negotiation of a  
1261 contract, and subsequent to the award of the contract to  
1262 determine the extent to which these organization and management  
1263 processes facilitate the legislative policy set forth in this  
1264 act; and

1265 (d) Any other areas that the Chief Financial Officer deems  
1266 relevant to facilitating the policies expressed in subsection  
1267 (1).

1268 (3) In order to accomplish the procurement review directed  
1269 by this section, the Chief Financial Officer may:

1270 (a) Acquire information directly from the head of any state  
1271 department or agency for the purpose of conducting this review.  
1272 All departments and agencies shall cooperate with the Chief  
1273 Financial Officer and furnish all information requested to the  
1274 extent permitted by law.

1275 (b) Procure the services of experts and consultants.

1276 (c) Contract with private organizations and nonprofit

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1277 institutions to carry out studies and prepare reports to  
1278 facilitate the review.

1279 (4) By December 31, 2012, the Chief Financial Officer shall  
1280 submit to the Governor, the President of the Senate, and the  
1281 Speaker of the House of Representatives a report of findings and  
1282 recommendations for changes in statutes, rules, policies,  
1283 procedures, and organization necessary to carry out the policies  
1284 set forth in this act.

1285 Section 18. The Legislature recognizes the need to reform  
1286 the purchasing cycle, from the development of a purchasing  
1287 agreement to the payment for goods or services provided to the  
1288 state. Therefore, chapter 287, Florida Statutes, is repealed  
1289 effective July 30, 2014.

1290 Section 19. (1) For the 2012-2013 fiscal year, the sum of  
1291 \$400,000 in nonrecurring funds is appropriated from the  
1292 Administrative Trust Fund in the Department of Financial  
1293 Services to contract for the Chief Financial Officer's review of  
1294 the state's procurement process.

1295 (2) For the 2012-2013 fiscal year, the sum of \$400,000 in  
1296 recurring funds from the General Revenue fund and full-time  
1297 equivalent positions and associated salary rate of are  
1298 appropriated to the Chief Financial Officer for the purpose of  
1299 implementing the Chief Financial Officer's expanded contract  
1300 auditing responsibilities under this act. Funds remaining  
1301 unexpended or unencumbered from this appropriation as of June  
1302 30, 2013, shall revert and be reappropriated for the same  
1303 purpose in the 2013-2014 fiscal year.

1304 Section 20. This act shall take effect July 1, 2012.