

By the Committees on Budget; Governmental Oversight and Accountability; and Banking and Insurance; and 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. 215.985, F.S.; revising  
5           provisions relating to the Chief Financial Officer's  
6           intergovernmental contract tracking system under the  
7           Transparency Florida Act; requiring state agencies to  
8           post certain information in the tracking system and to  
9           update that information; requiring that exempt and  
10          confidential information be redacted from contracts  
11          and procurement documents posted on the system;  
12          authorizing the Chief Financial Officer to make  
13          available the information posted on the system to the  
14          public through a secure website; authorizing the  
15          Department of Financial Services to adopt rules;  
16          repealing s. 216.0111, F.S., relating to a requirement  
17          that state agencies report certain contract  
18          information to the Department of Financial Services  
19          and transferring that requirement to s. 215.985, F.S.;  
20          authorizing a state agency, a special district, or a  
21          local government to competitively bid professional  
22          services; providing a procedure for considering  
23          proposals for the selection of competing firms or  
24          vendors; requiring that each agency adopt rules;  
25          providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

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29          Section 1. Paragraphs (a) and (i) of subsection (7) of

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30 section 11.45, Florida Statutes, are amended to read:

31 11.45 Definitions; duties; authorities; reports; rules.—

32 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

33 (a) The Auditor General must ~~shall~~ notify the Legislative  
34 Auditing Committee of any local governmental entity, district  
35 school board, charter school, or charter technical career center  
36 that does not comply with the reporting requirements of s.  
37 215.985 or s. 218.39.

38 (i) Beginning in 2012, the Auditor General shall annually  
39 transmit by July 15, to the President of the Senate, the Speaker  
40 of the House of Representatives, and the Department of Financial  
41 Services, a list of all school districts, charter schools,  
42 charter technical career centers, Florida College System  
43 institutions, state universities, and water management districts  
44 that have failed to comply with the transparency requirements of  
45 s. 215.985 as identified in the audit reports reviewed pursuant  
46 to paragraph (b) and those conducted pursuant to subsection (2).

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

49 215.985 Transparency in government spending.—

50 (16) The Chief Financial Officer shall provide public  
51 access to a state contract management system ~~that provides~~  
52 ~~information and documentation relating to contracts procured by~~  
53 ~~governmental entities.~~

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

58 1. The name of the contracting entities;

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59       2. The procurement method;

60       3. The contract beginning and ending dates;

61       4. The nature or type of the commodities or services  
62 purchased;

63       5. Applicable contract unit prices and deliverables;

64       6. Total compensation to be paid or received under the  
65 contract;

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

67       8. All commodities or services received from the contract  
68 vendor to date;

69       9. Applicable contract performance measures;

70       10. Contract extensions or renewals, if any;

71       11. The justification for not using competitive  
72 solicitation to procure the contract, including citation to any  
73 statutory exemption or exception from competitive solicitation,  
74 if applicable; and

75       12. Electronic copies of the contract and procurement  
76 documents that have been redacted to conceal exempt or  
77 confidential information.

78       ~~(a) The data collected in the system must include, but need~~  
79 ~~not be limited to, the contracting agency; the procurement~~  
80 ~~method; the contract beginning and ending dates; the type of~~  
81 ~~commodity or service; the purpose of the commodity or service;~~  
82 ~~the compensation to be paid; compliance information, such as~~  
83 ~~performance metrics for the service or commodity; contract~~  
84 ~~violations; the number of extensions or renewals; and the~~  
85 ~~statutory authority for providing the service.~~

86       (b) Within 30 calendar days after a major modification or  
87 amendment change to an existing contract, ~~or the execution of a~~

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88 ~~new contract, agency procurement staff of~~ the affected state  
89 governmental entity must ~~shall~~ update the ~~necessary~~ information  
90 described in paragraph (a) in the state contract management  
91 system. A major modification or amendment ~~change~~ to a contract  
92 includes, but is not limited to, a renewal, termination, or  
93 extension of the contract, or an amendment to the contract.

94 (c) Each entity identified in paragraph (a) must redact, as  
95 defined in s. 119.011, any exempt or confidential information  
96 from the contract or procurement documents before posting an  
97 electronic copy of such documents on the contract tracking  
98 system.

99 1. If an entity becomes aware that an electronic copy of a  
100 contract or procurement document that it posted has not been  
101 properly redacted, the entity must replace the electronic copy  
102 of the documents with a redacted copy.

103 2. If a party to a contract, or an authorized  
104 representative thereof, discovers that an electronic copy of a  
105 contract or procurement document on the system has not been  
106 properly redacted, the party or representative may request the  
107 entity that posted the document to redact the exempt or  
108 confidential information. Upon receipt of a request in  
109 compliance with this subparagraph, the entity that posted the  
110 document shall redact the exempt or confidential information.

111 a. Such request must be in writing and delivered by mail,  
112 facsimile, or electronic transmission, or in person to the  
113 entity that posted the information. The request must identify  
114 the specific document, the page numbers that include the exempt  
115 or confidential information, the information that is exempt or  
116 confidential, and the relevant statutory exemption. A fee may

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117 not be charged for a redaction made pursuant to such request.

118 b. If necessary, a party to the contract may petition the  
119 circuit court for an order directing compliance with this  
120 paragraph.

121 3. The Chief Financial Officer, the Department of Financial  
122 Services, or any officer, employee, or contractor thereof, is  
123 not responsible for redacting exempt or confidential information  
124 from an electronic copy of a contract or procurement document  
125 posted by another entity on the system, and is not liable for  
126 the failure of the entity to redact the exempt or confidential  
127 information. The Department of Financial Services may notify the  
128 posting entity if it discovers that a document posted on the  
129 tracking system contains exempt or confidential information.

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

136 1. The Chief Financial Officer may regulate and prohibit  
137 the posting of records that could facilitate identity theft or  
138 fraud, such as signatures; compromise or reveal an agency  
139 investigation; reveal the identity of undercover personnel;  
140 reveal proprietary confidential business information or trade  
141 secrets; reveal an individual's medical information; or reveal  
142 any other record or information that the Chief Financial Officer  
143 believes may jeopardize the health, safety, or welfare of the  
144 public. However, such prohibition does not eliminate the duty of  
145 an entity to provide a copy of a public record upon request. The

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146 Chief Financial Officer shall use appropriate Internet security  
147 measures to ensure that no person has the ability to alter or  
148 modify records available on the website.

149 2. Records made available on the website, including  
150 electronic copies of contracts or procurement documents, may not  
151 reveal information made exempt or confidential by law. Notice of  
152 the right of an affected party to request redaction of exempt or  
153 confidential information pursuant to paragraph (c) must be  
154 conspicuously and clearly displayed on the website.

155 (e) The posting of information on the contract tracking  
156 system or the provision of contract information on a website for  
157 public viewing and downloading does not eliminate the duty of an  
158 entity to respond to a public record request for such  
159 information or to a subpoena for such information.

160 1. A request for a copy of a contract or procurement  
161 document or a certified copy of a contract or procurement  
162 document shall be made to the entity that is party to the  
163 contract. Such request may not be made to the Chief Financial  
164 Officer or the Department of Financial Services or any officer,  
165 employee, or contractor thereof unless the Chief Financial  
166 Officer or the department is a party to the contract.

167 2. A subpoena for a copy of a contract or procurement  
168 document or certified copy of a contract or procurement document  
169 must be served on the entity that is a party to the contract and  
170 that maintains the original documents. The Chief Financial  
171 Officer or the Department of Financial Services or any officer,  
172 employee, or contractor thereof may not be served a subpoena for  
173 those records unless the Chief Financial Officer or the  
174 department is a party to the contract.

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

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

178 Section 4. Notwithstanding any law to the contrary, a state  
179 agency, a special district, or a local government may seek  
180 competitive bids for professional services. During the initial  
181 stage of this selection process, proposals shall be evaluated on  
182 the basis of the compensation proposed by the competing firms or  
183 vendors to provide professional services. A proposal shall then  
184 be evaluated on the basis of any other qualifications the  
185 agency, special district, or local government deems applicable  
186 to the selection of a qualified firm or vendor. Each agency that  
187 is subject to chapter 120, Florida Statutes, shall adopt rules  
188 for the competitive bidding of professional services.

189 Section 5. This act shall take effect July 1, 2012.