



121384

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2013	.	
	.	
	.	
	.	

The Committee on Appropriations (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 311 - 388
and insert:

Section 4. Subsections (4) through (28) of section 287.012, Florida Statutes, are amended to read:

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

(4) "Best value" means the highest overall value to the state based on ~~objective~~ factors that include, but are not limited to, price, quality, design, and workmanship.

(5) "Commodity" means any of the various supplies, materials, goods, merchandise, food, equipment, information



121384

13 technology, and other personal property, including a mobile
14 home, trailer, or other portable structure that has ~~with floor~~
15 ~~space of~~ less than 5,000 square feet of floor space, purchased,
16 leased, or otherwise contracted for by the state and its
17 agencies. The term ~~"Commodity"~~ also includes interest on
18 deferred-payment commodity contracts approved pursuant to s.
19 287.063 entered into by an agency for the purchase of other
20 commodities. However, commodities purchased for resale are
21 excluded from this definition. Printing of publications shall be
22 considered a commodity if procured ~~when let upon contract~~
23 pursuant to s. 283.33, whether purchased for resale or not.

24 (6) "Competitive solicitation" means the process of
25 requesting and receiving two or more sealed bids, proposals, or
26 replies submitted by responsive vendors in accordance with the
27 terms of a competitive process, regardless of the method of
28 procurement.

29 (7) "Contractor" means a person who contracts to sell
30 commodities or contractual services to an agency.

31 (8) "Contractual service" means the rendering by a
32 contractor of its time and effort rather than the furnishing of
33 specific commodities. The term applies only to those services
34 rendered by individuals and firms who are independent
35 contractors, and such services may include, but are not limited
36 to, evaluations; consultations; maintenance; accounting;
37 security; management systems; management consulting; educational
38 training programs; research and development studies or reports
39 on the findings of consultants engaged thereunder; and
40 professional, technical, and social services. The term
41 ~~"Contractual service"~~ does not include a ~~any~~ contract for the



121384

42 furnishing of labor or materials for the construction,
43 renovation, repair, modification, or demolition of a any
44 facility, building, portion of building, utility, park, parking
45 lot, or structure or other improvement to real property entered
46 into pursuant to chapter 255 and rules adopted thereunder.

47 (9) "Department" means the Department of Management
48 Services.

49 (10) "Electronic posting" or "electronically post" means
50 the noticing of solicitations, agency decisions or intended
51 decisions, or other matters relating to procurement on a
52 centralized Internet website designated by the department for
53 this purpose, and in the manner and form required under s.
54 120.57(3)(a).

55 (11) "Eligible user" means any person or entity authorized
56 by the department pursuant to rule to purchase from state term
57 contracts or to use the online procurement system.

58 (12) "Exceptional purchase" means any purchase of
59 commodities or contractual services excepted by law or rule from
60 the requirements for competitive solicitation, including, but
61 not limited to, purchases from a single source; purchases upon
62 receipt of less than two responsive bids, proposals, or replies;
63 purchases made by an agency, after receiving approval from the
64 department, from a contract procured, pursuant to s. 287.057(1),
65 or by another agency; and purchases made without advertisement
66 in the manner required under ~~by~~ s. 287.042(3)(b).

67 (13) "Extension" means an increase in the time allowed for
68 the contract period ~~due to circumstances which, without fault of~~
69 ~~either party, make performance impracticable or impossible, or~~
70 ~~which prevent a new contract from being executed, with or~~



121384

71 ~~without a proportional increase in the total dollar amount, with~~
72 ~~any increase to be based on the method and rate previously~~
73 ~~established in the contract.~~

74 (14) "Governmental entity" means a political subdivision or
75 agency of this state or of any state of the United States,
76 including, but not limited to, state government, county,
77 municipality, school district, nonprofit public university or
78 college, single-purpose or multipurpose special district,
79 single-purpose or multipurpose public authority, metropolitan or
80 consolidated government, separate legal entity or administrative
81 entity, or any agency of the Federal Government.

82 (15)~~(14)~~ "Information technology" has the same meaning as
83 provided ~~ascribed~~ in s. 282.0041.

84 (16)~~(15)~~ "Invitation to bid" means a written or
85 electronically posted solicitation for competitive sealed bids.

86 (17)~~(16)~~ "Invitation to negotiate" means a written or
87 electronically posted solicitation for competitive sealed
88 replies to select one or more vendors with which to commence
89 negotiations for the procurement of commodities or contractual
90 services.

91 (18)~~(17)~~ "Minority business enterprise" has the same
92 meaning as provided ~~ascribed~~ in s. 288.703.

93 (19)~~(18)~~ "Office" means the Office of Supplier Diversity of
94 the Department of Management Services.

95 (20)~~(19)~~ "Outsource" means the process of contracting with
96 a vendor to provide a service as defined in s. 216.011(1)(f), in
97 whole or in part, or an activity as defined in s.
98 216.011(1)(rr), while a state agency retains the responsibility
99 and accountability for the service or activity and there is a



121384

100 transfer of management responsibility for the delivery of
101 resources and the performance of those resources.

102 ~~(21)~~~~(20)~~ "Renewal" means contracting with the same
103 contractor for an additional contract period after the initial
104 contract period, only if pursuant to contract terms specifically
105 providing for such renewal.

106 ~~(22)~~~~(21)~~ "Request for information" means a written or
107 electronically posted request made by an agency to vendors for
108 information concerning commodities or contractual services.
109 Responses to these requests are not offers and may not be
110 accepted by the agency to form a binding contract.

111 ~~(23)~~~~(22)~~ "Request for proposals" means a written or
112 electronically posted solicitation for competitive sealed
113 proposals.

114 ~~(24)~~~~(23)~~ "Request for a quote" means an oral, electronic,
115 or written request for written pricing or services information
116 from a state term contract vendor for commodities or contractual
117 services available on a state term contract from that vendor.

118 ~~(25)~~~~(24)~~ "Responsible vendor" means a vendor who has the
119 capability in all respects to fully perform the contract
120 requirements and the integrity and reliability that will assure
121 good faith performance.

122 ~~(26)~~~~(25)~~ "Responsive bid," "responsive proposal," or
123 "responsive reply" means a bid, or proposal, or reply submitted
124 by a responsive and responsible vendor which ~~that~~ conforms in
125 all material respects to the solicitation.

126 ~~(27)~~~~(26)~~ "Responsive vendor" means a vendor that has
127 submitted a bid, proposal, or reply that conforms in all
128 material respects to the solicitation.



121384

129 ~~(28)~~~~(27)~~ "State term contract" means a term contract that
130 is competitively procured by the department pursuant to s.
131 287.057 and that is used by agencies and eligible users pursuant
132 to s. 287.056.

133 ~~(29)~~~~(28)~~ "Term contract" means an indefinite quantity
134 contract to furnish commodities or contractual services during a
135 defined period.

136 Section 5. Paragraph (a) of subsection (1), paragraph (b)
137 of subsection (2), and subsections (8) and (15) of section
138 287.042, Florida Statutes, are amended to read:

139 287.042 Powers, duties, and functions.—The department shall
140 have the following powers, duties, and functions:

141 (1) (a) To canvass all sources of supply, ~~establish and~~
142 ~~maintain a vendor list,~~ and contract for the purchase, lease, or
143 acquisition, including purchase by installment sales or lease-
144 purchase contracts which may provide for the payment of interest
145 on unpaid portions of the purchase price, of all commodities and
146 contractual services required by any agency under this chapter.
147 Any contract providing for deferred payments and the payment of
148 interest is ~~shall be~~ subject to specific rules adopted by the
149 department.

150 (2)

151 (b) As an alternative to any provision in s. 120.57(3)(c),
152 the department may proceed with the competitive solicitation or
153 contract award process of a term contract when the Secretary of
154 Management Services ~~the department~~ or his or her designee sets
155 forth in writing particular facts and circumstances that ~~which~~
156 demonstrate that the delay incident to staying the solicitation
157 or contract award process would be detrimental to the interests



121384

158 of the state. After the award of a contract resulting from a
159 competitive solicitation in which a timely protest was received
160 and in which the state did not prevail, the contract may be
161 canceled and reawarded.

162 (8) To provide any commodity and contractual service
163 purchasing rules to the Chief Financial Officer and all agencies
164 electronically or through an electronic medium or other means.
165 Agencies may not approve an ~~any~~ account or request any payment
166 of an ~~any~~ account for the purchase of any commodity or the
167 procurement of any contractual service covered by a purchasing
168 or contractual service rule except as authorized therein. The
169 department shall furnish copies of rules adopted by the
170 department to any county, municipality, or other local public
171 agency requesting them.

172 (15) To lead or enter into joint agreements with
173 governmental entities ~~agencies, as defined in s. 163.3164, for~~
174 ~~the purpose of pooling funds~~ for the purchase of commodities or
175 contractual services ~~information technology~~ that can be used by
176 multiple agencies.

177 (a) Each agency that has been appropriated or has existing
178 funds for such purchase, shall, upon contract award by the
179 department, transfer its ~~their~~ portion of the funds into the
180 department's Operating Trust Fund for payment by the department.
181 The funds shall be transferred by the Executive Office of the
182 Governor pursuant to the agency budget amendment request
183 provisions under ~~in~~ chapter 216.

184 (b) Agencies that sign the joint agreements are financially
185 obligated for their portion of the agreed-upon funds. If an
186 agency becomes more than 90 days delinquent in paying the funds,



121384

187 the department shall certify to the Chief Financial Officer the
188 amount due, and the Chief Financial Officer shall transfer the
189 amount due to the Operating Trust Fund of the department from
190 any of the agency's available funds. The Chief Financial Officer
191 shall report these transfers and the reasons for the transfers
192 to the Executive Office of the Governor and the legislative
193 appropriations committees.

194 Section 6. Subsection (1) of section 287.056, Florida
195 Statutes, is amended to read:

196 287.056 Purchases from purchasing agreements and state term
197 contracts.—

198 (1) Agencies shall, and eligible users may, purchase
199 commodities and contractual services from purchasing agreements
200 established and state term contracts procured, pursuant to s.
201 287.057, by the department. ~~Each agency agreement made under~~
202 ~~this subsection shall include:~~

203 ~~(a) A provision specifying a scope of work that clearly~~
204 ~~establishes all tasks that the contractor is required to~~
205 ~~perform.~~

206 ~~(b) A provision dividing the contract into quantifiable,~~
207 ~~measurable, and verifiable units of deliverables that must be~~
208 ~~received and accepted in writing by the contract manager before~~
209 ~~payment. Each deliverable must be directly related to the scope~~
210 ~~of work and specify the required minimum level of service to be~~
211 ~~performed and the criteria for evaluating the successful~~
212 ~~completion of each deliverable.~~

213 Section 7. Paragraph (a) of subsection (1) and subsections
214 (3), (10), (12), (13), (16), and (22) of section 287.057,
215 Florida Statutes, are amended to read:



121384

216 287.057 Procurement of commodities or contractual
217 services.—

218 (1) The competitive solicitation processes authorized in
219 this section shall be used for procurement of commodities or
220 contractual services in excess of the threshold amount provided
221 for CATEGORY TWO in s. 287.017. Any competitive solicitation
222 shall be made available simultaneously to all vendors, must
223 include the time and date for the receipt of bids, proposals, or
224 replies and of the public opening, and must include all
225 contractual terms and conditions applicable to the procurement,
226 including the criteria to be used in determining acceptability
227 and relative merit of the bid, proposal, or reply.

228 (a) *Invitation to bid.*—The invitation to bid shall be used
229 when the agency is capable of specifically defining the scope of
230 work for which a contractual service is required or when the
231 agency is capable of establishing precise specifications
232 defining the actual commodity or group of commodities required.

233 1. All invitations to bid must include:

234 a. A detailed description of the commodities or contractual
235 services sought; and

236 b. If the agency contemplates renewal of the contract, a
237 statement to that effect.

238 2. Bids submitted in response to an invitation to bid in
239 which the agency contemplates renewal of the contract must
240 include the price for each year for which the contract may be
241 renewed.

242 3. Evaluation of bids must ~~shall~~ include consideration of
243 the total cost for each year of the contract, including renewal
244 years, as submitted by the vendor.



121384

245 4. The contract shall be awarded to the responsible and
246 responsive vendor who submits the lowest responsive bid.

247 (3) ~~If~~ When the purchase price of commodities or
248 contractual services exceeds the threshold amount provided in s.
249 287.017 for CATEGORY TWO, ~~no~~ purchase of commodities or
250 contractual services may not be made without receiving
251 competitive sealed bids, competitive sealed proposals, or
252 competitive sealed replies unless:

253 (a) The agency head determines in writing that an immediate
254 danger to the public health, safety, or welfare or other
255 substantial loss to the state requires emergency action. After
256 the agency head signs ~~makes~~ such a written determination, the
257 agency may proceed with the procurement of commodities or
258 contractual services necessitated by the immediate danger,
259 without receiving competitive sealed bids, competitive sealed
260 proposals, or competitive sealed replies. However, the ~~such~~
261 emergency procurement shall be made by obtaining pricing
262 information from at least two prospective vendors, which must be
263 retained in the contract file, unless the agency determines in
264 writing that the time required to obtain pricing information
265 will increase the immediate danger to the public health, safety,
266 or welfare or other substantial loss to the state. The agency
267 shall furnish copies of all written determinations ~~certified~~
268 ~~under oath~~ and any other documents relating to the emergency
269 action to the department. A copy of the written statement shall
270 be furnished to the Chief Financial Officer with the voucher
271 authorizing payment. The individual purchase of personal
272 clothing, shelter, or supplies which are needed on an emergency
273 basis to avoid institutionalization or placement in a more



121384

274 restrictive setting is an emergency for the purposes of this
275 paragraph, and the filing with the department of such statement
276 is not required in such circumstances. In the case of the
277 emergency purchase of insurance, the period of coverage of such
278 insurance may ~~shall~~ not exceed ~~a period of~~ 30 days, and all such
279 emergency purchases shall be reported to the department.

280 (b) The purchase is made by an agency from a state term
281 contract procured, pursuant to this section, by the department
282 or by an agency, after receiving approval from the department,
283 from a contract procured, pursuant to subsection (1), by another
284 agency.

285 (c) Commodities or contractual services available only from
286 a single source may be excepted from the competitive-
287 solicitation requirements. If ~~When~~ an agency believes that
288 commodities or contractual services are available only from a
289 single source, the agency shall electronically post a
290 description of the commodities or contractual services sought
291 for ~~a period of~~ at least 7 business days. The description must
292 include a request that prospective vendors provide information
293 regarding their ability to supply the commodities or contractual
294 services described. If it is determined in writing by the
295 agency, after reviewing any information received from
296 prospective vendors, that the commodities or contractual
297 services are available only from a single source, the agency
298 shall:

299 1. provide notice of its intended decision to enter a
300 single-source purchase contract in the manner specified in s.
301 120.57(3), ~~if the amount of the contract does not exceed the~~
302 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~



121384

303 ~~2. Request approval from the department for the single-~~
304 ~~source purchase, if the amount of the contract exceeds the~~
305 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~
306 ~~agency shall initiate its request for approval in a form~~
307 ~~prescribed by the department, which request may be~~
308 ~~electronically transmitted. The failure of the department to~~
309 ~~approve or disapprove the agency's request for approval within~~
310 ~~21 days after receiving such request shall constitute prior~~
311 ~~approval of the department. If the department approves the~~
312 ~~agency's request, the agency shall provide notice of its~~
313 ~~intended decision to enter a single-source contract in the~~
314 ~~manner specified in s. 120.57(3).~~

315 ~~(d) When it is in the best interest of the state, the~~
316 ~~secretary of the department or his or her designee may authorize~~
317 ~~the Support Program to purchase insurance by negotiation, but~~
318 ~~such purchase shall be made only under conditions most favorable~~
319 ~~to the public interest.~~

320 ~~(d)-(e)~~ Prescriptive assistive devices for the purpose of
321 medical, developmental, or vocational rehabilitation of clients
322 are excepted from competitive-solicitation requirements and
323 shall be procured pursuant to an established fee schedule or by
324 any other method that ~~which~~ ensures the best price for the
325 state, taking into consideration the needs of the client.
326 Prescriptive assistive devices include, but are not limited to,
327 prosthetics, orthotics, and wheelchairs. For purchases made
328 pursuant to this paragraph, state agencies shall annually file
329 with the department a description of the purchases and methods
330 of procurement.

331 ~~(e)-(f)~~ The following contractual services and commodities



121384

332 are not subject to the competitive-solicitation requirements of
333 this section:

334 1. Artistic services. As used in ~~For the purposes of~~ this
335 subsection, the term "artistic services" does not include
336 advertising or typesetting. As used in this subparagraph, the
337 term "advertising" means the making of a representation in any
338 form in connection with a trade, business, craft, or profession
339 in order to promote the supply of commodities or services by the
340 person promoting the commodities or contractual services.

341 2. Academic program reviews if the fee for such services
342 does not exceed \$50,000.

343 3. Lectures by individuals.

344 4. Legal services, including attorney, paralegal, expert
345 witness, appraisal, or mediator services.

346 5. ~~a.~~ Health services involving examination, diagnosis,
347 treatment, prevention, medical consultation, or administration.
348 The term also includes,

349 ~~b. Beginning January 1, 2011, health services, including,~~
350 but is not limited to, substance abuse and mental health
351 services, ~~involving~~ examination, diagnosis, treatment,
352 prevention, or medical consultation if, ~~when~~ such services are
353 offered to eligible individuals participating in a specific
354 program that qualifies multiple providers and uses a standard
355 payment methodology. Reimbursement of administrative costs for
356 providers of services purchased in this manner are ~~shall~~ also ~~be~~
357 exempt. For purposes of this subparagraph ~~sub-subparagraph~~, the
358 term "providers" means health professionals and, health
359 facilities, or organizations that deliver or arrange for the
360 delivery of health services.



121384

361 6. Services provided to persons with mental or physical
362 disabilities by not-for-profit corporations that ~~which~~ have
363 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
364 United States Internal Revenue Code or when such services are
365 governed by the ~~provisions of~~ Office of Management and Budget
366 Circular A-122. However, in acquiring such services, the agency
367 shall consider the ability of the vendor, past performance,
368 willingness to meet time requirements, and price.

369 7. Medicaid services delivered to an eligible Medicaid
370 recipient unless the agency is directed otherwise in law.

371 8. Family placement services.

372 9. Prevention services related to mental health, including
373 drug abuse prevention programs, child abuse prevention programs,
374 and shelters for runaways, operated by not-for-profit
375 corporations. However, in acquiring such services, the agency
376 shall consider the ability of the vendor, past performance,
377 willingness to meet time requirements, and price.

378 10. Training and education services provided to injured
379 employees pursuant to s. 440.491(6).

380 11. Contracts entered into pursuant to s. 337.11.

381 12. Services or commodities provided by governmental
382 entities ~~agencies~~.

383 13. Statewide public service announcement programs provided
384 by a Florida statewide nonprofit corporation under s. 501(c)(6)
385 of the Internal Revenue Code which have, ~~with~~ a guaranteed
386 documented match of at least \$3 to \$1.

387 (f) ~~(g)~~ Continuing education events or programs that are
388 offered to the general public and for which fees have been
389 collected which ~~that~~ pay all expenses associated with the event



121384

390 or program are exempt from requirements for competitive
391 solicitation.

392 (10) A contract for commodities or contractual services may
393 be awarded without competition if state or federal law
394 prescribes with whom the agency must contract or if the rate of
395 payment or the recipient of the funds is established during the
396 appropriations process.

397 (12) Extension of a contract for commodities or contractual
398 services must ~~shall~~ be in writing for a period not to exceed 6
399 months and is ~~shall be~~ subject to the same terms and conditions
400 set forth in the initial contract and any written amendments
401 signed by the parties. There may ~~shall~~ be only one extension of
402 a contract unless the failure to meet the criteria set forth in
403 the contract for completion of the contract is due to events
404 beyond the control of the contractor.

405 (13) Contracts for commodities or contractual services may
406 be renewed for a period that may not exceed 3 years or the term
407 of the original contract, whichever ~~period~~ is longer. Renewal of
408 a contract for commodities or contractual services must ~~shall~~ be
409 in writing and is ~~shall be~~ subject to the same terms and
410 conditions set forth in the initial contract and any written
411 amendments signed by the parties. If the commodity or
412 contractual service is purchased as a result of the solicitation
413 of bids, proposals, or replies, the price of the commodity or
414 contractual service to be renewed must ~~shall~~ be specified in the
415 bid, proposal, or reply, except that an agency may negotiate
416 lower pricing. A renewal contract may not include any
417 compensation for costs associated with the renewal. Renewals are
418 ~~shall be~~ contingent upon satisfactory performance evaluations by



121384

419 the agency and subject to the availability of funds. Exceptional
420 purchase contracts pursuant to paragraphs (3) (a) and (c) may not
421 be renewed. With the exception of subsection (10) ~~(12)~~, if a
422 contract amendment results in a longer contract term or
423 increased payments, a state agency may not renew or amend a
424 contract for the outsourcing of a service or activity that has
425 an original term value exceeding ~~the sum of~~ \$10 million before
426 submitting a written report concerning contract performance to
427 the Governor, the President of the Senate, and the Speaker of
428 the House of Representatives at least 90 days before execution
429 of the renewal or amendment.

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

433 1. ~~(a)~~ At least three persons to evaluate proposals and
434 replies who collectively have experience and knowledge in the
435 program areas and service requirements for which commodities or
436 contractual services are sought.

437 2. ~~(b)~~ At least three persons to conduct negotiations during
438 a competitive sealed reply procurement who collectively have
439 experience and knowledge in negotiating contracts, contract
440 procurement, and the program areas and service requirements for
441 which commodities or contractual services are sought.

442 (b) ~~If~~ ~~When~~ the value of a contract is in excess of \$1
443 million in any fiscal year, at least one of the persons
444 conducting negotiations must be certified as a contract
445 negotiator based upon department rules ~~adopted by the Department~~
446 ~~of Management Services~~ in order to ensure that certified
447 contract negotiators are knowledgeable about effective



121384

448 negotiation strategies, capable of successfully implementing
449 those strategies, and involved appropriately in the procurement
450 process. At a minimum, the rules must address the qualifications
451 required for certification, the method of certification, and the
452 procedure for involving the certified negotiator. If the value
453 of a contract is in excess of \$10 million in any fiscal year, at
454 least one of the persons conducting negotiations must be a
455 Project Management Professional, as certified by the Project
456 Management Institute.

457 (22) The department, in consultation with the Chief
458 Financial Officer ~~Agency for Enterprise Information Technology~~
459 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online
460 procurement of commodities and contractual services. To enable
461 the state to promote open competition and ~~to~~ leverage its buying
462 power, agencies shall participate in the online procurement
463 program, and eligible users may participate in the program. Only
464 vendors prequalified as meeting mandatory requirements and
465 qualifications criteria may participate in online procurement.

466 (a) The department, ~~in consultation with the agency~~, may
467 contract for equipment and services necessary to develop and
468 implement online procurement.

469 (b) The department, ~~in consultation with the agency~~, shall
470 adopt rules, ~~pursuant to ss. 120.536(1) and 120.54~~, to
471 administer the program for online procurement. The rules must
472 ~~shall~~ include, but not be limited to:

473 1. Determining the requirements and qualification criteria
474 for prequalifying vendors.

475 2. Establishing the procedures for conducting online
476 procurement.



121384

477 3. Establishing the criteria for eligible commodities and
478 contractual services.

479 4. Establishing the procedures for providing access to
480 online procurement.

481 5. Determining the criteria warranting any exceptions to
482 participation in the online procurement program.

483 (c) The department may impose and shall collect all fees
484 for the use of the online procurement systems.

485 1. The fees may be imposed on an individual transaction
486 basis or as a fixed percentage of the cost savings generated. At
487 a minimum, the fees must be set in an amount sufficient to cover
488 the projected costs of the services, including administrative
489 and project service costs in accordance with the policies of the
490 department.

491 2. If the department contracts with a provider for online
492 procurement, the department, pursuant to appropriation, shall
493 compensate the provider from the fees after the department has
494 satisfied all ongoing costs. The provider shall report
495 transaction data to the department each month so that the
496 department may determine the amount due and payable to the
497 department from each vendor.

498 3. All fees that are due and payable to the state on a
499 transactional basis or as a fixed percentage of the cost savings
500 generated are subject to s. 215.31 and must be remitted within
501 40 days after receipt of payment for which the fees are due. For
502 fees that are not remitted within 40 days, the vendor shall pay
503 interest at the rate established under s. 55.03(1) on the unpaid
504 balance from the expiration of the 40-day period until the fees
505 are remitted.



121384

506 4. All fees and surcharges collected under this paragraph
507 shall be deposited in the Operating Trust Fund as provided by
508 law.

509 Section 8. Effective December 1, 2014, subsection (14) of
510 section 287.057, Florida Statutes, is amended to read:

511 287.057 Procurement of commodities or contractual
512 services.-

513 (14) For each contractual services contract, the agency
514 shall designate an employee to function as contract manager who
515 is ~~shall be~~ responsible for enforcing performance of the
516 contract terms and conditions and serve as a liaison with the
517 contractor.

518 (a) Each contract manager who is responsible for contracts
519 in excess of the threshold amount for CATEGORY TWO must, at a
520 minimum, complete ~~attend~~ training conducted by the Chief
521 Financial Officer for accountability in contracts and grant
522 management. The Chief Financial Officer shall establish and
523 disseminate uniform procedures pursuant to s. 17.03(3) to ensure
524 that contractual services have been rendered in accordance with
525 the contract terms before the agency processes the invoice for
526 payment. The procedures must ~~shall~~ include, but need not be
527 limited to, procedures for monitoring and documenting contractor
528 performance, reviewing and documenting all deliverables for
529 which payment is requested by vendors, and providing written
530 certification by contract managers of the agency's receipt of
531 goods and services.

532 (b) Each contract manager who is responsible for contracts
533 in excess of \$100,000 annually must complete training in
534 contract management and become a certified contract manager. The



535 department is responsible for establishing and disseminating the
536 requirements for certification which include completing the
537 training conducted by the Chief Financial Officer for
538 accountability in contracts and grant management. Training and
539 certification must be coordinated by the department, and the
540 training must be conducted jointly by the department and the
541 Department of Financial Services. Training must promote best
542 practices and procedures related to negotiating, managing, and
543 ensuring accountability in agency contracts and grant
544 agreements, which must include the use of case studies based
545 upon previous audits, contracts, and grant agreements. All
546 agency contract managers must become certified within 24 months
547 after establishment of the training and certification
548 requirements by the department and the Department of Financial
549 Services.

550 Section 9. Paragraph (a) of subsection (3) of section
551 287.0571, Florida Statutes, is amended to read:

552 287.0571 Business case to outsource; applicability.-

553 (3) This section does not apply to:

554 (a) A procurement of commodities and contractual services
555 listed in s. 287.057(3)(d) and (e) ~~287.057(3)(e), (f), and (g)~~
556 and (21).

557 Section 10. Subsections (1), (2), and (5) of section
558 287.058, Florida Statutes, are amended, and subsection (7) is
559 added to that section, to read:

560 287.058 Contract document.-

561 (1) Every procurement of contractual services in excess of
562 the threshold amount provided in s. 287.017 for CATEGORY TWO,
563 except for the providing of health and mental health services or



121384

564 drugs in the examination, diagnosis, or treatment of sick or
565 injured state employees or the providing of other benefits as
566 required by ~~the provisions of~~ chapter 440, shall be evidenced by
567 a written agreement embodying all provisions and conditions of
568 the procurement of such services, which shall, where applicable,
569 include, but not be limited to, a provision:

570 (a) That bills for fees or other compensation for services
571 or expenses be submitted in detail sufficient for a proper
572 preaudit and postaudit thereof.

573 (b) That bills for any travel expenses be submitted in
574 accordance with s. 112.061. A state agency may establish rates
575 lower than the maximum provided in s. 112.061.

576 (c) Allowing unilateral cancellation by the agency for
577 refusal by the contractor to allow public access to all
578 documents, papers, letters, or other material made or received
579 by the contractor in conjunction with the contract, unless the
580 records are exempt from s. 24(a) of Art. I of the State
581 Constitution and s. 119.07(1).

582 (d) Specifying a scope of work that clearly establishes all
583 tasks the contractor is required to perform.

584 (e) Dividing the contract into quantifiable, measurable,
585 and verifiable units of deliverables that must be received and
586 accepted in writing by the contract manager before payment. Each
587 deliverable must be directly related to the scope of work and
588 specify a performance measure. As used in this paragraph, the
589 term "performance measure" means the required minimum acceptable
590 level of service to be performed and criteria for evaluating the
591 successful completion of each deliverable.

592 (f) Specifying the criteria and the final date by which



121384

593 such criteria must be met for completion of the contract.

594 (g) Specifying that the contract may be renewed for a
595 period that may not exceed 3 years or the term of the original
596 contract, whichever ~~period~~ is longer, specifying the renewal
597 price for the contractual service as set forth in the bid,
598 proposal, or reply, specifying that costs for the renewal may
599 not be charged, and specifying that renewals are ~~shall be~~
600 contingent upon satisfactory performance evaluations by the
601 agency and subject to the availability of funds. Exceptional
602 purchase contracts pursuant to s. 287.057(3)(a) and (c) may not
603 be renewed.

604 (h) Specifying the financial consequences that the agency
605 must apply if the contractor fails to perform in accordance with
606 the contract.

607 (i) Addressing the property rights of any intellectual
608 property related to the contract and the specific rights of the
609 state regarding the intellectual property if the contractor
610 fails to provide the services or is no longer providing
611 services.

612
613 In lieu of a written agreement, the agency ~~department~~ may
614 authorize the use of a purchase order for classes of contractual
615 services, if the provisions of paragraphs (a)-(i) are included
616 in the purchase order or solicitation. The purchase order must
617 include, but need not be limited to, an adequate description of
618 the services, the contract period, and the method of payment. In
619 lieu of printing the provisions of paragraphs (a)-(c) and (g)
620 ~~(a)-(i)~~ in the contract document or purchase order, agencies may
621 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~



121384

622 ~~(i)~~ by reference.

623 (2) The written agreement shall be signed by the agency
624 head or designee and the contractor before ~~prior to~~ the
625 rendering of any contractual service the value of which is in
626 excess of the threshold amount provided in s. 287.017 for
627 CATEGORY TWO, except in the case of a valid emergency as
628 certified by the agency head. The written statement
629 ~~certification~~ of an emergency must ~~shall~~ be prepared within 30
630 days after the contractor begins rendering the service and must
631 ~~shall~~ state the particular facts and circumstances which
632 precluded the execution of the written agreement before ~~prior to~~
633 the rendering of the service. If the agency fails to have the
634 contract signed by the agency head or designee and the
635 contractor before ~~prior to~~ rendering the contractual service,
636 and if an emergency does not exist, the agency head shall,
637 within ~~no later than~~ 30 days after the contractor begins
638 rendering the service, certify the specific conditions and
639 circumstances to the department as well as describe actions
640 taken to prevent recurrence of such noncompliance. The agency
641 head may delegate the written statement ~~certification~~ only to
642 other senior management agency personnel. A copy of the written
643 statement ~~certification~~ shall be furnished to the Chief
644 Financial Officer with the voucher authorizing payment. The
645 department shall report repeated instances of noncompliance by
646 an agency to the Auditor General. ~~Nothing in~~ This subsection
647 does not ~~shall be deemed to~~ authorize additional compensation
648 prohibited under ~~by~~ s. 215.425. The procurement of contractual
649 services may ~~shall~~ not be divided so as to avoid the provisions
650 of this section.



121384

651 (5) Unless otherwise provided in the General Appropriations
652 Act or the substantive bill implementing the General
653 Appropriations Act, the Chief Financial Officer may waive the
654 requirements of this section for services which are included in
655 s. 287.057(3)(e) ~~287.057(3)(f)~~.

656 (7) The Chief Financial Officer may audit a contract
657 subject to this chapter before the execution of such contract in
658 accordance with rules adopted by the Department of Financial
659 Services. The audit must ensure that applicable laws have been
660 met; that the contract document contains a clear statement of
661 work, quantifiable and measurable deliverables, performance
662 measures, financial consequences for nonperformance, and clear
663 terms and conditions that protect the interests of the state;
664 and that the associated costs of the contract are not
665 unreasonable or inappropriate. The audit must ensure that all
666 contracting laws have been met and that documentation is
667 available to support the contract. A contract that does not
668 comply with this section may be returned to the submitting
669 agency for revision.

670 (a) The Chief Financial Officer may establish dollar
671 thresholds and other criteria for sampling the contracts that
672 are to be audited before execution. The Chief Financial Officer
673 may revise such thresholds and other criteria for an agency or
674 unit of an agency as deemed appropriate.

675 (b) The Chief Financial Officer shall make a final
676 determination of any deficiencies in the contract within 10
677 business days after receipt of the proposed contract and shall
678 include information regarding the deficiencies in the audit
679 report provided to the agency entering into the contract. The



121384

680 Chief Financial Officer and the agency entering into the
681 contract may agree to a longer review period. The agency is
682 responsible for addressing the deficiencies and shall have the
683 option to resubmit the contract for subsequent review before
684 execution. The Chief Financial Officer shall perform a
685 subsequent review to verify that all deficiencies have been
686 addressed upon processing the first payment.

687 Section 11. Section 287.136, Florida Statutes, is created
688 to read:

689 287.136 Audit of executed contract documents.—The Chief
690 Financial Officer shall perform audits of an executed contract
691 documents and contract manager's records to ensure that adequate
692 internal controls are in place for complying with the terms and
693 conditions of the contract and for the validation and receipt of
694 goods and services.

695 (1) At the conclusion of the audit, the Chief Financial
696 Officer's designee shall discuss the audit and potential
697 findings with the official whose office is subject to audit. The
698 final audit report shall be submitted to the agency head.

699 (2) Within 30 days after the receipt of the final audit
700 report, the agency head shall submit to the Chief Financial
701 Officer or designee, his or her written statement of explanation
702 or rebuttal concerning findings requiring corrective action,
703 including corrective action to be taken to preclude a
704 recurrence.

705 Section 12. Section 287.076, Florida Statutes, is amended
706 to read:

707 287.076 Project Management Professionals training for
708 personnel involved in managing outsourcings and negotiations;



121384

709 funding.—The department ~~of Management Services~~ may implement a
710 program to train state agency employees who are involved in
711 managing outsourcings as Project Management Professionals, as
712 certified by the Project Management Institute. ~~For the 2006-2007~~
713 ~~fiscal year, the sum of \$500,000 in recurring funds from the~~
714 ~~General Revenue Fund is appropriated to the Department of~~
715 ~~Management Services to implement this program. Subject to annual~~
716 appropriations, the department ~~of Management Services~~, in
717 consultation with entities subject to this part act, shall
718 identify personnel to participate in this training based on
719 requested need and ensure that each agency is represented. The
720 department ~~of Management Services~~ may remit payment for this
721 training on behalf of all participating personnel.

722 Section 13. Subsection (3) of section 16.0155, Florida
723 Statutes, is amended to read:

724 16.0155 Contingency fee agreements.—

725 (3) Notwithstanding the exemption provided in s.
726 287.057(3)(e), if the Attorney General makes the determination
727 described in subsection (2), he or she notwithstanding the
728 ~~exemption provided in s. 287.057(3)(f)~~, the Attorney General
729 shall request proposals from private attorneys to represent the
730 department on a contingency-fee basis, unless the Attorney
731 General determines in writing that requesting proposals is not
732 feasible under the circumstances. The written determination does
733 not constitute a final agency action subject to review pursuant
734 to ss. 120.569 and 120.57. For purposes of this subsection only,
735 the department is exempt from ~~the requirements of s. 120.57(3)~~,
736 and neither the request for proposals nor the contract award is
737 subject to challenge pursuant to ss. 120.569 and 120.57.



121384

738 Section 14. Subsection (1) of section 283.33, Florida
739 Statutes, is amended to read:

740 283.33 Printing of publications; lowest bidder awards.—

741 (1) Publications may be printed and prepared in-house, by
742 another agency or the Legislature, or purchased on bid,
743 whichever is more economical and practicable as determined by
744 the agency. An agency may contract for binding separately when
745 more economical or practicable, whether or not the remainder of
746 the printing is done in-house. A vendor may subcontract for
747 binding and still be considered a responsible vendor as defined
748 in s. 287.012, notwithstanding s. 287.012(24).

749 Section 15. Subsection (3) of section 394.457, Florida
750 Statutes, is amended to read:

751 394.457 Operation and administration.—

752 (3) POWER TO CONTRACT.—The department may contract to
753 provide, and be provided with, services and facilities in order
754 to carry out its responsibilities under this part with the
755 following agencies: public and private hospitals; receiving and
756 treatment facilities; clinics; laboratories; departments,
757 divisions, and other units of state government; the state
758 colleges and universities; the community colleges; private
759 colleges and universities; counties, municipalities, and any
760 other governmental unit, including facilities of the United
761 States Government; and any other public or private entity which
762 provides or needs facilities or services. Baker Act funds for
763 community inpatient, crisis stabilization, short-term
764 residential treatment, and screening services must be allocated
765 to each county pursuant to the department's funding allocation
766 methodology. Notwithstanding s. 287.057(3)(e) ~~the provisions of~~



121384

767 ~~s. 287.057(3)(f)~~, contracts for community-based Baker Act
768 services for inpatient, crisis stabilization, short-term
769 residential treatment, and screening provided under this part,
770 other than those with other units of government, to be provided
771 for the department must be awarded using competitive sealed bids
772 if when the county commission of the county receiving the
773 services makes a request to the department's district office by
774 January 15 of the contracting year. The district may shall not
775 enter into a competitively bid contract under this provision if
776 such action will result in increases of state or local
777 expenditures for Baker Act services within the district.
778 Contracts for these Baker Act services using competitive sealed
779 bids are will be effective for 3 years. The department shall
780 adopt rules establishing minimum standards for such contracted
781 services and facilities and shall make periodic audits and
782 inspections to assure that the contracted services are provided
783 and meet the standards of the department.

784 Section 16. Paragraph (a) of subsection (2) of section
785 402.7305, Florida Statutes, is amended to read:

786 402.7305 Department of Children and Family Services;
787 procurement of contractual services; contract management.—

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

789 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,
790 if whenever the department intends to contract with a public
791 postsecondary institution to provide a service, the department
792 must allow all public postsecondary institutions in this state
793 that are accredited by the Southern Association of Colleges and
794 Schools to bid on the contract. Thereafter, notwithstanding any
795 other provision of law to the contrary, if a public



121384

796 postsecondary institution intends to subcontract for any service
797 awarded in the contract, the subcontracted service must be
798 procured by competitive procedures.

799 Section 17. Section 409.9132, Florida Statutes, is amended
800 to read:

801 409.9132 Pilot project to monitor home health services.—The
802 Agency for Health Care Administration shall expand the home
803 health agency monitoring pilot project in Miami-Dade County on a
804 statewide basis effective July 1, 2012, except in counties in
805 which the program is ~~will~~ not be cost-effective, as determined
806 by the agency. The agency shall contract with a vendor to verify
807 the utilization and delivery of home health services and provide
808 an electronic billing interface for home health services. The
809 contract must require the creation of a program to submit claims
810 electronically for the delivery of home health services. The
811 program must verify telephonically visits for the delivery of
812 home health services using voice biometrics. The agency may seek
813 amendments to the Medicaid state plan and waivers of federal
814 laws, as necessary, to implement or expand the pilot project.
815 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must
816 award the contract through the competitive solicitation process
817 and may use the current contract to expand the home health
818 agency monitoring pilot project to include additional counties
819 as authorized under this section.

820 Section 18. Subsection (3) of section 427.0135, Florida
821 Statutes, is amended to read:

822 427.0135 Purchasing agencies; duties and responsibilities.—
823 Each purchasing agency, in carrying out the policies and
824 procedures of the commission, shall:



121384

825 (3) Not procure transportation disadvantaged services
826 without initially negotiating with the commission, as provided
827 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise
828 authorized by statute. If the purchasing agency, after
829 consultation with the commission, determines that it cannot
830 reach mutually acceptable contract terms with the commission,
831 the purchasing agency may contract for the same transportation
832 services provided in a more cost-effective manner and of
833 comparable or higher quality and standards. The Medicaid agency
834 shall implement this subsection in a manner consistent with s.
835 409.908(18) and as otherwise limited or directed by the General
836 Appropriations Act.

837 Section 19. Paragraph (c) of subsection (5) of section
838 445.024, Florida Statutes, is amended to read:

839 445.024 Work requirements.—

840 (5) USE OF CONTRACTS.—Regional workforce boards shall
841 provide work activities, training, and other services, as
842 appropriate, through contracts. In contracting for work
843 activities, training, or services, the following applies:

844 (c) Notwithstanding the exemption from the competitive
845 sealed bid requirements provided in s. 287.057(3)(e)
846 ~~287.057(3)(f)~~ for certain contractual services, each contract
847 awarded under this chapter must be awarded on the basis of a
848 competitive sealed bid, except for a contract with a
849 governmental entity as determined by the regional workforce
850 board.

851 Section 20. Paragraph (c) of subsection (5) of section
852 627.311, Florida Statutes, is amended to read:

853 627.311 Joint underwriters and joint reinsurers; public



121384

854 records and public meetings exemptions.-

855 (5)

856 (c) The operation of the plan shall be governed by a plan
857 of operation that is prepared at the direction of the board of
858 governors and approved by order of the office. The plan is
859 subject to continuous review by the office. The office may, by
860 order, withdraw approval of all or part of a plan if the office
861 determines that conditions have changed since approval was
862 granted and that the purposes of the plan require changes in the
863 plan. The plan of operation must ~~shall~~:

864 1. Authorize the board to engage in the activities
865 necessary to implement this subsection, including, but not
866 limited to, borrowing money.

867 2. Develop criteria for eligibility for coverage by the
868 plan, including, but not limited to, documented rejection by at
869 least two insurers which reasonably assures that insureds
870 covered under the plan are unable to acquire coverage in the
871 voluntary market.

872 3. Require notice from the agent to the insured at the time
873 of the application for coverage that the application is for
874 coverage with the plan and that coverage may be available
875 through an insurer, group self-insurers' fund, commercial self-
876 insurance fund, or assessable mutual insurer through another
877 agent at a lower cost.

878 4. Establish programs to encourage insurers to provide
879 coverage to applicants of the plan in the voluntary market and
880 to insureds of the plan, including, but not limited to:

881 a. Establishing procedures for an insurer to use in
882 notifying the plan of the insurer's desire to provide coverage



121384

883 to applicants to the plan or existing insureds of the plan and
884 in describing the types of risks in which the insurer is
885 interested. The description of the desired risks must be on a
886 form developed by the plan.

887 b. Developing forms and procedures that provide an insurer
888 with the information necessary to determine whether the insurer
889 wants to write particular applicants to the plan or insureds of
890 the plan.

891 c. Developing procedures for notice to the plan and the
892 applicant to the plan or insured of the plan that an insurer
893 will insure the applicant or the insured of the plan, and notice
894 of the cost of the coverage offered; and developing procedures
895 for the selection of an insuring entity by the applicant or
896 insured of the plan.

897 d. Provide for a market-assistance plan to assist in the
898 placement of employers. All applications for coverage in the
899 plan received 45 days before the effective date for coverage
900 shall be processed through the market-assistance plan. A market-
901 assistance plan specifically designed to serve the needs of
902 small, good policyholders as defined by the board must be
903 reviewed and updated periodically.

904 5. Provide for policy and claims services to the insureds
905 of the plan of the nature and quality provided for insureds in
906 the voluntary market.

907 6. Provide for the review of applications for coverage with
908 the plan for reasonableness and accuracy, using any available
909 historic information regarding the insured.

910 7. Provide for procedures for auditing insureds of the plan
911 which are based on reasonable business judgment and are designed



121384

912 to maximize the likelihood that the plan will collect the
913 appropriate premiums.

914 8. Authorize the plan to terminate the coverage of and
915 refuse future coverage for any insured that submits a fraudulent
916 application to the plan or provides fraudulent or grossly
917 erroneous records to the plan or to any service provider of the
918 plan in conjunction with the activities of the plan.

919 9. Establish service standards for agents who submit
920 business to the plan.

921 10. Establish criteria and procedures to prohibit any agent
922 who does not adhere to the established service standards from
923 placing business with the plan or receiving, directly or
924 indirectly, any commissions for business placed with the plan.

925 11. Provide for the establishment of reasonable safety
926 programs for all insureds in the plan. All insureds of the plan
927 must participate in the safety program.

928 12. Authorize the plan to terminate the coverage of and
929 refuse future coverage to any insured who fails to pay premiums
930 or surcharges when due; who, at the time of application, is
931 delinquent in payments of workers' compensation or employer's
932 liability insurance premiums or surcharges owed to an insurer,
933 group self-insurers' fund, commercial self-insurance fund, or
934 assessable mutual insurer licensed to write such coverage in
935 this state; or who refuses to substantially comply with any
936 safety programs recommended by the plan.

937 13. Authorize the board of governors to provide the goods
938 and services required by the plan through staff employed by the
939 plan, through reasonably compensated service providers who
940 contract with the plan to provide services as specified by the



121384

941 board of governors, or through a combination of employees and
942 service providers.

943 a. Purchases that equal or exceed \$2,500 but are less than
944 or equal to \$25,000, shall be made by receipt of written quotes,
945 telephone quotes, or informal bids, if whenever practical. The
946 procurement of goods or services valued over \$25,000 is subject
947 to competitive solicitation, except in situations in which the
948 goods or services are provided by a sole source or are deemed an
949 emergency purchase, or the services are exempted from
950 competitive-solicitation requirements under s. 287.057(3)(e)
951 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency
952 procurement must be documented. Contracts for goods or services
953 valued at or over \$100,000 are subject to board approval.

954 b. The board shall determine whether it is more cost-
955 effective and in the best interests of the plan to use legal
956 services provided by in-house attorneys employed by the plan
957 rather than contracting with outside counsel. In making such
958 determination, the board shall document its findings and shall
959 consider the expertise needed; whether time commitments exceed
960 in-house staff resources; whether local representation is
961 needed; the travel, lodging, and other costs associated with in-
962 house representation; and such other factors that the board
963 determines are relevant.

964 14. Provide for service standards for service providers,
965 methods of determining adherence to those service standards,
966 incentives and disincentives for service, and procedures for
967 terminating contracts for service providers that fail to adhere
968 to service standards.

969 15. Provide procedures for selecting service providers and



121384

970 standards for qualification as a service provider that
971 reasonably assure that any service provider selected will
972 continue to operate as an ongoing concern and is capable of
973 providing the specified services in the manner required.

974 16. Provide for reasonable accounting and data-reporting
975 practices.

976 17. Provide for annual review of costs associated with the
977 administration and servicing of the policies issued by the plan
978 to determine alternatives by which costs can be reduced.

979 18. Authorize the acquisition of such excess insurance or
980 reinsurance as is consistent with the purposes of the plan.

981 19. Provide for an annual report to the office on a date
982 specified by the office and containing such information as the
983 office reasonably requires.

984 20. Establish multiple rating plans for various
985 classifications of risk which reflect risk of loss, hazard
986 grade, actual losses, size of premium, and compliance with loss
987 control. At least one of such plans must be a preferred-rating
988 plan to accommodate small-premium policyholders with good
989 experience as defined in sub-subparagraph 22.a.

990 21. Establish agent commission schedules.

991 22. For employers otherwise eligible for coverage under the
992 plan, establish three tiers of employers meeting the criteria
993 and subject to the rate limitations specified in this
994 subparagraph.

995 a. Tier One.—

996 (I) Criteria; rated employers.—An employer that has an
997 experience modification rating shall be included in Tier One if
998 the employer meets all of the following:



121384

999 (A) The experience modification is below 1.00.
1000 (B) The employer had no lost-time claims subsequent to the
1001 applicable experience modification rating period.
1002 (C) The total of the employer's medical-only claims
1003 subsequent to the applicable experience modification rating
1004 period did not exceed 20 percent of premium.
1005 (II) Criteria; non-rated employers.—An employer that does
1006 not have an experience modification rating shall be included in
1007 Tier One if the employer meets all of the following:
1008 (A) The employer had no lost-time claims for the 3-year
1009 period immediately preceding the inception date or renewal date
1010 of the employer's coverage under the plan.
1011 (B) The total of the employer's medical-only claims for the
1012 3-year period immediately preceding the inception date or
1013 renewal date of the employer's coverage under the plan did not
1014 exceed 20 percent of premium.
1015 (C) The employer has secured workers' compensation coverage
1016 for the entire 3-year period immediately preceding the inception
1017 date or renewal date of the employer's coverage under the plan.
1018 (D) The employer is able to provide the plan with a loss
1019 history generated by the employer's prior workers' compensation
1020 insurer, except if the employer is not able to produce a loss
1021 history due to the insolvency of an insurer, the receiver shall
1022 provide to the plan, upon the request of the employer or the
1023 employer's agent, a copy of the employer's loss history from the
1024 records of the insolvent insurer if the loss history is
1025 contained in records of the insurer which are in the possession
1026 of the receiver. If the receiver is unable to produce the loss
1027 history, the employer may, in lieu of the loss history, submit



121384

1028 an affidavit from the employer and the employer's insurance
1029 agent setting forth the loss history.

1030 (E) The employer is not a new business.

1031 (III) Premiums.—The premiums for Tier One insureds shall be
1032 set at a premium level 25 percent above the comparable voluntary
1033 market premiums until the plan has sufficient experience as
1034 determined by the board to establish an actuarially sound rate
1035 for Tier One, at which point the board shall, subject to
1036 paragraph (e), adjust the rates, if necessary, to produce
1037 actuarially sound rates, provided such rate adjustment shall not
1038 take effect prior to January 1, 2007.

1039 b. Tier Two.—

1040 (I) Criteria; rated employers.—An employer that has an
1041 experience modification rating shall be included in Tier Two if
1042 the employer meets all of the following:

1043 (A) The experience modification is equal to or greater than
1044 1.00 but not greater than 1.10.

1045 (B) The employer had no lost-time claims subsequent to the
1046 applicable experience modification rating period.

1047 (C) The total of the employer's medical-only claims
1048 subsequent to the applicable experience modification rating
1049 period did not exceed 20 percent of premium.

1050 (II) Criteria; non-rated employers.—An employer that does
1051 not have any experience modification rating shall be included in
1052 Tier Two if the employer is a new business. An employer shall be
1053 included in Tier Two if the employer has less than 3 years of
1054 loss experience in the 3-year period immediately preceding the
1055 inception date or renewal date of the employer's coverage under
1056 the plan and the employer meets all of the following:



121384

1057 (A) The employer had no lost-time claims for the 3-year
1058 period immediately preceding the inception date or renewal date
1059 of the employer's coverage under the plan.

1060 (B) The total of the employer's medical-only claims for the
1061 3-year period immediately preceding the inception date or
1062 renewal date of the employer's coverage under the plan did not
1063 exceed 20 percent of premium.

1064 (C) The employer is able to provide the plan with a loss
1065 history generated by the workers' compensation insurer that
1066 provided coverage for the portion or portions of such period
1067 during which the employer had secured workers' compensation
1068 coverage, except if the employer is not able to produce a loss
1069 history due to the insolvency of an insurer, the receiver shall
1070 provide to the plan, upon the request of the employer or the
1071 employer's agent, a copy of the employer's loss history from the
1072 records of the insolvent insurer if the loss history is
1073 contained in records of the insurer which are in the possession
1074 of the receiver. If the receiver is unable to produce the loss
1075 history, the employer may, in lieu of the loss history, submit
1076 an affidavit from the employer and the employer's insurance
1077 agent setting forth the loss history.

1078 (III) Premiums.—The premiums for Tier Two insureds shall be
1079 set at a rate level 50 percent above the comparable voluntary
1080 market premiums until the plan has sufficient experience as
1081 determined by the board to establish an actuarially sound rate
1082 for Tier Two, at which point the board shall, subject to
1083 paragraph (e), adjust the rates, if necessary, to produce
1084 actuarially sound rates, provided such rate adjustment shall not
1085 take effect prior to January 1, 2007.



121384

1086 c. Tier Three.—

1087 (I) Eligibility.—An employer shall be included in Tier
1088 Three if the employer does not meet the criteria for Tier One or
1089 Tier Two.

1090 (II) Rates.—The board shall establish, subject to paragraph
1091 (e), and the plan shall charge, actuarially sound rates for Tier
1092 Three insureds.

1093 23. For Tier One or Tier Two employers which employ no
1094 nonexempt employees or which report payroll which is less than
1095 the minimum wage hourly rate for one full-time employee for 1
1096 year at 40 hours per week, the plan shall establish actuarially
1097 sound premiums, provided, however, that the premiums may not
1098 exceed \$2,500. These premiums shall be in addition to the fee
1099 specified in subparagraph 26. When the plan establishes
1100 actuarially sound rates for all employers in Tier One and Tier
1101 Two, the premiums for employers referred to in this paragraph
1102 are no longer subject to the \$2,500 cap.

1103 24. Provide for a depopulation program to reduce the number
1104 of insureds in the plan. If an employer insured through the plan
1105 is offered coverage from a voluntary market carrier:

1106 a. During the first 30 days of coverage under the plan;

1107 b. Before a policy is issued under the plan;

1108 c. By issuance of a policy upon expiration or cancellation
1109 of the policy under the plan; or

1110 d. By assumption of the plan's obligation with respect to
1111 an in-force policy,

1112

1113 that employer is no longer eligible for coverage through the
1114 plan. The premium for risks assumed by the voluntary market



121384

1115 carrier must be no greater than the premium the insured would
1116 have paid under the plan, and shall be adjusted upon renewal to
1117 reflect changes in the plan rates and the tier for which the
1118 insured would qualify as of the time of renewal. The insured may
1119 be charged such premiums only for the first 3 years of coverage
1120 in the voluntary market. A premium under this subparagraph is
1121 deemed approved and is not an excess premium for purposes of s.
1122 627.171.

1123 25. Require that policies issued and applications must
1124 include a notice that the policy could be replaced by a policy
1125 issued from a voluntary market carrier and that, if an offer of
1126 coverage is obtained from a voluntary market carrier, the
1127 policyholder is no longer eligible for coverage through the
1128 plan. The notice must also specify that acceptance of coverage
1129 under the plan creates a conclusive presumption that the
1130 applicant or policyholder is aware of this potential.

1131 26. Require that each application for coverage and each
1132 renewal premium be accompanied by a nonrefundable fee of \$475 to
1133 cover costs of administration and fraud prevention. The board
1134 may, with the prior approval of the office, increase the amount
1135 of the fee pursuant to a rate filing to reflect increased costs
1136 of administration and fraud prevention. The fee is not subject
1137 to commission and is fully earned upon commencement of coverage.

1138 Section 21. Paragraph (e) of subsection (6) of section
1139 627.351, Florida Statutes, is amended to read:

1140 627.351 Insurance risk apportionment plans.—

1141 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1142 (e) Purchases that equal or exceed \$2,500, but are less
1143 than \$25,000, shall be made by receipt of written quotes,



121384

1144 written record of telephone quotes, or informal bids, if
1145 ~~whenever~~ practical. The procurement of goods or services valued
1146 at or over \$25,000 is ~~shall be~~ subject to competitive
1147 solicitation, except in situations where the goods or services
1148 are provided by a sole source or are deemed an emergency
1149 purchase; the services are exempted from competitive
1150 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~;
1151 or the procurement of services is subject to s. 627.3513.
1152 Justification for the sole-sourcing or emergency procurement
1153 must be documented. Contracts for goods or services valued at or
1154 over \$100,000 are subject to approval by the board.

1155 Section 22. Subsection (2) of section 765.5155, Florida
1156 Statutes, is amended to read:

1157 765.5155 Donor registry; education program.—

1158 (2) The agency and the department shall jointly contract
1159 for the operation of a donor registry and education program. The
1160 contractor shall be procured by competitive solicitation
1161 pursuant to chapter 287, notwithstanding an any exemption under
1162 ~~in~~ s. 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,
1163 priority shall be given to existing nonprofit groups that are
1164 based within the state, have expertise working with procurement
1165 organizations, have expertise in conducting statewide organ and
1166 tissue donor public education campaigns, and represent the needs
1167 of the organ and tissue donation community in the state.

1168 Section 23. Subsection (10) of section 893.055, Florida
1169 Statutes, is amended to read:

1170 893.055 Prescription drug monitoring program.—

1171 (10) All costs incurred by the department in administering
1172 the prescription drug monitoring program shall be funded through



121384

1173 federal grants or private funding applied for or received by the
1174 state. The department may not commit funds for the monitoring
1175 program without ensuring funding is available. The prescription
1176 drug monitoring program and the implementation thereof are
1177 contingent upon receipt of the nonstate funding. The department
1178 and state government shall cooperate with the direct-support
1179 organization established pursuant to subsection (11) in seeking
1180 federal grant funds, other nonstate grant funds, gifts,
1181 donations, or other private moneys for the department if so long
1182 ~~as~~ the costs of doing so are not considered material.
1183 Nonmaterial costs for this purpose include, but are not limited
1184 to, the costs of mailing and personnel assigned to research or
1185 apply for a grant. Notwithstanding the exemptions to
1186 competitive-solicitation requirements under s. 287.057(3)(e)
1187 ~~287.057(3)(f)~~, the department shall comply with the competitive-
1188 solicitation requirements under s. 287.057 for the procurement
1189 of any goods or services required by this section. Funds
1190 provided, directly or indirectly, by prescription drug
1191 manufacturers may not be used to implement the program.

1192 Section 24. Except as otherwise expressly provided in this
1193 act, this act shall take effect July 1, 2013.

1194

1195

1196 ===== T I T L E A M E N D M E N T =====

1197 And the title is amended as follows:

1198 Delete lines 29 - 40

1199 and insert:

1200 to s. 215.985, F.S.; amending s. 287.012, F.S.;

1201 providing and revising definitions; amending s.



121384

1202 287.042, F.S.; revising powers, duties, and functions
1203 of the Department of Management Services; eliminating
1204 a duty of the department to maintain a vendor list;
1205 authorizing the department to lead or enter into joint
1206 agreements with governmental entities for the purchase
1207 of commodities or contractual services that can be
1208 used by multiple agencies; amending s. 287.056, F.S.;
1209 deleting provisions requiring certain inclusions in
1210 agency agreements; amending s. 287.057, F.S.;
1211 providing that contracts awarded pursuant to an
1212 invitation to bid shall be awarded to the responsible
1213 and responsive vendor that submits the lowest
1214 responsive bid; revising exceptions to the requirement
1215 that the purchase of specified commodities or
1216 contractual services be made only as a result of
1217 receiving competitive sealed bids, competitive sealed
1218 proposals, or competitive sealed replies; revising
1219 contractual services and commodities that are not
1220 subject to competitive solicitation requirements by
1221 virtue of being available only from a single source;
1222 providing that a contract for commodities or
1223 contractual services may be awarded without
1224 competition if the recipient of funds is established
1225 during the appropriations process; revising provisions
1226 relating to extension of a contract for commodities or
1227 contractual services; authorizing an agency to
1228 negotiate better pricing upon renewal of a contract;
1229 providing training requirements for contract managers
1230 responsible for contracts in excess of a specified



121384

1231 threshold amount; providing contract manager
1232 certification for contract managers responsible for
1233 contracts in excess of a specified threshold amount;
1234 providing that the department is responsible for
1235 establishing and disseminating the requirements for
1236 certification of a contract manager; providing that
1237 training will be conducted jointly by the Department
1238 of Management Services and the Department of Financial
1239 Services; providing training guidelines and
1240 requirements; requiring the department, in
1241 consultation with the Chief Financial Officer to
1242 maintain a program for online procurement of
1243 commodities and contractual services; amending s.
1244 287.0571, F.S.; revising nonapplicability of a
1245 business case to outsource; amending s. 287.058, F.S.;
1246 defining the term "performance measure"; revising
1247 references within provisions relating to purchase
1248 orders used in lieu of written agreements for classes
1249 of contractual services; revising terminology;
1250 authorizing the Chief Financial Officer to audit
1251 contracts before execution and providing requirements
1252 for such audits; creating s. 287.136, F.S.; requiring
1253 the Chief Financial Officer to perform audits of
1254 executed contract documents and to discuss such audits
1255 with the agency officials; requiring the agency head
1256 to respond to the audit; amending s. 287.076, F.S.;
1257 providing that Project Management Professionals
1258 training for personnel involved in managing
1259 outsourcings and negotiations is subject to annual



121384

1260 appropriations; amending ss. 16.0155, 283.33, 394.457,
1261 402.7305, 409.9132, 427.0135, 445.024, 627.311,
1262 627.351, 765.5155, and 893.055, F.S.; conforming
1263 cross-references; providing effective dates.
1264