

By the Committee on Governmental Oversight and Accountability;  
and Senators Benacquisto and Brandes

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1                                   A bill to be entitled  
2           An act relating to state contracting; amending s.  
3           215.971, F.S.; requiring agreements funded with state  
4           or federal financial assistance to include additional  
5           provisions; authorizing the Chief Financial Officer to  
6           audit agreements before execution and providing  
7           requirements for such audits; requiring state agencies  
8           to designate a grants manager for each agreement and  
9           providing requirements and procedures for managers;  
10          requiring the Chief Financial Officer to perform  
11          audits of executed agreements and to discuss such  
12          audits with agency officials; requiring the agency  
13          head to respond to the audit; reordering and amending  
14          s. 215.985, F.S.; revising provisions relating to the  
15          Chief Financial Officer's intergovernmental contract  
16          tracking system under the Transparency Florida Act;  
17          requiring state agencies to post certain information  
18          in the tracking system and to update that information;  
19          requiring that exempt and confidential information be  
20          redacted from contracts and procurement documents  
21          posted on the system; authorizing the Chief Financial  
22          Officer to make available to the public the  
23          information posted on the system through a secure  
24          website; authorizing the Department of Financial  
25          Services to adopt rules; repealing s. 216.0111, F.S.,  
26          relating to a requirement that state agencies report  
27          certain contract information to the Department of  
28          Financial Services and transferring that requirement  
29          to s. 215.985, F.S.; amending s. 287.057, F.S.;

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30 requiring certain contract managers to be certified  
31 and directing the Department of Management Services to  
32 be responsible for establishing the requirements for  
33 certification; amending s. 287.058, F.S.; authorizing  
34 the Chief Financial Officer to audit contracts before  
35 execution and providing requirements for such audits;  
36 creating s. 287.136, F.S.; requiring the Chief  
37 Financial Officer to perform audits of executed  
38 contract documents and to discuss such audits with the  
39 agency officials; requiring the agency head to respond  
40 to the audit; providing an effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Section 215.971, Florida Statutes, is amended to  
45 read:

46 215.971 Agreements funded with federal or ~~and~~ state  
47 assistance.—

48 (1) ~~For~~ An agency agreement that provides state financial  
49 assistance to a recipient or subrecipient, as those terms are  
50 defined in s. 215.97, or that provides federal financial  
51 assistance to a subrecipient, as defined by applicable United  
52 States Office of Management and Budget circulars, must ~~the~~  
53 ~~agreement shall~~ include all of the following:

54 (a) ~~(1)~~ A provision specifying a scope of work that clearly  
55 establishes the tasks that the recipient or subrecipient is  
56 required to perform. ~~;~~ ~~and~~

57 (b) ~~(2)~~ A provision dividing the agreement into quantifiable  
58 units of deliverables that must be received and accepted in

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59 writing by the agency before payment. Each deliverable must be  
60 directly related to the scope of work and ~~must~~ specify the  
61 required minimum level of service to be performed and the  
62 criteria for evaluating the successful completion of each  
63 deliverable.

64 (c) A provision specifying the financial consequences that  
65 apply if the recipient or subrecipient fails to perform the  
66 minimum level of service required by the agreement. The  
67 provision can be excluded from the agreement only if financial  
68 consequences are prohibited by the federal agency awarding the  
69 grant. Funds refunded to a state agency from a recipient or  
70 subrecipient for failure to perform as required under the  
71 agreement may be expended only in direct support of the program  
72 from which the agreement originated.

73 (d) A provision specifying that a recipient or subrecipient  
74 of federal or state financial assistance may expend funds only  
75 for allowable costs resulting from obligations incurred during  
76 the specified agreement period.

77 (e) A provision specifying that any balance of unobligated  
78 funds which has been advanced or paid must be refunded to the  
79 state agency.

80 (f) A provision specifying that any funds paid in excess of  
81 the amount to which the recipient or subrecipient is entitled  
82 under the terms and conditions of the agreement must be refunded  
83 to the state agency.

84 (g) Any additional information required pursuant to s.  
85 215.97.

86 (2) The Chief Financial Officer may audit an agreement  
87 funded with state or federal assistance before the execution of

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88 such agreement in accordance with rules adopted by the  
89 Department of Financial Services. The audit must ensure that  
90 applicable laws have been met; that the agreement document  
91 contains a clear statement of work, quantifiable and measurable  
92 deliverables, performance measures, financial consequences for  
93 nonperformance, and clear terms and conditions that protect the  
94 interests of the state; and that the associated costs of the  
95 agreement are not unreasonable or inappropriate. The audit must  
96 ensure that all contracting laws have been met and that  
97 documentation is available to support the agreement. An  
98 agreement that does not comply with this section may be returned  
99 to the submitting agency for revision.

100 (a) The Chief Financial Officer may establish dollar  
101 thresholds and other criteria for determining which agreements  
102 will be audited before execution. The Chief Financial Officer  
103 may revise such thresholds and other criteria for an agency or  
104 unit of an agency as he or she deems appropriate.

105 (b) The Chief Financial Officer shall have up to 10  
106 business days after receipt of the proposed grant agreement to  
107 make a final determination of any deficiencies in the agreement  
108 and shall provide the agency with information regarding any  
109 deficiencies at the conclusion of the review. The Chief  
110 Financial Officer and the agency entering into the agreement may  
111 agree to a longer review period. The agency is responsible for  
112 addressing the deficiencies and shall have the option to  
113 resubmit the agreement for subsequent review before execution.  
114 The Chief Financial Officer shall perform a subsequent review to  
115 verify that all deficiencies have been addressed upon processing  
116 the first payment.

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117 (3) For each agreement funded with federal or state  
118 financial assistance, the state agency shall designate an  
119 employee to function as a grant manager who shall be responsible  
120 for enforcing performance of the agreement's terms and  
121 conditions and who shall serve as a liaison with the recipient  
122 or subrecipient.

123 (a) Each grant manager who is responsible for agreements in  
124 excess of the threshold amount for CATEGORY TWO under s. 287.017  
125 must complete the training and become a certified contract  
126 manager as provided under s. 287.057(14).

127 (b) The Chief Financial Officer shall establish and  
128 disseminate uniform procedures for grant management pursuant to  
129 s. 17.03(3) to ensure that services have been rendered in  
130 accordance with agreement terms before the agency processes an  
131 invoice for payment. The procedures must include, but need not  
132 be limited to, procedures for monitoring and documenting  
133 recipient or subrecipient performance, reviewing and documenting  
134 all deliverables for which payment is requested by the recipient  
135 or subrecipient, and providing written certification by the  
136 grant manager of the agency's receipt of goods and services.

137 (c) The grant manager shall reconcile and verify all funds  
138 received against all funds expended during the grant agreement  
139 period and produce a final reconciliation report. The final  
140 report must identify any funds paid in excess of the  
141 expenditures incurred by the recipient or subrecipient.

142 (4) The Chief Financial Officer shall perform audits of the  
143 executed state and federal grant agreement documents and grant  
144 manager's records in order to ensure that adequate internal  
145 controls are in place for complying with the terms and

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146 conditions of such agreements and for validation and receipt of  
147 goods and services.

148 (a) At the conclusion of the audit, the Chief Financial  
149 Officer's designee shall discuss the audit and potential  
150 findings with the official whose office is subject to audit. The  
151 final audit report shall be submitted to the agency head.

152 (b) Within 30 days after the receipt of the final audit  
153 report, the agency head shall submit to the Chief Financial  
154 Officer or designee, his or her written statement of explanation  
155 or rebuttal concerning findings requiring corrective action,  
156 including corrective action to be taken to preclude a  
157 recurrence.

158 Section 2. Subsection (2) of section 215.985, Florida  
159 Statutes, is reordered and amended and subsection (16) of that  
160 section is amended, to read:

161 215.985 Transparency in government spending.—

162 (2) As used in this section, the term:

163 (c)~~(a)~~ "Governmental entity" means any state, regional,  
164 county, municipal, special district, or other political  
165 subdivision whether executive, judicial, or legislative,  
166 including, but not limited to, any department, division, bureau,  
167 commission, authority, district, or agency thereof, or any  
168 public school, Florida College System institution, state  
169 university, or associated board.

170 (d)~~(b)~~ "Website" means a site on the Internet which is  
171 easily accessible to the public at no cost and does not require  
172 the user to provide any information.

173 (a)~~(e)~~ "Committee" means the Legislative Auditing Committee  
174 created in s. 11.40.

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175 (b) "Contract" means any written agreement or purchase  
176 order issued for the purchase of goods or services and any  
177 written agreements for the receipt of federal or state financial  
178 assistance.

179 (16) The Chief Financial Officer shall establish and  
180 maintain a secure, shared state contract tracking ~~provide public~~  
181 ~~access to a state contract management system.~~

182 (a) Within 30 calendar days after executing a contract,  
183 each state agency as defined in s. 216.011(1) shall post all of  
184 the following ~~that provides~~ information and documentation  
185 relating to that contract on the contract tracking system, as  
186 required by rule: ~~contracts procured by governmental entities.~~

187 1. The names of the contracting entities.

188 2. The procurement method.

189 3. The contract beginning and end dates.

190 4. The nature or type of the commodities or services  
191 purchased.

192 5. Applicable contract unit prices and deliverables.

193 6. Total compensation to be paid or received under the  
194 contract.

195 7. All payments made to the contractor to date.

196 8. Applicable contract performance measures.

197 9. The justification for not using competitive solicitation  
198 to procure the contract, including citation to any statutory  
199 exemption or exception from competitive solicitation, if  
200 applicable.

201 10. Electronic copies of the contract and procurement  
202 documents that have been redacted to conceal exempt or  
203 confidential information.

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204 11. Any other information required by the Chief Financial  
205 Officer.

206 ~~(a) The data collected in the system must include, but need~~  
207 ~~not be limited to, the contracting agency; the procurement~~  
208 ~~method; the contract beginning and ending dates; the type of~~  
209 ~~commodity or service; the purpose of the commodity or service;~~  
210 ~~the compensation to be paid; compliance information, such as~~  
211 ~~performance metrics for the service or commodity; contract~~  
212 ~~violations; the number of extensions or renewals; and the~~  
213 ~~statutory authority for providing the service.~~

214 (b) The affected state governmental agency shall update the  
215 information described in paragraph (a) in the contract tracking  
216 system within 30 calendar days after a major modification or  
217 amendment change to an existing contract or the execution of a  
218 new contract, agency procurement staff of the affected state  
219 governmental entity shall update the necessary information in  
220 the state contract management system. A major modification or  
221 amendment change to a contract includes, but is not limited to,  
222 a renewal, termination, or extension of the contract, or an  
223 amendment to the contract as determined by the Chief Financial  
224 Officer.

225 (c) Each state agency identified in paragraph (a) shall  
226 redact, as defined in s. 119.011, exempt or confidential  
227 information from the contract or procurement documents before  
228 posting an electronic copy on the contract tracking system.

229 1. If a state agency becomes aware that an electronic copy  
230 of a contract or procurement document that it posted has not  
231 been properly redacted, the state agency must immediately notify  
232 the Chief Financial Officer so that the contract or procurement



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233 document may be removed. Within 7 business days, the state  
234 agency shall provide the Chief Financial Officer with a properly  
235 redacted copy for posting.

236 2. If a party to a contract, or authorized representative,  
237 discovers that an electronic copy of a contract or procurement  
238 document on the system has not been properly redacted, the party  
239 or representative may request the state agency that posted the  
240 document to redact the exempt or confidential information. Upon  
241 receipt of a request in compliance with this subparagraph, the  
242 state agency that posted the document shall redact the exempt or  
243 confidential information.

244 a. Such request must be in writing and delivered by mail,  
245 facsimile, or electronic transmission or in person to the state  
246 agency that posted the information. The request must identify  
247 the specific document, the page numbers that include the exempt  
248 or confidential information, the information that is exempt or  
249 confidential, and the relevant statutory exemption. A fee may  
250 not be charged for a redaction made pursuant to such request.

251 b. If necessary, a party to the contract may petition the  
252 circuit court for an order directing compliance with this  
253 paragraph.

254 3. The Chief Financial Officer, the Department of Financial  
255 Services, or any officer, employee, or contractor thereof, is  
256 not responsible for redacting exempt or confidential information  
257 from an electronic copy of a contract or procurement document  
258 posted by another state agency on the system and is not liable  
259 for the failure of the state agency to redact the exempt or  
260 confidential information. The Chief Financial Officer may notify  
261 the posting state agency if a document posted on the tracking

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262 system contains exempt or confidential information.

263 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial  
264 Officer may make information posted on the contract tracking  
265 system available for viewing and download by the public through  
266 a secure website. Unless otherwise provided by law, information  
267 retrieved electronically pursuant to this paragraph is not  
268 admissible in court as an authenticated document.

269 1. The Chief Financial Officer may regulate and prohibit  
270 the posting of records that could facilitate identity theft or  
271 fraud, such as signatures; compromise or reveal an agency  
272 investigation; reveal the identity of undercover personnel;  
273 reveal proprietary confidential business information or trade  
274 secrets; reveal an individual's medical information; or reveal  
275 any other record or information that the Chief Financial Officer  
276 believes may jeopardize the health, safety, or welfare of the  
277 public. However, such prohibition does not supersede the duty of  
278 a state agency to provide a copy of a public record upon  
279 request. The Chief Financial Officer shall use appropriate  
280 Internet security measures to ensure that no person has the  
281 ability to alter or modify records available on the website.

282 2. Records made available on the website, including  
283 electronic copies of contracts or procurement documents, may not  
284 reveal information made exempt or confidential by law. Notice of  
285 the right of an affected party to request redaction of exempt or  
286 confidential information pursuant to paragraph (c) must be  
287 displayed on the website.

288 (e) The posting of information on the contract tracking  
289 system or the provision of contract information on a website for  
290 public viewing and downloading does not supersede the duty of a

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291 state agency to respond to a public record request for such  
292 information or to a subpoena for such information.

293 1. A request for a copy of a contract or procurement  
294 document or a certified copy of a contract or procurement  
295 document must be made to the state agency that is party to the  
296 contract. Such request may not be made to the Chief Financial  
297 Officer or the Department of Financial Services or any officer,  
298 employee, or contractor thereof unless the Chief Financial  
299 Officer or department is a party to the contract.

300 2. A subpoena for a copy of a contract or procurement  
301 document or certified copy of a contract or procurement document  
302 must be served on the state agency that is a party to the  
303 contract and that maintains the original documents. The Chief  
304 Financial Officer or the Department of Financial Services or any  
305 officer, employee, or contractor thereof may not be served a  
306 subpoena for those records unless the Chief Financial Officer or  
307 the department is a party to the contract.

308 (f) The Chief Financial Officer may adopt rules to  
309 administer this subsection.

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

311 Section 4. Subsection (14) of section 287.057, Florida  
312 Statutes, is amended to read:

313 287.057 Procurement of commodities or contractual  
314 services.—

315 (14) For each contractual services contract, the agency  
316 shall designate an employee to function as contract manager who  
317 is ~~shall be~~ responsible for enforcing performance of the  
318 contract terms and conditions and serve as a liaison with the  
319 contractor. Each contract manager who is responsible for

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320 contracts in excess of the threshold amount for CATEGORY TWO  
321 established under s. 287.017 must be a certified contract  
322 manager. The Department of Management Services is responsible  
323 for establishing and disseminating the requirements for  
324 certification, which include completing the ~~attend~~ training  
325 conducted by the Chief Financial Officer for accountability in  
326 contracts and grant management. The Chief Financial Officer  
327 shall establish and disseminate uniform procedures pursuant to  
328 s. 17.03(3) to ensure that contractual services have been  
329 rendered in accordance with the contract terms before the agency  
330 processes the invoice for payment. The procedures must ~~shall~~  
331 include, but need not be limited to, procedures for monitoring  
332 and documenting contractor performance, reviewing and  
333 documenting all deliverables for which payment is requested by  
334 vendors, and providing written certification by contract  
335 managers of the agency's receipt of goods and services.

336 Section 5. Subsection (7) is added to section 287.058,  
337 Florida Statutes, to read:

338 287.058 Contract document.—

339 (7) The Chief Financial Officer may audit a contract  
340 subject to this chapter before the execution of such contract in  
341 accordance with rules adopted by the Department of Financial  
342 Services. The audit must ensure that applicable laws have been  
343 met; that the contract document contains a clear statement of  
344 work, quantifiable and measurable deliverables, performance  
345 measures, financial consequences for nonperformance, and clear  
346 terms and conditions that protect the interests of the state;  
347 and that the associated costs of the contract are not  
348 unreasonable or inappropriate. The audit must ensure that all

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349 contracting laws have been met and that documentation is  
350 available to support the contract. A contract that does not  
351 comply with this section may be returned to the submitting  
352 agency for revision.

353 (a) The Chief Financial Officer may establish dollar  
354 thresholds and other criteria for sampling the contracts that  
355 are to be audited before execution. The Chief Financial Officer  
356 may revise such thresholds and other criteria for an agency or  
357 unit of an agency as deemed appropriate.

358 (b) The Chief Financial Officer has up to 10 business days  
359 after receipt of the proposed contract to make a final  
360 determination of any deficiencies in the contract and shall  
361 include information regarding the deficiencies in the audit  
362 report provided to the agency entering into the contract. The  
363 Chief Financial Officer and the agency entering into the  
364 contract may agree to a longer review period. The agency is  
365 responsible for addressing the deficiencies and shall have the  
366 option to resubmit the contract for subsequent review before  
367 execution. The Chief Financial Officer shall perform a  
368 subsequent review to verify that all deficiencies have been  
369 addressed upon processing the first payment.

370 Section 6. Section 287.136, Florida Statutes, is created to  
371 read:

372 287.136 Audit of executed contract documents.—The Chief  
373 Financial Officer shall perform audits of the executed contract  
374 documents and contract manager's records to ensure that adequate  
375 internal controls are in place for complying with the terms and  
376 conditions of the contract and for the validation and receipt of  
377 goods and services.

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

382       (2) Within 30 days after the receipt of the final audit  
383 report, the agency head shall submit to the Chief Financial  
384 Officer or designee, his or her written statement of explanation  
385 or rebuttal concerning findings requiring corrective action,  
386 including corrective action to be taken to preclude a  
387 recurrence.

388       Section 7. This act shall take effect July 1, 2013.