

**By** the Committees on Appropriations; and Governmental Oversight and Accountability; and Senators Benacquisto and Brandes

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1                                   A bill to be entitled  
2           An act relating to governmental accountability;  
3           creating s. 119.0701, F.S.; providing definitions;  
4           providing that each public agency contract for  
5           services must meet specified requirements; requiring  
6           the public agency to enforce contract provisions if a  
7           contractor does not comply with a public records  
8           request; amending s. 119.12, F.S.; specifying what  
9           constitutes reasonable costs of enforcement in a civil  
10          action against an agency to enforce ch. 119, F.S.;  
11          amending s. 215.971, F.S.; requiring agreements funded  
12          with state or federal financial assistance to include  
13          additional provisions; authorizing the Chief Financial  
14          Officer to audit agreements before execution and  
15          providing requirements for such audits; requiring  
16          state agencies to designate a grants manager for each  
17          agreement and providing requirements and procedures  
18          for managers; requiring the Chief Financial Officer to  
19          perform audits of executed agreements and to discuss  
20          such audits with agency officials; requiring the  
21          agency head to respond to the audit; reordering and  
22          amending s. 215.985, F.S.; revising provisions  
23          relating to the Chief Financial Officer's  
24          intergovernmental contract tracking system under the  
25          Transparency Florida Act; requiring state agencies to  
26          post certain information in the tracking system and to  
27          update that information; requiring that exempt and  
28          confidential information be redacted from contracts  
29          and procurement documents posted on the system;

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30 authorizing the Chief Financial Officer to make  
31 available to the public the information posted on the  
32 system through a secure website; providing an  
33 exception; authorizing the Department of Financial to  
34 adopt rules; repealing s. 216.0111, F.S., relating to  
35 a requirement that state agencies report certain  
36 contract information to the Department of Financial  
37 Services and transferring that requirement to s.  
38 215.985, F.S.; amending s. 287.012, F.S.; providing  
39 and revising definitions; amending s. 287.042, F.S.;  
40 revising powers, duties, and functions of the  
41 Department of Management Services; eliminating a duty  
42 of the department to maintain a vendor list;  
43 authorizing the department to lead or enter into joint  
44 agreements with governmental entities for the purchase  
45 of commodities or contractual services that can be  
46 used by multiple agencies; amending s. 287.056, F.S.;  
47 deleting provisions requiring certain inclusions in  
48 agency agreements; amending s. 287.057, F.S.;  
49 providing that contracts awarded pursuant to an  
50 invitation to bid shall be awarded to the responsible  
51 and responsive vendor that submits the lowest  
52 responsive bid; revising exceptions to the requirement  
53 that the purchase of specified commodities or  
54 contractual services be made only as a result of  
55 receiving competitive sealed bids, competitive sealed  
56 proposals, or competitive sealed replies; revising  
57 contractual services and commodities that are not  
58 subject to competitive solicitation requirements by

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59 virtue of being available only from a single source;  
60 providing that a contract for commodities or  
61 contractual services may be awarded without  
62 competition if the recipient of funds is established  
63 during the appropriations process; revising provisions  
64 relating to extension of a contract for commodities or  
65 contractual services; authorizing an agency to  
66 negotiate better pricing upon renewal of a contract;  
67 providing training requirements for contract managers  
68 responsible for contracts in excess of a specified  
69 threshold amount; providing contract manager  
70 certification for contract managers responsible for  
71 contracts in excess of a specified threshold amount;  
72 providing that the department is responsible for  
73 establishing and disseminating the requirements for  
74 certification of a contract manager; providing that  
75 training will be conducted jointly by the Department  
76 of Management Services and the Department of Financial  
77 Services; providing training guidelines and  
78 requirements; requiring the department, in  
79 consultation with the Chief Financial Officer to  
80 maintain a program for online procurement of  
81 commodities and contractual services; amending s.  
82 287.0571, F.S.; revising nonapplicability of a  
83 business case to outsource; amending s. 287.058, F.S.;  
84 defining the term "performance measure"; revising  
85 references within provisions relating to purchase  
86 orders used in lieu of written agreements for classes  
87 of contractual services; revising terminology;

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88 authorizing the Chief Financial Officer to audit  
89 contracts before execution and providing requirements  
90 for such audits; creating s. 287.136, F.S.; requiring  
91 the Chief Financial Officer to perform audits of  
92 executed contract documents and to discuss such audits  
93 with the agency officials; requiring the agency head  
94 to respond to the audit; amending s. 287.076, F.S.;  
95 providing that Project Management Professionals  
96 training for personnel involved in managing  
97 outsourcings and negotiations is subject to annual  
98 appropriations; amending ss. 16.0155, 283.33, 394.457,  
99 402.7305, 409.9132, 427.0135, 445.024, 627.311,  
100 627.351, 765.5155, and 893.055, F.S.; conforming  
101 cross-references; providing effective dates.  
102

103 Be It Enacted by the Legislature of the State of Florida:  
104

105 Section 1. Section 119.0701, Florida Statutes, is created  
106 to read:

107 119.0701 Contracts; public records.—

108 (1) For purposes of this section, the term:

109 (a) "Contractor" means an individual, partnership,  
110 corporation, or business entity that enters into a contract for  
111 services with a public agency and is acting on behalf of the  
112 public agency as provided under s. 119.011(2).

113 (b) "Public agency" means a state, county, district,  
114 authority, or municipal officer, or department, division, board,  
115 bureau, commission, or other separate unit of government created  
116 or established by law.

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117       (2) In addition to other contract requirements provided by  
118 law, each public agency contract for services must include a  
119 provision that requires the contractor and its subcontractors to  
120 comply with public records laws, specifically to:

121       (a) Keep and maintain public records that ordinarily and  
122 necessarily would be required by the public agency in order to  
123 perform the service.

124       (b) Provide the public with access to public records on the  
125 same terms and conditions that the public agency would provide  
126 the records and at a cost that does not exceed the cost provided  
127 in this chapter or as otherwise provided by law.

128       (c) Ensure that public records that are exempt or  
129 confidential and exempt from public records disclosure  
130 requirements are not disclosed except as authorized by law.

131       (d) Meet all requirements for retaining public records and  
132 transfer, at no cost, to the public agency all public records in  
133 possession of the contractor upon termination of the contract  
134 and destroy any duplicate public records that are exempt or  
135 confidential and exempt from public records disclosure  
136 requirements. All records stored electronically must be provided  
137 to the public agency in a format that is compatible with the  
138 information technology systems of the public agency.

139       (3) If a contractor or its subcontractor does not comply  
140 with a public records request, the public agency shall enforce  
141 the contract provisions in accordance with the contract.

142       Section 2. Section 119.12, Florida Statutes, is amended to  
143 read:

144       119.12 Attorney ~~Attorney's~~ fees.—If a civil action is filed  
145 against an agency to enforce the provisions of this chapter and

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146 if the court determines that such agency unlawfully refused to  
147 permit a public record to be inspected or copied, the court  
148 shall assess and award, against the agency responsible, the  
149 reasonable costs of enforcement. The reasonable costs of  
150 enforcement include, but are not limited to, including  
151 reasonable attorney attorneys' fees, including those reasonable  
152 attorney fees incurred in litigating entitlement to and the  
153 determination or quantification of attorney fees for the  
154 underlying matter.

155 Section 3. Section 215.971, Florida Statutes, is amended to  
156 read:

157 215.971 Agreements funded with federal or ~~and~~ state  
158 assistance.—

159 (1) ~~For~~ An agency agreement that provides state financial  
160 assistance to a recipient or subrecipient, as those terms are  
161 defined in s. 215.97, or that provides federal financial  
162 assistance to a subrecipient, as defined by applicable United  
163 States Office of Management and Budget circulars, must ~~the~~  
164 ~~agreement shall include~~ all of the following:

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

168 (b) ~~(2)~~ A provision dividing the agreement into quantifiable  
169 units of deliverables that must be received and accepted in  
170 writing by the agency before payment. Each deliverable must be  
171 directly related to the scope of work and ~~must~~ specify the  
172 required minimum level of service to be performed and the  
173 criteria for evaluating the successful completion of each  
174 deliverable.

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175 (c) A provision specifying the financial consequences that  
176 apply if the recipient or subrecipient fails to perform the  
177 minimum level of service required by the agreement. The  
178 provision can be excluded from the agreement only if financial  
179 consequences are prohibited by the federal agency awarding the  
180 grant. Funds refunded to a state agency from a recipient or  
181 subrecipient for failure to perform as required under the  
182 agreement may be expended only in direct support of the program  
183 from which the agreement originated.

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

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

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

195 (g) Any additional information required pursuant to s.  
196 215.97.

197 (2) The Chief Financial Officer may audit an agreement  
198 funded with state or federal assistance before the execution of  
199 such agreement in accordance with rules adopted by the  
200 Department of Financial Services. The audit must ensure that  
201 applicable laws have been met; that the agreement document  
202 contains a clear statement of work, quantifiable and measurable  
203 deliverables, performance measures, financial consequences for

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204 nonperformance, and clear terms and conditions that protect the  
205 interests of the state; and that the associated costs of the  
206 agreement are not unreasonable or inappropriate. The audit must  
207 ensure that all contracting laws have been met and that  
208 documentation is available to support the agreement. An  
209 agreement that does not comply with this section may be returned  
210 to the submitting agency for revision.

211 (a) The Chief Financial Officer may establish dollar  
212 thresholds and other criteria for determining which agreements  
213 will be audited before execution. The Chief Financial Officer  
214 may revise such thresholds and other criteria for an agency or  
215 unit of an agency as he or she deems appropriate.

216 (b) The Chief Financial Officer shall have up to 10  
217 business days after receipt of the proposed grant agreement to  
218 make a final determination of any deficiencies in the agreement  
219 and shall provide the agency with information regarding any  
220 deficiencies at the conclusion of the review. The Chief  
221 Financial Officer and the agency entering into the agreement may  
222 agree to a longer review period. The agency is responsible for  
223 addressing the deficiencies and shall have the option to  
224 resubmit the agreement for subsequent review before execution.  
225 The Chief Financial Officer shall perform a subsequent review to  
226 verify that all deficiencies have been addressed upon processing  
227 the first payment.

228 (3) For each agreement funded with federal or state  
229 financial assistance, the state agency shall designate an  
230 employee to function as a grant manager who shall be responsible  
231 for enforcing performance of the agreement's terms and  
232 conditions and who shall serve as a liaison with the recipient



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233 or subrecipient.

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

238 (b) The Chief Financial Officer shall establish and  
239 disseminate uniform procedures for grant management pursuant to  
240 s. 17.03(3) to ensure that services have been rendered in  
241 accordance with agreement terms before the agency processes an  
242 invoice for payment. The procedures must include, but need not  
243 be limited to, procedures for monitoring and documenting  
244 recipient or subrecipient performance, reviewing and documenting  
245 all deliverables for which payment is requested by the recipient  
246 or subrecipient, and providing written certification by the  
247 grant manager of the agency's receipt of goods and services.

248 (c) The grant manager shall reconcile and verify all funds  
249 received against all funds expended during the grant agreement  
250 period and produce a final reconciliation report. The final  
251 report must identify any funds paid in excess of the  
252 expenditures incurred by the recipient or subrecipient.

253 (4) The Chief Financial Officer shall perform audits of the  
254 executed state and federal grant agreement documents and grant  
255 manager's records in order to ensure that adequate internal  
256 controls are in place for complying with the terms and  
257 conditions of such agreements and for validation and receipt of  
258 goods and services.

259 (a) At the conclusion of the audit, the Chief Financial  
260 Officer's designee shall discuss the audit and potential  
261 findings with the official whose office is subject to audit. The

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262 final audit report shall be submitted to the agency head.

263 (b) Within 30 days after the receipt of the final audit  
264 report, the agency head shall submit to the Chief Financial  
265 Officer or designee, his or her written statement of explanation  
266 or rebuttal concerning findings requiring corrective action,  
267 including corrective action to be taken to preclude a  
268 recurrence.

269 Section 4. Subsection (2) of section 215.985, Florida  
270 Statutes, is reordered and amended and subsection (16) of that  
271 section is amended, to read:

272 215.985 Transparency in government spending.—

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

274 (c)~~(a)~~ "Governmental entity" means any state, regional,  
275 county, municipal, special district, or other political  
276 subdivision whether executive, judicial, or legislative,  
277 including, but not limited to, any department, division, bureau,  
278 commission, authority, district, or agency thereof, or any  
279 public school, Florida College System institution, state  
280 university, or associated board.

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

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

286 (b) "Contract" means any written agreement or purchase  
287 order issued for the purchase of goods or services and any  
288 written agreements for the receipt of federal or state financial  
289 assistance.

290 (16) The Chief Financial Officer shall establish and

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291 maintain a secure, shared state contract tracking ~~provide public~~  
292 ~~access to a state contract management system.~~

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

298 1. The names of the contracting entities.

299 2. The procurement method.

300 3. The contract beginning and end dates.

301 4. The nature or type of the commodities or services  
302 purchased.

303 5. Applicable contract unit prices and deliverables.

304 6. Total compensation to be paid or received under the  
305 contract.

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

307 8. Applicable contract performance measures.

308 9. The justification for not using competitive solicitation  
309 to procure the contract, including citation to any statutory  
310 exemption or exception from competitive solicitation, if  
311 applicable.

312 10. Electronic copies of the contract and procurement  
313 documents that have been redacted to conceal exempt or  
314 confidential information.

315 11. Any other information required by the Chief Financial  
316 Officer.

317 ~~(a) The data collected in the system must include, but need~~  
318 ~~not be limited to, the contracting agency; the procurement~~  
319 ~~method; the contract beginning and ending dates; the type of~~

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320 ~~commodity or service; the purpose of the commodity or service;~~  
321 ~~the compensation to be paid; compliance information, such as~~  
322 ~~performance metrics for the service or commodity; contract~~  
323 ~~violations; the number of extensions or renewals; and the~~  
324 ~~statutory authority for providing the service.~~

325 (b) The affected state governmental agency shall update the  
326 information described in paragraph (a) in the contract tracking  
327 system within 30 calendar days after a major modification or  
328 amendment change to an existing contract or the execution of a  
329 new contract, agency procurement staff of the affected state  
330 governmental entity shall update the necessary information in  
331 the state contract management system. A major modification or  
332 amendment change to a contract includes, but is not limited to,  
333 a renewal, termination, or extension of the contract, or an  
334 amendment to the contract as determined by the Chief Financial  
335 Officer.

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

340 1. If a state agency becomes aware that an electronic copy  
341 of a contract or procurement document that it posted has not  
342 been properly redacted, the state agency must immediately notify  
343 the Chief Financial Officer so that the contract or procurement  
344 document may be removed. Within 7 business days, the state  
345 agency shall provide the Chief Financial Officer with a properly  
346 redacted copy for posting.

347 2. If a party to a contract, or authorized representative,  
348 discovers that an electronic copy of a contract or procurement

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349 document on the system has not been properly redacted, the party  
350 or representative may request the state agency that posted the  
351 document to redact the exempt or confidential information. Upon  
352 receipt of a request in compliance with this subparagraph, the  
353 state agency that posted the document shall redact the exempt or  
354 confidential information.

355 a. Such request must be in writing and delivered by mail,  
356 facsimile, or electronic transmission or in person to the state  
357 agency that posted the information. The request must identify  
358 the specific document, the page numbers that include the exempt  
359 or confidential information, the information that is exempt or  
360 confidential, and the relevant statutory exemption. A fee may  
361 not be charged for a redaction made pursuant to such request.

362 b. If necessary, a party to the contract may petition the  
363 circuit court for an order directing compliance with this  
364 paragraph.

365 3. The Chief Financial Officer, the Department of Financial  
366 Services, or any officer, employee, or contractor thereof, is  
367 not responsible for redacting exempt or confidential information  
368 from an electronic copy of a contract or procurement document  
369 posted by another state agency on the system and is not liable  
370 for the failure of the state agency to redact the exempt or  
371 confidential information. The Chief Financial Officer may notify  
372 the posting state agency if a document posted on the tracking  
373 system contains exempt or confidential information.

374 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial  
375 Officer may make information posted on the contract tracking  
376 system available for viewing and download by the public through  
377 a secure website. Unless otherwise provided by law, information

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378 retrieved electronically pursuant to this paragraph is not  
379 admissible in court as an authenticated document.

380 1. The Chief Financial Officer may regulate and prohibit  
381 the posting of records that could facilitate identity theft or  
382 fraud, such as signatures; compromise or reveal an agency  
383 investigation; reveal the identity of undercover personnel;  
384 reveal proprietary confidential business information or trade  
385 secrets; reveal an individual's medical information; or reveal  
386 any other record or information that the Chief Financial Officer  
387 believes may jeopardize the health, safety, or welfare of the  
388 public. However, such prohibition does not supersede the duty of  
389 a state agency to provide a copy of a public record upon  
390 request. The Chief Financial Officer shall use appropriate  
391 Internet security measures to ensure that no person has the  
392 ability to alter or modify records available on the website.

393 2. Records made available on the website, including  
394 electronic copies of contracts or procurement documents, may not  
395 reveal information made exempt or confidential by law. Notice of  
396 the right of an affected party to request redaction of exempt or  
397 confidential information pursuant to paragraph (c) must be  
398 displayed on the website.

399 (e) The posting of information on the contract tracking  
400 system or the provision of contract information on a website for  
401 public viewing and downloading does not supersede the duty of a  
402 state agency to respond to a public record request for such  
403 information or to a subpoena for such information.

404 1. A request for a copy of a contract or procurement  
405 document or a certified copy of a contract or procurement  
406 document must be made to the state agency that is party to the

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407 contract. Such request may not be made to the Chief Financial  
408 Officer or the Department of Financial Services or any officer,  
409 employee, or contractor thereof unless the Chief Financial  
410 Officer or department is a party to the contract.

411 2. A subpoena for a copy of a contract or procurement  
412 document or certified copy of a contract or procurement document  
413 must be served on the state agency that is a party to the  
414 contract and that maintains the original documents. The Chief  
415 Financial Officer or the Department of Financial Services or any  
416 officer, employee, or contractor thereof may not be served a  
417 subpoena for those records unless the Chief Financial Officer or  
418 the department is a party to the contract.

419 (f) The requirement under paragraphs (a) and (b) that each  
420 agency post information and documentation relating to contracts  
421 on the tracking system does not apply to any record that could  
422 reveal attorney work product or strategy.

423 (g) The Chief Financial Officer may adopt rules to  
424 administer this subsection.

425 Section 5. Section 216.0111, Florida Statutes, is repealed.

426 Section 6. Subsections (4) through (28) of section 287.012,  
427 Florida Statutes, are amended to read:

428 287.012 Definitions.—As used in this part, the term:

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

432 (5) "Commodity" means any of the various supplies,  
433 materials, goods, merchandise, food, equipment, information  
434 technology, and other personal property, including a mobile  
435 home, trailer, or other portable structure that has ~~with floor~~

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436 ~~space~~ of less than 5,000 square feet of floor space, purchased,  
437 leased, or otherwise contracted for by the state and its  
438 agencies. The term "Commodity" also includes interest on  
439 deferred-payment commodity contracts approved pursuant to s.  
440 287.063 entered into by an agency for the purchase of other  
441 commodities. However, commodities purchased for resale are  
442 excluded from this definition. Printing of publications shall be  
443 considered a commodity if procured ~~when let upon contract~~  
444 pursuant to s. 283.33, whether purchased for resale or not.

445 (6) "Competitive solicitation" means the process of  
446 requesting and receiving two or more sealed bids, proposals, or  
447 replies submitted by responsive vendors in accordance with the  
448 terms of a competitive process, regardless of the method of  
449 procurement.

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

452 (8) "Contractual service" means the rendering by a  
453 contractor of its time and effort rather than the furnishing of  
454 specific commodities. The term applies only to those services  
455 rendered by individuals and firms who are independent  
456 contractors, and such services may include, but are not limited  
457 to, evaluations; consultations; maintenance; accounting;  
458 security; management systems; management consulting; educational  
459 training programs; research and development studies or reports  
460 on the findings of consultants engaged thereunder; and  
461 professional, technical, and social services. The term  
462 ~~"Contractual service"~~ does not include a ~~any~~ contract for the  
463 furnishing of labor or materials for the construction,  
464 renovation, repair, modification, or demolition of a ~~any~~



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465 facility, building, portion of building, utility, park, parking  
466 lot, or structure or other improvement to real property entered  
467 into pursuant to chapter 255 and rules adopted thereunder.

468 (9) "Department" means the Department of Management  
469 Services.

470 (10) "Electronic posting" or "electronically post" means  
471 the noticing of solicitations, agency decisions or intended  
472 decisions, or other matters relating to procurement on a  
473 centralized Internet website designated by the department for  
474 this purpose, and in the manner and form required under s.  
475 120.57(3)(a).

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

479 (12) "Exceptional purchase" means any purchase of  
480 commodities or contractual services excepted by law or rule from  
481 the requirements for competitive solicitation, including, but  
482 not limited to, purchases from a single source; purchases upon  
483 receipt of less than two responsive bids, proposals, or replies;  
484 purchases made by an agency, after receiving approval from the  
485 department, from a contract procured, pursuant to s. 287.057(1),  
486 or by another agency; and purchases made without advertisement  
487 in the manner required under ~~by~~ s. 287.042(3)(b).

488 (13) "Extension" means an increase in the time allowed for  
489 the contract period ~~due to circumstances which, without fault of~~  
490 ~~either party, make performance impracticable or impossible, or~~  
491 ~~which prevent a new contract from being executed, with or~~  
492 ~~without a proportional increase in the total dollar amount, with~~  
493 ~~any increase to be based on the method and rate previously~~

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494 ~~established in the contract.~~

495 (14) "Governmental entity" means a political subdivision or  
496 agency of this state or of any state of the United States,  
497 including, but not limited to, state government, county,  
498 municipality, school district, nonprofit public university or  
499 college, single-purpose or multipurpose special district,  
500 single-purpose or multipurpose public authority, metropolitan or  
501 consolidated government, separate legal entity or administrative  
502 entity, or any agency of the Federal Government.

503 (15)~~(14)~~ "Information technology" has the same meaning as  
504 provided ~~ascribed~~ in s. 282.0041.

505 (16)~~(15)~~ "Invitation to bid" means a written or  
506 electronically posted solicitation for competitive sealed bids.

507 (17)~~(16)~~ "Invitation to negotiate" means a written or  
508 electronically posted solicitation for competitive sealed  
509 replies to select one or more vendors with which to commence  
510 negotiations for the procurement of commodities or contractual  
511 services.

512 (18)~~(17)~~ "Minority business enterprise" has the same  
513 meaning as provided ~~ascribed~~ in s. 288.703.

514 (19)~~(18)~~ "Office" means the Office of Supplier Diversity of  
515 the Department of Management Services.

516 (20)~~(19)~~ "Outsource" means the process of contracting with  
517 a vendor to provide a service as defined in s. 216.011(1)(f), in  
518 whole or in part, or an activity as defined in s.  
519 216.011(1)(rr), while a state agency retains the responsibility  
520 and accountability for the service or activity and there is a  
521 transfer of management responsibility for the delivery of  
522 resources and the performance of those resources.

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523        (21)~~(20)~~ "Renewal" means contracting with the same  
524 contractor for an additional contract period after the initial  
525 contract period, only if pursuant to contract terms specifically  
526 providing for such renewal.

527        (22)~~(21)~~ "Request for information" means a written or  
528 electronically posted request made by an agency to vendors for  
529 information concerning commodities or contractual services.  
530 Responses to these requests are not offers and may not be  
531 accepted by the agency to form a binding contract.

532        (23)~~(22)~~ "Request for proposals" means a written or  
533 electronically posted solicitation for competitive sealed  
534 proposals.

535        (24)~~(23)~~ "Request for a quote" means an oral, electronic,  
536 or written request for written pricing or services information  
537 from a state term contract vendor for commodities or contractual  
538 services available on a state term contract from that vendor.

539        (25)~~(24)~~ "Responsible vendor" means a vendor who has the  
540 capability in all respects to fully perform the contract  
541 requirements and the integrity and reliability that will assure  
542 good faith performance.

543        (26)~~(25)~~ "Responsive bid," "responsive proposal," or  
544 "responsive reply" means a bid, or proposal, or reply submitted  
545 by a responsive and responsible vendor which ~~that~~ conforms in  
546 all material respects to the solicitation.

547        (27)~~(26)~~ "Responsive vendor" means a vendor that has  
548 submitted a bid, proposal, or reply that conforms in all  
549 material respects to the solicitation.

550        (28)~~(27)~~ "State term contract" means a term contract that  
551 is competitively procured by the department pursuant to s.

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552 287.057 and that is used by agencies and eligible users pursuant  
553 to s. 287.056.

554 (29)~~(28)~~ "Term contract" means an indefinite quantity  
555 contract to furnish commodities or contractual services during a  
556 defined period.

557 Section 7. Paragraph (a) of subsection (1), paragraph (b)  
558 of subsection (2), and subsections (8) and (15) of section  
559 287.042, Florida Statutes, are amended to read:

560 287.042 Powers, duties, and functions.—The department shall  
561 have the following powers, duties, and functions:

562 (1) (a) To canvass all sources of supply,~~establish and~~  
563 ~~maintain a vendor list,~~ and contract for the purchase, lease, or  
564 acquisition, including purchase by installment sales or lease-  
565 purchase contracts which may provide for the payment of interest  
566 on unpaid portions of the purchase price, of all commodities and  
567 contractual services required by any agency under this chapter.  
568 Any contract providing for deferred payments and the payment of  
569 interest is ~~shall be~~ subject to specific rules adopted by the  
570 department.

571 (2)

572 (b) As an alternative to any provision in s. 120.57(3)(c),  
573 the department may proceed with the competitive solicitation or  
574 contract award process of a term contract when the Secretary of  
575 Management Services ~~the department~~ or his or her designee sets  
576 forth in writing particular facts and circumstances that ~~which~~  
577 demonstrate that the delay incident to staying the solicitation  
578 or contract award process would be detrimental to the interests  
579 of the state. After the award of a contract resulting from a  
580 competitive solicitation in which a timely protest was received

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581 and in which the state did not prevail, the contract may be  
582 canceled and reawarded.

583 (8) To provide any commodity and contractual service  
584 purchasing rules to the Chief Financial Officer and all agencies  
585 electronically or through an electronic medium or other means.  
586 Agencies may not approve an ~~any~~ account or request any payment  
587 of an ~~any~~ account for the purchase of any commodity or the  
588 procurement of any contractual service covered by a purchasing  
589 or contractual service rule except as authorized therein. The  
590 department shall furnish copies of rules adopted by the  
591 department to any county, municipality, or other local public  
592 agency requesting them.

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

598 (a) Each agency that has been appropriated or has existing  
599 funds for such purchase, shall, upon contract award by the  
600 department, transfer its ~~their~~ portion of the funds into the  
601 department's Operating Trust Fund for payment by the department.  
602 The funds shall be transferred by the Executive Office of the  
603 Governor pursuant to the agency budget amendment request  
604 provisions under ~~in~~ chapter 216.

605 (b) Agencies that sign the joint agreements are financially  
606 obligated for their portion of the agreed-upon funds. If an  
607 agency becomes more than 90 days delinquent in paying the funds,  
608 the department shall certify to the Chief Financial Officer the  
609 amount due, and the Chief Financial Officer shall transfer the

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610 amount due to the Operating Trust Fund of the department from  
611 any of the agency's available funds. The Chief Financial Officer  
612 shall report these transfers and the reasons for the transfers  
613 to the Executive Office of the Governor and the legislative  
614 appropriations committees.

615 Section 8. Subsection (1) of section 287.056, Florida  
616 Statutes, is amended to read:

617 287.056 Purchases from purchasing agreements and state term  
618 contracts.—

619 (1) Agencies shall, and eligible users may, purchase  
620 commodities and contractual services from purchasing agreements  
621 established and state term contracts procured, pursuant to s.  
622 287.057, by the department. ~~Each agency agreement made under~~  
623 ~~this subsection shall include:~~

624 ~~(a) A provision specifying a scope of work that clearly~~  
625 ~~establishes all tasks that the contractor is required to~~  
626 ~~perform.~~

627 ~~(b) A provision dividing the contract into quantifiable,~~  
628 ~~measurable, and verifiable units of deliverables that must be~~  
629 ~~received and accepted in writing by the contract manager before~~  
630 ~~payment. Each deliverable must be directly related to the scope~~  
631 ~~of work and specify the required minimum level of service to be~~  
632 ~~performed and the criteria for evaluating the successful~~  
633 ~~completion of each deliverable.~~

634 Section 9. Paragraph (a) of subsection (1) and subsections  
635 (3), (10), (12), (13), (16), and (22) of section 287.057,  
636 Florida Statutes, are amended to read:

637 287.057 Procurement of commodities or contractual  
638 services.—

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639 (1) The competitive solicitation processes authorized in  
640 this section shall be used for procurement of commodities or  
641 contractual services in excess of the threshold amount provided  
642 for CATEGORY TWO in s. 287.017. Any competitive solicitation  
643 shall be made available simultaneously to all vendors, must  
644 include the time and date for the receipt of bids, proposals, or  
645 replies and of the public opening, and must include all  
646 contractual terms and conditions applicable to the procurement,  
647 including the criteria to be used in determining acceptability  
648 and relative merit of the bid, proposal, or reply.

649 (a) *Invitation to bid.*—The invitation to bid shall be used  
650 when the agency is capable of specifically defining the scope of  
651 work for which a contractual service is required or when the  
652 agency is capable of establishing precise specifications  
653 defining the actual commodity or group of commodities required.

654 1. All invitations to bid must include:

655 a. A detailed description of the commodities or contractual  
656 services sought; and

657 b. If the agency contemplates renewal of the contract, a  
658 statement to that effect.

659 2. Bids submitted in response to an invitation to bid in  
660 which the agency contemplates renewal of the contract must  
661 include the price for each year for which the contract may be  
662 renewed.

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

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

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668 (3) If ~~When~~ the purchase price of commodities or  
669 contractual services exceeds the threshold amount provided in s.  
670 287.017 for CATEGORY TWO, ~~no~~ purchase of commodities or  
671 contractual services may not be made without receiving  
672 competitive sealed bids, competitive sealed proposals, or  
673 competitive sealed replies unless:

674 (a) The agency head determines in writing that an immediate  
675 danger to the public health, safety, or welfare or other  
676 substantial loss to the state requires emergency action. After  
677 the agency head signs ~~makes~~ such a written determination, the  
678 agency may proceed with the procurement of commodities or  
679 contractual services necessitated by the immediate danger,  
680 without receiving competitive sealed bids, competitive sealed  
681 proposals, or competitive sealed replies. However, the ~~such~~  
682 emergency procurement shall be made by obtaining pricing  
683 information from at least two prospective vendors, which must be  
684 retained in the contract file, unless the agency determines in  
685 writing that the time required to obtain pricing information  
686 will increase the immediate danger to the public health, safety,  
687 or welfare or other substantial loss to the state. The agency  
688 shall furnish copies of all written determinations ~~certified~~  
689 ~~under oath~~ and any other documents relating to the emergency  
690 action to the department. A copy of the written statement shall  
691 be furnished to the Chief Financial Officer with the voucher  
692 authorizing payment. The individual purchase of personal  
693 clothing, shelter, or supplies which are needed on an emergency  
694 basis to avoid institutionalization or placement in a more  
695 restrictive setting is an emergency for the purposes of this  
696 paragraph, and the filing with the department of such statement



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697 is not required in such circumstances. In the case of the  
698 emergency purchase of insurance, the period of coverage of such  
699 insurance may ~~shall~~ not exceed ~~a period of~~ 30 days, and all such  
700 emergency purchases shall be reported to the department.

701 (b) The purchase is made by an agency from a state term  
702 contract procured, pursuant to this section, by the department  
703 or by an agency, after receiving approval from the department,  
704 from a contract procured, pursuant to subsection (1), by another  
705 agency.

706 (c) Commodities or contractual services available only from  
707 a single source may be excepted from the competitive-  
708 solicitation requirements. If ~~When~~ an agency believes that  
709 commodities or contractual services are available only from a  
710 single source, the agency shall electronically post a  
711 description of the commodities or contractual services sought  
712 for ~~a period of~~ at least 7 business days. The description must  
713 include a request that prospective vendors provide information  
714 regarding their ability to supply the commodities or contractual  
715 services described. If it is determined in writing by the  
716 agency, after reviewing any information received from  
717 prospective vendors, ~~that~~ the commodities or contractual  
718 services are available only from a single source, the agency  
719 shall:

720 ~~1. provide notice of its intended decision to enter a~~  
721 ~~single-source purchase contract in the manner specified in s.~~  
722 ~~120.57(3), if the amount of the contract does not exceed the~~  
723 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

724 ~~2. Request approval from the department for the single-~~  
725 ~~source purchase, if the amount of the contract exceeds the~~

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726 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~  
727 ~~agency shall initiate its request for approval in a form~~  
728 ~~prescribed by the department, which request may be~~  
729 ~~electronically transmitted. The failure of the department to~~  
730 ~~approve or disapprove the agency's request for approval within~~  
731 ~~21 days after receiving such request shall constitute prior~~  
732 ~~approval of the department. If the department approves the~~  
733 ~~agency's request, the agency shall provide notice of its~~  
734 ~~intended decision to enter a single source contract in the~~  
735 ~~manner specified in s. 120.57(3).~~

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

741 ~~(d)~~ (e) Prescriptive assistive devices for the purpose of  
742 medical, developmental, or vocational rehabilitation of clients  
743 are excepted from competitive-solicitation requirements and  
744 shall be procured pursuant to an established fee schedule or by  
745 any other method that ~~which~~ ensures the best price for the  
746 state, taking into consideration the needs of the client.  
747 Prescriptive assistive devices include, but are not limited to,  
748 prosthetics, orthotics, and wheelchairs. For purchases made  
749 pursuant to this paragraph, state agencies shall annually file  
750 with the department a description of the purchases and methods  
751 of procurement.

752 (e) ~~(f)~~ The following contractual services and commodities  
753 are not subject to the competitive-solicitation requirements of  
754 this section:

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755           1. Artistic services. As used in ~~For the purposes of~~ this  
756 subsection, the term "artistic services" does not include  
757 advertising or typesetting. As used in this subparagraph, the  
758 term "advertising" means the making of a representation in any  
759 form in connection with a trade, business, craft, or profession  
760 in order to promote the supply of commodities or services by the  
761 person promoting the commodities or contractual services.

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

764           3. Lectures by individuals.

765           4. Legal services, including attorney, paralegal, expert  
766 witness, appraisal, or mediator services.

767           5.~~a.~~ Health services involving examination, diagnosis,  
768 treatment, prevention, medical consultation, or administration.  
769 The term also includes,

770           ~~b. Beginning January 1, 2011, health services, including,~~  
771 but is not limited to, substance abuse and mental health  
772 services~~7~~ involving examination, diagnosis, treatment,  
773 prevention, or medical consultation ~~if, when~~ such services are  
774 offered to eligible individuals participating in a specific  
775 program that qualifies multiple providers and uses a standard  
776 payment methodology. Reimbursement of administrative costs for  
777 providers of services purchased in this manner are ~~shall~~ also ~~be~~  
778 exempt. For purposes of this subparagraph ~~sub-subparagraph~~, the  
779 term "providers" means health professionals and~~7~~ health  
780 facilities, or organizations that deliver or arrange for the  
781 delivery of health services.

782           6. Services provided to persons with mental or physical  
783 disabilities by not-for-profit corporations that ~~which~~ have

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784 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the  
785 United States Internal Revenue Code or when such services are  
786 governed by the ~~provisions of~~ Office of Management and Budget  
787 Circular A-122. However, in acquiring such services, the agency  
788 shall consider the ability of the vendor, past performance,  
789 willingness to meet time requirements, and price.

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

792 8. Family placement services.

793 9. Prevention services related to mental health, including  
794 drug abuse prevention programs, child abuse prevention programs,  
795 and shelters for runaways, operated by not-for-profit  
796 corporations. However, in acquiring such services, the agency  
797 shall consider the ability of the vendor, past performance,  
798 willingness to meet time requirements, and price.

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

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

802 12. Services or commodities provided by governmental  
803 entities ~~agencies~~.

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

808 (f) ~~(g)~~ Continuing education events or programs that are  
809 offered to the general public and for which fees have been  
810 collected which ~~that~~ pay all expenses associated with the event  
811 or program are exempt from requirements for competitive  
812 solicitation.

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813 (10) A contract for commodities or contractual services may  
814 be awarded without competition if state or federal law  
815 prescribes with whom the agency must contract or if the rate of  
816 payment or the recipient of the funds is established during the  
817 appropriations process.

818 (12) Extension of a contract for commodities or contractual  
819 services must ~~shall~~ be in writing for a period not to exceed 6  
820 months and is ~~shall be~~ subject to the same terms and conditions  
821 set forth in the initial contract and any written amendments  
822 signed by the parties. There may ~~shall~~ be only one extension of  
823 a contract unless the failure to meet the criteria set forth in  
824 the contract for completion of the contract is due to events  
825 beyond the control of the contractor.

826 (13) Contracts for commodities or contractual services may  
827 be renewed for a period that may not exceed 3 years or the term  
828 of the original contract, whichever ~~period~~ is longer. Renewal of  
829 a contract for commodities or contractual services must ~~shall~~ be  
830 in writing and is ~~shall be~~ subject to the same terms and  
831 conditions set forth in the initial contract and any written  
832 amendments signed by the parties. If the commodity or  
833 contractual service is purchased as a result of the solicitation  
834 of bids, proposals, or replies, the price of the commodity or  
835 contractual service to be renewed must ~~shall~~ be specified in the  
836 bid, proposal, or reply, except that an agency may negotiate  
837 lower pricing. A renewal contract may not include any  
838 compensation for costs associated with the renewal. Renewals are  
839 ~~shall be~~ contingent upon satisfactory performance evaluations by  
840 the agency and subject to the availability of funds. Exceptional  
841 purchase contracts pursuant to paragraphs (3) (a) and (c) may not

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842 be renewed. With the exception of subsection (10) ~~(12)~~, if a  
843 contract amendment results in a longer contract term or  
844 increased payments, a state agency may not renew or amend a  
845 contract for the outsourcing of a service or activity that has  
846 an original term value exceeding ~~the sum of~~ \$10 million before  
847 submitting a written report concerning contract performance to  
848 the Governor, the President of the Senate, and the Speaker of  
849 the House of Representatives at least 90 days before execution  
850 of the renewal or amendment.

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

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

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

863 (b) ~~If~~ When the value of a contract is in excess of \$1  
864 million in any fiscal year, at least one of the persons  
865 conducting negotiations must be certified as a contract  
866 negotiator based upon department rules ~~adopted by the Department~~  
867 ~~of Management Services~~ in order to ensure that certified  
868 contract negotiators are knowledgeable about effective  
869 negotiation strategies, capable of successfully implementing  
870 those strategies, and involved appropriately in the procurement

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871 process. At a minimum, the rules must address the qualifications  
872 required for certification, the method of certification, and the  
873 procedure for involving the certified negotiator. If the value  
874 of a contract is in excess of \$10 million in any fiscal year, at  
875 least one of the persons conducting negotiations must be a  
876 Project Management Professional, as certified by the Project  
877 Management Institute.

878 (22) The department, in consultation with the Chief  
879 Financial Officer ~~Agency for Enterprise Information Technology~~  
880 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online  
881 procurement of commodities and contractual services. To enable  
882 the state to promote open competition and ~~to~~ leverage its buying  
883 power, agencies shall participate in the online procurement  
884 program, and eligible users may participate in the program. Only  
885 vendors prequalified as meeting mandatory requirements and  
886 qualifications criteria may participate in online procurement.

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

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

- 894 1. Determining the requirements and qualification criteria  
895 for prequalifying vendors.
- 896 2. Establishing the procedures for conducting online  
897 procurement.
- 898 3. Establishing the criteria for eligible commodities and  
899 contractual services.

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900 4. Establishing the procedures for providing access to  
901 online procurement.

902 5. Determining the criteria warranting any exceptions to  
903 participation in the online procurement program.

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

906 1. The fees may be imposed on an individual transaction  
907 basis or as a fixed percentage of the cost savings generated. At  
908 a minimum, the fees must be set in an amount sufficient to cover  
909 the projected costs of the services, including administrative  
910 and project service costs in accordance with the policies of the  
911 department.

912 2. If the department contracts with a provider for online  
913 procurement, the department, pursuant to appropriation, shall  
914 compensate the provider from the fees after the department has  
915 satisfied all ongoing costs. The provider shall report  
916 transaction data to the department each month so that the  
917 department may determine the amount due and payable to the  
918 department from each vendor.

919 3. All fees that are due and payable to the state on a  
920 transactional basis or as a fixed percentage of the cost savings  
921 generated are subject to s. 215.31 and must be remitted within  
922 40 days after receipt of payment for which the fees are due. For  
923 fees that are not remitted within 40 days, the vendor shall pay  
924 interest at the rate established under s. 55.03(1) on the unpaid  
925 balance from the expiration of the 40-day period until the fees  
926 are remitted.

927 4. All fees and surcharges collected under this paragraph  
928 shall be deposited in the Operating Trust Fund as provided by



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929 law.

930 Section 10. Effective December 1, 2014, subsection (14) of  
931 section 287.057, Florida Statutes, is amended to read:

932 287.057 Procurement of commodities or contractual  
933 services.-

934 (14) For each contractual services contract, the agency  
935 shall designate an employee to function as contract manager who  
936 is ~~shall be~~ responsible for enforcing performance of the  
937 contract terms and conditions and serve as a liaison with the  
938 contractor.

939 (a) Each contract manager who is responsible for contracts  
940 in excess of the threshold amount for CATEGORY TWO must, at a  
941 minimum, complete ~~attend~~ training conducted by the Chief  
942 Financial Officer for accountability in contracts and grant  
943 management. The Chief Financial Officer shall establish and  
944 disseminate uniform procedures pursuant to s. 17.03(3) to ensure  
945 that contractual services have been rendered in accordance with  
946 the contract terms before the agency processes the invoice for  
947 payment. The procedures must ~~shall~~ include, but need not be  
948 limited to, procedures for monitoring and documenting contractor  
949 performance, reviewing and documenting all deliverables for  
950 which payment is requested by vendors, and providing written  
951 certification by contract managers of the agency's receipt of  
952 goods and services.

953 (b) Each contract manager who is responsible for contracts  
954 in excess of \$100,000 annually must complete training in  
955 contract management and become a certified contract manager. The  
956 department is responsible for establishing and disseminating the  
957 requirements for certification which include completing the

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958 training conducted by the Chief Financial Officer for  
959 accountability in contracts and grant management. Training and  
960 certification must be coordinated by the department, and the  
961 training must be conducted jointly by the department and the  
962 Department of Financial Services. Training must promote best  
963 practices and procedures related to negotiating, managing, and  
964 ensuring accountability in agency contracts and grant  
965 agreements, which must include the use of case studies based  
966 upon previous audits, contracts, and grant agreements. All  
967 agency contract managers must become certified within 24 months  
968 after establishment of the training and certification  
969 requirements by the department and the Department of Financial  
970 Services.

971 Section 11. Paragraph (a) of subsection (3) of section  
972 287.0571, Florida Statutes, is amended to read:

973 287.0571 Business case to outsource; applicability.—

974 (3) This section does not apply to:

975 (a) A procurement of commodities and contractual services  
976 listed in s. 287.057(3)(d) and (e) ~~287.057(3)(e), (f), and (g)~~  
977 and (21).

978 Section 12. Subsections (1), (2), and (5) of section  
979 287.058, Florida Statutes, are amended, and subsection (7) is  
980 added to that section, to read:

981 287.058 Contract document.—

982 (1) Every procurement of contractual services in excess of  
983 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
984 except for the providing of health and mental health services or  
985 drugs in the examination, diagnosis, or treatment of sick or  
986 injured state employees or the providing of other benefits as

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987 required by ~~the provisions of~~ chapter 440, shall be evidenced by  
988 a written agreement embodying all provisions and conditions of  
989 the procurement of such services, which shall, where applicable,  
990 include, but not be limited to, a provision:

991 (a) That bills for fees or other compensation for services  
992 or expenses be submitted in detail sufficient for a proper  
993 preaudit and postaudit thereof.

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

997 (c) Allowing unilateral cancellation by the agency for  
998 refusal by the contractor to allow public access to all  
999 documents, papers, letters, or other material made or received  
1000 by the contractor in conjunction with the contract, unless the  
1001 records are exempt from s. 24(a) of Art. I of the State  
1002 Constitution and s. 119.07(1).

1003 (d) Specifying a scope of work that clearly establishes all  
1004 tasks the contractor is required to perform.

1005 (e) Dividing the contract into quantifiable, measurable,  
1006 and verifiable units of deliverables that must be received and  
1007 accepted in writing by the contract manager before payment. Each  
1008 deliverable must be directly related to the scope of work and  
1009 specify a performance measure. As used in this paragraph, the  
1010 term "performance measure" means the required minimum acceptable  
1011 level of service to be performed and criteria for evaluating the  
1012 successful completion of each deliverable.

1013 (f) Specifying the criteria and the final date by which  
1014 such criteria must be met for completion of the contract.

1015 (g) Specifying that the contract may be renewed for a

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1016 period that may not exceed 3 years or the term of the original  
1017 contract, whichever ~~period~~ is longer, specifying the renewal  
1018 price for the contractual service as set forth in the bid,  
1019 proposal, or reply, specifying that costs for the renewal may  
1020 not be charged, and specifying that renewals are ~~shall be~~  
1021 contingent upon satisfactory performance evaluations by the  
1022 agency and subject to the availability of funds. Exceptional  
1023 purchase contracts pursuant to s. 287.057(3) (a) and (c) may not  
1024 be renewed.

1025 (h) Specifying the financial consequences that the agency  
1026 must apply if the contractor fails to perform in accordance with  
1027 the contract.

1028 (i) Addressing the property rights of any intellectual  
1029 property related to the contract and the specific rights of the  
1030 state regarding the intellectual property if the contractor  
1031 fails to provide the services or is no longer providing  
1032 services.

1033  
1034 In lieu of a written agreement, the agency ~~department~~ may  
1035 authorize the use of a purchase order for classes of contractual  
1036 services, if the provisions of paragraphs (a)-(i) are included  
1037 in the purchase order or solicitation. The purchase order must  
1038 include, but need not be limited to, an adequate description of  
1039 the services, the contract period, and the method of payment. In  
1040 lieu of printing the provisions of paragraphs (a)-(c) and (g)  
1041 ~~(a)-(i)~~ in the contract document or purchase order, agencies may  
1042 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~  
1043 ~~(i)~~ by reference.

1044 (2) The written agreement shall be signed by the agency

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1045 head or designee and the contractor before ~~prior to~~ the  
1046 rendering of any contractual service the value of which is in  
1047 excess of the threshold amount provided in s. 287.017 for  
1048 CATEGORY TWO, except in the case of a valid emergency as  
1049 certified by the agency head. The written statement  
1050 ~~certification~~ of an emergency must ~~shall~~ be prepared within 30  
1051 days after the contractor begins rendering the service and must  
1052 ~~shall~~ state the particular facts and circumstances which  
1053 precluded the execution of the written agreement before ~~prior to~~  
1054 the rendering of the service. If the agency fails to have the  
1055 contract signed by the agency head or designee and the  
1056 contractor before ~~prior to~~ rendering the contractual service,  
1057 and if an emergency does not exist, the agency head shall,  
1058 within no later than 30 days after the contractor begins  
1059 rendering the service, certify the specific conditions and  
1060 circumstances to the department as well as describe actions  
1061 taken to prevent recurrence of such noncompliance. The agency  
1062 head may delegate the written statement ~~certification~~ only to  
1063 other senior management agency personnel. A copy of the written  
1064 statement ~~certification~~ shall be furnished to the Chief  
1065 Financial Officer with the voucher authorizing payment. The  
1066 department shall report repeated instances of noncompliance by  
1067 an agency to the Auditor General. ~~Nothing in~~ This subsection  
1068 does not ~~shall be deemed to~~ authorize additional compensation  
1069 prohibited under ~~by~~ s. 215.425. The procurement of contractual  
1070 services may ~~shall~~ not be divided so as to avoid the provisions  
1071 of this section.

1072 (5) Unless otherwise provided in the General Appropriations  
1073 Act or the substantive bill implementing the General

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1074 Appropriations Act, the Chief Financial Officer may waive the  
1075 requirements of this section for services which are included in  
1076 s. 287.057(3)(e) ~~287.057(3)(f)~~.

1077 (7) The Chief Financial Officer may audit a contract  
1078 subject to this chapter before the execution of such contract in  
1079 accordance with rules adopted by the Department of Financial  
1080 Services. The audit must ensure that applicable laws have been  
1081 met; that the contract document contains a clear statement of  
1082 work, quantifiable and measurable deliverables, performance  
1083 measures, financial consequences for nonperformance, and clear  
1084 terms and conditions that protect the interests of the state;  
1085 and that the associated costs of the contract are not  
1086 unreasonable or inappropriate. The audit must ensure that all  
1087 contracting laws have been met and that documentation is  
1088 available to support the contract. A contract that does not  
1089 comply with this section may be returned to the submitting  
1090 agency for revision.

1091 (a) The Chief Financial Officer may establish dollar  
1092 thresholds and other criteria for sampling the contracts that  
1093 are to be audited before execution. The Chief Financial Officer  
1094 may revise such thresholds and other criteria for an agency or  
1095 unit of an agency as deemed appropriate.

1096 (b) The Chief Financial Officer shall make a final  
1097 determination of any deficiencies in the contract within 10  
1098 business days after receipt of the proposed contract and shall  
1099 include information regarding the deficiencies in the audit  
1100 report provided to the agency entering into the contract. The  
1101 Chief Financial Officer and the agency entering into the  
1102 contract may agree to a longer review period. The agency is

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1103 responsible for addressing the deficiencies and shall have the  
1104 option to resubmit the contract for subsequent review before  
1105 execution. The Chief Financial Officer shall perform a  
1106 subsequent review to verify that all deficiencies have been  
1107 addressed upon processing the first payment.

1108 Section 13. Section 287.136, Florida Statutes, is created  
1109 to read:

1110 287.136 Audit of executed contract documents.—The Chief  
1111 Financial Officer shall perform audits of an executed contract  
1112 documents and contract manager's records to ensure that adequate  
1113 internal controls are in place for complying with the terms and  
1114 conditions of the contract and for the validation and receipt of  
1115 goods and services.

1116 (1) At the conclusion of the audit, the Chief Financial  
1117 Officer's designee shall discuss the audit and potential  
1118 findings with the official whose office is subject to audit. The  
1119 final audit report shall be submitted to the agency head.

1120 (2) Within 30 days after the receipt of the final audit  
1121 report, the agency head shall submit to the Chief Financial  
1122 Officer or designee, his or her written statement of explanation  
1123 or rebuttal concerning findings requiring corrective action,  
1124 including corrective action to be taken to preclude a  
1125 recurrence.

1126 Section 14. Section 287.076, Florida Statutes, is amended  
1127 to read:

1128 287.076 Project Management Professionals training for  
1129 personnel involved in managing outsourcings and negotiations;  
1130 funding.—The department of ~~Management Services~~ may implement a  
1131 program to train state agency employees who are involved in

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1132 managing outsourcings as Project Management Professionals, as  
1133 certified by the Project Management Institute. ~~For the 2006-2007~~  
1134 ~~fiscal year, the sum of \$500,000 in recurring funds from the~~  
1135 ~~General Revenue Fund is appropriated to the Department of~~  
1136 ~~Management Services to implement this program. Subject to annual~~  
1137 appropriations, the department ~~of Management Services,~~ in  
1138 consultation with entities subject to this part act, shall  
1139 identify personnel to participate in this training based on  
1140 requested need and ensure that each agency is represented. The  
1141 department ~~of Management Services~~ may remit payment for this  
1142 training on behalf of all participating personnel.

1143 Section 15. Subsection (3) of section 16.0155, Florida  
1144 Statutes, is amended to read:

1145 16.0155 Contingency fee agreements.—

1146 (3) Notwithstanding the exemption provided in s.  
1147 287.057(3)(e), if the Attorney General makes the determination  
1148 described in subsection (2), he or she ~~notwithstanding the~~  
1149 ~~exemption provided in s. 287.057(3)(f),~~ the Attorney General  
1150 shall request proposals from private attorneys to represent the  
1151 department on a contingency-fee basis, unless the Attorney  
1152 General determines in writing that requesting proposals is not  
1153 feasible under the circumstances. The written determination does  
1154 not constitute a final agency action subject to review pursuant  
1155 to ss. 120.569 and 120.57. For purposes of this subsection only,  
1156 the department is exempt from ~~the requirements of~~ s. 120.57(3),  
1157 and neither the request for proposals nor the contract award is  
1158 subject to challenge pursuant to ss. 120.569 and 120.57.

1159 Section 16. Subsection (1) of section 283.33, Florida  
1160 Statutes, is amended to read:



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1161 283.33 Printing of publications; lowest bidder awards.—

1162 (1) Publications may be printed and prepared in-house, by  
1163 another agency or the Legislature, or purchased on bid,  
1164 whichever is more economical and practicable as determined by  
1165 the agency. An agency may contract for binding separately when  
1166 more economical or practicable, whether or not the remainder of  
1167 the printing is done in-house. A vendor may subcontract for  
1168 binding and still be considered a responsible vendor as defined  
1169 in s. 287.012, ~~notwithstanding s. 287.012(24)~~.

1170 Section 17. Subsection (3) of section 394.457, Florida  
1171 Statutes, is amended to read:

1172 394.457 Operation and administration.—

1173 (3) POWER TO CONTRACT.—The department may contract to  
1174 provide, and be provided with, services and facilities in order  
1175 to carry out its responsibilities under this part with the  
1176 following agencies: public and private hospitals; receiving and  
1177 treatment facilities; clinics; laboratories; departments,  
1178 divisions, and other units of state government; the state  
1179 colleges and universities; the community colleges; private  
1180 colleges and universities; counties, municipalities, and any  
1181 other governmental unit, including facilities of the United  
1182 States Government; and any other public or private entity which  
1183 provides or needs facilities or services. Baker Act funds for  
1184 community inpatient, crisis stabilization, short-term  
1185 residential treatment, and screening services must be allocated  
1186 to each county pursuant to the department's funding allocation  
1187 methodology. Notwithstanding s. 287.057(3)(e) ~~the provisions of~~  
1188 ~~s. 287.057(3)(f)~~, contracts for community-based Baker Act  
1189 services for inpatient, crisis stabilization, short-term

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1190 residential treatment, and screening provided under this part,  
1191 other than those with other units of government, to be provided  
1192 for the department must be awarded using competitive sealed bids  
1193 ~~if when~~ the county commission of the county receiving the  
1194 services makes a request to the department's district office by  
1195 January 15 of the contracting year. The district may ~~shall~~ not  
1196 enter into a competitively bid contract under this provision if  
1197 such action will result in increases of state or local  
1198 expenditures for Baker Act services within the district.  
1199 Contracts for these Baker Act services using competitive sealed  
1200 bids are ~~will be~~ effective for 3 years. The department shall  
1201 adopt rules establishing minimum standards for such contracted  
1202 services and facilities and shall make periodic audits and  
1203 inspections to assure that the contracted services are provided  
1204 and meet the standards of the department.

1205 Section 18. Paragraph (a) of subsection (2) of section  
1206 402.7305, Florida Statutes, is amended to read:

1207 402.7305 Department of Children and Family Services;  
1208 procurement of contractual services; contract management.-

1209 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.-

1210 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,  
1211 ~~if whenever~~ the department intends to contract with a public  
1212 postsecondary institution to provide a service, the department  
1213 must allow all public postsecondary institutions in this state  
1214 that are accredited by the Southern Association of Colleges and  
1215 Schools to bid on the contract. Thereafter, notwithstanding any  
1216 other provision of law ~~to the contrary~~, if a public  
1217 postsecondary institution intends to subcontract for any service  
1218 awarded in the contract, the subcontracted service must be

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1219 procured by competitive procedures.

1220 Section 19. Section 409.9132, Florida Statutes, is amended  
1221 to read:

1222 409.9132 Pilot project to monitor home health services.—The  
1223 Agency for Health Care Administration shall expand the home  
1224 health agency monitoring pilot project in Miami-Dade County on a  
1225 statewide basis effective July 1, 2012, except in counties in  
1226 which the program is ~~will~~ not ~~be~~ cost-effective, as determined  
1227 by the agency. The agency shall contract with a vendor to verify  
1228 the utilization and delivery of home health services and provide  
1229 an electronic billing interface for home health services. The  
1230 contract must require the creation of a program to submit claims  
1231 electronically for the delivery of home health services. The  
1232 program must verify telephonically visits for the delivery of  
1233 home health services using voice biometrics. The agency may seek  
1234 amendments to the Medicaid state plan and waivers of federal  
1235 laws, as necessary, to implement or expand the pilot project.  
1236 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must  
1237 award the contract through the competitive solicitation process  
1238 and may use the current contract to expand the home health  
1239 agency monitoring pilot project to include additional counties  
1240 as authorized under this section.

1241 Section 20. Subsection (3) of section 427.0135, Florida  
1242 Statutes, is amended to read:

1243 427.0135 Purchasing agencies; duties and responsibilities.—  
1244 Each purchasing agency, in carrying out the policies and  
1245 procedures of the commission, shall:

1246 (3) Not procure transportation disadvantaged services  
1247 without initially negotiating with the commission, as provided

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1248 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise  
1249 authorized by statute. If the purchasing agency, after  
1250 consultation with the commission, determines that it cannot  
1251 reach mutually acceptable contract terms with the commission,  
1252 the purchasing agency may contract for the same transportation  
1253 services provided in a more cost-effective manner and of  
1254 comparable or higher quality and standards. The Medicaid agency  
1255 shall implement this subsection in a manner consistent with s.  
1256 409.908(18) and as otherwise limited or directed by the General  
1257 Appropriations Act.

1258 Section 21. Paragraph (c) of subsection (5) of section  
1259 445.024, Florida Statutes, is amended to read:

1260 445.024 Work requirements.—

1261 (5) USE OF CONTRACTS.—Regional workforce boards shall  
1262 provide work activities, training, and other services, as  
1263 appropriate, through contracts. In contracting for work  
1264 activities, training, or services, the following applies:

1265 (c) Notwithstanding the exemption from the competitive  
1266 sealed bid requirements provided in s. 287.057(3)(e)  
1267 ~~287.057(3)(f)~~ for certain contractual services, each contract  
1268 awarded under this chapter must be awarded on the basis of a  
1269 competitive sealed bid, except for a contract with a  
1270 governmental entity as determined by the regional workforce  
1271 board.

1272 Section 22. Paragraph (c) of subsection (5) of section  
1273 627.311, Florida Statutes, is amended to read:

1274 627.311 Joint underwriters and joint reinsurers; public  
1275 records and public meetings exemptions.—

1276 (5)

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1277 (c) The operation of the plan shall be governed by a plan  
1278 of operation that is prepared at the direction of the board of  
1279 governors and approved by order of the office. The plan is  
1280 subject to continuous review by the office. The office may, by  
1281 order, withdraw approval of all or part of a plan if the office  
1282 determines that conditions have changed since approval was  
1283 granted and that the purposes of the plan require changes in the  
1284 plan. The plan of operation must ~~shall~~:

1285 1. Authorize the board to engage in the activities  
1286 necessary to implement this subsection, including, but not  
1287 limited to, borrowing money.

1288 2. Develop criteria for eligibility for coverage by the  
1289 plan, including, but not limited to, documented rejection by at  
1290 least two insurers which reasonably assures that insureds  
1291 covered under the plan are unable to acquire coverage in the  
1292 voluntary market.

1293 3. Require notice from the agent to the insured at the time  
1294 of the application for coverage that the application is for  
1295 coverage with the plan and that coverage may be available  
1296 through an insurer, group self-insurers' fund, commercial self-  
1297 insurance fund, or assessable mutual insurer through another  
1298 agent at a lower cost.

1299 4. Establish programs to encourage insurers to provide  
1300 coverage to applicants of the plan in the voluntary market and  
1301 to insureds of the plan, including, but not limited to:

1302 a. Establishing procedures for an insurer to use in  
1303 notifying the plan of the insurer's desire to provide coverage  
1304 to applicants to the plan or existing insureds of the plan and  
1305 in describing the types of risks in which the insurer is

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1306 interested. The description of the desired risks must be on a  
1307 form developed by the plan.

1308       b. Developing forms and procedures that provide an insurer  
1309 with the information necessary to determine whether the insurer  
1310 wants to write particular applicants to the plan or insureds of  
1311 the plan.

1312       c. Developing procedures for notice to the plan and the  
1313 applicant to the plan or insured of the plan that an insurer  
1314 will insure the applicant or the insured of the plan, and notice  
1315 of the cost of the coverage offered; and developing procedures  
1316 for the selection of an insuring entity by the applicant or  
1317 insured of the plan.

1318       d. Provide for a market-assistance plan to assist in the  
1319 placement of employers. All applications for coverage in the  
1320 plan received 45 days before the effective date for coverage  
1321 shall be processed through the market-assistance plan. A market-  
1322 assistance plan specifically designed to serve the needs of  
1323 small, good policyholders as defined by the board must be  
1324 reviewed and updated periodically.

1325       5. Provide for policy and claims services to the insureds  
1326 of the plan of the nature and quality provided for insureds in  
1327 the voluntary market.

1328       6. Provide for the review of applications for coverage with  
1329 the plan for reasonableness and accuracy, using any available  
1330 historic information regarding the insured.

1331       7. Provide for procedures for auditing insureds of the plan  
1332 which are based on reasonable business judgment and are designed  
1333 to maximize the likelihood that the plan will collect the  
1334 appropriate premiums.

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1335 8. Authorize the plan to terminate the coverage of and  
1336 refuse future coverage for any insured that submits a fraudulent  
1337 application to the plan or provides fraudulent or grossly  
1338 erroneous records to the plan or to any service provider of the  
1339 plan in conjunction with the activities of the plan.

1340 9. Establish service standards for agents who submit  
1341 business to the plan.

1342 10. Establish criteria and procedures to prohibit any agent  
1343 who does not adhere to the established service standards from  
1344 placing business with the plan or receiving, directly or  
1345 indirectly, any commissions for business placed with the plan.

1346 11. Provide for the establishment of reasonable safety  
1347 programs for all insureds in the plan. All insureds of the plan  
1348 must participate in the safety program.

1349 12. Authorize the plan to terminate the coverage of and  
1350 refuse future coverage to any insured who fails to pay premiums  
1351 or surcharges when due; who, at the time of application, is  
1352 delinquent in payments of workers' compensation or employer's  
1353 liability insurance premiums or surcharges owed to an insurer,  
1354 group self-insurers' fund, commercial self-insurance fund, or  
1355 assessable mutual insurer licensed to write such coverage in  
1356 this state; or who refuses to substantially comply with any  
1357 safety programs recommended by the plan.

1358 13. Authorize the board of governors to provide the goods  
1359 and services required by the plan through staff employed by the  
1360 plan, through reasonably compensated service providers who  
1361 contract with the plan to provide services as specified by the  
1362 board of governors, or through a combination of employees and  
1363 service providers.

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1364 a. Purchases that equal or exceed \$2,500 but are less than  
1365 or equal to \$25,000, shall be made by receipt of written quotes,  
1366 telephone quotes, or informal bids, if whenever practical. The  
1367 procurement of goods or services valued over \$25,000 is subject  
1368 to competitive solicitation, except in situations in which the  
1369 goods or services are provided by a sole source or are deemed an  
1370 emergency purchase, or the services are exempted from  
1371 competitive-solicitation requirements under s. 287.057(3)(e)  
1372 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency  
1373 procurement must be documented. Contracts for goods or services  
1374 valued at or over \$100,000 are subject to board approval.

1375 b. The board shall determine whether it is more cost-  
1376 effective and in the best interests of the plan to use legal  
1377 services provided by in-house attorneys employed by the plan  
1378 rather than contracting with outside counsel. In making such  
1379 determination, the board shall document its findings and shall  
1380 consider the expertise needed; whether time commitments exceed  
1381 in-house staff resources; whether local representation is  
1382 needed; the travel, lodging, and other costs associated with in-  
1383 house representation; and such other factors that the board  
1384 determines are relevant.

1385 14. Provide for service standards for service providers,  
1386 methods of determining adherence to those service standards,  
1387 incentives and disincentives for service, and procedures for  
1388 terminating contracts for service providers that fail to adhere  
1389 to service standards.

1390 15. Provide procedures for selecting service providers and  
1391 standards for qualification as a service provider that  
1392 reasonably assure that any service provider selected will



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1393 continue to operate as an ongoing concern and is capable of  
1394 providing the specified services in the manner required.

1395 16. Provide for reasonable accounting and data-reporting  
1396 practices.

1397 17. Provide for annual review of costs associated with the  
1398 administration and servicing of the policies issued by the plan  
1399 to determine alternatives by which costs can be reduced.

1400 18. Authorize the acquisition of such excess insurance or  
1401 reinsurance as is consistent with the purposes of the plan.

1402 19. Provide for an annual report to the office on a date  
1403 specified by the office and containing such information as the  
1404 office reasonably requires.

1405 20. Establish multiple rating plans for various  
1406 classifications of risk which reflect risk of loss, hazard  
1407 grade, actual losses, size of premium, and compliance with loss  
1408 control. At least one of such plans must be a preferred-rating  
1409 plan to accommodate small-premium policyholders with good  
1410 experience as defined in sub-subparagraph 22.a.

1411 21. Establish agent commission schedules.

1412 22. For employers otherwise eligible for coverage under the  
1413 plan, establish three tiers of employers meeting the criteria  
1414 and subject to the rate limitations specified in this  
1415 subparagraph.

1416 a. Tier One.—

1417 (I) Criteria; rated employers.—An employer that has an  
1418 experience modification rating shall be included in Tier One if  
1419 the employer meets all of the following:

1420 (A) The experience modification is below 1.00.

1421 (B) The employer had no lost-time claims subsequent to the

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1422 applicable experience modification rating period.

1423 (C) The total of the employer's medical-only claims  
1424 subsequent to the applicable experience modification rating  
1425 period did not exceed 20 percent of premium.

1426 (II) Criteria; non-rated employers.—An employer that does  
1427 not have an experience modification rating shall be included in  
1428 Tier One if the employer meets all of the following:

1429 (A) The employer had no lost-time claims for the 3-year  
1430 period immediately preceding the inception date or renewal date  
1431 of the employer's coverage under the plan.

1432 (B) The total of the employer's medical-only claims for the  
1433 3-year period immediately preceding the inception date or  
1434 renewal date of the employer's coverage under the plan did not  
1435 exceed 20 percent of premium.

1436 (C) The employer has secured workers' compensation coverage  
1437 for the entire 3-year period immediately preceding the inception  
1438 date or renewal date of the employer's coverage under the plan.

1439 (D) The employer is able to provide the plan with a loss  
1440 history generated by the employer's prior workers' compensation  
1441 insurer, except if the employer is not able to produce a loss  
1442 history due to the insolvency of an insurer, the receiver shall  
1443 provide to the plan, upon the request of the employer or the  
1444 employer's agent, a copy of the employer's loss history from the  
1445 records of the insolvent insurer if the loss history is  
1446 contained in records of the insurer which are in the possession  
1447 of the receiver. If the receiver is unable to produce the loss  
1448 history, the employer may, in lieu of the loss history, submit  
1449 an affidavit from the employer and the employer's insurance  
1450 agent setting forth the loss history.

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1451 (E) The employer is not a new business.

1452 (III) Premiums.—The premiums for Tier One insureds shall be  
1453 set at a premium level 25 percent above the comparable voluntary  
1454 market premiums until the plan has sufficient experience as  
1455 determined by the board to establish an actuarially sound rate  
1456 for Tier One, at which point the board shall, subject to  
1457 paragraph (e), adjust the rates, if necessary, to produce  
1458 actuarially sound rates, provided such rate adjustment shall not  
1459 take effect prior to January 1, 2007.

1460 b. Tier Two.—

1461 (I) Criteria; rated employers.—An employer that has an  
1462 experience modification rating shall be included in Tier Two if  
1463 the employer meets all of the following:

1464 (A) The experience modification is equal to or greater than  
1465 1.00 but not greater than 1.10.

1466 (B) The employer had no lost-time claims subsequent to the  
1467 applicable experience modification rating period.

1468 (C) The total of the employer's medical-only claims  
1469 subsequent to the applicable experience modification rating  
1470 period did not exceed 20 percent of premium.

1471 (II) Criteria; non-rated employers.—An employer that does  
1472 not have any experience modification rating shall be included in  
1473 Tier Two if the employer is a new business. An employer shall be  
1474 included in Tier Two if the employer has less than 3 years of  
1475 loss experience in the 3-year period immediately preceding the  
1476 inception date or renewal date of the employer's coverage under  
1477 the plan and the employer meets all of the following:

1478 (A) The employer had no lost-time claims for the 3-year  
1479 period immediately preceding the inception date or renewal date

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1480 of the employer's coverage under the plan.

1481 (B) The total of the employer's medical-only claims for the  
1482 3-year period immediately preceding the inception date or  
1483 renewal date of the employer's coverage under the plan did not  
1484 exceed 20 percent of premium.

1485 (C) The employer is able to provide the plan with a loss  
1486 history generated by the workers' compensation insurer that  
1487 provided coverage for the portion or portions of such period  
1488 during which the employer had secured workers' compensation  
1489 coverage, except if the employer is not able to produce a loss  
1490 history due to the insolvency of an insurer, the receiver shall  
1491 provide to the plan, upon the request of the employer or the  
1492 employer's agent, a copy of the employer's loss history from the  
1493 records of the insolvent insurer if the loss history is  
1494 contained in records of the insurer which are in the possession  
1495 of the receiver. If the receiver is unable to produce the loss  
1496 history, the employer may, in lieu of the loss history, submit  
1497 an affidavit from the employer and the employer's insurance  
1498 agent setting forth the loss history.

1499 (III) Premiums.—The premiums for Tier Two insureds shall be  
1500 set at a rate level 50 percent above the comparable voluntary  
1501 market premiums until the plan has sufficient experience as  
1502 determined by the board to establish an actuarially sound rate  
1503 for Tier Two, at which point the board shall, subject to  
1504 paragraph (e), adjust the rates, if necessary, to produce  
1505 actuarially sound rates, provided such rate adjustment shall not  
1506 take effect prior to January 1, 2007.

1507 c. Tier Three.—

1508 (I) Eligibility.—An employer shall be included in Tier

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1509 Three if the employer does not meet the criteria for Tier One or  
1510 Tier Two.

1511 (II) Rates.—The board shall establish, subject to paragraph  
1512 (e), and the plan shall charge, actuarially sound rates for Tier  
1513 Three insureds.

1514 23. For Tier One or Tier Two employers which employ no  
1515 nonexempt employees or which report payroll which is less than  
1516 the minimum wage hourly rate for one full-time employee for 1  
1517 year at 40 hours per week, the plan shall establish actuarially  
1518 sound premiums, provided, however, that the premiums may not  
1519 exceed \$2,500. These premiums shall be in addition to the fee  
1520 specified in subparagraph 26. When the plan establishes  
1521 actuarially sound rates for all employers in Tier One and Tier  
1522 Two, the premiums for employers referred to in this paragraph  
1523 are no longer subject to the \$2,500 cap.

1524 24. Provide for a depopulation program to reduce the number  
1525 of insureds in the plan. If an employer insured through the plan  
1526 is offered coverage from a voluntary market carrier:

- 1527 a. During the first 30 days of coverage under the plan;  
1528 b. Before a policy is issued under the plan;  
1529 c. By issuance of a policy upon expiration or cancellation  
1530 of the policy under the plan; or  
1531 d. By assumption of the plan's obligation with respect to  
1532 an in-force policy,

1533  
1534 that employer is no longer eligible for coverage through the  
1535 plan. The premium for risks assumed by the voluntary market  
1536 carrier must be no greater than the premium the insured would  
1537 have paid under the plan, and shall be adjusted upon renewal to

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1538 reflect changes in the plan rates and the tier for which the  
1539 insured would qualify as of the time of renewal. The insured may  
1540 be charged such premiums only for the first 3 years of coverage  
1541 in the voluntary market. A premium under this subparagraph is  
1542 deemed approved and is not an excess premium for purposes of s.  
1543 627.171.

1544 25. Require that policies issued and applications must  
1545 include a notice that the policy could be replaced by a policy  
1546 issued from a voluntary market carrier and that, if an offer of  
1547 coverage is obtained from a voluntary market carrier, the  
1548 policyholder is no longer eligible for coverage through the  
1549 plan. The notice must also specify that acceptance of coverage  
1550 under the plan creates a conclusive presumption that the  
1551 applicant or policyholder is aware of this potential.

1552 26. Require that each application for coverage and each  
1553 renewal premium be accompanied by a nonrefundable fee of \$475 to  
1554 cover costs of administration and fraud prevention. The board  
1555 may, with the prior approval of the office, increase the amount  
1556 of the fee pursuant to a rate filing to reflect increased costs  
1557 of administration and fraud prevention. The fee is not subject  
1558 to commission and is fully earned upon commencement of coverage.

1559 Section 23. Paragraph (e) of subsection (6) of section  
1560 627.351, Florida Statutes, is amended to read:

1561 627.351 Insurance risk apportionment plans.—

1562 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1563 (e) Purchases that equal or exceed \$2,500, but are less  
1564 than \$25,000, shall be made by receipt of written quotes,  
1565 written record of telephone quotes, or informal bids, if  
1566 ~~whenever~~ practical. The procurement of goods or services valued

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1567 at or over \$25,000 is ~~shall be~~ subject to competitive  
1568 solicitation, except in situations where the goods or services  
1569 are provided by a sole source or are deemed an emergency  
1570 purchase; the services are exempted from competitive  
1571 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~;  
1572 or the procurement of services is subject to s. 627.3513.  
1573 Justification for the sole-sourcing or emergency procurement  
1574 must be documented. Contracts for goods or services valued at or  
1575 over \$100,000 are subject to approval by the board.

1576 Section 24. Subsection (2) of section 765.5155, Florida  
1577 Statutes, is amended to read:

1578 765.5155 Donor registry; education program.—

1579 (2) The agency and the department shall jointly contract  
1580 for the operation of a donor registry and education program. The  
1581 contractor shall be procured by competitive solicitation  
1582 pursuant to chapter 287, notwithstanding an any exemption under  
1583 ~~in~~ s. 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,  
1584 priority shall be given to existing nonprofit groups that are  
1585 based within the state, have expertise working with procurement  
1586 organizations, have expertise in conducting statewide organ and  
1587 tissue donor public education campaigns, and represent the needs  
1588 of the organ and tissue donation community in the state.

1589 Section 25. Subsection (10) of section 893.055, Florida  
1590 Statutes, is amended to read:

1591 893.055 Prescription drug monitoring program.—

1592 (10) All costs incurred by the department in administering  
1593 the prescription drug monitoring program shall be funded through  
1594 federal grants or private funding applied for or received by the  
1595 state. The department may not commit funds for the monitoring

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1596 program without ensuring funding is available. The prescription  
1597 drug monitoring program and the implementation thereof are  
1598 contingent upon receipt of the nonstate funding. The department  
1599 and state government shall cooperate with the direct-support  
1600 organization established pursuant to subsection (11) in seeking  
1601 federal grant funds, other nonstate grant funds, gifts,  
1602 donations, or other private moneys for the department if so long  
1603 ~~as~~ the costs of doing so are not considered material.  
1604 Nonmaterial costs for this purpose include, but are not limited  
1605 to, the costs of mailing and personnel assigned to research or  
1606 apply for a grant. Notwithstanding the exemptions to  
1607 competitive-solicitation requirements under s. 287.057(3)(e)  
1608 ~~287.057(3)(f)~~, the department shall comply with the competitive-  
1609 solicitation requirements under s. 287.057 for the procurement  
1610 of any goods or services required by this section. Funds  
1611 provided, directly or indirectly, by prescription drug  
1612 manufacturers may not be used to implement the program.

1613 Section 26. Except as otherwise expressly provided in this  
1614 act, this act shall take effect July 1, 2013.