

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Subcommittee

3 Representative Albritton offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 215.971, Florida Statutes, is amended
 8 to read:

9 215.971 Agreements funded with federal and state
 10 assistance.—

11 (1) For an agency agreement that provides state financial
 12 assistance to a recipient or subrecipient, as those terms are
 13 defined in s. 215.97, or that provides federal financial
 14 assistance to a subrecipient, as defined by applicable United
 15 States Office of Management and Budget circulars, the agreement
 16 must ~~shall~~ include the following:

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

Amendment No.

20 (b)-(2) A provision dividing the agreement into
21 quantifiable units of deliverables that must be received and
22 accepted in writing by the agency before payment. Each
23 deliverable must be directly related to the scope of work and
24 ~~must~~ specify the required minimum level of service to be
25 performed and the criteria for evaluating the successful
26 completion of each deliverable.

27 (c) A provision specifying the financial consequences that
28 apply if the recipient or subrecipient fails to perform the
29 minimum level of service required by the agreement. The
30 provision can be excluded from the agreement only if financial
31 consequences are prohibited by the federal agency awarding the
32 grant. Funds refunded to a state agency from a recipient or
33 subrecipient for failure to perform as required under the
34 agreement may be expended only in direct support of the program
35 from which the agreement originated.

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

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

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

Amendment No.

47 (g) Any additional information required pursuant to s.
48 215.97.

49 (2) For each agreement funded with federal or state
50 financial assistance, the state agency shall designate an
51 employee to function as a grant manager who shall be responsible
52 for enforcing performance of the agreement's terms and
53 conditions and who shall serve as a liaison with the recipient
54 or subrecipient.

55 (a) Each grant manager who is responsible for agreements
56 in excess of the threshold amount for CATEGORY TWO under s.
57 287.017 must complete the training and become a certified
58 contract manager as provided under s. 287.057(14).

59 (b) The Chief Financial Officer shall establish and
60 disseminate uniform procedures for grant management pursuant to
61 s. 17.03(3) to ensure that services have been rendered in
62 accordance with agreement terms before the agency processes an
63 invoice for payment. The procedures must include, but need not
64 be limited to, procedures for monitoring and documenting
65 recipient or subrecipient performance, reviewing and documenting
66 all deliverables for which payment is requested by the recipient
67 or subrecipient, and providing written certification by the
68 grant manager of the agency's receipt of goods and services.

69 (c) The grant manager shall reconcile and verify all funds
70 received against all funds expended during the grant agreement
71 period and produce a final reconciliation report. The final
72 report must identify any funds paid in excess of the
73 expenditures incurred by the recipient or subrecipient.

Amendment No.

74 (3) After the execution of a grant agreement, the Chief
75 Financial Officer shall perform audits of the executed state and
76 federal grant agreement documents and grant manager's records in
77 order to ensure that adequate internal controls are in place for
78 complying with the terms and conditions of such agreements and
79 for validation and receipt of goods and services.

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

84 (b) Within 30 days after the receipt of the final audit
85 report, the agency head shall submit to the Chief Financial
86 Officer or designee, his or her written statement of explanation
87 or rebuttal concerning findings requiring corrective action,
88 including corrective action to be taken to preclude a
89 recurrence.

90 Section 2. Subsection (16) of section 215.985, Florida
91 Statutes, is amended to read:

92 215.985 Transparency in government spending.—

93 (16) The Chief Financial Officer shall establish and
94 maintain a secure, contract tracking ~~provide public access to a~~
95 ~~state contract management~~ system available for viewing and
96 downloading by the public through a secure website. The Chief
97 Financial Officer shall use appropriate Internet security
98 measures to ensure that no person has the ability to alter or
99 modify records available on the website ~~that provides~~
100 ~~information and documentation relating to contracts procured by~~
101 ~~governmental entities.~~

Amendment No.

102 (a) Within 30 calendar days after executing a contract,
103 each state agency must post the following information relating
104 to that contract on the contract tracking system: The data
105 collected in the system must include, but need not be limited
106 to, the contracting agency; the procurement method; the contract
107 beginning and ending dates; the type of commodity or service;
108 the purpose of the commodity or service; the compensation to be
109 paid; compliance information, such as performance metrics for
110 the service or commodity; contract violations; the number of
111 extensions or renewals; and the statutory authority for
112 providing the service.

- 113 1. The names of the contracting entities;
- 114 2. The procurement method;
- 115 3. The contract beginning and ending dates;
- 116 4. The nature or type of the commodities or services
117 purchased;
- 118 5. Applicable contract unit prices and deliverables;
- 119 6. Total compensation to be paid or received under the
120 contract;
- 121 7. All payments made to the contractor to date;
- 122 8. Applicable contract performance measures; and
- 123 9. Electronic copies of the contract that have been
124 redacted to exclude confidential or exempt information.

125 (b) Within 30 days after an amendment ~~a major change~~ to an
126 existing contract, ~~or the execution of a new contract,~~ agency
127 ~~procurement staff of the~~ state agency that is a party to the
128 contract must ~~affected state governmental entity~~ shall update
129 the ~~necessary~~ information described in paragraph (a) in the

Amendment No.

130 ~~state contract tracking management~~ system. An amendment ~~A major~~
131 ~~change~~ to a contract includes, but is not limited to, a renewal,
132 termination, or extension of the contract or any modification ~~an~~
133 ~~amendment~~ to the terms of the contract.

134 (c) No later than January 1, 2014, each state agency must
135 post to the contract tracking system the information required in
136 paragraph (a) for each existing contract that was executed more
137 than 30 calendar days prior to July 1, 2013.

138 (d)1. Records made available on the contract tracking
139 system may not reveal information made confidential or exempt by
140 law.

141 2. Each state agency that is a party to a contract must
142 redact any confidential or exempt information from the contract
143 before posting an electronic copy on the contract tracking
144 system. If a state agency that is a party to the contract
145 becomes aware that an electronic copy of a contract has been
146 posted that has not been properly redacted, such state agency
147 must immediately notify the Chief Financial Officer and must
148 immediately remove the contract from the contract tracking
149 system. Within seven business days, the state agency must post a
150 properly redacted copy of the contract on the contract tracking
151 system.

152 3.a. If a party to a contract, or an authorized
153 representative thereof, discovers that an electronic copy of a
154 contract has been posted to the contract tracking system that
155 has not been properly redacted, the party or representative may
156 request the state agency that is a party to the contract to
157 redact the confidential or exempt information. Upon receipt of

Amendment No.

158 the request, such state agency shall redact the confidential or
159 exempt information.

160 b. A request to redact confidential or exempt information
161 must be made in writing and delivered by mail, facsimile, or
162 electronic transmission, or in person to the state agency that
163 is a party to the contract. The request must identify the
164 specific document, the page numbers that include the
165 confidential or exempt information, the information that is
166 confidential or exempt, and the applicable statutory exemption.
167 A fee may not be charged for a redaction made pursuant to such
168 request.

169 4. The contract tracking system must display a notice of
170 the right of an affected party to request redaction of
171 confidential or exempt information contained on the system.

172 5.a. The Chief Financial Officer, the Department of
173 Financial Services, or any officer, employee, or contractor
174 thereof, is not responsible for redacting confidential or exempt
175 information from an electronic copy of a contract posted by
176 another state agency on the system.

177 b. The Chief Financial Officer, the Department of
178 Financial Services, or any officer, employee, or contractor
179 thereof, is not liable for the failure of a state agency to
180 redact the confidential or exempt information.

181 (e)1. The posting of information on the contract tracking
182 system or the provision of contract information on a website for
183 public viewing and downloading does not supersede the duty of a
184 state agency to respond to a public record request for such
185 information or to a subpoena for such information.

Amendment No.

186 2. A request for a copy of a contract or certified copy of
187 a contract shall be made to the state agency that is party to
188 the contract. Such request may not be made to the Chief
189 Financial Officer or the Department of Financial Services or any
190 officer, employee, or contractor thereof, unless the Chief
191 Financial Officer or the department is a party to the contract.

192 3. A subpoena for a copy of a contract or certified copy
193 of a contract must be served on the state agency that is a party
194 to the contract and that maintains the original documents. The
195 Chief Financial Officer or the Department of Financial Services
196 or any officer, employee, or contractor thereof may not be
197 served a subpoena for those records unless the Chief Financial
198 Officer or the department is a party to the contract.

199 (f) The Chief Financial Officer may adopt rules to
200 administer this subsection.

201 (g) For purposes of this subsection, the term "state
202 agency" means a state agency as defined in s. 216.011, excluding
203 the judicial branch, the Department of Legal Affairs, the
204 Department of Agriculture and Consumer Services, and the
205 Department of Financial Services. However, the judicial branch,
206 the Department of Legal Affairs, the Department of Agriculture
207 and Consumer Services, and the Department of Financial Services
208 may elect to comply with the provisions of this subsection in
209 whole or in part.

210 Section 3. Chapter 287, Florida Statutes, is renamed as
211 "Procurement of Commodities and Contractual Services."

212 Section 4. Subsections (4), (5), (10), and (13) through
213 (28) of section 287.012, Florida Statutes, are amended to read:

Amendment No.

214 287.012 Definitions.—As used in this part, the term:

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

218 (5) "Commodity" means any of the various supplies,
219 materials, goods, merchandise, food, equipment, information
220 technology, and other personal property, including a mobile
221 home, trailer, or other portable structure with floor space of
222 less than 5,000 square feet, purchased, leased, or otherwise
223 contracted for by the state and its agencies. "Commodity" also
224 includes interest on deferred-payment commodity contracts
225 approved pursuant to s. 287.063 entered into by an agency for
226 the purchase of other commodities. However, commodities
227 purchased for resale are excluded from this definition. Printing
228 of publications shall be considered a commodity when procured
229 ~~let upon contract~~ pursuant to s. 283.33, whether purchased for
230 resale or not.

231 (10) "Electronic posting" or "electronically post" means
232 the noticing of solicitations, agency decisions or intended
233 decisions, or other matters relating to procurement, on a
234 centralized Internet website designated by the department for
235 this purpose, in the manner and form required by s.
236 120.57(3) (a).

237 (13) "Extension" means an increase in the time allowed for
238 the contract period ~~due to circumstances which, without fault of~~
239 ~~either party, make performance impracticable or impossible, or~~
240 ~~which prevent a new contract from being executed, with or~~
241 ~~without a proportional increase in the total dollar amount, with~~

Amendment No.

242 ~~any increase to be based on the method and rate previously~~
243 ~~established in the contract.~~

244 (14) "Governmental entity" means a political subdivision
245 or agency of this state or of any state of the United States,
246 including, but not limited to, state government, county, city,
247 school district, nonprofit public university or college, single-
248 purpose or multipurpose special district, single-purpose or
249 multipurpose public authority, metropolitan or consolidated
250 government, separate legal entity or administrative entity, or
251 any agency of the Federal Government.

252 ~~(15)-(14)~~ "Information technology" has the meaning ascribed
253 in s. 282.0041.

254 ~~(16)-(15)~~ "Invitation to bid" means a written or
255 electronically posted solicitation for competitive sealed bids.

256 ~~(17)-(16)~~ "Invitation to negotiate" means a written or
257 electronically posted solicitation for competitive sealed
258 replies to select one or more vendors with which to commence
259 negotiations for the procurement of commodities or contractual
260 services.

261 ~~(18)-(17)~~ "Minority business enterprise" has the meaning
262 ascribed in s. 288.703.

263 ~~(19)-(18)~~ "Office" means the Office of Supplier Diversity
264 of the Department of Management Services.

265 ~~(20)-(19)~~ "Outsource" means the process of contracting with
266 a vendor to provide a service as defined in s. 216.011(1)(f), in
267 whole or in part, or an activity as defined in s.
268 216.011(1)(rr), while a state agency retains the responsibility
269 and accountability for the service or activity and there is a

Amendment No.

270 transfer of management responsibility for the delivery of
271 resources and the performance of those resources.

272 ~~(21)~~~~(20)~~ "Renewal" means contracting with the same
273 contractor for an additional contract period after the initial
274 contract period, only if pursuant to contract terms specifically
275 providing for such renewal.

276 ~~(22)~~~~(21)~~ "Request for information" means a written or
277 electronically posted request made by an agency to vendors for
278 information concerning commodities or contractual services.
279 Responses to these requests are not offers and may not be
280 accepted by the agency to form a binding contract.

281 ~~(23)~~~~(22)~~ "Request for proposals" means a written or
282 electronically posted solicitation for competitive sealed
283 proposals.

284 ~~(24)~~~~(23)~~ "Request for a quote" means an electronic, oral
285 or written request for written pricing or services information
286 from a state term contract vendor for commodities or contractual
287 services available on a state term contract from that vendor.

288 ~~(25)~~~~(24)~~ "Responsible vendor" means a vendor who has the
289 capability in all respects to fully perform the contract
290 requirements and the integrity and reliability that will assure
291 good faith performance.

292 ~~(26)~~~~(25)~~ "Responsive bid," "responsive proposal," or
293 "responsive reply" means a bid, or proposal, or reply submitted
294 by a responsive and responsible vendor that conforms in all
295 material respects to the solicitation.

Amendment No.

296 ~~(27)(26)~~ "Responsive vendor" means a vendor that has
297 submitted a bid, proposal, or reply that conforms in all
298 material respects to the solicitation.

299 ~~(28)(27)~~ "State term contract" means a term contract that
300 is competitively procured by the department pursuant to s.
301 287.057 and that is used by agencies and eligible users pursuant
302 to s. 287.056.

303 ~~(29)(28)~~ "Term contract" means an indefinite quantity
304 contract to furnish commodities or contractual services during a
305 defined period.

306 Section 5. Paragraph (b) of subsection (2), and
307 subsections (8) and (15) of section 287.042, Florida Statutes,
308 are amended to read:

309 287.042 Powers, duties, and functions.—The department
310 shall have the following powers, duties, and functions:

311 (2)

312 (b) As an alternative to any provision in s. 120.57(3)(c),
313 the department may proceed with the competitive solicitation or
314 contract award process of a term contract in the following
315 circumstances:

316 1. When the Secretary of Management Services ~~the~~
317 ~~department~~ or his or her designee sets forth in writing
318 particular facts and circumstances that ~~which~~ demonstrate that
319 the delay incident to staying the solicitation or contract award
320 process would be detrimental to the interests of the state.
321 After the award of a contract resulting from a competitive
322 solicitation in which a timely protest was received and in which

Amendment No.

323 the state did not prevail, the contract may be canceled and
324 reawarded.

325 2. When a vendor protests a notice of intent to award a
326 contract to multiple vendors, the intended award may proceed
327 unless the protesting vendor submits to the department in
328 writing particular facts and circumstances that demonstrate a
329 reasonable basis for protesting the award to the other vendor or
330 vendors. The Secretary of Management Services or his or her
331 designee shall determine in writing whether the vendor has
332 demonstrated a sufficient basis for stay of the intended award.
333 If the vendor prevails in the protest, the vendor shall be added
334 to the contract with the same terms and conditions as the other
335 awarded vendors.

336 (8) To provide any commodity and contractual service
337 purchasing rules to the Chief Financial Officer and all agencies
338 electronically or through an electronic medium or other means.
339 Agencies may not approve any account or request any payment of
340 any account for the purchase of any commodity or the procurement
341 of any contractual service covered by a purchasing or
342 contractual service rule except as authorized therein. The
343 department shall furnish copies of rules adopted by the
344 department to any county, municipality, or other local public
345 agency requesting them.

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

Amendment No.

351 (a) Each agency that has been appropriated or has existing
352 funds for such purchase, shall, upon contract award by the
353 department, transfer their portion of the funds into the
354 department's Operating Trust Fund for payment by the department.
355 The funds shall be transferred by the Executive Office of the
356 Governor pursuant to the agency budget amendment request
357 provisions in chapter 216.

358 (b) Agencies that sign the joint agreements are
359 financially obligated for their portion of the agreed-upon
360 funds. If an agency becomes more than 90 days delinquent in
361 paying the funds, the department shall certify to the Chief
362 Financial Officer the amount due, and the Chief Financial
363 Officer shall transfer the amount due to the Operating Trust
364 Fund of the department from any of the agency's available funds.
365 The Chief Financial Officer shall report these transfers and the
366 reasons for the transfers to the Executive Office of the
367 Governor and the legislative appropriations committees.

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

370 287.056 Purchases from purchasing agreements and state
371 term contracts.—

372 (1) Agencies shall, and eligible users may, purchase
373 commodities and contractual services from purchasing agreements
374 established and state term contracts procured, pursuant to s.
375 287.057, by the department. ~~Each agency agreement made under~~
376 ~~this subsection shall include:~~

Amendment No.

377 ~~(a) A provision specifying a scope of work that clearly~~
378 ~~establishes all tasks that the contractor is required to~~
379 ~~perform.~~

380 ~~(b) A provision dividing the contract into quantifiable,~~
381 ~~measurable, and verifiable units of deliverables that must be~~
382 ~~received and accepted in writing by the contract manager before~~
383 ~~payment. Each deliverable must be directly related to the scope~~
384 ~~of work and specify the required minimum level of service to be~~
385 ~~performed and the criteria for evaluating the successful~~
386 ~~completion of each deliverable.~~

387 Section 7. Paragraph (a) of subsection (1) and subsections
388 (3), (10), (12), (13), (14), (16), and (22) of section 287.057,
389 Florida Statutes, are amended to read:

390 287.057 Procurement of commodities or contractual
391 services.—

392 (1) The competitive solicitation processes authorized in
393 this section shall be used for procurement of commodities or
394 contractual services in excess of the threshold amount provided
395 for CATEGORY TWO in s. 287.017. Any competitive solicitation
396 shall be made available simultaneously to all vendors, must
397 include the time and date for the receipt of bids, proposals, or
398 replies and of the public opening, and must include all
399 contractual terms and conditions applicable to the procurement,
400 including the criteria to be used in determining acceptability
401 and relative merit of the bid, proposal, or reply.

402 (a) Invitation to bid.—The invitation to bid shall be used
403 when the agency is capable of specifically defining the scope of
404 work for which a contractual service is required or when the

Amendment No.

405 agency is capable of establishing precise specifications
406 defining the actual commodity or group of commodities required.

407 1. All invitations to bid must include:

408 a. A detailed description of the commodities or
409 contractual services sought; and

410 b. If the agency contemplates renewal of the contract, a
411 statement to that effect.

412 2. Bids submitted in response to an invitation to bid in
413 which the agency contemplates renewal of the contract must
414 include the price for each year for which the contract may be
415 renewed.

416 3. Evaluation of bids shall include consideration of the
417 total cost for each year of the contract, including renewal
418 years, as submitted by the vendor.

419 4. The contract shall be awarded to the responsible and
420 responsive vendor that submits the lowest responsive bid.

421 (3) When the purchase price of commodities or contractual
422 services exceeds the threshold amount provided in s. 287.017 for
423 CATEGORY TWO, no purchase of commodities or contractual services
424 may be made without receiving competitive sealed bids,
425 competitive sealed proposals, or competitive sealed replies
426 unless:

427 (a) The agency head determines in writing that an
428 immediate danger to the public health, safety, or welfare or
429 other substantial loss to the state requires emergency action.
430 After the agency head signs ~~makes such~~ a written determination,
431 the agency may proceed with the procurement of commodities or
432 contractual services necessitated by the immediate danger,

Amendment No.

433 without receiving competitive sealed bids, competitive sealed
434 proposals, or competitive sealed replies. However, such
435 emergency procurement shall be made by obtaining pricing
436 information from at least two prospective vendors, which must be
437 retained in the contract file, unless the agency determines in
438 writing that the time required to obtain pricing information
439 will increase the immediate danger to the public health, safety,
440 or welfare or other substantial loss to the state. The agency
441 shall furnish copies of all written determinations ~~certified~~
442 ~~under oath~~ and any other documents relating to the emergency
443 action to the department. A copy of the written statement shall
444 be furnished to the Chief Financial Officer with the voucher
445 authorizing payment. The individual purchase of personal
446 clothing, shelter, or supplies which are needed on an emergency
447 basis to avoid institutionalization or placement in a more
448 restrictive setting is an emergency for the purposes of this
449 paragraph, and the filing with the department of such statement
450 is not required in such circumstances. In the case of the
451 emergency purchase of insurance, the period of coverage of such
452 insurance shall not exceed a period of 30 days, and all such
453 emergency purchases shall be reported to the department.

454 (b) The purchase is made by an agency from a state term
455 contract procured, pursuant to this section, by the department
456 or by an agency, after receiving approval from the department,
457 from a contract procured, pursuant to subsection (1), by another
458 agency.

459 (c) Commodities or contractual services available only
460 from a single source may be excepted from the competitive-

Amendment No.

461 solicitation requirements. When an agency believes that
462 commodities or contractual services are available only from a
463 single source, the agency shall electronically post a
464 description of the commodities or contractual services sought
465 for a period of at least 7 business days. The description must
466 include a request that prospective vendors provide information
467 regarding their ability to supply the commodities or contractual
468 services described. If it is determined in writing by the
469 agency, after reviewing any information received from
470 prospective vendors, that the commodities or contractual
471 services are available only from a single source, the agency
472 shall:

473 ~~1. provide notice of its intended decision to enter a~~
474 ~~single-source purchase contract in the manner specified in s.~~
475 ~~120.57(3), if the amount of the contract does not exceed the~~
476 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

477 ~~2. Request approval from the department for the single-~~
478 ~~source purchase, if the amount of the contract exceeds the~~
479 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~
480 ~~agency shall initiate its request for approval in a form~~
481 ~~prescribed by the department, which request may be~~
482 ~~electronically transmitted. The failure of the department to~~
483 ~~approve or disapprove the agency's request for approval within~~
484 ~~21 days after receiving such request shall constitute prior~~
485 ~~approval of the department. If the department approves the~~
486 ~~agency's request, the agency shall provide notice of its~~
487 ~~intended decision to enter a single-source contract in the~~
488 ~~manner specified in s. 120.57(3).~~

Amendment No.

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

494 ~~(d)~~(e) Prescriptive assistive devices for the purpose of
495 medical, developmental, or vocational rehabilitation of clients
496 are excepted from competitive-solicitation requirements and
497 shall be procured pursuant to an established fee schedule or by
498 any other method which ensures the best price for the state,
499 taking into consideration the needs of the client. Prescriptive
500 assistive devices include, but are not limited to, prosthetics,
501 orthotics, and wheelchairs. For purchases made pursuant to this
502 paragraph, state agencies shall annually file with the
503 department a description of the purchases and methods of
504 procurement.

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

508 1. Artistic services. For the purposes of this subsection,
509 the term "artistic services" does not include advertising or
510 typesetting. As used in this subparagraph, the term
511 "advertising" means the making of a representation in any form
512 in connection with a trade, business, craft, or profession in
513 order to promote the supply of commodities or services by the
514 person promoting the commodities or contractual services.

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

Amendment No.

- 517 3. Lectures by individuals.
- 518 4. Legal services, including attorney, paralegal, expert
519 witness, appraisal, or mediator services.
- 520 5.a. Health services involving examination, diagnosis,
521 treatment, prevention, medical consultation, or administration.
- 522 b. Beginning January 1, 2011, health services, including,
523 but not limited to, substance abuse and mental health services,
524 involving examination, diagnosis, treatment, prevention, or
525 medical consultation, when such services are offered to eligible
526 individuals participating in a specific program that qualifies
527 multiple providers and uses a standard payment methodology.
528 Reimbursement of administrative costs for providers of services
529 purchased in this manner shall also be exempt. For purposes of
530 this sub-subparagraph, "providers" means health professionals,
531 health facilities, or organizations that deliver or arrange for
532 the delivery of health services.
- 533 6. Services provided to persons with mental or physical
534 disabilities by not-for-profit corporations which have obtained
535 exemptions under the provisions of s. 501(c)(3) of the United
536 States Internal Revenue Code or when such services are governed
537 by the provisions of Office of Management and Budget Circular A-
538 122. However, in acquiring such services, the agency shall
539 consider the ability of the vendor, past performance,
540 willingness to meet time requirements, and price.
- 541 7. Medicaid services delivered to an eligible Medicaid
542 recipient unless the agency is directed otherwise in law.
- 543 8. Family placement services.

Amendment No.

544 9. Prevention services related to mental health, including
545 drug abuse prevention programs, child abuse prevention programs,
546 and shelters for runaways, operated by not-for-profit
547 corporations. However, in acquiring such services, the agency
548 shall consider the ability of the vendor, past performance,
549 willingness to meet time requirements, and price.

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

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

553 12. Services or commodities provided by governmental
554 entities ~~agencies~~.

555 13. Statewide public service announcement programs
556 provided by a Florida statewide nonprofit corporation under s.
557 501(c)(6) of the Internal Revenue Code, with a guaranteed
558 documented match of at least \$3 to \$1.

559 ~~(f)-(g)~~ Continuing education events or programs that are
560 offered to the general public and for which fees have been
561 collected that pay all expenses associated with the event or
562 program are exempt from requirements for competitive
563 solicitation.

564 (10) A contract for commodities or contractual services
565 may be awarded without competition if state or federal law
566 prescribes with whom the agency must contract or if the rate of
567 payment or the recipient of the funds is established during the
568 appropriations process.

569 (12) Extension of a contract for commodities or
570 contractual services shall be in writing for a period not to
571 exceed 6 months and shall be subject to the same terms and

Amendment No.

572 conditions set forth in the initial contract and any written
573 amendments signed by the parties. There shall be only one
574 extension of a contract unless the failure to meet the criteria
575 set forth in the contract for completion of the contract is due
576 to events beyond the control of the contractor.

577 (13) Contracts for commodities or contractual services may
578 be renewed for a period that may not exceed 3 years or the term
579 of the original contract, whichever period is longer. Renewal of
580 a contract for commodities or contractual services shall be in
581 writing and shall be subject to the same terms and conditions
582 set forth in the initial contract and any written amendments
583 signed by the parties. If the commodity or contractual service
584 is purchased as a result of the solicitation of bids, proposals,
585 or replies, the price of the commodity or contractual service to
586 be renewed shall be specified in the bid, proposal, or reply,
587 except that an agency may negotiate lower pricing. A renewal
588 contract may not include any compensation for costs associated
589 with the renewal. Renewals shall be contingent upon satisfactory
590 performance evaluations by the agency and subject to the
591 availability of funds. Exceptional purchase contracts pursuant
592 to paragraphs (3) (a) and (c) may not be renewed. With the
593 exception of subsection (10)(12), if a contract amendment
594 results in a longer contract term or increased payments, a state
595 agency may not renew or amend a contract for the outsourcing of
596 a service or activity that has an original term value exceeding
597 the sum of \$10 million before submitting a written report
598 concerning contract performance to the Governor, the President

Amendment No.

599 of the Senate, and the Speaker of the House of Representatives
600 at least 90 days before execution of the renewal or amendment.

601 (14) For each contractual services contract, the agency
602 shall designate an employee to function as contract manager who
603 ~~is shall be~~ responsible for enforcing performance of the
604 contract terms and conditions and serve as a liaison with the
605 contractor. Each contract manager who is responsible for
606 contracts in excess of the threshold amount for CATEGORY TWO
607 established under s. 287.017 must be a certified contract
608 manager. The Department of Management Services is responsible
609 for establishing and disseminating the requirements for
610 certification, which include completing the attend training
611 conducted by the Chief Financial Officer for accountability in
612 contracts and grant management. The Chief Financial Officer
613 shall establish and disseminate uniform procedures pursuant to
614 s. 17.03(3) to ensure that contractual services have been
615 rendered in accordance with the contract terms before the agency
616 processes the invoice for payment. The procedures must ~~shall~~
617 include, but need not be limited to, procedures for monitoring
618 and documenting contractor performance, reviewing and
619 documenting all deliverables for which payment is requested by
620 vendors, and providing written certification by contract
621 managers of the agency's receipt of goods and services.

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

625 (a) At least three persons to evaluate proposals and
626 replies who collectively have experience and knowledge in the

Amendment No.

627 program areas and service requirements for which commodities or
628 contractual services are sought.

629 (b) At least three persons to conduct negotiations during
630 a competitive sealed reply procurement who collectively have
631 experience and knowledge in negotiating contracts, contract
632 procurement, and the program areas and service requirements for
633 which commodities or contractual services are sought.

634 (c) When the value of a contract is in excess of \$1
635 million in any fiscal year, at least one of the persons
636 conducting negotiations must be certified as a contract
637 negotiator based upon rules adopted by the Department of
638 Management Services in order to ensure that certified contract
639 negotiators are knowledgeable about effective negotiation
640 strategies, capable of successfully implementing those
641 strategies, and involved appropriately in the procurement
642 process. At a minimum, the rules must address the qualifications
643 required for certification, the method of certification, and the
644 procedure for involving the certified negotiator. If the value
645 of a contract is in excess of \$10 million in any fiscal year, at
646 least one of the persons conducting negotiations must be a
647 Project Management Professional, as certified by the Project
648 Management Institute.

649 (22) The department, in consultation with the Chief
650 Financial Officer ~~Agency for Enterprise Information Technology~~
651 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online
652 procurement of commodities and contractual services. To enable
653 the state to promote open competition and to leverage its buying
654 power, agencies shall participate in the online procurement

Amendment No.

655 program, and eligible users may participate in the program. Only
656 vendors prequalified as meeting mandatory requirements and
657 qualifications criteria may participate in online procurement.

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

661 (b) The department, ~~in consultation with the agency,~~ shall
662 adopt rules, pursuant to ss. 120.536(1) and 120.54, to
663 administer the program for online procurement. The rules shall
664 include, but not be limited to:

665 1. Determining the requirements and qualification criteria
666 for prequalifying vendors.

667 2. Establishing the procedures for conducting online
668 procurement.

669 3. Establishing the criteria for eligible commodities and
670 contractual services.

671 4. Establishing the procedures for providing access to
672 online procurement.

673 5. Determining the criteria warranting any exceptions to
674 participation in the online procurement program.

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

677 1. The fees may be imposed on an individual transaction
678 basis or as a fixed percentage of the cost savings generated. At
679 a minimum, the fees must be set in an amount sufficient to cover
680 the projected costs of the services, including administrative
681 and project service costs in accordance with the policies of the
682 department.

Amendment No.

683 2. If the department contracts with a provider for online
684 procurement, the department, pursuant to appropriation, shall
685 compensate the provider from the fees after the department has
686 satisfied all ongoing costs. The provider shall report
687 transaction data to the department each month so that the
688 department may determine the amount due and payable to the
689 department from each vendor.

690 3. All fees that are due and payable to the state on a
691 transactional basis or as a fixed percentage of the cost savings
692 generated are subject to s. 215.31 and must be remitted within
693 40 days after receipt of payment for which the fees are due. For
694 fees that are not remitted within 40 days, the vendor shall pay
695 interest at the rate established under s. 55.03(1) on the unpaid
696 balance from the expiration of the 40-day period until the fees
697 are remitted.

698 4. All fees and surcharges collected under this paragraph
699 shall be deposited in the Operating Trust Fund as provided by
700 law.

701 Section 8. Paragraph (a) of subsection (3) of section
702 287.0571, Florida Statutes, is amended to read:

703 287.0571 Business case to outsource; applicability.-

704 (3) This section does not apply to:

705 (a) A procurement of commodities and contractual services
706 listed in s. 287.057(3)(d) and (e) and (21) 287.057(3)(e), (f),
707 and (g) and (21).

708 Section 9. Subsections (1) and (2) of section 287.058,
709 Florida Statutes, are amended to read:

710 287.058 Contract document.-

Amendment No.

711 (1) Every procurement of contractual services in excess of
712 the threshold amount provided in s. 287.017 for CATEGORY TWO,
713 except for the providing of health and mental health services or
714 drugs in the examination, diagnosis, or treatment of sick or
715 injured state employees or the providing of other benefits as
716 required by the provisions of chapter 440, shall be evidenced by
717 a written agreement embodying all provisions and conditions of
718 the procurement of such services, which shall, where applicable,
719 include, but not be limited to, a provision:

720 (a) That bills for fees or other compensation for services
721 or expenses be submitted in detail sufficient for a proper
722 preaudit and postaudit thereof.

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

726 (c) Allowing unilateral cancellation by the agency for
727 refusal by the contractor to allow public access to all
728 documents, papers, letters, or other material made or received
729 by the contractor in conjunction with the contract, unless the
730 records are exempt from s. 24(a) of Art. I of the State
731 Constitution and s. 119.07(1).

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

734 (e) Dividing the contract into quantifiable, measurable,
735 and verifiable units of deliverables that must be received and
736 accepted in writing by the contract manager before payment. Each
737 deliverable must be directly related to the scope of work and
738 specify a performance measure. As used in this paragraph,

Amendment No.

739 performance measure means the required minimum acceptable level
740 of service to be performed and criteria for evaluating the
741 successful completion of each deliverable.

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

744 (g) Specifying that the contract may be renewed for a
745 period that may not exceed 3 years or the term of the original
746 contract, whichever period is longer, specifying the renewal
747 price for the contractual service as set forth in the bid,
748 proposal, or reply, specifying that costs for the renewal may
749 not be charged, and specifying that renewals shall be contingent
750 upon satisfactory performance evaluations by the agency and
751 subject to the availability of funds. Exceptional purchase
752 contracts pursuant to s. 287.057(3)(a) and (c) may not be
753 renewed.

754 (h) Specifying the financial consequences that the agency
755 must apply if the contractor fails to perform in accordance with
756 the contract.

757 (i) Addressing the property rights of any intellectual
758 property related to the contract and the specific rights of the
759 state regarding the intellectual property if the contractor
760 fails to provide the services or is no longer providing
761 services.

762
763 In lieu of a written agreement, the agency ~~department~~ may
764 authorize the use of a purchase order for classes of contractual
765 services, if the provisions of paragraphs (a)-(i) are included
766 in the purchase order or solicitation. The purchase order must

Amendment No.

767 include, but need not be limited to, an adequate description of
768 the services, the contract period, and the method of payment. In
769 lieu of printing the provisions of paragraphs (a)-(c) and (g)
770 ~~(a)-(i)~~ in the contract document or purchase order, agencies may
771 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~
772 ~~(i)~~ by reference.

773 (2) The written agreement shall be signed by the agency
774 head or designee and the contractor before ~~prior to~~ the
775 rendering of any contractual service the value of which is in
776 excess of the threshold amount provided in s. 287.017 for
777 CATEGORY TWO, except in the case of a valid emergency as
778 certified by the agency head. The ~~certification~~ written
779 statement of an emergency shall be prepared within 30 days after
780 the contractor begins rendering the service and shall state the
781 particular facts and circumstances which precluded the execution
782 of the written agreement before ~~prior to~~ the rendering of the
783 service. If the agency fails to have the contract signed by the
784 agency head or designee and the contractor before ~~prior to~~
785 rendering the contractual service, and if an emergency does not
786 exist, the agency head shall, no later than 30 days after the
787 contractor begins rendering the service, certify the specific
788 conditions and circumstances to the department as well as
789 describe actions taken to prevent recurrence of such
790 noncompliance. The agency head may delegate the written
791 statement ~~certification~~ only to other senior management agency
792 personnel. A copy of the written statement ~~certification~~ shall
793 be furnished to the Chief Financial Officer with the voucher
794 authorizing payment. The department shall report repeated

Amendment No.

795 instances of noncompliance by an agency to the Auditor General.
796 Nothing in this subsection shall be deemed to authorize
797 additional compensation prohibited by s. 215.425. The
798 procurement of contractual services shall not be divided so as
799 to avoid the provisions of this section.

800 Section 10. Section 287.076, Florida Statutes, is amended
801 to read:

802 287.076 Project Management Professionals training for
803 personnel involved in managing outsourcings and negotiations;
804 funding.—The Department of Management Services may implement a
805 program to train state agency employees who are involved in
806 managing outsourcings as Project Management Professionals, as
807 certified by the Project Management Institute. Subject to annual
808 appropriations, For the 2006-2007 fiscal year, the sum of
809 \$500,000 in recurring funds from the General Revenue Fund is
810 appropriated to the Department of Management Services to
811 implement this program. the Department of Management Services,
812 in consultation with entities subject to this act, shall
813 identify personnel to participate in this training based on
814 requested need and ensure that each agency is represented. The
815 Department of Management Services may remit payment for this
816 training on behalf of all participating personnel.

817 Section 11. Section 287.136, F.S., is created to read:

818 287.136 Audit of executed contract documents.— After the
819 execution of a contract, the Chief Financial Officer shall
820 perform audits of the executed contract documents and contract
821 manager's records to ensure that adequate internal controls are
822 in place for complying with the terms and conditions of the

Amendment No.

823 contract and for the validation and receipt of goods and
824 services.

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

829 (2) Within 30 days after the receipt of the final audit
830 report, the agency head shall submit to the Chief Financial
831 Officer or designee, his or her written statement of explanation
832 or rebuttal concerning findings requiring corrective action,
833 including corrective action to be taken to preclude a
834 recurrence.

835 Section 12. Subsection (3) of section 16.0155, Florida
836 Statutes, is amended to read:

837 16.0155 Contingency fee agreements.-

838 (3) If the Attorney General makes the determination
839 described in subsection (2), notwithstanding the exemption
840 provided in s. 287.057(3) (e) ~~(f)~~, the Attorney General shall
841 request proposals from private attorneys to represent the
842 department on a contingency-fee basis, unless the Attorney
843 General determines in writing that requesting proposals is not
844 feasible under the circumstances. The written determination does
845 not constitute a final agency action subject to review pursuant
846 to ss. 120.569 and 120.57. For purposes of this subsection only,
847 the department is exempt from the requirements of s. 120.57(3),
848 and neither the request for proposals nor the contract award is
849 subject to challenge pursuant to ss. 120.569 and 120.57.

Amendment No.

850 Section 13. Subsection (1) of section 283.33, Florida
851 Statutes, is amended to read:

852 283.33 Printing of publications; lowest bidder awards.—

853 (1) Publications may be printed and prepared in-house, by
854 another agency or the Legislature, or purchased on bid,
855 whichever is more economical and practicable as determined by
856 the agency. An agency may contract for binding separately when
857 more economical or practicable, whether or not the remainder of
858 the printing is done in-house. A vendor may subcontract for
859 binding and still be considered a responsible vendor,
860 notwithstanding s. 287.012(25) ~~287.012(24)~~.

861 Section 14. Subsection (3) of section 394.457, Florida
862 Statutes, is amended to read:

863 394.457 Operation and administration.—

864 (3) POWER TO CONTRACT.—The department may contract to
865 provide, and be provided with, services and facilities in order
866 to carry out its responsibilities under this part with the
867 following agencies: public and private hospitals; receiving and
868 treatment facilities; clinics; laboratories; departments,
869 divisions, and other units of state government; the state
870 colleges and universities; the community colleges; private
871 colleges and universities; counties, municipalities, and any
872 other governmental unit, including facilities of the United
873 States Government; and any other public or private entity which
874 provides or needs facilities or services. Baker Act funds for
875 community inpatient, crisis stabilization, short-term
876 residential treatment, and screening services must be allocated
877 to each county pursuant to the department's funding allocation

Amendment No.

878 methodology. Notwithstanding the provisions of s. 287.057(3)(e)
879 ~~287.057(3)(f)~~, contracts for community-based Baker Act services
880 for inpatient, crisis stabilization, short-term residential
881 treatment, and screening provided under this part, other than
882 those with other units of government, to be provided for the
883 department must be awarded using competitive sealed bids when
884 the county commission of the county receiving the services makes
885 a request to the department's district office by January 15 of
886 the contracting year. The district shall not enter into a
887 competitively bid contract under this provision if such action
888 will result in increases of state or local expenditures for
889 Baker Act services within the district. Contracts for these
890 Baker Act services using competitive sealed bids will be
891 effective for 3 years. The department shall adopt rules
892 establishing minimum standards for such contracted services and
893 facilities and shall make periodic audits and inspections to
894 assure that the contracted services are provided and meet the
895 standards of the department.

896 Section 15. Paragraph (a) of subsection (2) of section
897 402.7305, Florida Statutes, is amended to read:

898 402.7305 Department of Children and Family Services;
899 procurement of contractual services; contract management.-

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

901 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,
902 whenever the department intends to contract with a public
903 postsecondary institution to provide a service, the department
904 must allow all public postsecondary institutions in this state
905 that are accredited by the Southern Association of Colleges and

Amendment No.

906 Schools to bid on the contract. Thereafter, notwithstanding any
907 other provision to the contrary, if a public postsecondary
908 institution intends to subcontract for any service awarded in
909 the contract, the subcontracted service must be procured by
910 competitive procedures.

911 Section 16. Section 409.9132, Florida Statutes, is amended
912 to read:

913 409.9132 Pilot project to monitor home health services.—
914 The Agency for Health Care Administration shall expand the home
915 health agency monitoring pilot project in Miami-Dade County on a
916 statewide basis effective July 1, 2012, except in counties in
917 which the program will not be cost-effective, as determined by
918 the agency. The agency shall contract with a vendor to verify
919 the utilization and delivery of home health services and provide
920 an electronic billing interface for home health services. The
921 contract must require the creation of a program to submit claims
922 electronically for the delivery of home health services. The
923 program must verify telephonically visits for the delivery of
924 home health services using voice biometrics. The agency may seek
925 amendments to the Medicaid state plan and waivers of federal
926 laws, as necessary, to implement or expand the pilot project.
927 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must
928 award the contract through the competitive solicitation process
929 and may use the current contract to expand the home health
930 agency monitoring pilot project to include additional counties
931 as authorized under this section.

932 Section 17. Subsection (3) of section 427.0135, Florida
933 Statutes, is amended to read:

Amendment No.

934 427.0135 Purchasing agencies; duties and
935 responsibilities.—Each purchasing agency, in carrying out the
936 policies and procedures of the commission, shall:

937 (3) Not procure transportation disadvantaged services
938 without initially negotiating with the commission, as provided
939 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise
940 authorized by statute. If the purchasing agency, after
941 consultation with the commission, determines that it cannot
942 reach mutually acceptable contract terms with the commission,
943 the purchasing agency may contract for the same transportation
944 services provided in a more cost-effective manner and of
945 comparable or higher quality and standards. The Medicaid agency
946 shall implement this subsection in a manner consistent with s.
947 409.908(18) and as otherwise limited or directed by the General
948 Appropriations Act.

949 Section 18. Paragraph (c) of subsection (5) of section
950 445.024, Florida Statutes, is amended to read:

951 445.024 Work requirements.—

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

956 (c) Notwithstanding the exemption from the competitive
957 sealed bid requirements provided in s. 287.057(3)(e)
958 ~~287.057(3)(f)~~ for certain contractual services, each contract
959 awarded under this chapter must be awarded on the basis of a
960 competitive sealed bid, except for a contract with a

Amendment No.

961 governmental entity as determined by the regional workforce
962 board.

963 Section 19. Paragraph (c) of subsection (5) of section
964 627.311, Florida Statutes, is amended to read:

965 627.311 Joint underwriters and joint reinsurers; public
966 records and public meetings exemptions.—

967 (5)

968 (c) The operation of the plan shall be governed by a plan
969 of operation that is prepared at the direction of the board of
970 governors and approved by order of the office. The plan is
971 subject to continuous review by the office. The office may, by
972 order, withdraw approval of all or part of a plan if the office
973 determines that conditions have changed since approval was
974 granted and that the purposes of the plan require changes in the
975 plan. The plan of operation shall:

976 1. Authorize the board to engage in the activities
977 necessary to implement this subsection, including, but not
978 limited to, borrowing money.

979 2. Develop criteria for eligibility for coverage by the
980 plan, including, but not limited to, documented rejection by at
981 least two insurers which reasonably assures that insureds
982 covered under the plan are unable to acquire coverage in the
983 voluntary market.

984 3. Require notice from the agent to the insured at the
985 time of the application for coverage that the application is for
986 coverage with the plan and that coverage may be available
987 through an insurer, group self-insurers' fund, commercial self-

Amendment No.

988 insurance fund, or assessable mutual insurer through another
989 agent at a lower cost.

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

993 a. Establishing procedures for an insurer to use in
994 notifying the plan of the insurer's desire to provide coverage
995 to applicants to the plan or existing insureds of the plan and
996 in describing the types of risks in which the insurer is
997 interested. The description of the desired risks must be on a
998 form developed by the plan.

999 b. Developing forms and procedures that provide an insurer
1000 with the information necessary to determine whether the insurer
1001 wants to write particular applicants to the plan or insureds of
1002 the plan.

1003 c. Developing procedures for notice to the plan and the
1004 applicant to the plan or insured of the plan that an insurer
1005 will insure the applicant or the insured of the plan, and notice
1006 of the cost of the coverage offered; and developing procedures
1007 for the selection of an insuring entity by the applicant or
1008 insured of the plan.

1009 d. Provide for a market-assistance plan to assist in the
1010 placement of employers. All applications for coverage in the
1011 plan received 45 days before the effective date for coverage
1012 shall be processed through the market-assistance plan. A market-
1013 assistance plan specifically designed to serve the needs of
1014 small, good policyholders as defined by the board must be
1015 reviewed and updated periodically.

Amendment No.

1016 5. Provide for policy and claims services to the insureds
1017 of the plan of the nature and quality provided for insureds in
1018 the voluntary market.

1019 6. Provide for the review of applications for coverage
1020 with the plan for reasonableness and accuracy, using any
1021 available historic information regarding the insured.

1022 7. Provide for procedures for auditing insureds of the
1023 plan which are based on reasonable business judgment and are
1024 designed to maximize the likelihood that the plan will collect
1025 the appropriate premiums.

1026 8. Authorize the plan to terminate the coverage of and
1027 refuse future coverage for any insured that submits a fraudulent
1028 application to the plan or provides fraudulent or grossly
1029 erroneous records to the plan or to any service provider of the
1030 plan in conjunction with the activities of the plan.

1031 9. Establish service standards for agents who submit
1032 business to the plan.

1033 10. Establish criteria and procedures to prohibit any
1034 agent who does not adhere to the established service standards
1035 from placing business with the plan or receiving, directly or
1036 indirectly, any commissions for business placed with the plan.

1037 11. Provide for the establishment of reasonable safety
1038 programs for all insureds in the plan. All insureds of the plan
1039 must participate in the safety program.

1040 12. Authorize the plan to terminate the coverage of and
1041 refuse future coverage to any insured who fails to pay premiums
1042 or surcharges when due; who, at the time of application, is
1043 delinquent in payments of workers' compensation or employer's

Amendment No.

1044 liability insurance premiums or surcharges owed to an insurer,
1045 group self-insurers' fund, commercial self-insurance fund, or
1046 assessable mutual insurer licensed to write such coverage in
1047 this state; or who refuses to substantially comply with any
1048 safety programs recommended by the plan.

1049 13. Authorize the board of governors to provide the goods
1050 and services required by the plan through staff employed by the
1051 plan, through reasonably compensated service providers who
1052 contract with the plan to provide services as specified by the
1053 board of governors, or through a combination of employees and
1054 service providers.

1055 a. Purchases that equal or exceed \$2,500 but are less than
1056 or equal to \$25,000, shall be made by receipt of written quotes,
1057 telephone quotes, or informal bids, whenever practical. The
1058 procurement of goods or services valued over \$25,000 is subject
1059 to competitive solicitation, except in situations in which the
1060 goods or services are provided by a sole source or are deemed an
1061 emergency purchase, or the services are exempted from
1062 competitive-solicitation requirements under s. 287.057(3)(e)
1063 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency
1064 procurement must be documented. Contracts for goods or services
1065 valued at or over \$100,000 are subject to board approval.

1066 b. The board shall determine whether it is more cost-
1067 effective and in the best interests of the plan to use legal
1068 services provided by in-house attorneys employed by the plan
1069 rather than contracting with outside counsel. In making such
1070 determination, the board shall document its findings and shall
1071 consider the expertise needed; whether time commitments exceed

Amendment No.

1072 in-house staff resources; whether local representation is
1073 needed; the travel, lodging, and other costs associated with in-
1074 house representation; and such other factors that the board
1075 determines are relevant.

1076 14. Provide for service standards for service providers,
1077 methods of determining adherence to those service standards,
1078 incentives and disincentives for service, and procedures for
1079 terminating contracts for service providers that fail to adhere
1080 to service standards.

1081 15. Provide procedures for selecting service providers and
1082 standards for qualification as a service provider that
1083 reasonably assure that any service provider selected will
1084 continue to operate as an ongoing concern and is capable of
1085 providing the specified services in the manner required.

1086 16. Provide for reasonable accounting and data-reporting
1087 practices.

1088 17. Provide for annual review of costs associated with the
1089 administration and servicing of the policies issued by the plan
1090 to determine alternatives by which costs can be reduced.

1091 18. Authorize the acquisition of such excess insurance or
1092 reinsurance as is consistent with the purposes of the plan.

1093 19. Provide for an annual report to the office on a date
1094 specified by the office and containing such information as the
1095 office reasonably requires.

1096 20. Establish multiple rating plans for various
1097 classifications of risk which reflect risk of loss, hazard
1098 grade, actual losses, size of premium, and compliance with loss
1099 control. At least one of such plans must be a preferred-rating

Amendment No.

1100 plan to accommodate small-premium policyholders with good
1101 experience as defined in sub-subparagraph 22.a.

1102 21. Establish agent commission schedules.

1103 22. For employers otherwise eligible for coverage under
1104 the plan, establish three tiers of employers meeting the
1105 criteria and subject to the rate limitations specified in this
1106 subparagraph.

1107 a. Tier One.—

1108 (I) Criteria; rated employers.—An employer that has an
1109 experience modification rating shall be included in Tier One if
1110 the employer meets all of the following:

1111 (A) The experience modification is below 1.00.

1112 (B) The employer had no lost-time claims subsequent to the
1113 applicable experience modification rating period.

1114 (C) The total of the employer's medical-only claims
1115 subsequent to the applicable experience modification rating
1116 period did not exceed 20 percent of premium.

1117 (II) Criteria; non-rated employers.—An employer that does
1118 not have an experience modification rating shall be included in
1119 Tier One if the employer meets all of the following:

1120 (A) The employer had no lost-time claims for the 3-year
1121 period immediately preceding the inception date or renewal date
1122 of the employer's coverage under the plan.

1123 (B) The total of the employer's medical-only claims for
1124 the 3-year period immediately preceding the inception date or
1125 renewal date of the employer's coverage under the plan did not
1126 exceed 20 percent of premium.

Amendment No.

1127 (C) The employer has secured workers' compensation
1128 coverage for the entire 3-year period immediately preceding the
1129 inception date or renewal date of the employer's coverage under
1130 the plan.

1131 (D) The employer is able to provide the plan with a loss
1132 history generated by the employer's prior workers' compensation
1133 insurer, except if the employer is not able to produce a loss
1134 history due to the insolvency of an insurer, the receiver shall
1135 provide to the plan, upon the request of the employer or the
1136 employer's agent, a copy of the employer's loss history from the
1137 records of the insolvent insurer if the loss history is
1138 contained in records of the insurer which are in the possession
1139 of the receiver. If the receiver is unable to produce the loss
1140 history, the employer may, in lieu of the loss history, submit
1141 an affidavit from the employer and the employer's insurance
1142 agent setting forth the loss history.

1143 (E) The employer is not a new business.

1144 (III) Premiums.—The premiums for Tier One insureds shall
1145 be set at a premium level 25 percent above the comparable
1146 voluntary market premiums until the plan has sufficient
1147 experience as determined by the board to establish an
1148 actuarially sound rate for Tier One, at which point the board
1149 shall, subject to paragraph (e), adjust the rates, if necessary,
1150 to produce actuarially sound rates, provided such rate
1151 adjustment shall not take effect prior to January 1, 2007.

1152 b. Tier Two.—

Amendment No.

1153 (I) Criteria; rated employers.—An employer that has an
1154 experience modification rating shall be included in Tier Two if
1155 the employer meets all of the following:

1156 (A) The experience modification is equal to or greater
1157 than 1.00 but not greater than 1.10.

1158 (B) The employer had no lost-time claims subsequent to the
1159 applicable experience modification rating period.

1160 (C) The total of the employer's medical-only claims
1161 subsequent to the applicable experience modification rating
1162 period did not exceed 20 percent of premium.

1163 (II) Criteria; non-rated employers.—An employer that does
1164 not have any experience modification rating shall be included in
1165 Tier Two if the employer is a new business. An employer shall be
1166 included in Tier Two if the employer has less than 3 years of
1167 loss experience in the 3-year period immediately preceding the
1168 inception date or renewal date of the employer's coverage under
1169 the plan and the employer meets all of the following:

1170 (A) The employer had no lost-time claims for the 3-year
1171 period immediately preceding the inception date or renewal date
1172 of the employer's coverage under the plan.

1173 (B) The total of the employer's medical-only claims for
1174 the 3-year period immediately preceding the inception date or
1175 renewal date of the employer's coverage under the plan did not
1176 exceed 20 percent of premium.

1177 (C) The employer is able to provide the plan with a loss
1178 history generated by the workers' compensation insurer that
1179 provided coverage for the portion or portions of such period
1180 during which the employer had secured workers' compensation

Amendment No.

1181 coverage, except if the employer is not able to produce a loss
1182 history due to the insolvency of an insurer, the receiver shall
1183 provide to the plan, upon the request of the employer or the
1184 employer's agent, a copy of the employer's loss history from the
1185 records of the insolvent insurer if the loss history is
1186 contained in records of the insurer which are in the possession
1187 of the receiver. If the receiver is unable to produce the loss
1188 history, the employer may, in lieu of the loss history, submit
1189 an affidavit from the employer and the employer's insurance
1190 agent setting forth the loss history.

1191 (III) Premiums.—The premiums for Tier Two insureds shall
1192 be set at a rate level 50 percent above the comparable voluntary
1193 market premiums until the plan has sufficient experience as
1194 determined by the board to establish an actuarially sound rate
1195 for Tier Two, at which point the board shall, subject to
1196 paragraph (e), adjust the rates, if necessary, to produce
1197 actuarially sound rates, provided such rate adjustment shall not
1198 take effect prior to January 1, 2007.

1199 c. Tier Three.—

1200 (I) Eligibility.—An employer shall be included in Tier
1201 Three if the employer does not meet the criteria for Tier One or
1202 Tier Two.

1203 (II) Rates.—The board shall establish, subject to
1204 paragraph (e), and the plan shall charge, actuarially sound
1205 rates for Tier Three insureds.

1206 23. For Tier One or Tier Two employers which employ no
1207 nonexempt employees or which report payroll which is less than
1208 the minimum wage hourly rate for one full-time employee for 1

Amendment No.

1209 year at 40 hours per week, the plan shall establish actuarially
1210 sound premiums, provided, however, that the premiums may not
1211 exceed \$2,500. These premiums shall be in addition to the fee
1212 specified in subparagraph 26. When the plan establishes
1213 actuarially sound rates for all employers in Tier One and Tier
1214 Two, the premiums for employers referred to in this paragraph
1215 are no longer subject to the \$2,500 cap.

1216 24. Provide for a depopulation program to reduce the
1217 number of insureds in the plan. If an employer insured through
1218 the plan is offered coverage from a voluntary market carrier:
1219 a. During the first 30 days of coverage under the plan;
1220 b. Before a policy is issued under the plan;
1221 c. By issuance of a policy upon expiration or cancellation
1222 of the policy under the plan; or
1223 d. By assumption of the plan's obligation with respect to
1224 an in-force policy,

1225
1226 that employer is no longer eligible for coverage through the
1227 plan. The premium for risks assumed by the voluntary market
1228 carrier must be no greater than the premium the insured would
1229 have paid under the plan, and shall be adjusted upon renewal to
1230 reflect changes in the plan rates and the tier for which the
1231 insured would qualify as of the time of renewal. The insured may
1232 be charged such premiums only for the first 3 years of coverage
1233 in the voluntary market. A premium under this subparagraph is
1234 deemed approved and is not an excess premium for purposes of s.
1235 627.171.

Amendment No.

1236 25. Require that policies issued and applications must
1237 include a notice that the policy could be replaced by a policy
1238 issued from a voluntary market carrier and that, if an offer of
1239 coverage is obtained from a voluntary market carrier, the
1240 policyholder is no longer eligible for coverage through the
1241 plan. The notice must also specify that acceptance of coverage
1242 under the plan creates a conclusive presumption that the
1243 applicant or policyholder is aware of this potential.

1244 26. Require that each application for coverage and each
1245 renewal premium be accompanied by a nonrefundable fee of \$475 to
1246 cover costs of administration and fraud prevention. The board
1247 may, with the prior approval of the office, increase the amount
1248 of the fee pursuant to a rate filing to reflect increased costs
1249 of administration and fraud prevention. The fee is not subject
1250 to commission and is fully earned upon commencement of coverage.

1251 Section 20. Paragraph (e) of subsection (6) of section
1252 627.351, Florida Statutes, is amended to read:

1253 627.351 Insurance risk apportionment plans.—

1254 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1255 (e) Purchases that equal or exceed \$2,500, but are less
1256 than \$25,000, shall be made by receipt of written quotes,
1257 written record of telephone quotes, or informal bids, whenever
1258 practical. The procurement of goods or services valued at or
1259 over \$25,000 shall be subject to competitive solicitation,
1260 except in situations where the goods or services are provided by
1261 a sole source or are deemed an emergency purchase; the services
1262 are exempted from competitive solicitation requirements under s.
1263 287.057(3)(e) ~~287.057(3)(f)~~; or the procurement of services is

Amendment No.

1264 subject to s. 627.3513. Justification for the sole-sourcing or
1265 emergency procurement must be documented. Contracts for goods or
1266 services valued at or over \$100,000 are subject to approval by
1267 the board.

1268 Section 21. Subsection (2) of section 765.5155, Florida
1269 Statutes, is amended to read:

1270 765.5155 Donor registry; education program.—

1271 (2) The agency and the department shall jointly contract
1272 for the operation of a donor registry and education program. The
1273 contractor shall be procured by competitive solicitation
1274 pursuant to chapter 287, notwithstanding any exemption in s.
1275 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,
1276 priority shall be given to existing nonprofit groups that are
1277 based within the state, have expertise working with procurement
1278 organizations, have expertise in conducting statewide organ and
1279 tissue donor public education campaigns, and represent the needs
1280 of the organ and tissue donation community in the state.

1281 Section 22. Subsection (10) of section 893.055, Florida
1282 Statutes, is amended to read:

1283 893.055 Prescription drug monitoring program.—

1284 (10) All costs incurred by the department in administering
1285 the prescription drug monitoring program shall be funded through
1286 federal grants or private funding applied for or received by the
1287 state. The department may not commit funds for the monitoring
1288 program without ensuring funding is available. The prescription
1289 drug monitoring program and the implementation thereof are
1290 contingent upon receipt of the nonstate funding. The department
1291 and state government shall cooperate with the direct-support

Amendment No.

1292 organization established pursuant to subsection (11) in seeking
1293 federal grant funds, other nonstate grant funds, gifts,
1294 donations, or other private moneys for the department so long as
1295 the costs of doing so are not considered material. Nonmaterial
1296 costs for this purpose include, but are not limited to, the
1297 costs of mailing and personnel assigned to research or apply for
1298 a grant. Notwithstanding the exemptions to competitive-
1299 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~,
1300 the department shall comply with the competitive-solicitation
1301 requirements under s. 287.057 for the procurement of any goods
1302 or services required by this section. Funds provided, directly
1303 or indirectly, by prescription drug manufacturers may not be
1304 used to implement the program.

1305 Section 23. This act shall take effect July 1, 2013.

1306
1307
1308 -----
T I T L E A M E N D M E N T

1309 Remove everything before the enacting clause and insert:
1310 An act relating to the procurement of commodities and
1311 contractual services; amending s. 215.971, F.S.; providing
1312 additional information that must be included in an agency
1313 agreement that provides state financial assistance to a
1314 recipient or subrecipient; requiring each state agency to
1315 designate an employee to function as a grant manager for
1316 purposes of the agreement; requiring training for certain grant
1317 managers; requiring the Chief Financial Officer to establish and
1318 disseminate uniform procedures for grant management; requiring
1319

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1309 (2013)

Amendment No.

1320 the grant manager to report certain information; requiring the
1321 Chief Financial Officer to perform audits of executed grant
1322 agreements; amending s. 215.985, F.S.; requiring the Chief
1323 Financial Officer to establish and maintain a secure, tract
1324 tracking system; providing requirements for the system;
1325 requiring state agencies to post certain information on the
1326 contract tracking system within a specified timeframe;
1327 specifying information that must be posted on the contract
1328 tracking system; providing that records posted on the system may
1329 not contain confidential or exempt information; requiring state
1330 agencies to redact confidential or exempt information prior to
1331 posting records on the system; providing a process for a party
1332 to the contract to request redaction of confidential or exempt
1333 information; providing notice requirements; providing that
1334 posting of information on the contract tracking system does not
1335 supersede the duty of a state agency to respond t a public
1336 record request; providing that a subpoena for certain contract
1337 information must be served on the state agency that is party to
1338 the contract; authorizing the Chief Financial Officer to adopt
1339 rules; defining the term "state agency"; authorizing the
1340 judicial branch, Department of Legal Affairs, Department of
1341 Agriculture and Consumer Services, and Department of Financial
1342 Services to elect to comply with the posting requirements;
1343 renaming chapter 287, F.S.; amending s. 287.012, F.S.; providing
1344 and revising definitions; amending s. 287.042, F.S.; revising
1345 powers, duties, and functions of the Department of Management
1346 Services; providing an additional circumstance under which the
1347 department may proceed with a competitive solicitation or

Amendment No.

1348 contract award process of a term contract as an alternative to
1349 the stay of such process pursuant to a formal written protest
1350 under the Administrative Procedure Act; authorizing the
1351 department to lead or enter into joint agreements with
1352 governmental entities for the purchase of commodities or
1353 contractual services that can be used by multiple agencies;
1354 amending s. 287.056, F.S.; eliminating provisions requiring
1355 certain inclusions in agency agreements; amending s. 287.057,
1356 F.S.; providing that contracts awarded pursuant to an invitation
1357 to bid shall be awarded to the responsible and responsive vendor
1358 that submits the lowest responsive bid; revising exceptions to
1359 the requirement that the purchase of specified commodities or
1360 contractual services be made only as a result of receiving
1361 competitive sealed bids, competitive sealed proposals, or
1362 competitive sealed replies; revising contractual services and
1363 commodities that are not subject to competitive solicitation
1364 requirements by virtue of being available only from a single
1365 source; providing that a contract for commodities or contractual
1366 services may be awarded without competition if the recipient of
1367 funds is established during the appropriations process; revising
1368 provisions relating to extension of a contract for commodities
1369 or contractual services; authorizing an agency to negotiate
1370 better pricing upon renewal of a contract; providing training
1371 requirements for contract managers responsible for contracts in
1372 excess of a specified threshold amount; providing that the
1373 Department of Management Services is responsible for
1374 establishing and disseminating the requirements for
1375 certification of a contract manager; requiring the department,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1309 (2013)

Amendment No.

1376 in consultation with the Chief Financial Officer to maintain a
1377 program for online procurement of commodities and contractual
1378 services; amending s. 287.0571, F.S.; revising nonapplicability
1379 of a business case to outsource; amending s. 287.058, F.S.;
1380 defining the term "performance measure"; revising references
1381 within provisions relating to purchase orders used in lieu of
1382 written agreements for classes of contractual services; revising
1383 terminology; amending s. 287.076, F.S.; providing that Project
1384 Management Professionals training for personnel involved in
1385 managing outsourcings and negotiations is subject to annual
1386 appropriations; creating s. 287.136, F.S.; requiring the Chief
1387 Financial Officer to perform audits of executed contracts;
1388 creating reporting requirements; amending ss. 16.0155, 283.33,
1389 394.457, 402.7305, 409.9132, 427.0135, 445.024, 627.311,
1390 627.351, 765.5155, and 893.055, F.S.; conforming cross-
1391 references; providing an effective date.