

1                   A bill to be entitled  
2           An act relating to the procurement of commodities and  
3           contractual services; amending s. 215.971, F.S.;  
4           requiring the Department of Management Services and  
5           the Department of Financial Services to jointly  
6           conduct training related to negotiating, managing, and  
7           accountability in grant agreements; amending s.  
8           287.012, F.S.; providing, revising, and eliminating  
9           definitions; amending s. 287.022, F.S.; providing that  
10          the Department of Management Services may delegate by  
11          rule the purchase of insurance for state agencies;  
12          authorizing the department to adopt rules; amending s.  
13          287.042, F.S.; revising powers, duties, and functions  
14          of the department; eliminating a duty of the  
15          department to maintain a vendor list; authorizing an  
16          agency to suspend and reinstate a source of supply  
17          that fails to fulfill its duties as specified in a  
18          contract with the agency, following procedures of the  
19          Department of Management Services; providing an  
20          additional circumstance under which the department may  
21          proceed with a competitive solicitation or contract  
22          award process of a term contract as an alternative to  
23          the stay of such process pursuant to a formal written  
24          protest under the Administrative Procedure Act;  
25          providing that the department may delegate to agencies  
26          the authority for the purchase of insurance;  
27          authorizing the department to lead or enter into joint  
28          agreements with governmental entities for the purchase

29 | of commodities or contractual services that can be  
30 | used by multiple agencies; authorizing an agency that  
31 | has been appropriated funds or has existing funds for  
32 | a purchase of commodities or contractual services to  
33 | combine funds for such purchases; amending s. 287.056,  
34 | F.S.; eliminating provisions requiring certain  
35 | inclusions in agency agreements; amending s. 287.057,  
36 | F.S., relating to procurement of commodities or  
37 | contractual services; providing that contracts awarded  
38 | pursuant to an invitation to bid shall be awarded to  
39 | the responsible and responsive vendor that submits the  
40 | lowest responsive bid; revising exceptions to the  
41 | requirement that the purchase of specified commodities  
42 | or contractual services be made only as a result of  
43 | receiving competitive sealed bids, competitive sealed  
44 | proposals, or competitive sealed replies; revising  
45 | contractual services and commodities that are not  
46 | subject to competitive solicitation requirements by  
47 | virtue of being available only from a single source;  
48 | providing that a contract for commodities or  
49 | contractual services may be awarded without  
50 | competition if the recipient of funds is established  
51 | during the appropriations process; revising provisions  
52 | relating to extension of a contract for commodities or  
53 | contractual services; authorizing an agency to  
54 | negotiate better pricing upon renewal of a contract;  
55 | providing training requirements for contract managers  
56 | responsible for contracts in excess of a specified

57 threshold amount; authorizing the department to  
58 establish training and certification requirements;  
59 requiring the department, in consultation with the  
60 Chief Financial Officer to maintain a program for  
61 online procurement of commodities and contractual  
62 services; amending s. 287.0571, F.S.; revising  
63 nonapplicability of a business case to outsource;  
64 amending s. 287.058, F.S.; defining the term  
65 "performance measure"; revising references within  
66 provisions relating to purchase orders used in lieu of  
67 written agreements for classes of contractual  
68 services; revising terminology; repealing s. 287.0731,  
69 F.S., relating to establishment by the department of a  
70 team to specialize in conducting specified  
71 negotiations; amending s. 287.076, F.S.; providing  
72 that Project Management Professionals training for  
73 personnel involved in managing outsourcings and  
74 negotiations is subject to annual appropriations;  
75 amending s. 287.09451, F.S.; providing that the Office  
76 of Supplier diversity may administratively transfer  
77 certain operations to a direct-support organization;  
78 revising references to purchasing categories;  
79 providing for the establishment of a direct-support  
80 organization by the department to assist in carrying  
81 out duties with respect to supplier diversity;  
82 providing purposes of the direct-support organization;  
83 providing requirements of the direct-support  
84 organization; providing for organization and

85 membership of the direct-support organization board;  
 86 providing requirements of the contract under which the  
 87 direct-support organization operates; providing  
 88 requirements with respect to funds solicited by the  
 89 direct-support organization; providing for annual  
 90 audits; specifying responsibilities of the direct-  
 91 support organization; amending ss. 16.0155, 283.33,  
 92 394.457, 402.7305, 409.9132, 427.0135, 445.024,  
 93 627.311, 627.351, 765.5155, and 893.055, F.S.;  
 94 conforming cross-references; providing an effective  
 95 date.

96

97 Be It Enacted by the Legislature of the State of Florida:

98

99 Section 1. Chapter 287, Florida Statutes, is renamed as  
 100 "Procurement of Commodities and Contractual Services."

101 Section 2. Subsection (4) is added to section 215.971,  
 102 Florida Statutes, to read:

103 215.971 Agreements funded with federal and state  
 104 assistance.—For an agency agreement that provides state  
 105 financial assistance to a recipient or subrecipient, as those  
 106 terms are defined in s. 215.97, or that provides federal  
 107 financial assistance to a subrecipient, as defined by applicable  
 108 United States Office of Management and Budget circulars, the  
 109 agreement shall include:

110 (4) The Department of Management Services and the  
 111 Department of Financial Services shall jointly conduct training  
 112 to promote best practices and procedures related to negotiating,

HB 1309

2013

113 managing, and accountability in agency grant agreements. Both  
114 departments may recommend personnel to each agency for whom  
115 receipt of the training is appropriate.

116 Section 3. Subsections (3), (4), (5), (10), and (13)  
117 through (28) of section 287.012, Florida Statutes, are amended  
118 to read:

119 287.012 Definitions.—As used in this part, the term:

120 (3) "Alternate contract source" means a term contract  
121 competitively awarded by other governmental entities that is  
122 approved by the department for use by agencies pursuant to s.  
123 287.042(17).

124 ~~(3) "Artistic services" means the rendering by a~~  
125 ~~contractor of its time and effort to create or perform an~~  
126 ~~artistic work in the fields of music, dance, drama, folk art,~~  
127 ~~creative writing, painting, sculpture, photography, graphic~~  
128 ~~arts, craft arts, industrial design, costume design, fashion~~  
129 ~~design, motion pictures, television, radio, or tape and sound~~  
130 ~~recording.~~

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

134 (5) "Commodity" means any of the various supplies,  
135 materials, goods, merchandise, food, equipment, information  
136 technology, and other personal property, including a mobile  
137 home, trailer, or other portable structure with floor space of  
138 less than 5,000 square feet, purchased, leased, or otherwise  
139 contracted for by the state and its agencies. "Commodity" also  
140 includes interest on deferred-payment commodity contracts

141 approved pursuant to s. 287.063 entered into by an agency for  
 142 the purchase of other commodities. However, commodities  
 143 purchased for resale are excluded from this definition. Printing  
 144 of publications shall be considered a commodity when procured  
 145 ~~let upon contract~~ pursuant to s. 283.33, whether purchased for  
 146 resale or not.

147 (10) "Electronic posting" or "electronically post" means  
 148 the noticing of solicitations, agency decisions or intended  
 149 decisions, or other matters relating to procurement, on a  
 150 centralized Internet website designated by the department for  
 151 this purpose, in the manner and form required by s.  
 152 120.57(3)(a).

153 (13) "Extension" means an increase in the time allowed for  
 154 the contract period ~~due to circumstances which, without fault of~~  
 155 ~~either party, make performance impracticable or impossible, or~~  
 156 ~~which prevent a new contract from being executed, with or~~  
 157 ~~without a proportional increase in the total dollar amount, with~~  
 158 ~~any increase to be based on the method and rate previously~~  
 159 ~~established in the contract.~~

160 (14) "Governmental entity" means a political subdivision  
 161 or agency of this state or of any state of the United States,  
 162 including, but not limited to, state government, county, city,  
 163 school district, nonprofit public university or college, single-  
 164 purpose or multipurpose special district, single-purpose or  
 165 multipurpose public authority, metropolitan or consolidated  
 166 government, separate legal entity or administrative entity, or  
 167 any agency of the Federal Government.

168 (15) ~~(14)~~ "Information technology" has the meaning ascribed

HB 1309

2013

169 | in s. 282.0041.

170 |       (16)~~(15)~~ "Invitation to bid" means a written or  
171 | electronically posted solicitation for competitive sealed bids.

172 |       (17)~~(16)~~ "Invitation to negotiate" means a written or  
173 | electronically posted solicitation for competitive sealed  
174 | replies to select one or more vendors with which to commence  
175 | negotiations for the procurement of commodities or contractual  
176 | services.

177 |       (18)~~(17)~~ "Minority business enterprise" has the meaning  
178 | ascribed in s. 288.703.

179 |       (19)~~(18)~~ "Office" means the Office of Supplier Diversity  
180 | of the Department of Management Services.

181 |       (20)~~(19)~~ "Outsource" means the process of contracting with  
182 | a vendor to provide a service as defined in s. 216.011(1)(f), in  
183 | whole or in part, or an activity as defined in s.  
184 | 216.011(1)(rr), while a state agency retains the responsibility  
185 | and accountability for the service or activity and there is a  
186 | transfer of management responsibility for the delivery of  
187 | resources and the performance of those resources.

188 |       (21)~~(20)~~ "Renewal" means contracting with the same  
189 | contractor for an additional contract period after the initial  
190 | contract period, only if pursuant to contract terms specifically  
191 | providing for such renewal.

192 |       (22)~~(21)~~ "Request for information" means a written or  
193 | electronically posted request made by an agency to vendors for  
194 | information concerning commodities or contractual services.  
195 | Responses to these requests are not offers and may not be  
196 | accepted by the agency to form a binding contract.

197 |        ~~(23)~~~~(22)~~ "Request for proposals" means a written or  
 198 | electronically posted solicitation for competitive sealed  
 199 | proposals.

200 |        ~~(24)~~~~(23)~~ "Request for a quote" means an electronic, oral  
 201 | or written request for written pricing or services information  
 202 | from a state term contract vendor for commodities or contractual  
 203 | services available on a state term contract from that vendor.

204 |        ~~(25)~~~~(24)~~ "Responsible vendor" means a vendor who has the  
 205 | capability in all respects to fully perform the contract  
 206 | requirements and the integrity and reliability that will assure  
 207 | good faith performance.

208 |        ~~(26)~~~~(25)~~ "Responsive bid," "responsive proposal," or  
 209 | "responsive reply" means a bid, ~~or~~ proposal, or reply submitted  
 210 | by a responsive and responsible vendor that conforms in all  
 211 | material respects to the solicitation.

212 |        ~~(27)~~~~(26)~~ "Responsive vendor" means a vendor that has  
 213 | submitted a bid, proposal, or reply that conforms in all  
 214 | material respects to the solicitation.

215 |        ~~(28)~~~~(27)~~ "State term contract" means a term contract that  
 216 | is competitively procured by the department pursuant to s.  
 217 | 287.057 and that is used by agencies and eligible users pursuant  
 218 | to s. 287.056.

219 |        ~~(29)~~~~(28)~~ "Term contract" means an indefinite quantity  
 220 | contract to furnish commodities or contractual services during a  
 221 | defined period.

222 |        Section 4. Subsection (1) of section 287.022, Florida  
 223 | Statutes, is amended, and subsection (4) is added to that  
 224 | section, to read:

225 287.022 Purchase of insurance.—

226 (1) Unless delegated pursuant to rule adopted by the  
 227 department, insurance, ~~while not a commodity,~~ nevertheless shall  
 228 be purchased for all agencies by the department, except that  
 229 agencies may purchase title insurance for land acquisition and  
 230 may make emergency purchases of insurance pursuant to s.

231 287.057(3) (a). The procedures for purchasing insurance, whether  
 232 the purchase is made by the department or by the agencies, shall  
 233 be the same as those set forth herein for the purchase of  
 234 commodities.

235 (4) The department may adopt rules to administer this  
 236 section.

237 Section 5. Paragraphs (a) and (b) of subsection (1),  
 238 paragraph (b) of subsection (2), paragraph (b) of subsection  
 239 (6), and subsections (8), (15), (16), and (17) of section  
 240 287.042, Florida Statutes, are amended to read:

241 287.042 Powers, duties, and functions.—The department  
 242 shall have the following powers, duties, and functions:

243 (1) (a) To canvass all sources of supply, ~~establish and~~  
 244 ~~maintain a vendor list,~~ and contract for the purchase, lease, or  
 245 acquisition, including purchase by installment sales or lease-  
 246 purchase contracts which may provide for the payment of interest  
 247 on unpaid portions of the purchase price, of all commodities and  
 248 contractual services required by any agency under this chapter.  
 249 Any contract providing for deferred payments and the payment of  
 250 interest shall be subject to specific rules adopted by the  
 251 department.

252 (b) An agency ~~The department~~ may suspend a ~~remove from its~~

HB 1309

2013

253 ~~vendor list any~~ source of supply that ~~which~~ fails to fulfill any  
254 of its duties specified in a contract with the agency state. An  
255 agency ~~It~~ may reinstate any such source of supply when it is  
256 satisfied that further instances of default will not occur. An  
257 agency must follow department procedures for suspension and  
258 reinstatement.

259 (2)

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

264 1. When the Secretary of Management Services ~~the~~  
265 ~~department~~ or his or her designee sets forth in writing  
266 particular facts and circumstances that ~~which~~ demonstrate that  
267 the delay incident to staying the solicitation or contract award  
268 process would be detrimental to the interests of the state.  
269 After the award of a contract resulting from a competitive  
270 solicitation in which a timely protest was received and in which  
271 the state did not prevail, the contract may be canceled and  
272 reawarded.

273 2. When a vendor protests a notice of intent to award a  
274 contract to multiple vendors, the intended award may proceed  
275 unless the protesting vendor submits to the department in  
276 writing particular facts and circumstances that demonstrate a  
277 reasonable basis for protesting the award to the other vendor or  
278 vendors. The Secretary of Management Services or his or her  
279 designee shall determine in writing whether the vendor has  
280 demonstrated a sufficient basis for stay of the intended award.

281 If the vendor prevails in the protest, the vendor shall be added  
 282 to the contract with the same terms and conditions as the other  
 283 awarded vendors.

284 (6)

285 (b) ~~Except for the purchase of insurance,~~ The department  
 286 may delegate to agencies the authority for the procurement of  
 287 and contracting for commodities or contractual services.

288 (8) To provide any commodity and contractual service  
 289 purchasing rules to the Chief Financial Officer and all agencies  
 290 electronically or through an electronic medium ~~or~~ other means.

291 Agencies may not approve any account or request any payment of  
 292 any account for the purchase of any commodity or the procurement  
 293 of any contractual service covered by a purchasing or  
 294 contractual service rule except as authorized therein. The  
 295 department shall furnish copies of rules adopted by the  
 296 department to any county, municipality, or other local public  
 297 agency requesting them.

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

303 (16) (a) Each agency that has been appropriated or has  
 304 existing funds for a such purchase of commodities or contractual  
 305 services may combine funds for such purchases, and shall, upon  
 306 contract award by the department, transfer their portion of the  
 307 funds into the department's Operating Trust Fund for payment by  
 308 the department. The funds shall be transferred by the Executive

HB 1309

2013

309 Office of the Governor pursuant to the agency budget amendment  
310 request provisions in chapter 216.

311 (b) Agencies that sign the joint agreements are  
312 financially obligated for their portion of the agreed-upon  
313 funds. If an agency becomes more than 90 days delinquent in  
314 paying the funds, the department shall certify to the Chief  
315 Financial Officer the amount due, and the Chief Financial  
316 Officer shall transfer the amount due to the Operating Trust  
317 Fund of the department from any of the agency's available funds.  
318 The Chief Financial Officer shall report these transfers and the  
319 reasons for the transfers to the Executive Office of the  
320 Governor and the legislative appropriations committees.

321 (17)~~(16)~~ To evaluate contracts let by the Federal  
322 Government, another state, or a political subdivision for the  
323 provision of commodities and contract services, and, if it is  
324 determined in writing to be cost-effective and in the best  
325 interest of the state, to enter into a written agreement  
326 authorizing an agency to make purchases under such contract.

327 (18)~~(17)~~(a) To enter into contracts pursuant to chapter  
328 957 for the designing, financing, acquiring, leasing,  
329 constructing, or operating of private correctional facilities.  
330 The department shall enter into a contract or contracts with one  
331 contractor per facility for the designing, acquiring, financing,  
332 leasing, constructing, and operating of that facility or may, if  
333 specifically authorized by the Legislature, separately contract  
334 for any such services.

335 (b) To manage and enforce compliance with existing or  
336 future contracts entered into pursuant to chapter 957.

HB 1309

2013

337  
338 The department may not delegate the responsibilities conferred  
339 by this subsection.

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

342 287.056 Purchases from purchasing agreements and state  
343 term contracts.—

344 (1) Agencies shall, and eligible users may, purchase  
345 commodities and contractual services from purchasing agreements  
346 established and state term contracts procured, pursuant to s.  
347 287.057, by the department. ~~Each agency agreement made under~~  
348 ~~this subsection shall include:~~

349 ~~(a) A provision specifying a scope of work that clearly~~  
350 ~~establishes all tasks that the contractor is required to~~  
351 ~~perform.~~

352 ~~(b) A provision dividing the contract into quantifiable,~~  
353 ~~measurable, and verifiable units of deliverables that must be~~  
354 ~~received and accepted in writing by the contract manager before~~  
355 ~~payment. Each deliverable must be directly related to the scope~~  
356 ~~of work and specify the required minimum level of service to be~~  
357 ~~performed and the criteria for evaluating the successful~~  
358 ~~completion of each deliverable.~~

359 Section 7. Paragraph (a) of subsection (1) and subsections  
360 (3), (10), (12), (13), (14), (16), and (22) of section 287.057,  
361 Florida Statutes, are amended to read:

362 287.057 Procurement of commodities or contractual  
363 services.—

364 (1) The competitive solicitation processes authorized in

HB 1309

2013

365 | this section shall be used for procurement of commodities or  
366 | contractual services in excess of the threshold amount provided  
367 | for CATEGORY TWO in s. 287.017. Any competitive solicitation  
368 | shall be made available simultaneously to all vendors, must  
369 | include the time and date for the receipt of bids, proposals, or  
370 | replies and of the public opening, and must include all  
371 | contractual terms and conditions applicable to the procurement,  
372 | including the criteria to be used in determining acceptability  
373 | and relative merit of the bid, proposal, or reply.

374 |       (a) Invitation to bid.—The invitation to bid shall be used  
375 | when the agency is capable of specifically defining the scope of  
376 | work for which a contractual service is required or when the  
377 | agency is capable of establishing precise specifications  
378 | defining the actual commodity or group of commodities required.

379 |       1. All invitations to bid must include:

380 |       a. A detailed description of the commodities or  
381 | contractual services sought; and

382 |       b. If the agency contemplates renewal of the contract, a  
383 | statement to that effect.

384 |       2. Bids submitted in response to an invitation to bid in  
385 | which the agency contemplates renewal of the contract must  
386 | include the price for each year for which the contract may be  
387 | renewed.

388 |       3. Evaluation of bids shall include consideration of the  
389 | total cost for each year of the contract, including renewal  
390 | years, as submitted by the vendor.

391 |       4. The contract shall be awarded to the responsible and  
392 | responsive vendor that submits the lowest responsive bid.

HB 1309

2013

393 (3) When the purchase price of commodities or contractual  
394 services exceeds the threshold amount provided in s. 287.017 for  
395 CATEGORY TWO, no purchase of commodities or contractual services  
396 may be made without receiving competitive sealed bids,  
397 competitive sealed proposals, or competitive sealed replies  
398 unless:

399 (a) The agency head determines in writing that an  
400 immediate danger to the public health, safety, or welfare or  
401 other substantial loss to the state requires emergency action.  
402 After the agency head signs ~~makes such~~ a written determination,  
403 the agency may proceed with the procurement of commodities or  
404 contractual services necessitated by the immediate danger,  
405 without receiving competitive sealed bids, competitive sealed  
406 proposals, or competitive sealed replies. However, such  
407 emergency procurement shall be made by obtaining pricing  
408 information from at least two prospective vendors, which must be  
409 retained in the contract file, unless the agency determines in  
410 writing that the time required to obtain pricing information  
411 will increase the immediate danger to the public health, safety,  
412 or welfare or other substantial loss to the state. The agency  
413 shall furnish copies of all written determinations ~~certified~~  
414 ~~under oath~~ and any other documents relating to the emergency  
415 action to the department. A copy of the written statement shall  
416 be furnished to the Chief Financial Officer with the voucher  
417 authorizing payment. The individual purchase of personal  
418 clothing, shelter, or supplies which are needed on an emergency  
419 basis to avoid institutionalization or placement in a more  
420 restrictive setting is an emergency for the purposes of this

HB 1309

2013

421 paragraph, and the filing with the department of such statement  
422 is not required in such circumstances. In the case of the  
423 emergency purchase of insurance, the period of coverage of such  
424 insurance shall not exceed a period of 30 days, and all such  
425 emergency purchases shall be reported to the department.

426 (b) The purchase is made by an agency from a state term  
427 contract procured, pursuant to this section, by the department  
428 or by an agency, after receiving approval from the department,  
429 from a contract procured, pursuant to subsection (1), by another  
430 agency.

431 (c) Commodities or contractual services available only  
432 from a single source may be excepted from the competitive-  
433 solicitation requirements. When an agency believes that  
434 commodities or contractual services are available only from a  
435 single source, the agency shall electronically post a  
436 description of the commodities or contractual services sought  
437 for a period of at least 7 business days. The description must  
438 include a request that prospective vendors provide information  
439 regarding their ability to supply the commodities or contractual  
440 services described. If it is determined in writing by the  
441 agency, after reviewing any information received from  
442 prospective vendors, that the commodities or contractual  
443 services are available only from a single source, the agency  
444 shall:

445 1. provide notice of its intended decision to enter a  
446 single-source purchase contract in the manner specified in s.  
447 120.57(3), ~~if the amount of the contract does not exceed the~~  
448 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

449           ~~2. Request approval from the department for the single-~~  
450 ~~source purchase, if the amount of the contract exceeds the~~  
451 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~  
452 ~~agency shall initiate its request for approval in a form~~  
453 ~~prescribed by the department, which request may be~~  
454 ~~electronically transmitted. The failure of the department to~~  
455 ~~approve or disapprove the agency's request for approval within~~  
456 ~~21 days after receiving such request shall constitute prior~~  
457 ~~approval of the department. If the department approves the~~  
458 ~~agency's request, the agency shall provide notice of its~~  
459 ~~intended decision to enter a single source contract in the~~  
460 ~~manner specified in s. 120.57(3).~~

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

466           (d)(e) Prescriptive assistive devices for the purpose of  
467 medical, developmental, or vocational rehabilitation of clients  
468 are excepted from competitive-solicitation requirements and  
469 shall be procured pursuant to an established fee schedule or by  
470 any other method which ensures the best price for the state,  
471 taking into consideration the needs of the client. Prescriptive  
472 assistive devices include, but are not limited to, prosthetics,  
473 orthotics, and wheelchairs. For purchases made pursuant to this  
474 paragraph, state agencies shall annually file with the  
475 department a description of the purchases and methods of  
476 procurement.

HB 1309

2013

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

480            1. Artistic services. For the purposes of this subsection,  
481 the term "artistic services" does not include advertising or  
482 typesetting. As used in this subparagraph, the term  
483 "advertising" means the making of a representation in any form  
484 in connection with a trade, business, craft, or profession in  
485 order to promote the supply of commodities or services by the  
486 person promoting the commodities or contractual services.

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

489            3. Lectures by individuals.

490            4. Legal services, including attorney, paralegal, expert  
491 witness, appraisal, or mediator services.

492            5.a. Health services involving examination, diagnosis,  
493 treatment, prevention, medical consultation, or administration.

494            b. Beginning January 1, 2011, health services, including,  
495 but not limited to, substance abuse and mental health services,  
496 involving examination, diagnosis, treatment, prevention, or  
497 medical consultation, when such services are offered to eligible  
498 individuals participating in a specific program that qualifies  
499 multiple providers and uses a standard payment methodology.

500 Reimbursement of administrative costs for providers of services  
501 purchased in this manner shall also be exempt. For purposes of  
502 this sub-subparagraph, "providers" means health professionals,  
503 health facilities, or organizations that deliver or arrange for  
504 the delivery of health services.

HB 1309

2013

505 |           6. Services provided to persons with mental or physical  
506 | disabilities by not-for-profit corporations which have obtained  
507 | exemptions under the provisions of s. 501(c)(3) of the United  
508 | States Internal Revenue Code or when such services are governed  
509 | by the provisions of Office of Management and Budget Circular A-  
510 | 122. However, in acquiring such services, the agency shall  
511 | consider the ability of the vendor, past performance,  
512 | willingness to meet time requirements, and price.

513 |           7. Medicaid services delivered to an eligible Medicaid  
514 | recipient unless the agency is directed otherwise in law.

515 |           8. Family placement services.

516 |           9. Prevention services related to mental health, including  
517 | drug abuse prevention programs, child abuse prevention programs,  
518 | and shelters for runaways, operated by not-for-profit  
519 | corporations. However, in acquiring such services, the agency  
520 | shall consider the ability of the vendor, past performance,  
521 | willingness to meet time requirements, and price.

522 |           10. Training and education services provided to injured  
523 | employees pursuant to s. 440.491(6).

524 |           11. Contracts entered into pursuant to s. 337.11.

525 |           12. Services or commodities provided by governmental  
526 | entities ~~agencies~~.

527 |           13. Statewide public service announcement programs  
528 | provided by a Florida statewide nonprofit corporation under s.  
529 | 501(c)(6) of the Internal Revenue Code, with a guaranteed  
530 | documented match of at least \$3 to \$1.

531 |           (g) Continuing education events or programs that are  
532 | offered to the general public and for which fees have been

HB 1309

2013

533 collected that pay all expenses associated with the event or  
534 program are exempt from requirements for competitive  
535 solicitation.

536 (10) A contract for commodities or contractual services  
537 may be awarded without competition if state or federal law  
538 prescribes with whom the agency must contract or if the rate of  
539 payment or the recipient of the funds is established during the  
540 appropriations process.

541 (12) Extension of a contract for commodities or  
542 contractual services shall be in writing for a period not to  
543 exceed 6 months and shall be subject to the same terms and  
544 conditions set forth in the initial contract and any written  
545 amendments signed by the parties. There shall be only one  
546 extension of a contract unless the failure to meet the criteria  
547 set forth in the contract for completion of the contract is due  
548 to events beyond the control of the contractor.

549 (13) Contracts for commodities or contractual services may  
550 be renewed for a period that may not exceed 3 years or the term  
551 of the original contract, whichever period is longer. Renewal of  
552 a contract for commodities or contractual services shall be in  
553 writing and shall be subject to the same terms and conditions  
554 set forth in the initial contract and any written amendments  
555 signed by the parties. If the commodity or contractual service  
556 is purchased as a result of the solicitation of bids, proposals,  
557 or replies, the price of the commodity or contractual service to  
558 be renewed shall be specified in the bid, proposal, or reply,  
559 except that an agency may negotiate lower pricing. A renewal  
560 contract may not include any compensation for costs associated

561 with the renewal. Renewals shall be contingent upon satisfactory  
562 performance evaluations by the agency and subject to the  
563 availability of funds. Exceptional purchase contracts pursuant  
564 to paragraphs (3) (a) and (c) may not be renewed. With the  
565 exception of subsection (10)~~(12)~~, if a contract amendment  
566 results in a longer contract term or increased payments, a state  
567 agency may not renew or amend a contract for the outsourcing of  
568 a service or activity that has an original term value exceeding  
569 the sum of \$10 million before submitting a written report  
570 concerning contract performance to the Governor, the President  
571 of the Senate, and the Speaker of the House of Representatives  
572 at least 90 days before execution of the renewal or amendment.

573 (14) For each contractual services contract, the agency  
574 shall designate an employee to function as contract manager who  
575 shall be responsible for enforcing performance of the contract  
576 terms and conditions and serve as a liaison with the contractor.  
577 Each contract manager who is responsible for contracts in excess  
578 of the threshold amounts defined in rule by the Department of  
579 Management Services must complete training in contract  
580 management jointly conducted or coordinated by the Department of  
581 Management Services and the Department of Financial Services.  
582 The department may establish training and certification  
583 requirements for the contract manager position. The Chief  
584 Financial Officer shall conduct training for financial and  
585 performance accountability in contracts and grant management,  
586 which must be completed by each contract manager in order to  
587 receive certification as a contract manager. Both the Department  
588 of Management Services and the Department of Financial Services

589 | may recommend to each agency personnel who are appropriate to  
590 | receive the training. ~~amount for CATEGORY TWO must attend~~  
591 | ~~training conducted by the Chief Financial Officer for~~  
592 | ~~accountability in contracts and grant management.~~ The Chief  
593 | Financial Officer shall establish and disseminate uniform  
594 | procedures pursuant to s. 17.03(3) to ensure that contractual  
595 | services have been rendered in accordance with the contract  
596 | terms before the agency processes the invoice for payment. The  
597 | procedures shall include, but need not be limited to, procedures  
598 | for monitoring and documenting contractor performance, reviewing  
599 | and documenting all deliverables for which payment is requested  
600 | by vendors, and providing written certification by contract  
601 | managers of the agency's receipt of goods and services.

602 |         (16) For a contract in excess of the threshold amount  
603 | provided in s. 287.017 for CATEGORY FOUR, the agency head shall  
604 | appoint:

605 |             (a) At least three persons to evaluate proposals and  
606 | replies who collectively have experience and knowledge in the  
607 | program areas and service requirements for which commodities or  
608 | contractual services are sought.

609 |             (b) At least three persons to conduct negotiations during  
610 | a competitive sealed reply procurement who collectively have  
611 | experience and knowledge in negotiating contracts, contract  
612 | procurement, and the program areas and service requirements for  
613 | which commodities or contractual services are sought.

614 |             (c) When the value of a contract is in excess of \$1  
615 | million in any fiscal year, at least one of the persons  
616 | conducting negotiations must be certified as a contract

HB 1309

2013

617 negotiator based upon rules adopted by the Department of  
618 Management Services in order to ensure that certified contract  
619 negotiators are knowledgeable about effective negotiation  
620 strategies, capable of successfully implementing those  
621 strategies, and involved appropriately in the procurement  
622 process. At a minimum, the rules must address the qualifications  
623 required for certification, the method of certification, and the  
624 procedure for involving the certified negotiator. If the value  
625 of a contract is in excess of \$10 million in any fiscal year, at  
626 least one of the persons conducting negotiations must be a  
627 Project Management Professional, as certified by the Project  
628 Management Institute.

629 (22) The department, in consultation with the Chief  
630 Financial Officer ~~Agency for Enterprise Information Technology~~  
631 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online  
632 procurement of commodities and contractual services. To enable  
633 the state to promote open competition and to leverage its buying  
634 power, agencies shall participate in the online procurement  
635 program, and eligible users may participate in the program. Only  
636 vendors prequalified as meeting mandatory requirements and  
637 qualifications criteria may participate in online procurement.

638 (a) The department, in consultation with the agency, may  
639 contract for equipment and services necessary to develop and  
640 implement online procurement.

641 (b) The department, in consultation with the agency, shall  
642 adopt rules, pursuant to ss. 120.536(1) and 120.54, to  
643 administer the program for online procurement. The rules shall  
644 include, but not be limited to:

645 1. Determining the requirements and qualification criteria  
646 for prequalifying vendors.

647 2. Establishing the procedures for conducting online  
648 procurement.

649 3. Establishing the criteria for eligible commodities and  
650 contractual services.

651 4. Establishing the procedures for providing access to  
652 online procurement.

653 5. Determining the criteria warranting any exceptions to  
654 participation in the online procurement program.

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

657 1. The fees may be imposed on an individual transaction  
658 basis or as a fixed percentage of the cost savings generated. At  
659 a minimum, the fees must be set in an amount sufficient to cover  
660 the projected costs of the services, including administrative  
661 and project service costs in accordance with the policies of the  
662 department.

663 2. If the department contracts with a provider for online  
664 procurement, the department, pursuant to appropriation, shall  
665 compensate the provider from the fees after the department has  
666 satisfied all ongoing costs. The provider shall report  
667 transaction data to the department each month so that the  
668 department may determine the amount due and payable to the  
669 department from each vendor.

670 3. All fees that are due and payable to the state on a  
671 transactional basis or as a fixed percentage of the cost savings  
672 generated are subject to s. 215.31 and must be remitted within

HB 1309

2013

673 40 days after receipt of payment for which the fees are due. For  
674 fees that are not remitted within 40 days, the vendor shall pay  
675 interest at the rate established under s. 55.03(1) on the unpaid  
676 balance from the expiration of the 40-day period until the fees  
677 are remitted.

678 4. All fees and surcharges collected under this paragraph  
679 shall be deposited in the Operating Trust Fund as provided by  
680 law.

681 Section 8. Paragraph (a) of subsection (3) of section  
682 287.0571, Florida Statutes, is amended to read:

683 287.0571 Business case to outsource; applicability.-

684 (3) This section does not apply to:

685 (a) A procurement of commodities and contractual services  
686 listed in s. 287.057(3)(d) and (e) and (21) ~~287.057(3)(e), (f),~~  
687 ~~and (g) and (21)~~.

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

690 287.058 Contract document.-

691 (1) Every procurement of contractual services in excess of  
692 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
693 except for the providing of health and mental health services or  
694 drugs in the examination, diagnosis, or treatment of sick or  
695 injured state employees or the providing of other benefits as  
696 required by the provisions of chapter 440, shall be evidenced by  
697 a written agreement embodying all provisions and conditions of  
698 the procurement of such services, which shall, where applicable,  
699 include, but not be limited to, a provision:

700 (a) That bills for fees or other compensation for services

701 or expenses be submitted in detail sufficient for a proper  
702 preaudit and postaudit thereof.

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

706 (c) Allowing unilateral cancellation by the agency for  
707 refusal by the contractor to allow public access to all  
708 documents, papers, letters, or other material made or received  
709 by the contractor in conjunction with the contract, unless the  
710 records are exempt from s. 24(a) of Art. I of the State  
711 Constitution and s. 119.07(1).

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

714 (e) Dividing the contract into quantifiable, measurable,  
715 and verifiable units of deliverables that must be received and  
716 accepted in writing by the contract manager before payment. Each  
717 deliverable must be directly related to the scope of work and  
718 specify a performance measure. As used in this paragraph,  
719 performance measure means the required minimum acceptable level  
720 of service to be performed and criteria for evaluating the  
721 successful completion of each deliverable.

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

724 (g) Specifying that the contract may be renewed for a  
725 period that may not exceed 3 years or the term of the original  
726 contract, whichever period is longer, specifying the renewal  
727 price for the contractual service as set forth in the bid,  
728 proposal, or reply, specifying that costs for the renewal may

HB 1309

2013

729 not be charged, and specifying that renewals shall be contingent  
730 upon satisfactory performance evaluations by the agency and  
731 subject to the availability of funds. Exceptional purchase  
732 contracts pursuant to s. 287.057(3)(a) and (c) may not be  
733 renewed.

734 (h) Specifying the financial consequences that the agency  
735 must apply if the contractor fails to perform in accordance with  
736 the contract.

737 (i) Addressing the property rights of any intellectual  
738 property related to the contract and the specific rights of the  
739 state regarding the intellectual property if the contractor  
740 fails to provide the services or is no longer providing  
741 services.

742  
743 In lieu of a written agreement, the agency ~~department~~ may  
744 authorize the use of a purchase order for classes of contractual  
745 services, if the provisions of paragraphs (a)-(i) are included  
746 in the purchase order or solicitation. The purchase order must  
747 include, but need not be limited to, an adequate description of  
748 the services, the contract period, and the method of payment. In  
749 lieu of printing the provisions of paragraphs (a)-(c) and (g)  
750 ~~(a)-(i)~~ in the contract document or purchase order, agencies may  
751 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~  
752 ~~(i)~~ by reference.

753 (2) The written agreement shall be signed by the agency  
754 head or designee and the contractor before ~~prior to~~ the  
755 rendering of any contractual service the value of which is in  
756 excess of the threshold amount provided in s. 287.017 for

757 CATEGORY TWO, except in the case of a valid emergency as  
 758 certified by the agency head. The ~~certification~~ written  
 759 statement of an emergency shall be prepared within 30 days after  
 760 the contractor begins rendering the service and shall state the  
 761 particular facts and circumstances which precluded the execution  
 762 of the written agreement before ~~prior to~~ the rendering of the  
 763 service. If the agency fails to have the contract signed by the  
 764 agency head or designee and the contractor before ~~prior to~~  
 765 rendering the contractual service, and if an emergency does not  
 766 exist, the agency head shall, no later than 30 days after the  
 767 contractor begins rendering the service, certify the specific  
 768 conditions and circumstances to the department as well as  
 769 describe actions taken to prevent recurrence of such  
 770 noncompliance. The agency head may delegate the written  
 771 statement ~~certification~~ only to other senior management agency  
 772 personnel. A copy of the written statement ~~certification~~ shall  
 773 be furnished to the Chief Financial Officer with the voucher  
 774 authorizing payment. The department shall report repeated  
 775 instances of noncompliance by an agency to the Auditor General.  
 776 Nothing in this subsection shall be deemed to authorize  
 777 additional compensation prohibited by s. 215.425. The  
 778 procurement of contractual services shall not be divided so as  
 779 to avoid the provisions of this section.

780 Section 10. Section 287.0731, Florida Statutes, is  
 781 repealed.

782 Section 11. Section 287.076, Florida Statutes, is amended  
 783 to read:

784 287.076 Project Management Professionals training for

HB 1309

2013

785 personnel involved in managing outsourcings and negotiations;  
786 funding.—The Department of Management Services may implement a  
787 program to train state agency employees who are involved in  
788 managing outsourcings as Project Management Professionals, as  
789 certified by the Project Management Institute. Subject to annual  
790 appropriations, ~~For the 2006-2007 fiscal year, the sum of~~  
791 ~~\$500,000 in recurring funds from the General Revenue Fund is~~  
792 ~~appropriated to the Department of Management Services to~~  
793 ~~implement this program.~~ the Department of Management Services,  
794 in consultation with entities subject to this act, shall  
795 identify personnel to participate in this training based on  
796 requested need and ensure that each agency is represented. The  
797 Department of Management Services may remit payment for this  
798 training on behalf of all participating personnel.

799 Section 12. Subsection (7) is added to section 287.09451,  
800 Florida Statutes, to read:

801 287.09451 Office of Supplier Diversity; powers, duties,  
802 and functions.—

803 (7) The Office of Supplier Diversity may administratively  
804 transfer certain operations to a direct-support organization as  
805 described in this subsection.

806 (a) The department shall establish and govern a direct-  
807 support organization to assist the department in carrying out  
808 the duties of the Secretary of Management Services with respect  
809 to supplier diversity. The purpose of the direct-support  
810 organization is to raise money; submit requests for and receive  
811 grants from the Federal Government, the state or its political  
812 subdivisions, private foundations, and individuals; receive,

HB 1309

2013

813 hold, invest, and administer property; and make expenditures to  
814 or for the benefit of the mission of the Office of Supplier  
815 Diversity. Such a direct-support organization is an organization  
816 that is:

817 1. Incorporated under the provisions of chapter 617 and  
818 approved by the Department of State as a Florida corporation not  
819 for profit.

820 2. Organized and operated to receive, hold, invest, and  
821 administer property and to make expenditures to or for the  
822 benefit of the department and the Office of Supplier Diversity.

823 3. Approved by the department to be operating for the  
824 benefit of and in a manner consistent with the goals of the  
825 department and in the best interests of the state.

826 (b)1. The Secretary of Management Services shall appoint a  
827 direct-support organization board consisting of 11 members, each  
828 of whom is or has been actively engaged in minority business  
829 development as an entrepreneur in private industry, in  
830 governmental service, or has been recognized for achievement in  
831 the business or governmental community in the area of economic  
832 development.

833 2. The board shall be composed of the Secretary of  
834 Management Services or his or her designee and:

835 a. Six members of the executive committee of the Florida  
836 Advisory Council on Small and Minority Business Development.

837 b. One member from the board of directors of Enterprise  
838 Florida, Inc.

839 c. Three at-large members appointed by the Secretary of  
840 Management Services with input from the Legislature.

HB 1309

2013

841 3. Each member shall serve for a term of 2 years from the  
842 date of appointment, except that a vacancy shall be filled by  
843 appointment for the remainder of the unexpired term. Vacancies  
844 shall be filled by appointment of the Secretary of Management  
845 Services in the same manner of the original appointment.

846 4. The board shall annually elect a chair and a vice  
847 chair.

848 5. The board shall adopt internal procedures or bylaws  
849 necessary for efficient operations.

850 (c) The direct-support organization shall operate under  
851 written contract with the department. The contract must provide  
852 for:

853 1. Approval of the articles of incorporation and bylaws of  
854 the direct-support organization by the department.

855 2. The fiscal year of the direct-support organization,  
856 which must begin July 1 of each year and end June 30 of the  
857 following year.

858 3. Submission of an annual budget for approval by the  
859 department.

860 4. Certification by the department that the direct-support  
861 organization is complying with the terms of the contract and is  
862 performing in a manner consistent with the goals and purposes of  
863 the department. Such certification must be made annually by the  
864 department's chief procurement officer or his or her designee  
865 and kept in the contract file.

866 5. The reversion to the department, or the state if the  
867 department ceases to exist, of moneys and property held in trust  
868 by the direct-support organization for the benefit of the

HB 1309

2013

869 department if the direct-support organization is no longer  
870 approved to operate for the department or if the department  
871 ceases to exist.

872 6. Disclosure to donors within all promotional and  
873 fundraising publications that it is a private non-profit  
874 corporation.

875 7. Provision of equal employment opportunities.

876 (d) Funds solicited by the direct-support organization  
877 shall be held in a separate depository account in the name of  
878 the direct-support organization and subject to the provisions of  
879 the contract with the department. Such funds may include lease  
880 income, admissions income, membership fees, private donations,  
881 income derived from fundraising activities, and grants applied  
882 for and received by the direct-support organization.

883 (e) The direct-support organization shall provide for an  
884 annual financial audit pursuant to s. 215.981. The department  
885 and the Auditor General shall have access to all records of the  
886 direct-support organization upon request.

887 (f) The direct-support organization shall comply with all  
888 applicable laws. The direct-support organization shall be  
889 responsible for planning, promoting, funding, and conducting  
890 outreach, education, and advocacy activities commencing on the  
891 effective date of this section.

892 (g) The department may adopt rules to administer this  
893 section.

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

896 16.0155 Contingency fee agreements.—

897 (3) If the Attorney General makes the determination  
 898 described in subsection (2), notwithstanding the exemption  
 899 provided in s. 287.057(3) (e) ~~(f)~~, the Attorney General shall  
 900 request proposals from private attorneys to represent the  
 901 department on a contingency-fee basis, unless the Attorney  
 902 General determines in writing that requesting proposals is not  
 903 feasible under the circumstances. The written determination does  
 904 not constitute a final agency action subject to review pursuant  
 905 to ss. 120.569 and 120.57. For purposes of this subsection only,  
 906 the department is exempt from the requirements of s. 120.57(3),  
 907 and neither the request for proposals nor the contract award is  
 908 subject to challenge pursuant to ss. 120.569 and 120.57.

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

911 283.33 Printing of publications; lowest bidder awards.—

912 (1) Publications may be printed and prepared in-house, by  
 913 another agency or the Legislature, or purchased on bid,  
 914 whichever is more economical and practicable as determined by  
 915 the agency. An agency may contract for binding separately when  
 916 more economical or practicable, whether or not the remainder of  
 917 the printing is done in-house. A vendor may subcontract for  
 918 binding and still be considered a responsible vendor,  
 919 notwithstanding s. 287.012(25) ~~287.012(24)~~.

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

922 394.457 Operation and administration.—

923 (3) POWER TO CONTRACT.—The department may contract to  
 924 provide, and be provided with, services and facilities in order

HB 1309

2013

925 | to carry out its responsibilities under this part with the  
926 | following agencies: public and private hospitals; receiving and  
927 | treatment facilities; clinics; laboratories; departments,  
928 | divisions, and other units of state government; the state  
929 | colleges and universities; the community colleges; private  
930 | colleges and universities; counties, municipalities, and any  
931 | other governmental unit, including facilities of the United  
932 | States Government; and any other public or private entity which  
933 | provides or needs facilities or services. Baker Act funds for  
934 | community inpatient, crisis stabilization, short-term  
935 | residential treatment, and screening services must be allocated  
936 | to each county pursuant to the department's funding allocation  
937 | methodology. Notwithstanding the provisions of s. 287.057(3)(e)  
938 | ~~287.057(3)(f)~~, contracts for community-based Baker Act services  
939 | for inpatient, crisis stabilization, short-term residential  
940 | treatment, and screening provided under this part, other than  
941 | those with other units of government, to be provided for the  
942 | department must be awarded using competitive sealed bids when  
943 | the county commission of the county receiving the services makes  
944 | a request to the department's district office by January 15 of  
945 | the contracting year. The district shall not enter into a  
946 | competitively bid contract under this provision if such action  
947 | will result in increases of state or local expenditures for  
948 | Baker Act services within the district. Contracts for these  
949 | Baker Act services using competitive sealed bids will be  
950 | effective for 3 years. The department shall adopt rules  
951 | establishing minimum standards for such contracted services and  
952 | facilities and shall make periodic audits and inspections to

953 assure that the contracted services are provided and meet the  
 954 standards of the department.

955 Section 16. Paragraph (a) of subsection (2) of section  
 956 402.7305, Florida Statutes, is amended to read:

957 402.7305 Department of Children and Family Services;  
 958 procurement of contractual services; contract management.—

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

960 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,  
 961 whenever the department intends to contract with a public  
 962 postsecondary institution to provide a service, the department  
 963 must allow all public postsecondary institutions in this state  
 964 that are accredited by the Southern Association of Colleges and  
 965 Schools to bid on the contract. Thereafter, notwithstanding any  
 966 other provision to the contrary, if a public postsecondary  
 967 institution intends to subcontract for any service awarded in  
 968 the contract, the subcontracted service must be procured by  
 969 competitive procedures.

970 Section 17. Section 409.9132, Florida Statutes, is amended  
 971 to read:

972 409.9132 Pilot project to monitor home health services.—  
 973 The Agency for Health Care Administration shall expand the home  
 974 health agency monitoring pilot project in Miami-Dade County on a  
 975 statewide basis effective July 1, 2012, except in counties in  
 976 which the program will not be cost-effective, as determined by  
 977 the agency. The agency shall contract with a vendor to verify  
 978 the utilization and delivery of home health services and provide  
 979 an electronic billing interface for home health services. The  
 980 contract must require the creation of a program to submit claims

981 | electronically for the delivery of home health services. The  
 982 | program must verify telephonically visits for the delivery of  
 983 | home health services using voice biometrics. The agency may seek  
 984 | amendments to the Medicaid state plan and waivers of federal  
 985 | laws, as necessary, to implement or expand the pilot project.  
 986 | Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must  
 987 | award the contract through the competitive solicitation process  
 988 | and may use the current contract to expand the home health  
 989 | agency monitoring pilot project to include additional counties  
 990 | as authorized under this section.

991 |         Section 18. Subsection (3) of section 427.0135, Florida  
 992 | Statutes, is amended to read:

993 |             427.0135 Purchasing agencies; duties and  
 994 | responsibilities.—Each purchasing agency, in carrying out the  
 995 | policies and procedures of the commission, shall:

996 |             (3) Not procure transportation disadvantaged services  
 997 | without initially negotiating with the commission, as provided  
 998 | in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise  
 999 | authorized by statute. If the purchasing agency, after  
 1000 | consultation with the commission, determines that it cannot  
 1001 | reach mutually acceptable contract terms with the commission,  
 1002 | the purchasing agency may contract for the same transportation  
 1003 | services provided in a more cost-effective manner and of  
 1004 | comparable or higher quality and standards. The Medicaid agency  
 1005 | shall implement this subsection in a manner consistent with s.  
 1006 | 409.908(18) and as otherwise limited or directed by the General  
 1007 | Appropriations Act.

1008 |         Section 19. Paragraph (c) of subsection (5) of section

1009 445.024, Florida Statutes, is amended to read:

1010 445.024 Work requirements.—

1011 (5) USE OF CONTRACTS.—Regional workforce boards shall  
 1012 provide work activities, training, and other services, as  
 1013 appropriate, through contracts. In contracting for work  
 1014 activities, training, or services, the following applies:

1015 (c) Notwithstanding the exemption from the competitive  
 1016 sealed bid requirements provided in s. 287.057(3)(e)  
 1017 ~~287.057(3)(f)~~ for certain contractual services, each contract  
 1018 awarded under this chapter must be awarded on the basis of a  
 1019 competitive sealed bid, except for a contract with a  
 1020 governmental entity as determined by the regional workforce  
 1021 board.

1022 Section 20. Paragraph (c) of subsection (5) of section  
 1023 627.311, Florida Statutes, is amended to read:

1024 627.311 Joint underwriters and joint reinsurers; public  
 1025 records and public meetings exemptions.—

1026 (5)

1027 (c) The operation of the plan shall be governed by a plan  
 1028 of operation that is prepared at the direction of the board of  
 1029 governors and approved by order of the office. The plan is  
 1030 subject to continuous review by the office. The office may, by  
 1031 order, withdraw approval of all or part of a plan if the office  
 1032 determines that conditions have changed since approval was  
 1033 granted and that the purposes of the plan require changes in the  
 1034 plan. The plan of operation shall:

1035 1. Authorize the board to engage in the activities  
 1036 necessary to implement this subsection, including, but not

1037 | limited to, borrowing money.

1038 |         2. Develop criteria for eligibility for coverage by the  
 1039 | plan, including, but not limited to, documented rejection by at  
 1040 | least two insurers which reasonably assures that insureds  
 1041 | covered under the plan are unable to acquire coverage in the  
 1042 | voluntary market.

1043 |         3. Require notice from the agent to the insured at the  
 1044 | time of the application for coverage that the application is for  
 1045 | coverage with the plan and that coverage may be available  
 1046 | through an insurer, group self-insurers' fund, commercial self-  
 1047 | insurance fund, or assessable mutual insurer through another  
 1048 | agent at a lower cost.

1049 |         4. Establish programs to encourage insurers to provide  
 1050 | coverage to applicants of the plan in the voluntary market and  
 1051 | to insureds of the plan, including, but not limited to:

1052 |             a. Establishing procedures for an insurer to use in  
 1053 | notifying the plan of the insurer's desire to provide coverage  
 1054 | to applicants to the plan or existing insureds of the plan and  
 1055 | in describing the types of risks in which the insurer is  
 1056 | interested. The description of the desired risks must be on a  
 1057 | form developed by the plan.

1058 |             b. Developing forms and procedures that provide an insurer  
 1059 | with the information necessary to determine whether the insurer  
 1060 | wants to write particular applicants to the plan or insureds of  
 1061 | the plan.

1062 |             c. Developing procedures for notice to the plan and the  
 1063 | applicant to the plan or insured of the plan that an insurer  
 1064 | will insure the applicant or the insured of the plan, and notice

HB 1309

2013

1065 of the cost of the coverage offered; and developing procedures  
1066 for the selection of an insuring entity by the applicant or  
1067 insured of the plan.

1068 d. Provide for a market-assistance plan to assist in the  
1069 placement of employers. All applications for coverage in the  
1070 plan received 45 days before the effective date for coverage  
1071 shall be processed through the market-assistance plan. A market-  
1072 assistance plan specifically designed to serve the needs of  
1073 small, good policyholders as defined by the board must be  
1074 reviewed and updated periodically.

1075 5. Provide for policy and claims services to the insureds  
1076 of the plan of the nature and quality provided for insureds in  
1077 the voluntary market.

1078 6. Provide for the review of applications for coverage  
1079 with the plan for reasonableness and accuracy, using any  
1080 available historic information regarding the insured.

1081 7. Provide for procedures for auditing insureds of the  
1082 plan which are based on reasonable business judgment and are  
1083 designed to maximize the likelihood that the plan will collect  
1084 the appropriate premiums.

1085 8. Authorize the plan to terminate the coverage of and  
1086 refuse future coverage for any insured that submits a fraudulent  
1087 application to the plan or provides fraudulent or grossly  
1088 erroneous records to the plan or to any service provider of the  
1089 plan in conjunction with the activities of the plan.

1090 9. Establish service standards for agents who submit  
1091 business to the plan.

1092 10. Establish criteria and procedures to prohibit any

HB 1309

2013

1093 agent who does not adhere to the established service standards  
1094 from placing business with the plan or receiving, directly or  
1095 indirectly, any commissions for business placed with the plan.

1096 11. Provide for the establishment of reasonable safety  
1097 programs for all insureds in the plan. All insureds of the plan  
1098 must participate in the safety program.

1099 12. Authorize the plan to terminate the coverage of and  
1100 refuse future coverage to any insured who fails to pay premiums  
1101 or surcharges when due; who, at the time of application, is  
1102 delinquent in payments of workers' compensation or employer's  
1103 liability insurance premiums or surcharges owed to an insurer,  
1104 group self-insurers' fund, commercial self-insurance fund, or  
1105 assessable mutual insurer licensed to write such coverage in  
1106 this state; or who refuses to substantially comply with any  
1107 safety programs recommended by the plan.

1108 13. Authorize the board of governors to provide the goods  
1109 and services required by the plan through staff employed by the  
1110 plan, through reasonably compensated service providers who  
1111 contract with the plan to provide services as specified by the  
1112 board of governors, or through a combination of employees and  
1113 service providers.

1114 a. Purchases that equal or exceed \$2,500 but are less than  
1115 or equal to \$25,000, shall be made by receipt of written quotes,  
1116 telephone quotes, or informal bids, whenever practical. The  
1117 procurement of goods or services valued over \$25,000 is subject  
1118 to competitive solicitation, except in situations in which the  
1119 goods or services are provided by a sole source or are deemed an  
1120 emergency purchase, or the services are exempted from

1121 competitive-solicitation requirements under s. 287.057(3)(e)  
 1122 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency  
 1123 procurement must be documented. Contracts for goods or services  
 1124 valued at or over \$100,000 are subject to board approval.

1125 b. The board shall determine whether it is more cost-  
 1126 effective and in the best interests of the plan to use legal  
 1127 services provided by in-house attorneys employed by the plan  
 1128 rather than contracting with outside counsel. In making such  
 1129 determination, the board shall document its findings and shall  
 1130 consider the expertise needed; whether time commitments exceed  
 1131 in-house staff resources; whether local representation is  
 1132 needed; the travel, lodging, and other costs associated with in-  
 1133 house representation; and such other factors that the board  
 1134 determines are relevant.

1135 14. Provide for service standards for service providers,  
 1136 methods of determining adherence to those service standards,  
 1137 incentives and disincentives for service, and procedures for  
 1138 terminating contracts for service providers that fail to adhere  
 1139 to service standards.

1140 15. Provide procedures for selecting service providers and  
 1141 standards for qualification as a service provider that  
 1142 reasonably assure that any service provider selected will  
 1143 continue to operate as an ongoing concern and is capable of  
 1144 providing the specified services in the manner required.

1145 16. Provide for reasonable accounting and data-reporting  
 1146 practices.

1147 17. Provide for annual review of costs associated with the  
 1148 administration and servicing of the policies issued by the plan

HB 1309

2013

1149 | to determine alternatives by which costs can be reduced.

1150 |       18. Authorize the acquisition of such excess insurance or  
1151 | reinsurance as is consistent with the purposes of the plan.

1152 |       19. Provide for an annual report to the office on a date  
1153 | specified by the office and containing such information as the  
1154 | office reasonably requires.

1155 |       20. Establish multiple rating plans for various  
1156 | classifications of risk which reflect risk of loss, hazard  
1157 | grade, actual losses, size of premium, and compliance with loss  
1158 | control. At least one of such plans must be a preferred-rating  
1159 | plan to accommodate small-premium policyholders with good  
1160 | experience as defined in sub-subparagraph 22.a.

1161 |       21. Establish agent commission schedules.

1162 |       22. For employers otherwise eligible for coverage under  
1163 | the plan, establish three tiers of employers meeting the  
1164 | criteria and subject to the rate limitations specified in this  
1165 | subparagraph.

1166 |       a. Tier One.—

1167 |       (I) Criteria; rated employers.—An employer that has an  
1168 | experience modification rating shall be included in Tier One if  
1169 | the employer meets all of the following:

1170 |       (A) The experience modification is below 1.00.

1171 |       (B) The employer had no lost-time claims subsequent to the  
1172 | applicable experience modification rating period.

1173 |       (C) The total of the employer's medical-only claims  
1174 | subsequent to the applicable experience modification rating  
1175 | period did not exceed 20 percent of premium.

1176 |       (II) Criteria; non-rated employers.—An employer that does

HB 1309

2013

1177 not have an experience modification rating shall be included in  
1178 Tier One if the employer meets all of the following:

1179 (A) The employer had no lost-time claims for the 3-year  
1180 period immediately preceding the inception date or renewal date  
1181 of the employer's coverage under the plan.

1182 (B) The total of the employer's medical-only claims for  
1183 the 3-year period immediately preceding the inception date or  
1184 renewal date of the employer's coverage under the plan did not  
1185 exceed 20 percent of premium.

1186 (C) The employer has secured workers' compensation  
1187 coverage for the entire 3-year period immediately preceding the  
1188 inception date or renewal date of the employer's coverage under  
1189 the plan.

1190 (D) The employer is able to provide the plan with a loss  
1191 history generated by the employer's prior workers' compensation  
1192 insurer, except if the employer is not able to produce a loss  
1193 history due to the insolvency of an insurer, the receiver shall  
1194 provide to the plan, upon the request of the employer or the  
1195 employer's agent, a copy of the employer's loss history from the  
1196 records of the insolvent insurer if the loss history is  
1197 contained in records of the insurer which are in the possession  
1198 of the receiver. If the receiver is unable to produce the loss  
1199 history, the employer may, in lieu of the loss history, submit  
1200 an affidavit from the employer and the employer's insurance  
1201 agent setting forth the loss history.

1202 (E) The employer is not a new business.

1203 (III) Premiums.—The premiums for Tier One insureds shall  
1204 be set at a premium level 25 percent above the comparable

1205 | voluntary market premiums until the plan has sufficient  
 1206 | experience as determined by the board to establish an  
 1207 | actuarially sound rate for Tier One, at which point the board  
 1208 | shall, subject to paragraph (e), adjust the rates, if necessary,  
 1209 | to produce actuarially sound rates, provided such rate  
 1210 | adjustment shall not take effect prior to January 1, 2007.

1211 |       b. Tier Two.—

1212 |       (I) Criteria; rated employers.—An employer that has an  
 1213 | experience modification rating shall be included in Tier Two if  
 1214 | the employer meets all of the following:

1215 |           (A) The experience modification is equal to or greater  
 1216 | than 1.00 but not greater than 1.10.

1217 |           (B) The employer had no lost-time claims subsequent to the  
 1218 | applicable experience modification rating period.

1219 |           (C) The total of the employer's medical-only claims  
 1220 | subsequent to the applicable experience modification rating  
 1221 | period did not exceed 20 percent of premium.

1222 |       (II) Criteria; non-rated employers.—An employer that does  
 1223 | not have any experience modification rating shall be included in  
 1224 | Tier Two if the employer is a new business. An employer shall be  
 1225 | included in Tier Two if the employer has less than 3 years of  
 1226 | loss experience in the 3-year period immediately preceding the  
 1227 | inception date or renewal date of the employer's coverage under  
 1228 | the plan and the employer meets all of the following:

1229 |           (A) The employer had no lost-time claims for the 3-year  
 1230 | period immediately preceding the inception date or renewal date  
 1231 | of the employer's coverage under the plan.

1232 |           (B) The total of the employer's medical-only claims for

HB 1309

2013

1233 the 3-year period immediately preceding the inception date or  
1234 renewal date of the employer's coverage under the plan did not  
1235 exceed 20 percent of premium.

1236 (C) The employer is able to provide the plan with a loss  
1237 history generated by the workers' compensation insurer that  
1238 provided coverage for the portion or portions of such period  
1239 during which the employer had secured workers' compensation  
1240 coverage, except if the employer is not able to produce a loss  
1241 history due to the insolvency of an insurer, the receiver shall  
1242 provide to the plan, upon the request of the employer or the  
1243 employer's agent, a copy of the employer's loss history from the  
1244 records of the insolvent insurer if the loss history is  
1245 contained in records of the insurer which are in the possession  
1246 of the receiver. If the receiver is unable to produce the loss  
1247 history, the employer may, in lieu of the loss history, submit  
1248 an affidavit from the employer and the employer's insurance  
1249 agent setting forth the loss history.

1250 (III) Premiums.—The premiums for Tier Two insureds shall  
1251 be set at a rate level 50 percent above the comparable voluntary  
1252 market premiums until the plan has sufficient experience as  
1253 determined by the board to establish an actuarially sound rate  
1254 for Tier Two, at which point the board shall, subject to  
1255 paragraph (e), adjust the rates, if necessary, to produce  
1256 actuarially sound rates, provided such rate adjustment shall not  
1257 take effect prior to January 1, 2007.

1258 c. Tier Three.—

1259 (I) Eligibility.—An employer shall be included in Tier  
1260 Three if the employer does not meet the criteria for Tier One or

1261 Tier Two.

1262 (II) Rates.—The board shall establish, subject to  
 1263 paragraph (e), and the plan shall charge, actuarially sound  
 1264 rates for Tier Three insureds.

1265 23. For Tier One or Tier Two employers which employ no  
 1266 nonexempt employees or which report payroll which is less than  
 1267 the minimum wage hourly rate for one full-time employee for 1  
 1268 year at 40 hours per week, the plan shall establish actuarially  
 1269 sound premiums, provided, however, that the premiums may not  
 1270 exceed \$2,500. These premiums shall be in addition to the fee  
 1271 specified in subparagraph 26. When the plan establishes  
 1272 actuarially sound rates for all employers in Tier One and Tier  
 1273 Two, the premiums for employers referred to in this paragraph  
 1274 are no longer subject to the \$2,500 cap.

1275 24. Provide for a depopulation program to reduce the  
 1276 number of insureds in the plan. If an employer insured through  
 1277 the plan is offered coverage from a voluntary market carrier:

- 1278 a. During the first 30 days of coverage under the plan;
- 1279 b. Before a policy is issued under the plan;
- 1280 c. By issuance of a policy upon expiration or cancellation  
 1281 of the policy under the plan; or
- 1282 d. By assumption of the plan's obligation with respect to  
 1283 an in-force policy,

1284  
 1285 that employer is no longer eligible for coverage through the  
 1286 plan. The premium for risks assumed by the voluntary market  
 1287 carrier must be no greater than the premium the insured would  
 1288 have paid under the plan, and shall be adjusted upon renewal to

1289 reflect changes in the plan rates and the tier for which the  
 1290 insured would qualify as of the time of renewal. The insured may  
 1291 be charged such premiums only for the first 3 years of coverage  
 1292 in the voluntary market. A premium under this subparagraph is  
 1293 deemed approved and is not an excess premium for purposes of s.  
 1294 627.171.

1295 25. Require that policies issued and applications must  
 1296 include a notice that the policy could be replaced by a policy  
 1297 issued from a voluntary market carrier and that, if an offer of  
 1298 coverage is obtained from a voluntary market carrier, the  
 1299 policyholder is no longer eligible for coverage through the  
 1300 plan. The notice must also specify that acceptance of coverage  
 1301 under the plan creates a conclusive presumption that the  
 1302 applicant or policyholder is aware of this potential.

1303 26. Require that each application for coverage and each  
 1304 renewal premium be accompanied by a nonrefundable fee of \$475 to  
 1305 cover costs of administration and fraud prevention. The board  
 1306 may, with the prior approval of the office, increase the amount  
 1307 of the fee pursuant to a rate filing to reflect increased costs  
 1308 of administration and fraud prevention. The fee is not subject  
 1309 to commission and is fully earned upon commencement of coverage.

1310 Section 21. Paragraph (e) of subsection (6) of section  
 1311 627.351, Florida Statutes, is amended to read:

1312 627.351 Insurance risk apportionment plans.—

1313 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1314 (e) Purchases that equal or exceed \$2,500, but are less  
 1315 than \$25,000, shall be made by receipt of written quotes,  
 1316 written record of telephone quotes, or informal bids, whenever

HB 1309

2013

1317 practical. The procurement of goods or services valued at or  
 1318 over \$25,000 shall be subject to competitive solicitation,  
 1319 except in situations where the goods or services are provided by  
 1320 a sole source or are deemed an emergency purchase; the services  
 1321 are exempted from competitive solicitation requirements under s.  
 1322 287.057(3)(e) ~~287.057(3)(f)~~; or the procurement of services is  
 1323 subject to s. 627.3513. Justification for the sole-sourcing or  
 1324 emergency procurement must be documented. Contracts for goods or  
 1325 services valued at or over \$100,000 are subject to approval by  
 1326 the board.

1327 Section 22. Subsection (2) of section 765.5155, Florida  
 1328 Statutes, is amended to read:

1329 765.5155 Donor registry; education program.—

1330 (2) The agency and the department shall jointly contract  
 1331 for the operation of a donor registry and education program. The  
 1332 contractor shall be procured by competitive solicitation  
 1333 pursuant to chapter 287, notwithstanding any exemption in s.  
 1334 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,  
 1335 priority shall be given to existing nonprofit groups that are  
 1336 based within the state, have expertise working with procurement  
 1337 organizations, have expertise in conducting statewide organ and  
 1338 tissue donor public education campaigns, and represent the needs  
 1339 of the organ and tissue donation community in the state.

1340 Section 23. Subsection (10) of section 893.055, Florida  
 1341 Statutes, is amended to read:

1342 893.055 Prescription drug monitoring program.—

1343 (10) All costs incurred by the department in administering  
 1344 the prescription drug monitoring program shall be funded through

HB 1309

2013

1345 federal grants or private funding applied for or received by the  
1346 state. The department may not commit funds for the monitoring  
1347 program without ensuring funding is available. The prescription  
1348 drug monitoring program and the implementation thereof are  
1349 contingent upon receipt of the nonstate funding. The department  
1350 and state government shall cooperate with the direct-support  
1351 organization established pursuant to subsection (11) in seeking  
1352 federal grant funds, other nonstate grant funds, gifts,  
1353 donations, or other private moneys for the department so long as  
1354 the costs of doing so are not considered material. Nonmaterial  
1355 costs for this purpose include, but are not limited to, the  
1356 costs of mailing and personnel assigned to research or apply for  
1357 a grant. Notwithstanding the exemptions to competitive-  
1358 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~,  
1359 the department shall comply with the competitive-solicitation  
1360 requirements under s. 287.057 for the procurement of any goods  
1361 or services required by this section. Funds provided, directly  
1362 or indirectly, by prescription drug manufacturers may not be  
1363 used to implement the program.

1364 Section 24. This act shall take effect July 1, 2013.