

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           providing additional information that must be included  
5           in an agency agreement that provides state financial  
6           assistance to a recipient or subrecipient; requiring  
7           each state agency to designate an employee to function  
8           as a grant manager for purposes of the agreement;  
9           requiring training for certain grant managers;  
10          requiring the Chief Financial Officer to establish and  
11          disseminate uniform procedures for grant management;  
12          requiring the grant manager to report certain  
13          information; requiring the Chief Financial Officer to  
14          perform audits of executed grant agreements; amending  
15          s. 215.985, F.S.; requiring the Chief Financial  
16          Officer to establish and maintain a secure contract  
17          tracking system; providing requirements for the  
18          system; requiring state agencies to post certain  
19          information on the contract tracking system within a  
20          specified timeframe; specifying information that must  
21          be posted on the contract tracking system; providing  
22          that records posted on the system may not contain  
23          confidential or exempt information; requiring state  
24          agencies to redact confidential or exempt information  
25          prior to posting records on the system; providing a  
26          process for a party to the contract to request  
27          redaction of confidential or exempt information;  
28          providing notice requirements; providing that posting

29 | of information on the contract tracking system does  
30 | not supersede the duty of a state agency to respond to  
31 | a public record request; providing that a subpoena for  
32 | certain contract information must be served on the  
33 | state agency that is party to the contract;  
34 | authorizing the Chief Financial Officer to adopt  
35 | rules; defining the term "state agency"; authorizing  
36 | the judicial branch, Department of Legal Affairs,  
37 | Department of Agriculture and Consumer Services, and  
38 | Department of Financial Services to elect to comply  
39 | with the posting requirements; renaming chapter 287,  
40 | F.S.; amending s. 287.012, F.S.; providing and  
41 | revising definitions; amending s. 287.042, F.S.;;  
42 | revising powers, duties, and functions of the  
43 | Department of Management Services; providing an  
44 | additional circumstance under which the department may  
45 | proceed with a competitive solicitation or contract  
46 | award process of a term contract as an alternative to  
47 | the stay of such process pursuant to a formal written  
48 | protest under the Administrative Procedure Act;  
49 | authorizing the department to lead or enter into joint  
50 | agreements with governmental entities for the purchase  
51 | of commodities or contractual services that can be  
52 | used by multiple agencies; amending s. 287.056, F.S.;;  
53 | eliminating provisions requiring certain inclusions in  
54 | agency agreements; amending s. 287.057, F.S.;;  
55 | providing that contracts awarded pursuant to an  
56 | invitation to bid shall be awarded to the responsible

57 | and responsive vendor that submits the lowest  
58 | responsive bid; revising exceptions to the requirement  
59 | that the purchase of specified commodities or  
60 | contractual services be made only as a result of  
61 | receiving competitive sealed bids, competitive sealed  
62 | proposals, or competitive sealed replies; revising  
63 | contractual services and commodities that are not  
64 | subject to competitive solicitation requirements by  
65 | virtue of being available only from a single source;  
66 | providing that a contract for commodities or  
67 | contractual services may be awarded without  
68 | competition if the recipient of funds is established  
69 | during the appropriations process; revising provisions  
70 | relating to extension of a contract for commodities or  
71 | contractual services; authorizing an agency to  
72 | negotiate better pricing upon renewal of a contract;  
73 | providing training requirements for contract managers  
74 | responsible for contracts in excess of a specified  
75 | threshold amount; providing that the Department of  
76 | Management Services is responsible for establishing  
77 | and disseminating the requirements for certification  
78 | of a contract manager; requiring the department, in  
79 | consultation with the Chief Financial Officer to  
80 | maintain a program for online procurement of  
81 | commodities and contractual services; amending s.  
82 | 287.0571, F.S.; revising nonapplicability of a  
83 | business case to outsource; amending s. 287.058, F.S.;  
84 | defining the term "performance measure"; revising

85 | references within provisions relating to purchase  
 86 | orders used in lieu of written agreements for classes  
 87 | of contractual services; revising terminology;  
 88 | amending s. 287.076, F.S.; providing that Project  
 89 | Management Professionals training for personnel  
 90 | involved in managing outsourcings and negotiations is  
 91 | subject to annual appropriations; creating s. 287.136,  
 92 | F.S.; requiring the Chief Financial Officer to perform  
 93 | audits of executed contracts; creating reporting  
 94 | requirements; amending ss. 16.0155, 283.33, 394.457,  
 95 | 402.7305, 409.9132, 427.0135, 445.024, 627.311,  
 96 | 627.351, 765.5155, and 893.055, F.S.; conforming  
 97 | cross-references; providing an effective date.

98 |

99 | Be It Enacted by the Legislature of the State of Florida:

100 |

101 | Section 1. Section 215.971, Florida Statutes, is amended  
 102 | to read:

103 | 215.971 Agreements funded with federal and state  
 104 | assistance.—

105 | (1) For an agency agreement that provides state financial  
 106 | assistance to a recipient or subrecipient, as those terms are  
 107 | defined in s. 215.97, or that provides federal financial  
 108 | assistance to a subrecipient, as defined by applicable United  
 109 | States Office of Management and Budget circulars, the agreement  
 110 | must ~~shall~~ include the following:

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

114        (b)~~(2)~~ A provision dividing the agreement into  
115 quantifiable units of deliverables that must be received and  
116 accepted in writing by the agency before payment. Each  
117 deliverable must be directly related to the scope of work and  
118 ~~must~~ specify the required minimum level of service to be  
119 performed and the criteria for evaluating the successful  
120 completion of each deliverable.

121        (c) A provision specifying the financial consequences that  
122 apply if the recipient or subrecipient fails to perform the  
123 minimum level of service required by the agreement. The  
124 provision can be excluded from the agreement only if financial  
125 consequences are prohibited by the federal agency awarding the  
126 grant. Funds refunded to a state agency from a recipient or  
127 subrecipient for failure to perform as required under the  
128 agreement may be expended only in direct support of the program  
129 from which the agreement originated.

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

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

137        (f) A provision specifying that any funds paid in excess  
138 of the amount to which the recipient or subrecipient is entitled

139 under the terms and conditions of the agreement must be refunded  
140 to the state agency.

141 (g) Any additional information required pursuant to s.  
142 215.97.

143 (2) For each agreement funded with federal or state  
144 financial assistance, the state agency shall designate an  
145 employee to function as a grant manager who shall be responsible  
146 for enforcing performance of the agreement's terms and  
147 conditions and who shall serve as a liaison with the recipient  
148 or subrecipient.

149 (a) Each grant manager who is responsible for agreements  
150 in excess of the threshold amount for CATEGORY TWO under s.  
151 287.017 must complete the training and become a certified  
152 contract manager as provided under s. 287.057(14).

153 (b) The Chief Financial Officer shall establish and  
154 disseminate uniform procedures for grant management pursuant to  
155 s. 17.03(3) to ensure that services have been rendered in  
156 accordance with agreement terms before the agency processes an  
157 invoice for payment. The procedures must include, but need not  
158 be limited to, procedures for monitoring and documenting  
159 recipient or subrecipient performance, reviewing and documenting  
160 all deliverables for which payment is requested by the recipient  
161 or subrecipient, and providing written certification by the  
162 grant manager of the agency's receipt of goods and services.

163 (c) The grant manager shall reconcile and verify all funds  
164 received against all funds expended during the grant agreement  
165 period and produce a final reconciliation report. The final

166 report must identify any funds paid in excess of the  
167 expenditures incurred by the recipient or subrecipient.

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

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

178 (b) Within 30 days after the receipt of the final audit  
179 report, the agency head shall submit to the Chief Financial  
180 Officer or designee, his or her written statement of explanation  
181 or rebuttal concerning findings requiring corrective action,  
182 including corrective action to be taken to preclude a  
183 recurrence.

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

186 215.985 Transparency in government spending.—

187 (16) The Chief Financial Officer shall establish and  
188 maintain a secure, contract tracking ~~provide public access to a~~  
189 ~~state contract management~~ system available for viewing and  
190 downloading by the public through a secure website. The Chief  
191 Financial Officer shall use appropriate Internet security  
192 measures to ensure that no person has the ability to alter or  
193 modify records available on the website ~~that provides~~

194 ~~information and documentation relating to contracts procured by~~  
 195 ~~governmental entities.~~

196 (a) Within 30 calendar days after executing a contract,  
 197 each state agency must post the following information relating  
 198 to that contract on the contract tracking system:

- 199 1. The names of the contracting entities;
- 200 2. The procurement method;
- 201 3. The contract beginning and ending dates;
- 202 4. The nature or type of the commodities or services  
 203 purchased;
- 204 5. Applicable contract unit prices and deliverables;
- 205 6. Total compensation to be paid or received under the  
 206 contract;
- 207 7. All payments made to the contractor to date;
- 208 8. Applicable contract performance measures; and
- 209 9. Electronic copies of the contract that have been  
 210 redacted to exclude confidential or exempt information ~~The data~~  
 211 ~~collected in the system must include, but need not be limited~~  
 212 ~~to, the contracting agency; the procurement method; the contract~~  
 213 ~~beginning and ending dates; the type of commodity or service;~~  
 214 ~~the purpose of the commodity or service; the compensation to be~~  
 215 ~~paid; compliance information, such as performance metrics for~~  
 216 ~~the service or commodity; contract violations; the number of~~  
 217 ~~extensions or renewals; and the statutory authority for~~  
 218 ~~providing the service.~~

219 (b) Within 30 days after an amendment ~~a major change~~ to an  
 220 existing contract, ~~or the execution of a new contract,~~ agency  
 221 ~~procurement staff of the~~ state agency that is a party to the



222 contract must ~~affected state governmental entity shall~~ update  
223 the ~~necessary~~ information described in paragraph (a) in the  
224 ~~state contract tracking management~~ system. An amendment ~~A major~~  
225 ~~change~~ to a contract includes, but is not limited to, a renewal,  
226 termination, or extension of the contract or any modification ~~an~~  
227 ~~amendment~~ to the terms of the contract.

228 (c) By January 1, 2014, each state agency must post to the  
229 contract tracking system the information required in paragraph  
230 (a) for each existing contract that was executed more than 30  
231 calendar days prior to July 1, 2013.

232 (d)1. Records made available on the contract tracking  
233 system may not reveal information made confidential or exempt by  
234 law.

235 2. Each state agency that is a party to a contract must  
236 redact any confidential or exempt information from the contract  
237 before posting an electronic copy on the contract tracking  
238 system. If a state agency that is a party to the contract  
239 becomes aware that an electronic copy of a contract has been  
240 posted that has not been properly redacted, such state agency  
241 must immediately notify the Chief Financial Officer and must  
242 immediately remove the contract from the contract tracking  
243 system. Within seven business days, the state agency must post a  
244 properly redacted copy of the contract on the contract tracking  
245 system.

246 3.a. If a party to a contract, or an authorized  
247 representative thereof, discovers that an electronic copy of a  
248 contract has been posted to the contract tracking system that  
249 has not been properly redacted, the party or representative may

250 request the state agency that is a party to the contract to  
251 redact the confidential or exempt information. Upon receipt of  
252 the request, such state agency shall redact the confidential or  
253 exempt information.

254 b. A request to redact confidential or exempt information  
255 must be made in writing and delivered by mail, facsimile, or  
256 electronic transmission, or in person to the state agency that  
257 is a party to the contract. The request must identify the  
258 specific document, the page numbers that include the  
259 confidential or exempt information, the information that is  
260 confidential or exempt, and the applicable statutory exemption.  
261 A fee may not be charged for a redaction made pursuant to such  
262 request.

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

266 5.a. The Chief Financial Officer, the Department of  
267 Financial Services, or any officer, employee, or contractor  
268 thereof, is not responsible for redacting confidential or exempt  
269 information from an electronic copy of a contract posted by  
270 another state agency on the system.

271 b. The Chief Financial Officer, the Department of  
272 Financial Services, or any officer, employee, or contractor  
273 thereof, is not liable for the failure of a state agency to  
274 redact the confidential or exempt information.

275 (e)1. The posting of information on the contract tracking  
276 system or the provision of contract information on a website for  
277 public viewing and downloading does not supersede the duty of a

278 state agency to respond to a public record request for such  
279 information or to a subpoena for such information.

280 2. A request for a copy of a contract or certified copy of  
281 a contract shall be made to the state agency that is party to  
282 the contract. Such request may not be made to the Chief  
283 Financial Officer or the Department of Financial Services or any  
284 officer, employee, or contractor thereof, unless the Chief  
285 Financial Officer or the department is a party to the contract.

286 3. A subpoena for a copy of a contract or certified copy  
287 of a contract must be served on the state agency that is a party  
288 to the contract and that maintains the original documents. The  
289 Chief Financial Officer or the Department of Financial Services  
290 or any officer, employee, or contractor thereof may not be  
291 served a subpoena for those records unless the Chief Financial  
292 Officer or the department is a party to the contract.

293 (f) The Chief Financial Officer may adopt rules to  
294 administer this subsection.

295 (g) For purposes of this subsection, the term "state  
296 agency" means a state agency as defined in s. 216.011, excluding  
297 the judicial branch, the Department of Legal Affairs, the  
298 Department of Agriculture and Consumer Services, and the  
299 Department of Financial Services. However, the judicial branch,  
300 the Department of Legal Affairs, the Department of Agriculture  
301 and Consumer Services, and the Department of Financial Services  
302 may elect to comply with the provisions of this subsection in  
303 whole or in part.

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

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

308 287.012 Definitions.—As used in this part, the term:

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

312 (5) "Commodity" means any of the various supplies,  
313 materials, goods, merchandise, food, equipment, information  
314 technology, and other personal property, including a mobile  
315 home, trailer, or other portable structure with floor space of  
316 less than 5,000 square feet, purchased, leased, or otherwise  
317 contracted for by the state and its agencies. "Commodity" also  
318 includes interest on deferred-payment commodity contracts  
319 approved pursuant to s. 287.063 entered into by an agency for  
320 the purchase of other commodities. However, commodities  
321 purchased for resale are excluded from this definition. Printing  
322 of publications shall be considered a commodity when procured  
323 ~~let upon contract~~ pursuant to s. 283.33, whether purchased for  
324 resale or not.

325 (10) "Electronic posting" or "electronically post" means  
326 the noticing of solicitations, agency decisions or intended  
327 decisions, or other matters relating to procurement, on a  
328 centralized Internet website designated by the department for  
329 this purpose, in the manner and form required by s.  
330 120.57(3)(a).

331 (13) "Extension" means an increase in the time allowed for  
332 the contract period ~~due to circumstances which, without fault of~~  
333 ~~either party, make performance impracticable or impossible, or~~

334 ~~which prevent a new contract from being executed, with or~~  
335 ~~without a proportional increase in the total dollar amount, with~~  
336 ~~any increase to be based on the method and rate previously~~  
337 ~~established in the contract.~~

338 (14) "Governmental entity" means a political subdivision  
339 or agency of this state or of any state of the United States,  
340 including, but not limited to, state government, county, city,  
341 school district, nonprofit public university or college, single-  
342 purpose or multipurpose special district, single-purpose or  
343 multipurpose public authority, metropolitan or consolidated  
344 government, separate legal entity or administrative entity, or  
345 any agency of the Federal Government.

346 ~~(15)-(14)~~ "Information technology" has the meaning ascribed  
347 in s. 282.0041.

348 ~~(16)-(15)~~ "Invitation to bid" means a written or  
349 electronically posted solicitation for competitive sealed bids.

350 ~~(17)-(16)~~ "Invitation to negotiate" means a written or  
351 electronically posted solicitation for competitive sealed  
352 replies to select one or more vendors with which to commence  
353 negotiations for the procurement of commodities or contractual  
354 services.

355 ~~(18)-(17)~~ "Minority business enterprise" has the meaning  
356 ascribed in s. 288.703.

357 ~~(19)-(18)~~ "Office" means the Office of Supplier Diversity  
358 of the Department of Management Services.

359 ~~(20)-(19)~~ "Outsource" means the process of contracting with  
360 a vendor to provide a service as defined in s. 216.011(1)(f), in  
361 whole or in part, or an activity as defined in s.

362 216.011(1)(rr), while a state agency retains the responsibility  
363 and accountability for the service or activity and there is a  
364 transfer of management responsibility for the delivery of  
365 resources and the performance of those resources.

366 ~~(21)-(20)~~ "Renewal" means contracting with the same  
367 contractor for an additional contract period after the initial  
368 contract period, only if pursuant to contract terms specifically  
369 providing for such renewal.

370 ~~(22)-(21)~~ "Request for information" means a written or  
371 electronically posted request made by an agency to vendors for  
372 information concerning commodities or contractual services.  
373 Responses to these requests are not offers and may not be  
374 accepted by the agency to form a binding contract.

375 ~~(23)-(22)~~ "Request for proposals" means a written or  
376 electronically posted solicitation for competitive sealed  
377 proposals.

378 ~~(24)-(23)~~ "Request for a quote" means an electronic, oral  
379 or written request for written pricing or services information  
380 from a state term contract vendor for commodities or contractual  
381 services available on a state term contract from that vendor.

382 ~~(25)-(24)~~ "Responsible vendor" means a vendor who has the  
383 capability in all respects to fully perform the contract  
384 requirements and the integrity and reliability that will assure  
385 good faith performance.

386 ~~(26)-(25)~~ "Responsive bid," "responsive proposal," or  
387 "responsive reply" means a bid, or proposal, or reply submitted  
388 by a responsive and responsible vendor that conforms in all  
389 material respects to the solicitation.

390            ~~(27)-(26)~~ "Responsive vendor" means a vendor that has  
 391 submitted a bid, proposal, or reply that conforms in all  
 392 material respects to the solicitation.

393            ~~(28)-(27)~~ "State term contract" means a term contract that  
 394 is competitively procured by the department pursuant to s.  
 395 287.057 and that is used by agencies and eligible users pursuant  
 396 to s. 287.056.

397            ~~(29)-(28)~~ "Term contract" means an indefinite quantity  
 398 contract to furnish commodities or contractual services during a  
 399 defined period.

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

403            287.042 Powers, duties, and functions.—The department  
 404 shall have the following powers, duties, and functions:

405            (2)

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

410            1. When the Secretary of Management Services ~~the~~  
 411 ~~department~~ or his or her designee sets forth in writing  
 412 particular facts and circumstances that ~~which~~ demonstrate that  
 413 the delay incident to staying the solicitation or contract award  
 414 process would be detrimental to the interests of the state.  
 415 After the award of a contract resulting from a competitive  
 416 solicitation in which a timely protest was received and in which

417 the state did not prevail, the contract may be canceled and  
418 reawarded.

419 2. When a vendor protests a notice of intent to award a  
420 contract to multiple vendors, the intended award may proceed  
421 unless the protesting vendor submits to the department in  
422 writing particular facts and circumstances that demonstrate a  
423 reasonable basis for protesting the award to the other vendor or  
424 vendors. The Secretary of Management Services or his or her  
425 designee shall determine in writing whether the vendor has  
426 demonstrated a sufficient basis for stay of the intended award.  
427 If the vendor prevails in the protest, the vendor shall be added  
428 to the contract with the same terms and conditions as the other  
429 awarded vendors.

430 (8) To provide any commodity and contractual service  
431 purchasing rules to the Chief Financial Officer and all agencies  
432 electronically or through ~~an electronic medium or~~ other means.  
433 Agencies may not approve any account or request any payment of  
434 any account for the purchase of any commodity or the procurement  
435 of any contractual service covered by a purchasing or  
436 contractual service rule except as authorized therein. The  
437 department shall furnish copies of rules adopted by the  
438 department to any county, municipality, or other local public  
439 agency requesting them.

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



445 (a) Each agency that has been appropriated or has existing  
 446 funds for such purchase, shall, upon contract award by the  
 447 department, transfer their portion of the funds into the  
 448 department's Operating Trust Fund for payment by the department.  
 449 The funds shall be transferred by the Executive Office of the  
 450 Governor pursuant to the agency budget amendment request  
 451 provisions in chapter 216.

452 (b) Agencies that sign the joint agreements are  
 453 financially obligated for their portion of the agreed-upon  
 454 funds. If an agency becomes more than 90 days delinquent in  
 455 paying the funds, the department shall certify to the Chief  
 456 Financial Officer the amount due, and the Chief Financial  
 457 Officer shall transfer the amount due to the Operating Trust  
 458 Fund of the department from any of the agency's available funds.  
 459 The Chief Financial Officer shall report these transfers and the  
 460 reasons for the transfers to the Executive Office of the  
 461 Governor and the legislative appropriations committees.

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

464 287.056 Purchases from purchasing agreements and state  
 465 term contracts.—

466 (1) Agencies shall, and eligible users may, purchase  
 467 commodities and contractual services from purchasing agreements  
 468 established and state term contracts procured, pursuant to s.  
 469 287.057, by the department. ~~Each agency agreement made under~~  
 470 ~~this subsection shall include:~~

471 ~~(a) A provision specifying a scope of work that clearly~~  
472 ~~establishes all tasks that the contractor is required to~~  
473 ~~perform.~~

474 ~~(b) A provision dividing the contract into quantifiable,~~  
475 ~~measurable, and verifiable units of deliverables that must be~~  
476 ~~received and accepted in writing by the contract manager before~~  
477 ~~payment. Each deliverable must be directly related to the scope~~  
478 ~~of work and specify the required minimum level of service to be~~  
479 ~~performed and the criteria for evaluating the successful~~  
480 ~~completion of each deliverable.~~

481 Section 7. Paragraph (a) of subsection (1) and subsections  
482 (3), (10), (12), (13), (14), (16), and (22) of section 287.057,  
483 Florida Statutes, are amended to read:

484 287.057 Procurement of commodities or contractual  
485 services.—

486 (1) The competitive solicitation processes authorized in  
487 this section shall be used for procurement of commodities or  
488 contractual services in excess of the threshold amount provided  
489 for CATEGORY TWO in s. 287.017. Any competitive solicitation  
490 shall be made available simultaneously to all vendors, must  
491 include the time and date for the receipt of bids, proposals, or  
492 replies and of the public opening, and must include all  
493 contractual terms and conditions applicable to the procurement,  
494 including the criteria to be used in determining acceptability  
495 and relative merit of the bid, proposal, or reply.

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

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

501 1. All invitations to bid must include:

502 a. A detailed description of the commodities or  
 503 contractual services sought; and

504 b. If the agency contemplates renewal of the contract, a  
 505 statement to that effect.

506 2. Bids submitted in response to an invitation to bid in  
 507 which the agency contemplates renewal of the contract must  
 508 include the price for each year for which the contract may be  
 509 renewed.

510 3. Evaluation of bids shall include consideration of the  
 511 total cost for each year of the contract, including renewal  
 512 years, as submitted by the vendor.

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

515 (3) When the purchase price of commodities or contractual  
 516 services exceeds the threshold amount provided in s. 287.017 for  
 517 CATEGORY TWO, no purchase of commodities or contractual services  
 518 may be made without receiving competitive sealed bids,  
 519 competitive sealed proposals, or competitive sealed replies  
 520 unless:

521 (a) The agency head determines in writing that an  
 522 immediate danger to the public health, safety, or welfare or  
 523 other substantial loss to the state requires emergency action.  
 524 After the agency head signs ~~makes such~~ a written determination,  
 525 the agency may proceed with the procurement of commodities or  
 526 contractual services necessitated by the immediate danger,

527 without receiving competitive sealed bids, competitive sealed  
528 proposals, or competitive sealed replies. However, such  
529 emergency procurement shall be made by obtaining pricing  
530 information from at least two prospective vendors, which must be  
531 retained in the contract file, unless the agency determines in  
532 writing that the time required to obtain pricing information  
533 will increase the immediate danger to the public health, safety,  
534 or welfare or other substantial loss to the state. The agency  
535 shall furnish copies of all written determinations ~~certified~~  
536 ~~under oath~~ and any other documents relating to the emergency  
537 action to the department. A copy of the written statement shall  
538 be furnished to the Chief Financial Officer with the voucher  
539 authorizing payment. The individual purchase of personal  
540 clothing, shelter, or supplies which are needed on an emergency  
541 basis to avoid institutionalization or placement in a more  
542 restrictive setting is an emergency for the purposes of this  
543 paragraph, and the filing with the department of such statement  
544 is not required in such circumstances. In the case of the  
545 emergency purchase of insurance, the period of coverage of such  
546 insurance shall not exceed a period of 30 days, and all such  
547 emergency purchases shall be reported to the department.

548 (b) The purchase is made by an agency from a state term  
549 contract procured~~7~~ pursuant to this section~~7~~ by the department  
550 or by an agency, after receiving approval from the department,  
551 from a contract procured, pursuant to subsection (1), by another  
552 agency.

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

555 solicitation requirements. When an agency believes that  
556 commodities or contractual services are available only from a  
557 single source, the agency shall electronically post a  
558 description of the commodities or contractual services sought  
559 for a period of at least 7 business days. The description must  
560 include a request that prospective vendors provide information  
561 regarding their ability to supply the commodities or contractual  
562 services described. If it is determined in writing by the  
563 agency, after reviewing any information received from  
564 prospective vendors, that the commodities or contractual  
565 services are available only from a single source, the agency  
566 shall:

567 ~~1. provide notice of its intended decision to enter a~~  
568 ~~single-source purchase contract in the manner specified in s.~~  
569 ~~120.57(3), if the amount of the contract does not exceed the~~  
570 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

571 ~~2. Request approval from the department for the single-~~  
572 ~~source purchase, if the amount of the contract exceeds the~~  
573 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~  
574 ~~agency shall initiate its request for approval in a form~~  
575 ~~prescribed by the department, which request may be~~  
576 ~~electronically transmitted. The failure of the department to~~  
577 ~~approve or disapprove the agency's request for approval within~~  
578 ~~21 days after receiving such request shall constitute prior~~  
579 ~~approval of the department. If the department approves the~~  
580 ~~agency's request, the agency shall provide notice of its~~  
581 ~~intended decision to enter a single-source contract in the~~  
582 ~~manner specified in s. 120.57(3).~~

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

588 (d)~~(e)~~ Prescriptive assistive devices for the purpose of  
589 medical, developmental, or vocational rehabilitation of clients  
590 are excepted from competitive-solicitation requirements and  
591 shall be procured pursuant to an established fee schedule or by  
592 any other method which ensures the best price for the state,  
593 taking into consideration the needs of the client. Prescriptive  
594 assistive devices include, but are not limited to, prosthetics,  
595 orthotics, and wheelchairs. For purchases made pursuant to this  
596 paragraph, state agencies shall annually file with the  
597 department a description of the purchases and methods of  
598 procurement.

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

602 1. Artistic services. For the purposes of this subsection,  
603 the term "artistic services" does not include advertising or  
604 typesetting. As used in this subparagraph, the term  
605 "advertising" means the making of a representation in any form  
606 in connection with a trade, business, craft, or profession in  
607 order to promote the supply of commodities or services by the  
608 person promoting the commodities or contractual services.

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

611 3. Lectures by individuals.

612 4. Legal services, including attorney, paralegal, expert  
613 witness, appraisal, or mediator services.

614 5.a. Health services involving examination, diagnosis,  
615 treatment, prevention, medical consultation, or administration.

616 b. Beginning January 1, 2011, health services, including,  
617 but not limited to, substance abuse and mental health services,  
618 involving examination, diagnosis, treatment, prevention, or  
619 medical consultation, when such services are offered to eligible  
620 individuals participating in a specific program that qualifies  
621 multiple providers and uses a standard payment methodology.

622 Reimbursement of administrative costs for providers of services  
623 purchased in this manner shall also be exempt. For purposes of  
624 this sub-subparagraph, "providers" means health professionals,  
625 health facilities, or organizations that deliver or arrange for  
626 the delivery of health services.

627 6. Services provided to persons with mental or physical  
628 disabilities by not-for-profit corporations which have obtained  
629 exemptions under the provisions of s. 501(c)(3) of the United  
630 States Internal Revenue Code or when such services are governed  
631 by the provisions of Office of Management and Budget Circular A-  
632 122. However, in acquiring such services, the agency shall  
633 consider the ability of the vendor, past performance,  
634 willingness to meet time requirements, and price.

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

637 8. Family placement services.

638 9. Prevention services related to mental health, including  
639 drug abuse prevention programs, child abuse prevention programs,  
640 and shelters for runaways, operated by not-for-profit  
641 corporations. However, in acquiring such services, the agency  
642 shall consider the ability of the vendor, past performance,  
643 willingness to meet time requirements, and price.

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

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

647 12. Services or commodities provided by governmental  
648 entities ~~agencies~~.

649 13. Statewide public service announcement programs  
650 provided by a Florida statewide nonprofit corporation under s.  
651 501(c)(6) of the Internal Revenue Code, with a guaranteed  
652 documented match of at least \$3 to \$1.

653 (f) ~~(g)~~ Continuing education events or programs that are  
654 offered to the general public and for which fees have been  
655 collected that pay all expenses associated with the event or  
656 program are exempt from requirements for competitive  
657 solicitation.

658 (10) A contract for commodities or contractual services  
659 may be awarded without competition if state or federal law  
660 prescribes with whom the agency must contract or if the rate of  
661 payment or the recipient of the funds is established during the  
662 appropriations process.

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



666 conditions set forth in the initial contract and any written  
667 amendments signed by the parties. There shall be only one  
668 extension of a contract unless the failure to meet the criteria  
669 set forth in the contract for completion of the contract is due  
670 to events beyond the control of the contractor.

671 (13) Contracts for commodities or contractual services may  
672 be renewed for a period that may not exceed 3 years or the term  
673 of the original contract, whichever period is longer. Renewal of  
674 a contract for commodities or contractual services shall be in  
675 writing and shall be subject to the same terms and conditions  
676 set forth in the initial contract and any written amendments  
677 signed by the parties. If the commodity or contractual service  
678 is purchased as a result of the solicitation of bids, proposals,  
679 or replies, the price of the commodity or contractual service to  
680 be renewed shall be specified in the bid, proposal, or reply,  
681 except that an agency may negotiate lower pricing. A renewal  
682 contract may not include any compensation for costs associated  
683 with the renewal. Renewals shall be contingent upon satisfactory  
684 performance evaluations by the agency and subject to the  
685 availability of funds. Exceptional purchase contracts pursuant  
686 to paragraphs (3) (a) and (c) may not be renewed. With the  
687 exception of subsection (10)~~(12)~~, if a contract amendment  
688 results in a longer contract term or increased payments, a state  
689 agency may not renew or amend a contract for the outsourcing of  
690 a service or activity that has an original term value exceeding  
691 the sum of \$10 million before submitting a written report  
692 concerning contract performance to the Governor, the President

693 | of the Senate, and the Speaker of the House of Representatives  
694 | at least 90 days before execution of the renewal or amendment.

695 |       (14) For each contractual services contract, the agency  
696 | shall designate an employee to function as contract manager who  
697 | is ~~shall be~~ responsible for enforcing performance of the  
698 | contract terms and conditions and serve as a liaison with the  
699 | contractor. Each contract manager who is responsible for  
700 | contracts in excess of the threshold amount for CATEGORY TWO  
701 | established under s. 287.017 must be a certified contract  
702 | manager. The Department of Management Services is responsible  
703 | for establishing and disseminating the requirements for  
704 | certification, which include completing the ~~attend~~ training  
705 | conducted by the Chief Financial Officer for accountability in  
706 | contracts and grant management. The Chief Financial Officer  
707 | shall establish and disseminate uniform procedures pursuant to  
708 | s. 17.03(3) to ensure that contractual services have been  
709 | rendered in accordance with the contract terms before the agency  
710 | processes the invoice for payment. The procedures must ~~shall~~  
711 | include, but need not be limited to, procedures for monitoring  
712 | and documenting contractor performance, reviewing and  
713 | documenting all deliverables for which payment is requested by  
714 | vendors, and providing written certification by contract  
715 | managers of the agency's receipt of goods and services.

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

719 |       (a) At least three persons to evaluate proposals and  
720 | replies who collectively have experience and knowledge in the

721 program areas and service requirements for which commodities or  
722 contractual services are sought.

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

728 (c) When the value of a contract is in excess of \$1  
729 million in any fiscal year, at least one of the persons  
730 conducting negotiations must be certified as a contract  
731 negotiator based upon rules adopted by the Department of  
732 Management Services in order to ensure that certified contract  
733 negotiators are knowledgeable about effective negotiation  
734 strategies, capable of successfully implementing those  
735 strategies, and involved appropriately in the procurement  
736 process. At a minimum, the rules must address the qualifications  
737 required for certification, the method of certification, and the  
738 procedure for involving the certified negotiator. If the value  
739 of a contract is in excess of \$10 million in any fiscal year, at  
740 least one of the persons conducting negotiations must be a  
741 Project Management Professional, as certified by the Project  
742 Management Institute.

743 (22) The department, in consultation with the Chief  
744 Financial Officer ~~Agency for Enterprise Information Technology~~  
745 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online  
746 procurement of commodities and contractual services. To enable  
747 the state to promote open competition and to leverage its buying  
748 power, agencies shall participate in the online procurement

749 program, and eligible users may participate in the program. Only  
750 vendors prequalified as meeting mandatory requirements and  
751 qualifications criteria may participate in online procurement.

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

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

759 1. Determining the requirements and qualification criteria  
760 for prequalifying vendors.

761 2. Establishing the procedures for conducting online  
762 procurement.

763 3. Establishing the criteria for eligible commodities and  
764 contractual services.

765 4. Establishing the procedures for providing access to  
766 online procurement.

767 5. Determining the criteria warranting any exceptions to  
768 participation in the online procurement program.

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

771 1. The fees may be imposed on an individual transaction  
772 basis or as a fixed percentage of the cost savings generated. At  
773 a minimum, the fees must be set in an amount sufficient to cover  
774 the projected costs of the services, including administrative  
775 and project service costs in accordance with the policies of the  
776 department.

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777           2. If the department contracts with a provider for online  
778 procurement, the department, pursuant to appropriation, shall  
779 compensate the provider from the fees after the department has  
780 satisfied all ongoing costs. The provider shall report  
781 transaction data to the department each month so that the  
782 department may determine the amount due and payable to the  
783 department from each vendor.

784           3. All fees that are due and payable to the state on a  
785 transactional basis or as a fixed percentage of the cost savings  
786 generated are subject to s. 215.31 and must be remitted within  
787 40 days after receipt of payment for which the fees are due. For  
788 fees that are not remitted within 40 days, the vendor shall pay  
789 interest at the rate established under s. 55.03(1) on the unpaid  
790 balance from the expiration of the 40-day period until the fees  
791 are remitted.

792           4. All fees and surcharges collected under this paragraph  
793 shall be deposited in the Operating Trust Fund as provided by  
794 law.

795           Section 8. Paragraph (a) of subsection (3) of section  
796 287.0571, Florida Statutes, is amended to read:

797           287.0571 Business case to outsource; applicability.—

798           (3) This section does not apply to:

799           (a) A procurement of commodities and contractual services  
800 listed in s. 287.057(3)(d) and (e) and (21) 287.057(3)(e), (f),  
801 and (g) and (21).

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

804           287.058 Contract document.—

805 (1) Every procurement of contractual services in excess of  
806 the threshold amount provided in s. 287.017 for CATEGORY TWO,  
807 except for the providing of health and mental health services or  
808 drugs in the examination, diagnosis, or treatment of sick or  
809 injured state employees or the providing of other benefits as  
810 required by the provisions of chapter 440, shall be evidenced by  
811 a written agreement embodying all provisions and conditions of  
812 the procurement of such services, which shall, where applicable,  
813 include, but not be limited to, a provision:

814 (a) That bills for fees or other compensation for services  
815 or expenses be submitted in detail sufficient for a proper  
816 preaudit and postaudit thereof.

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

820 (c) Allowing unilateral cancellation by the agency for  
821 refusal by the contractor to allow public access to all  
822 documents, papers, letters, or other material made or received  
823 by the contractor in conjunction with the contract, unless the  
824 records are exempt from s. 24(a) of Art. I of the State  
825 Constitution and s. 119.07(1).

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

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

833 performance measure means the required minimum acceptable level  
834 of service to be performed and criteria for evaluating the  
835 successful completion of each deliverable.

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

838 (g) Specifying that the contract may be renewed for a  
839 period that may not exceed 3 years or the term of the original  
840 contract, whichever period is longer, specifying the renewal  
841 price for the contractual service as set forth in the bid,  
842 proposal, or reply, specifying that costs for the renewal may  
843 not be charged, and specifying that renewals shall be contingent  
844 upon satisfactory performance evaluations by the agency and  
845 subject to the availability of funds. Exceptional purchase  
846 contracts pursuant to s. 287.057(3)(a) and (c) may not be  
847 renewed.

848 (h) Specifying the financial consequences that the agency  
849 must apply if the contractor fails to perform in accordance with  
850 the contract.

851 (i) Addressing the property rights of any intellectual  
852 property related to the contract and the specific rights of the  
853 state regarding the intellectual property if the contractor  
854 fails to provide the services or is no longer providing  
855 services.

856  
857 In lieu of a written agreement, the agency ~~department~~ may  
858 authorize the use of a purchase order for classes of contractual  
859 services, if the provisions of paragraphs (a)-(i) are included  
860 in the purchase order or solicitation. The purchase order must

861 include, but need not be limited to, an adequate description of  
862 the services, the contract period, and the method of payment. In  
863 lieu of printing the provisions of paragraphs (a)-(c) and (g)  
864 ~~(a)-(i)~~ in the contract document or purchase order, agencies may  
865 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~  
866 ~~(i)~~ by reference.

867 (2) The written agreement shall be signed by the agency  
868 head or designee and the contractor before ~~prior to~~ the  
869 rendering of any contractual service the value of which is in  
870 excess of the threshold amount provided in s. 287.017 for  
871 CATEGORY TWO, except in the case of a valid emergency as  
872 certified by the agency head. The written statement  
873 ~~certification~~ of an emergency shall be prepared within 30 days  
874 after the contractor begins rendering the service and shall  
875 state the particular facts and circumstances which precluded the  
876 execution of the written agreement before ~~prior to~~ the rendering  
877 of the service. If the agency fails to have the contract signed  
878 by the agency head or designee and the contractor before ~~prior~~  
879 ~~to~~ rendering the contractual service, and if an emergency does  
880 not exist, the agency head shall, within ~~no later than~~ 30 days  
881 after the contractor begins rendering the service, certify the  
882 specific conditions and circumstances to the department as well  
883 as describe actions taken to prevent recurrence of such  
884 noncompliance. The agency head may delegate the written  
885 statement ~~certification~~ only to other senior management agency  
886 personnel. A copy of the written statement ~~certification~~ shall  
887 be furnished to the Chief Financial Officer with the voucher  
888 authorizing payment. The department shall report repeated



889 instances of noncompliance by an agency to the Auditor General.  
890 Nothing in this subsection shall be deemed to authorize  
891 additional compensation prohibited by s. 215.425. The  
892 procurement of contractual services shall not be divided so as  
893 to avoid the provisions of this section.

894 Section 10. Section 287.076, Florida Statutes, is amended  
895 to read:

896 287.076 Project Management Professionals training for  
897 personnel involved in managing outsourcings and negotiations;  
898 funding.—The Department of Management Services may implement a  
899 program to train state agency employees who are involved in  
900 managing outsourcings as Project Management Professionals, as  
901 certified by the Project Management Institute. Subject to annual  
902 appropriations, For the 2006-2007 fiscal year, the sum of  
903 \$500,000 in recurring funds from the General Revenue Fund is  
904 appropriated to the Department of Management Services to  
905 implement this program. the Department of Management Services,  
906 in consultation with entities subject to this act, shall  
907 identify personnel to participate in this training based on  
908 requested need and ensure that each agency is represented. The  
909 Department of Management Services may remit payment for this  
910 training on behalf of all participating personnel.

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

912 287.136 Audit of executed contract documents.—

913 (1) After the execution of a contract, the Chief Financial  
914 Officer shall perform audits of the executed contract documents  
915 and contract manager's records to ensure that adequate internal  
916 controls are in place for complying with the terms and

917 conditions of the contract and for the validation and receipt of  
918 goods and services.

919 (2) At the conclusion of the audit, the Chief Financial  
920 Officer's designee shall discuss the audit and potential  
921 findings with the official whose office is subject to audit. The  
922 final audit report shall be submitted to the agency head.

923 (3) Within 30 days after the receipt of the final audit  
924 report, the agency head shall submit to the Chief Financial  
925 Officer or designee, his or her written statement of explanation  
926 or rebuttal concerning findings requiring corrective action,  
927 including corrective action to be taken to preclude a  
928 recurrence.

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

931 16.0155 Contingency fee agreements.—

932 (3) If the Attorney General makes the determination  
933 described in subsection (2), notwithstanding the exemption  
934 provided in s. 287.057(3)(e) ~~287.057(3)(f)~~, the Attorney General  
935 shall request proposals from private attorneys to represent the  
936 department on a contingency-fee basis, unless the Attorney  
937 General determines in writing that requesting proposals is not  
938 feasible under the circumstances. The written determination does  
939 not constitute a final agency action subject to review pursuant  
940 to ss. 120.569 and 120.57. For purposes of this subsection only,  
941 the department is exempt from the requirements of s. 120.57(3),  
942 and neither the request for proposals nor the contract award is  
943 subject to challenge pursuant to ss. 120.569 and 120.57.

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

946 283.33 Printing of publications; lowest bidder awards.—

947 (1) Publications may be printed and prepared in-house, by  
 948 another agency or the Legislature, or purchased on bid,  
 949 whichever is more economical and practicable as determined by  
 950 the agency. An agency may contract for binding separately when  
 951 more economical or practicable, whether or not the remainder of  
 952 the printing is done in-house. A vendor may subcontract for  
 953 binding and still be considered a responsible vendor,  
 954 notwithstanding s. 287.012(25) ~~287.012(24)~~.

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

957 394.457 Operation and administration.—

958 (3) POWER TO CONTRACT.—The department may contract to  
 959 provide, and be provided with, services and facilities in order  
 960 to carry out its responsibilities under this part with the  
 961 following agencies: public and private hospitals; receiving and  
 962 treatment facilities; clinics; laboratories; departments,  
 963 divisions, and other units of state government; the state  
 964 colleges and universities; the community colleges; private  
 965 colleges and universities; counties, municipalities, and any  
 966 other governmental unit, including facilities of the United  
 967 States Government; and any other public or private entity which  
 968 provides or needs facilities or services. Baker Act funds for  
 969 community inpatient, crisis stabilization, short-term  
 970 residential treatment, and screening services must be allocated  
 971 to each county pursuant to the department's funding allocation

972 methodology. Notwithstanding the provisions of s. 287.057(3)(e)  
 973 ~~287.057(3)(f)~~, contracts for community-based Baker Act services  
 974 for inpatient, crisis stabilization, short-term residential  
 975 treatment, and screening provided under this part, other than  
 976 those with other units of government, to be provided for the  
 977 department must be awarded using competitive sealed bids when  
 978 the county commission of the county receiving the services makes  
 979 a request to the department's district office by January 15 of  
 980 the contracting year. The district shall not enter into a  
 981 competitively bid contract under this provision if such action  
 982 will result in increases of state or local expenditures for  
 983 Baker Act services within the district. Contracts for these  
 984 Baker Act services using competitive sealed bids will be  
 985 effective for 3 years. The department shall adopt rules  
 986 establishing minimum standards for such contracted services and  
 987 facilities and shall make periodic audits and inspections to  
 988 assure that the contracted services are provided and meet the  
 989 standards of the department.

990 Section 15. Paragraph (a) of subsection (2) of section  
 991 402.7305, Florida Statutes, is amended to read:

992 402.7305 Department of Children and Family Services;  
 993 procurement of contractual services; contract management.—

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

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

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1000 Schools to bid on the contract. Thereafter, notwithstanding any  
 1001 other provision to the contrary, if a public postsecondary  
 1002 institution intends to subcontract for any service awarded in  
 1003 the contract, the subcontracted service must be procured by  
 1004 competitive procedures.

1005 Section 16. Section 409.9132, Florida Statutes, is amended  
 1006 to read:

1007 409.9132 Pilot project to monitor home health services.—  
 1008 The Agency for Health Care Administration shall expand the home  
 1009 health agency monitoring pilot project in Miami-Dade County on a  
 1010 statewide basis effective July 1, 2012, except in counties in  
 1011 which the program will not be cost-effective, as determined by  
 1012 the agency. The agency shall contract with a vendor to verify  
 1013 the utilization and delivery of home health services and provide  
 1014 an electronic billing interface for home health services. The  
 1015 contract must require the creation of a program to submit claims  
 1016 electronically for the delivery of home health services. The  
 1017 program must verify telephonically visits for the delivery of  
 1018 home health services using voice biometrics. The agency may seek  
 1019 amendments to the Medicaid state plan and waivers of federal  
 1020 laws, as necessary, to implement or expand the pilot project.  
 1021 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must  
 1022 award the contract through the competitive solicitation process  
 1023 and may use the current contract to expand the home health  
 1024 agency monitoring pilot project to include additional counties  
 1025 as authorized under this section.

1026 Section 17. Subsection (3) of section 427.0135, Florida  
 1027 Statutes, is amended to read:

1028 427.0135 Purchasing agencies; duties and  
 1029 responsibilities.—Each purchasing agency, in carrying out the  
 1030 policies and procedures of the commission, shall:

1031 (3) Not procure transportation disadvantaged services  
 1032 without initially negotiating with the commission, as provided  
 1033 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise  
 1034 authorized by statute. If the purchasing agency, after  
 1035 consultation with the commission, determines that it cannot  
 1036 reach mutually acceptable contract terms with the commission,  
 1037 the purchasing agency may contract for the same transportation  
 1038 services provided in a more cost-effective manner and of  
 1039 comparable or higher quality and standards. The Medicaid agency  
 1040 shall implement this subsection in a manner consistent with s.  
 1041 409.908(18) and as otherwise limited or directed by the General  
 1042 Appropriations Act.

1043 Section 18. Paragraph (c) of subsection (5) of section  
 1044 445.024, Florida Statutes, is amended to read:

1045 445.024 Work requirements.—

1046 (5) USE OF CONTRACTS.—Regional workforce boards shall  
 1047 provide work activities, training, and other services, as  
 1048 appropriate, through contracts. In contracting for work  
 1049 activities, training, or services, the following applies:

1050 (c) Notwithstanding the exemption from the competitive  
 1051 sealed bid requirements provided in s. 287.057(3)(e)  
 1052 ~~287.057(3)(f)~~ for certain contractual services, each contract  
 1053 awarded under this chapter must be awarded on the basis of a  
 1054 competitive sealed bid, except for a contract with a

1055 governmental entity as determined by the regional workforce  
 1056 board.

1057 Section 19. Paragraph (c) of subsection (5) of section  
 1058 627.311, Florida Statutes, is amended to read:

1059 627.311 Joint underwriters and joint reinsurers; public  
 1060 records and public meetings exemptions.—

1061 (5)

1062 (c) The operation of the plan shall be governed by a plan  
 1063 of operation that is prepared at the direction of the board of  
 1064 governors and approved by order of the office. The plan is  
 1065 subject to continuous review by the office. The office may, by  
 1066 order, withdraw approval of all or part of a plan if the office  
 1067 determines that conditions have changed since approval was  
 1068 granted and that the purposes of the plan require changes in the  
 1069 plan. The plan of operation shall:

1070 1. Authorize the board to engage in the activities  
 1071 necessary to implement this subsection, including, but not  
 1072 limited to, borrowing money.

1073 2. Develop criteria for eligibility for coverage by the  
 1074 plan, including, but not limited to, documented rejection by at  
 1075 least two insurers which reasonably assures that insureds  
 1076 covered under the plan are unable to acquire coverage in the  
 1077 voluntary market.

1078 3. Require notice from the agent to the insured at the  
 1079 time of the application for coverage that the application is for  
 1080 coverage with the plan and that coverage may be available  
 1081 through an insurer, group self-insurers' fund, commercial self-

1082 insurance fund, or assessable mutual insurer through another  
1083 agent at a lower cost.

1084 4. Establish programs to encourage insurers to provide  
1085 coverage to applicants of the plan in the voluntary market and  
1086 to insureds of the plan, including, but not limited to:

1087 a. Establishing procedures for an insurer to use in  
1088 notifying the plan of the insurer's desire to provide coverage  
1089 to applicants to the plan or existing insureds of the plan and  
1090 in describing the types of risks in which the insurer is  
1091 interested. The description of the desired risks must be on a  
1092 form developed by the plan.

1093 b. Developing forms and procedures that provide an insurer  
1094 with the information necessary to determine whether the insurer  
1095 wants to write particular applicants to the plan or insureds of  
1096 the plan.

1097 c. Developing procedures for notice to the plan and the  
1098 applicant to the plan or insured of the plan that an insurer  
1099 will insure the applicant or the insured of the plan, and notice  
1100 of the cost of the coverage offered; and developing procedures  
1101 for the selection of an insuring entity by the applicant or  
1102 insured of the plan.

1103 d. Provide for a market-assistance plan to assist in the  
1104 placement of employers. All applications for coverage in the  
1105 plan received 45 days before the effective date for coverage  
1106 shall be processed through the market-assistance plan. A market-  
1107 assistance plan specifically designed to serve the needs of  
1108 small, good policyholders as defined by the board must be  
1109 reviewed and updated periodically.



1110           5. Provide for policy and claims services to the insureds  
 1111 of the plan of the nature and quality provided for insureds in  
 1112 the voluntary market.

1113           6. Provide for the review of applications for coverage  
 1114 with the plan for reasonableness and accuracy, using any  
 1115 available historic information regarding the insured.

1116           7. Provide for procedures for auditing insureds of the  
 1117 plan which are based on reasonable business judgment and are  
 1118 designed to maximize the likelihood that the plan will collect  
 1119 the appropriate premiums.

1120           8. Authorize the plan to terminate the coverage of and  
 1121 refuse future coverage for any insured that submits a fraudulent  
 1122 application to the plan or provides fraudulent or grossly  
 1123 erroneous records to the plan or to any service provider of the  
 1124 plan in conjunction with the activities of the plan.

1125           9. Establish service standards for agents who submit  
 1126 business to the plan.

1127           10. Establish criteria and procedures to prohibit any  
 1128 agent who does not adhere to the established service standards  
 1129 from placing business with the plan or receiving, directly or  
 1130 indirectly, any commissions for business placed with the plan.

1131           11. Provide for the establishment of reasonable safety  
 1132 programs for all insureds in the plan. All insureds of the plan  
 1133 must participate in the safety program.

1134           12. Authorize the plan to terminate the coverage of and  
 1135 refuse future coverage to any insured who fails to pay premiums  
 1136 or surcharges when due; who, at the time of application, is  
 1137 delinquent in payments of workers' compensation or employer's

1138 liability insurance premiums or surcharges owed to an insurer,  
 1139 group self-insurers' fund, commercial self-insurance fund, or  
 1140 assessable mutual insurer licensed to write such coverage in  
 1141 this state; or who refuses to substantially comply with any  
 1142 safety programs recommended by the plan.

1143 13. Authorize the board of governors to provide the goods  
 1144 and services required by the plan through staff employed by the  
 1145 plan, through reasonably compensated service providers who  
 1146 contract with the plan to provide services as specified by the  
 1147 board of governors, or through a combination of employees and  
 1148 service providers.

1149 a. Purchases that equal or exceed \$2,500 but are less than  
 1150 or equal to \$25,000, shall be made by receipt of written quotes,  
 1151 telephone quotes, or informal bids, whenever practical. The  
 1152 procurement of goods or services valued over \$25,000 is subject  
 1153 to competitive solicitation, except in situations in which the  
 1154 goods or services are provided by a sole source or are deemed an  
 1155 emergency purchase, or the services are exempted from  
 1156 competitive-solicitation requirements under s. 287.057(3)(e)  
 1157 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency  
 1158 procurement must be documented. Contracts for goods or services  
 1159 valued at or over \$100,000 are subject to board approval.

1160 b. The board shall determine whether it is more cost-  
 1161 effective and in the best interests of the plan to use legal  
 1162 services provided by in-house attorneys employed by the plan  
 1163 rather than contracting with outside counsel. In making such  
 1164 determination, the board shall document its findings and shall  
 1165 consider the expertise needed; whether time commitments exceed

1166 in-house staff resources; whether local representation is  
 1167 needed; the travel, lodging, and other costs associated with in-  
 1168 house representation; and such other factors that the board  
 1169 determines are relevant.

1170 14. Provide for service standards for service providers,  
 1171 methods of determining adherence to those service standards,  
 1172 incentives and disincentives for service, and procedures for  
 1173 terminating contracts for service providers that fail to adhere  
 1174 to service standards.

1175 15. Provide procedures for selecting service providers and  
 1176 standards for qualification as a service provider that  
 1177 reasonably assure that any service provider selected will  
 1178 continue to operate as an ongoing concern and is capable of  
 1179 providing the specified services in the manner required.

1180 16. Provide for reasonable accounting and data-reporting  
 1181 practices.

1182 17. Provide for annual review of costs associated with the  
 1183 administration and servicing of the policies issued by the plan  
 1184 to determine alternatives by which costs can be reduced.

1185 18. Authorize the acquisition of such excess insurance or  
 1186 reinsurance as is consistent with the purposes of the plan.

1187 19. Provide for an annual report to the office on a date  
 1188 specified by the office and containing such information as the  
 1189 office reasonably requires.

1190 20. Establish multiple rating plans for various  
 1191 classifications of risk which reflect risk of loss, hazard  
 1192 grade, actual losses, size of premium, and compliance with loss  
 1193 control. At least one of such plans must be a preferred-rating

1194 | plan to accommodate small-premium policyholders with good  
 1195 | experience as defined in sub-subparagraph 22.a.  
 1196 |       21. Establish agent commission schedules.  
 1197 |       22. For employers otherwise eligible for coverage under  
 1198 | the plan, establish three tiers of employers meeting the  
 1199 | criteria and subject to the rate limitations specified in this  
 1200 | subparagraph.  
 1201 |       a. Tier One.—  
 1202 |           (I) Criteria; rated employers.—An employer that has an  
 1203 | experience modification rating shall be included in Tier One if  
 1204 | the employer meets all of the following:  
 1205 |           (A) The experience modification is below 1.00.  
 1206 |           (B) The employer had no lost-time claims subsequent to the  
 1207 | applicable experience modification rating period.  
 1208 |           (C) The total of the employer's medical-only claims  
 1209 | subsequent to the applicable experience modification rating  
 1210 | period did not exceed 20 percent of premium.  
 1211 |       (II) Criteria; non-rated employers.—An employer that does  
 1212 | not have an experience modification rating shall be included in  
 1213 | Tier One if the employer meets all of the following:  
 1214 |           (A) The employer had no lost-time claims for the 3-year  
 1215 | period immediately preceding the inception date or renewal date  
 1216 | of the employer's coverage under the plan.  
 1217 |           (B) The total of the employer's medical-only claims for  
 1218 | the 3-year period immediately preceding the inception date or  
 1219 | renewal date of the employer's coverage under the plan did not  
 1220 | exceed 20 percent of premium.

1221 (C) The employer has secured workers' compensation  
 1222 coverage for the entire 3-year period immediately preceding the  
 1223 inception date or renewal date of the employer's coverage under  
 1224 the plan.

1225 (D) The employer is able to provide the plan with a loss  
 1226 history generated by the employer's prior workers' compensation  
 1227 insurer, except if the employer is not able to produce a loss  
 1228 history due to the insolvency of an insurer, the receiver shall  
 1229 provide to the plan, upon the request of the employer or the  
 1230 employer's agent, a copy of the employer's loss history from the  
 1231 records of the insolvent insurer if the loss history is  
 1232 contained in records of the insurer which are in the possession  
 1233 of the receiver. If the receiver is unable to produce the loss  
 1234 history, the employer may, in lieu of the loss history, submit  
 1235 an affidavit from the employer and the employer's insurance  
 1236 agent setting forth the loss history.

1237 (E) The employer is not a new business.

1238 (III) Premiums.—The premiums for Tier One insureds shall  
 1239 be set at a premium level 25 percent above the comparable  
 1240 voluntary market premiums until the plan has sufficient  
 1241 experience as determined by the board to establish an  
 1242 actuarially sound rate for Tier One, at which point the board  
 1243 shall, subject to paragraph (e), adjust the rates, if necessary,  
 1244 to produce actuarially sound rates, provided such rate  
 1245 adjustment shall not take effect prior to January 1, 2007.

1246 b. Tier Two.—

1247 (I) Criteria; rated employers.—An employer that has an  
1248 experience modification rating shall be included in Tier Two if  
1249 the employer meets all of the following:

1250 (A) The experience modification is equal to or greater  
1251 than 1.00 but not greater than 1.10.

1252 (B) The employer had no lost-time claims subsequent to the  
1253 applicable experience modification rating period.

1254 (C) The total of the employer's medical-only claims  
1255 subsequent to the applicable experience modification rating  
1256 period did not exceed 20 percent of premium.

1257 (II) Criteria; non-rated employers.—An employer that does  
1258 not have any experience modification rating shall be included in  
1259 Tier Two if the employer is a new business. An employer shall be  
1260 included in Tier Two if the employer has less than 3 years of  
1261 loss experience in the 3-year period immediately preceding the  
1262 inception date or renewal date of the employer's coverage under  
1263 the plan and the employer meets all of the following:

1264 (A) The employer had no lost-time claims for the 3-year  
1265 period immediately preceding the inception date or renewal date  
1266 of the employer's coverage under the plan.

1267 (B) The total of the employer's medical-only claims for  
1268 the 3-year period immediately preceding the inception date or  
1269 renewal date of the employer's coverage under the plan did not  
1270 exceed 20 percent of premium.

1271 (C) The employer is able to provide the plan with a loss  
1272 history generated by the workers' compensation insurer that  
1273 provided coverage for the portion or portions of such period  
1274 during which the employer had secured workers' compensation

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1275 coverage, except if the employer is not able to produce a loss  
1276 history due to the insolvency of an insurer, the receiver shall  
1277 provide to the plan, upon the request of the employer or the  
1278 employer's agent, a copy of the employer's loss history from the  
1279 records of the insolvent insurer if the loss history is  
1280 contained in records of the insurer which are in the possession  
1281 of the receiver. If the receiver is unable to produce the loss  
1282 history, the employer may, in lieu of the loss history, submit  
1283 an affidavit from the employer and the employer's insurance  
1284 agent setting forth the loss history.

1285 (III) Premiums.—The premiums for Tier Two insureds shall  
1286 be set at a rate level 50 percent above the comparable voluntary  
1287 market premiums until the plan has sufficient experience as  
1288 determined by the board to establish an actuarially sound rate  
1289 for Tier Two, at which point the board shall, subject to  
1290 paragraph (e), adjust the rates, if necessary, to produce  
1291 actuarially sound rates, provided such rate adjustment shall not  
1292 take effect prior to January 1, 2007.

1293 c. Tier Three.—

1294 (I) Eligibility.—An employer shall be included in Tier  
1295 Three if the employer does not meet the criteria for Tier One or  
1296 Tier Two.

1297 (II) Rates.—The board shall establish, subject to  
1298 paragraph (e), and the plan shall charge, actuarially sound  
1299 rates for Tier Three insureds.

1300 23. For Tier One or Tier Two employers which employ no  
1301 nonexempt employees or which report payroll which is less than  
1302 the minimum wage hourly rate for one full-time employee for 1

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1303 | year at 40 hours per week, the plan shall establish actuarially  
1304 | sound premiums, provided, however, that the premiums may not  
1305 | exceed \$2,500. These premiums shall be in addition to the fee  
1306 | specified in subparagraph 26. When the plan establishes  
1307 | actuarially sound rates for all employers in Tier One and Tier  
1308 | Two, the premiums for employers referred to in this paragraph  
1309 | are no longer subject to the \$2,500 cap.

1310 |         24. Provide for a depopulation program to reduce the  
1311 | number of insureds in the plan. If an employer insured through  
1312 | the plan is offered coverage from a voluntary market carrier:

- 1313 |             a. During the first 30 days of coverage under the plan;  
1314 |             b. Before a policy is issued under the plan;  
1315 |             c. By issuance of a policy upon expiration or cancellation  
1316 | of the policy under the plan; or  
1317 |             d. By assumption of the plan's obligation with respect to  
1318 | an in-force policy,

1319 |  
1320 | that employer is no longer eligible for coverage through the  
1321 | plan. The premium for risks assumed by the voluntary market  
1322 | carrier must be no greater than the premium the insured would  
1323 | have paid under the plan, and shall be adjusted upon renewal to  
1324 | reflect changes in the plan rates and the tier for which the  
1325 | insured would qualify as of the time of renewal. The insured may  
1326 | be charged such premiums only for the first 3 years of coverage  
1327 | in the voluntary market. A premium under this subparagraph is  
1328 | deemed approved and is not an excess premium for purposes of s.  
1329 | 627.171.



1330           25. Require that policies issued and applications must  
 1331 include a notice that the policy could be replaced by a policy  
 1332 issued from a voluntary market carrier and that, if an offer of  
 1333 coverage is obtained from a voluntary market carrier, the  
 1334 policyholder is no longer eligible for coverage through the  
 1335 plan. The notice must also specify that acceptance of coverage  
 1336 under the plan creates a conclusive presumption that the  
 1337 applicant or policyholder is aware of this potential.

1338           26. Require that each application for coverage and each  
 1339 renewal premium be accompanied by a nonrefundable fee of \$475 to  
 1340 cover costs of administration and fraud prevention. The board  
 1341 may, with the prior approval of the office, increase the amount  
 1342 of the fee pursuant to a rate filing to reflect increased costs  
 1343 of administration and fraud prevention. The fee is not subject  
 1344 to commission and is fully earned upon commencement of coverage.

1345           Section 20. Paragraph (e) of subsection (6) of section  
 1346 627.351, Florida Statutes, is amended to read:

1347           627.351 Insurance risk apportionment plans.—

1348           (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1349           (e) Purchases that equal or exceed \$2,500, but are less  
 1350 than \$25,000, shall be made by receipt of written quotes,  
 1351 written record of telephone quotes, or informal bids, whenever  
 1352 practical. The procurement of goods or services valued at or  
 1353 over \$25,000 shall be subject to competitive solicitation,  
 1354 except in situations where the goods or services are provided by  
 1355 a sole source or are deemed an emergency purchase; the services  
 1356 are exempted from competitive solicitation requirements under s.  
 1357 287.057(3)(e) ~~287.057(3)(f)~~; or the procurement of services is

1358 subject to s. 627.3513. Justification for the sole-sourcing or  
 1359 emergency procurement must be documented. Contracts for goods or  
 1360 services valued at or over \$100,000 are subject to approval by  
 1361 the board.

1362 Section 21. Subsection (2) of section 765.5155, Florida  
 1363 Statutes, is amended to read:

1364 765.5155 Donor registry; education program.—

1365 (2) The agency and the department shall jointly contract  
 1366 for the operation of a donor registry and education program. The  
 1367 contractor shall be procured by competitive solicitation  
 1368 pursuant to chapter 287, notwithstanding any exemption in s.  
 1369 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,  
 1370 priority shall be given to existing nonprofit groups that are  
 1371 based within the state, have expertise working with procurement  
 1372 organizations, have expertise in conducting statewide organ and  
 1373 tissue donor public education campaigns, and represent the needs  
 1374 of the organ and tissue donation community in the state.

1375 Section 22. Subsection (10) of section 893.055, Florida  
 1376 Statutes, is amended to read:

1377 893.055 Prescription drug monitoring program.—

1378 (10) All costs incurred by the department in administering  
 1379 the prescription drug monitoring program shall be funded through  
 1380 federal grants or private funding applied for or received by the  
 1381 state. The department may not commit funds for the monitoring  
 1382 program without ensuring funding is available. The prescription  
 1383 drug monitoring program and the implementation thereof are  
 1384 contingent upon receipt of the nonstate funding. The department  
 1385 and state government shall cooperate with the direct-support

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1386 organization established pursuant to subsection (11) in seeking  
1387 federal grant funds, other nonstate grant funds, gifts,  
1388 donations, or other private moneys for the department so long as  
1389 the costs of doing so are not considered material. Nonmaterial  
1390 costs for this purpose include, but are not limited to, the  
1391 costs of mailing and personnel assigned to research or apply for  
1392 a grant. Notwithstanding the exemptions to competitive-  
1393 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~,  
1394 the department shall comply with the competitive-solicitation  
1395 requirements under s. 287.057 for the procurement of any goods  
1396 or services required by this section. Funds provided, directly  
1397 or indirectly, by prescription drug manufacturers may not be  
1398 used to implement the program.

1399 Section 23. This act shall take effect July 1, 2013.