



1 A bill to be entitled
2 An act relating to governmental accountability;
3 creating s. 119.0701, F.S.; providing definitions;
4 providing that each public agency contract for
5 services must meet specified requirements; requiring
6 the public agency to enforce contract provisions if a
7 contractor does not comply with a public records
8 request; amending s. 215.971, F.S.; requiring
9 agreements funded with state or federal financial
10 assistance to include additional provisions; requiring
11 state agencies to designate a grants manager for each
12 agreement and providing requirements and procedures
13 for managers; requiring the Chief Financial Officer to
14 perform audits of executed agreements and to discuss
15 such audits with agency officials; requiring the
16 agency head to respond to the audit; amending s.
17 287.012, F.S.; providing and revising definitions;
18 amending s. 287.042, F.S.; revising powers, duties,
19 and functions of the Department of Management
20 Services; eliminating a duty of the department to
21 maintain a vendor list; authorizing the department to
22 lead or enter into joint agreements with governmental
23 entities for the purchase of commodities or
24 contractual services that can be used by multiple
25 agencies; amending s. 287.057, F.S.; providing that
26 contracts awarded pursuant to an invitation to bid
27 shall be awarded to the responsible and responsive
28 vendor that submits the lowest responsive bid;



29 | revising exceptions to the requirement that the
30 | purchase of specified commodities or contractual
31 | services be made only as a result of receiving
32 | competitive sealed bids, competitive sealed proposals,
33 | or competitive sealed replies; revising contractual
34 | services and commodities that are not subject to
35 | competitive solicitation requirements by virtue of
36 | being available only from a single source; providing
37 | that a contract for commodities or contractual
38 | services may be awarded without competition if the
39 | recipient of funds is established during the
40 | appropriations process; revising provisions relating
41 | to extension of a contract for commodities or
42 | contractual services; authorizing an agency to
43 | negotiate better pricing upon renewal of a contract;
44 | providing training requirements for contract managers
45 | responsible for contracts in excess of a specified
46 | threshold amount; providing contract manager
47 | certification for contract managers responsible for
48 | contracts in excess of a specified threshold amount;
49 | providing that the department is responsible for
50 | establishing and disseminating the requirements for
51 | certification of a contract manager; providing that
52 | training will be conducted jointly by the Department
53 | of Management Services and the Department of Financial
54 | Services; providing training guidelines and
55 | requirements; requiring the department, in
56 | consultation with the Chief Financial Officer to



57 maintain a program for online procurement of
58 commodities and contractual services; amending s.
59 287.0571, F.S.; revising nonapplicability of a
60 business case to outsource; amending s. 287.058, F.S.;
61 defining the term "performance measure"; revising
62 references within provisions relating to purchase
63 orders used in lieu of written agreements for classes
64 of contractual services; revising terminology;
65 creating s. 287.136, F.S.; requiring the Chief
66 Financial Officer to perform audits of executed
67 contract documents and to discuss such audits with the
68 agency officials; requiring the agency head to respond
69 to the audit; amending s. 287.076, F.S.; providing
70 that Project Management Professionals training for
71 personnel involved in managing outsourcings and
72 negotiations is subject to annual appropriations;
73 amending ss. 16.0155, 283.33, 394.457, 402.7305,
74 409.9132, 427.0135, 445.024, 627.311, 627.351,
75 765.5155, and 893.055, F.S.; conforming cross-
76 references; providing effective dates.

77

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

79

80 Section 1. Section 119.0701, Florida Statutes, is created
81 to read:

82 119.0701 Contracts; public records.—

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

84 (a) "Contractor" means an individual, partnership,



85 corporation, or business entity that enters into a contract for
86 services with a public agency and is acting on behalf of the
87 public agency as provided under s. 119.011(2).

88 (b) "Public agency" means a state, county, district,
89 authority, or municipal officer, or department, division, board,
90 bureau, commission, or other separate unit of government created
91 or established by law.

92 (2) In addition to other contract requirements provided by
93 law, each public agency contract for services must include a
94 provision that requires the contractor to comply with public
95 records laws, specifically to:

96 (a) Keep and maintain public records that ordinarily and
97 necessarily would be required by the public agency in order to
98 perform the service.

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

103 (c) Ensure that public records that are exempt or
104 confidential and exempt from public records disclosure
105 requirements are not disclosed except as authorized by law.

106 (d) Meet all requirements for retaining public records and
107 transfer, at no cost, to the public agency all public records in
108 possession of the contractor upon termination of the contract
109 and destroy any duplicate public records that are exempt or
110 confidential and exempt from public records disclosure
111 requirements. All records stored electronically must be provided
112 to the public agency in a format that is compatible with the



113 information technology systems of the public agency.

114 (3) If a contractor does not comply with a public records
115 request, the public agency shall enforce the contract provisions
116 in accordance with the contract.

117 Section 2. Section 215.971, Florida Statutes, is amended to
118 read:

119 215.971 Agreements funded with federal or ~~and~~ state
120 assistance.—

121 (1) ~~For~~ An agency agreement that provides state financial
122 assistance to a recipient or subrecipient, as those terms are
123 defined in s. 215.97, or that provides federal financial
124 assistance to a subrecipient, as defined by applicable United
125 States Office of Management and Budget circulars, must ~~the~~
126 ~~agreement shall~~ include all of the following:

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

130 (b) ~~(2)~~ A provision dividing the agreement into quantifiable
131 units of deliverables that must be received and accepted in
132 writing by the agency before payment. Each deliverable must be
133 directly related to the scope of work and ~~must~~ specify the
134 required minimum level of service to be performed and the
135 criteria for evaluating the successful completion of each
136 deliverable.

137 (c) A provision specifying the financial consequences that
138 apply if the recipient or subrecipient fails to perform the
139 minimum level of service required by the agreement. The
140 provision can be excluded from the agreement only if financial



141 consequences are prohibited by the federal agency awarding the
142 grant. Funds refunded to a state agency from a recipient or
143 subrecipient for failure to perform as required under the
144 agreement may be expended only in direct support of the program
145 from which the agreement originated.

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

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

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

157 (g) Any additional information required pursuant to s.
158 215.97.

159 (2) For each agreement funded with federal or state
160 financial assistance, the state agency shall designate an
161 employee to function as a grant manager who shall be responsible
162 for enforcing performance of the agreement's terms and
163 conditions and who shall serve as a liaison with the recipient
164 or subrecipient.

165 (a)1. Each grant manager who is responsible for agreements
166 in excess of the threshold amount for CATEGORY TWO under s.
167 287.017 must, at a minimum, complete training conducted by the
168 Chief Financial Officer for accountability in contracts and



169 grant management.

170 2. Effective December 1, 2014, each grant manager
171 responsible for agreements in excess of \$100,000 annually must
172 complete the training and become a certified contract manager as
173 provided under s. 287.057(14). All grant managers must become
174 certified contract managers within 24 months after establishment
175 of the training and certification requirements by the Department
176 of Management Services and the Department of Financial Services.

177 (b) The Chief Financial Officer shall establish and
178 disseminate uniform procedures for grant management pursuant to
179 s. 17.03(3) to ensure that services have been rendered in
180 accordance with agreement terms before the agency processes an
181 invoice for payment. The procedures must include, but need not
182 be limited to, procedures for monitoring and documenting
183 recipient or subrecipient performance, reviewing and documenting
184 all deliverables for which payment is requested by the recipient
185 or subrecipient, and providing written certification by the
186 grant manager of the agency's receipt of goods and services.

187 (c) The grant manager shall reconcile and verify all funds
188 received against all funds expended during the grant agreement
189 period and produce a final reconciliation report. The final
190 report must identify any funds paid in excess of the
191 expenditures incurred by the recipient or subrecipient.

192 (3) After execution of a grant agreement, the Chief
193 Financial Officer shall perform audits of the executed state and
194 federal grant agreement documents and grant manager's records in
195 order to ensure that adequate internal controls are in place for
196 complying with the terms and conditions of such agreements and



197 for validation and receipt of goods and services.

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

202 (b) Within 30 days after receipt of the final audit report,
203 the agency head shall submit to the Chief Financial Officer or
204 designee his or her written statement of explanation or rebuttal
205 concerning findings requiring corrective action, including
206 corrective action to be taken to preclude a recurrence.

207 Section 3. Subsections (4) through (28) of section 287.012,
208 Florida Statutes, are amended to read:

209 287.012 Definitions.—As used in this part, the term:

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

213 (5) "Commodity" means any of the various supplies,
214 materials, goods, merchandise, food, equipment, information
215 technology, and other personal property, including a mobile
216 home, trailer, or other portable structure that has ~~with floor~~
217 ~~space of~~ less than 5,000 square feet of floor space, purchased,
218 leased, or otherwise contracted for by the state and its
219 agencies. The term "Commodity" also includes interest on
220 deferred-payment commodity contracts approved pursuant to s.
221 287.063 entered into by an agency for the purchase of other
222 commodities. However, commodities purchased for resale are
223 excluded from this definition. Printing of publications shall be
224 considered a commodity if procured ~~when let upon contract~~



225 pursuant to s. 283.33, whether purchased for resale or not.

226 (6) "Competitive solicitation" means the process of
227 requesting and receiving two or more sealed bids, proposals, or
228 replies submitted by responsive vendors in accordance with the
229 terms of a competitive process, regardless of the method of
230 procurement.

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

233 (8) "Contractual service" means the rendering by a
234 contractor of its time and effort rather than the furnishing of
235 specific commodities. The term applies only to those services
236 rendered by individuals and firms who are independent
237 contractors, and such services may include, but are not limited
238 to, evaluations; consultations; maintenance; accounting;
239 security; management systems; management consulting; educational
240 training programs; research and development studies or reports
241 on the findings of consultants engaged thereunder; and
242 professional, technical, and social services. The term
243 ~~"Contractual service"~~ does not include a ~~any~~ contract for the
244 furnishing of labor or materials for the construction,
245 renovation, repair, modification, or demolition of a ~~any~~
246 facility, building, portion of building, utility, park, parking
247 lot, or structure or other improvement to real property entered
248 into pursuant to chapter 255 and rules adopted thereunder.

249 (9) "Department" means the Department of Management
250 Services.

251 (10) "Electronic posting" or "electronically post" means
252 the noticing of solicitations, agency decisions or intended



253 decisions, or other matters relating to procurement on a
254 centralized Internet website designated by the department for
255 this purpose, and in the manner and form required under s.
256 120.57(3) (a).

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

260 (12) "Exceptional purchase" means any purchase of
261 commodities or contractual services excepted by law or rule from
262 the requirements for competitive solicitation, including, but
263 not limited to, purchases from a single source; purchases upon
264 receipt of less than two responsive bids, proposals, or replies;
265 purchases made by an agency, after receiving approval from the
266 department, from a contract procured, pursuant to s. 287.057(1),
267 or by another agency; and purchases made without advertisement
268 in the manner required under ~~by~~ s. 287.042(3) (b).

269 (13) "Extension" means an increase in the time allowed for
270 the contract period ~~due to circumstances which, without fault of~~
271 ~~either party, make performance impracticable or impossible, or~~
272 ~~which prevent a new contract from being executed, with or~~
273 ~~without a proportional increase in the total dollar amount, with~~
274 ~~any increase to be based on the method and rate previously~~
275 ~~established in the contract.~~

276 (14) "Governmental entity" means a political subdivision or
277 agency of this state or of any state of the United States,
278 including, but not limited to, state government, county,
279 municipality, school district, nonprofit public university or
280 college, single-purpose or multipurpose special district,



281 single-purpose or multipurpose public authority, metropolitan or
282 consolidated government, separate legal entity or administrative
283 entity, or any agency of the Federal Government.

284 (15)~~(14)~~ "Information technology" has the same meaning as
285 provided ~~ascribed~~ in s. 282.0041.

286 (16)~~(15)~~ "Invitation to bid" means a written or
287 electronically posted solicitation for competitive sealed bids.

288 (17)~~(16)~~ "Invitation to negotiate" means a written or
289 electronically posted solicitation for competitive sealed
290 replies to select one or more vendors with which to commence
291 negotiations for the procurement of commodities or contractual
292 services.

293 (18)~~(17)~~ "Minority business enterprise" has the same
294 meaning as provided ~~ascribed~~ in s. 288.703.

295 (19)~~(18)~~ "Office" means the Office of Supplier Diversity of
296 the Department of Management Services.

297 (20)~~(19)~~ "Outsource" means the process of contracting with
298 a vendor to provide a service as defined in s. 216.011(1)(f), in
299 whole or in part, or an activity as defined in s.
300 216.011(1)(rr), while a state agency retains the responsibility
301 and accountability for the service or activity and there is a
302 transfer of management responsibility for the delivery of
303 resources and the performance of those resources.

304 (21)~~(20)~~ "Renewal" means contracting with the same
305 contractor for an additional contract period after the initial
306 contract period, only if pursuant to contract terms specifically
307 providing for such renewal.

308 (22)~~(21)~~ "Request for information" means a written or



309 | electronically posted request made by an agency to vendors for
310 | information concerning commodities or contractual services.
311 | Responses to these requests are not offers and may not be
312 | accepted by the agency to form a binding contract.

313 | ~~(23)~~(22) "Request for proposals" means a written or
314 | electronically posted solicitation for competitive sealed
315 | proposals.

316 | ~~(24)~~(23) "Request for a quote" means an oral, electronic,
317 | or written request for written pricing or services information
318 | from a state term contract vendor for commodities or contractual
319 | services available on a state term contract from that vendor.

320 | ~~(25)~~(24) "Responsible vendor" means a vendor who has the
321 | capability in all respects to fully perform the contract
322 | requirements and the integrity and reliability that will assure
323 | good faith performance.

324 | ~~(26)~~(25) "Responsive bid," "responsive proposal," or
325 | "responsive reply" means a bid, or proposal, or reply submitted
326 | by a responsive and responsible vendor which ~~that~~ conforms in
327 | all material respects to the solicitation.

328 | ~~(27)~~(26) "Responsive vendor" means a vendor that has
329 | submitted a bid, proposal, or reply that conforms in all
330 | material respects to the solicitation.

331 | ~~(28)~~(27) "State term contract" means a term contract that
332 | is competitively procured by the department pursuant to s.
333 | 287.057 and that is used by agencies and eligible users pursuant
334 | to s. 287.056.

335 | ~~(29)~~(28) "Term contract" means an indefinite quantity
336 | contract to furnish commodities or contractual services during a



337 defined period.

338 Section 4. Paragraph (a) of subsection (1), paragraph (b)
339 of subsection (2), and subsections (8) and (15) of section
340 287.042, Florida Statutes, are amended to read:

341 287.042 Powers, duties, and functions.—The department shall
342 have the following powers, duties, and functions:

343 (1) (a) To canvass all sources of supply, ~~establish and~~
344 ~~maintain a vendor list,~~ and contract for the purchase, lease, or
345 acquisition, including purchase by installment sales or lease-
346 purchase contracts which may provide for the payment of interest
347 on unpaid portions of the purchase price, of all commodities and
348 contractual services required by any agency under this chapter.
349 Any contract providing for deferred payments and the payment of
350 interest is ~~shall be~~ subject to specific rules adopted by the
351 department.

352 (2)

353 (b) As an alternative to any provision in s. 120.57(3)(c),
354 the department may proceed with the competitive solicitation or
355 contract award process of a term contract when the Secretary of
356 Management Services ~~the department~~ or his or her designee sets
357 forth in writing particular facts and circumstances that ~~which~~
358 demonstrate that the delay incident to staying the solicitation
359 or contract award process would be detrimental to the interests
360 of the state. After the award of a contract resulting from a
361 competitive solicitation in which a timely protest was received
362 and in which the state did not prevail, the contract may be
363 canceled and reawarded.

364 (8) To provide any commodity and contractual service



365 purchasing rules to the Chief Financial Officer and all agencies
366 electronically or through ~~an electronic medium or~~ other means.
367 Agencies may not approve an ~~any~~ account or request any payment
368 of an ~~any~~ account for the purchase of any commodity or the
369 procurement of any contractual service covered by a purchasing
370 or contractual service rule except as authorized therein. The
371 department shall furnish copies of rules adopted by the
372 department to any county, municipality, or other local public
373 agency requesting them.

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

379 (a) Each agency that has been appropriated or has existing
380 funds for such purchase, shall, upon contract award by the
381 department, transfer its ~~their~~ portion of the funds into the
382 department's Operating Trust Fund for payment by the department.
383 The funds shall be transferred by the Executive Office of the
384 Governor pursuant to the agency budget amendment request
385 provisions under ~~in~~ chapter 216.

386 (b) Agencies that sign the joint agreements are financially
387 obligated for their portion of the agreed-upon funds. If an
388 agency becomes more than 90 days delinquent in paying the funds,
389 the department shall certify to the Chief Financial Officer the
390 amount due, and the Chief Financial Officer shall transfer the
391 amount due to the Operating Trust Fund of the department from
392 any of the agency's available funds. The Chief Financial Officer



393 shall report these transfers and the reasons for the transfers
394 to the Executive Office of the Governor and the legislative
395 appropriations committees.

396 Section 5. Paragraph (a) of subsection (1) and subsections
397 (3), (10), (12), (13), (16), and (22) of section 287.057,
398 Florida Statutes, are amended to read:

399 287.057 Procurement of commodities or contractual
400 services.—

401 (1) The competitive solicitation processes authorized in
402 this section shall be used for procurement of commodities or
403 contractual services in excess of the threshold amount provided
404 for CATEGORY TWO in s. 287.017. Any competitive solicitation
405 shall be made available simultaneously to all vendors, must
406 include the time and date for the receipt of bids, proposals, or
407 replies and of the public opening, and must include all
408 contractual terms and conditions applicable to the procurement,
409 including the criteria to be used in determining acceptability
410 and relative merit of the bid, proposal, or reply.

411 (a) *Invitation to bid.*—The invitation to bid shall be used
412 when the agency is capable of specifically defining the scope of
413 work for which a contractual service is required or when the
414 agency is capable of establishing precise specifications
415 defining the actual commodity or group of commodities required.

416 1. All invitations to bid must include:

417 a. A detailed description of the commodities or contractual
418 services sought; and

419 b. If the agency contemplates renewal of the contract, a
420 statement to that effect.



421 2. Bids submitted in response to an invitation to bid in
422 which the agency contemplates renewal of the contract must
423 include the price for each year for which the contract may be
424 renewed.

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

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

430 (3) If ~~When~~ the purchase price of commodities or
431 contractual services exceeds the threshold amount provided in s.
432 287.017 for CATEGORY TWO, ~~no~~ purchase of commodities or
433 contractual services may not be made without receiving
434 competitive sealed bids, competitive sealed proposals, or
435 competitive sealed replies unless:

436 (a) The agency head determines in writing that an immediate
437 danger to the public health, safety, or welfare or other
438 substantial loss to the state requires emergency action. After
439 the agency head signs ~~makes~~ such a written determination, the
440 agency may proceed with the procurement of commodities or
441 contractual services necessitated by the immediate danger,
442 without receiving competitive sealed bids, competitive sealed
443 proposals, or competitive sealed replies. However, the ~~such~~
444 emergency procurement shall be made by obtaining pricing
445 information from at least two prospective vendors, which must be
446 retained in the contract file, unless the agency determines in
447 writing that the time required to obtain pricing information
448 will increase the immediate danger to the public health, safety,



449 or welfare or other substantial loss to the state. The agency
450 shall furnish copies of all written determinations ~~certified~~
451 ~~under oath~~ and any other documents relating to the emergency
452 action to the department. A copy of the written statement shall
453 be furnished to the Chief Financial Officer with the voucher
454 authorizing payment. The individual purchase of personal
455 clothing, shelter, or supplies which are needed on an emergency
456 basis to avoid institutionalization or placement in a more
457 restrictive setting is an emergency for the purposes of this
458 paragraph, and the filing with the department of such statement
459 is not required in such circumstances. In the case of the
460 emergency purchase of insurance, the period of coverage of such
461 insurance may ~~shall~~ not exceed ~~a period of~~ 30 days, and all such
462 emergency purchases shall be reported to the department.

463 (b) The purchase is made by an agency from a state term
464 contract procured, pursuant to this section, by the department
465 or by an agency, after receiving approval from the department,
466 from a contract procured, pursuant to subsection (1), by another
467 agency.

468 (c) Commodities or contractual services available only from
469 a single source may be excepted from the competitive-
470 solicitation requirements. If ~~When~~ an agency believes that
471 commodities or contractual services are available only from a
472 single source, the agency shall electronically post a
473 description of the commodities or contractual services sought
474 for ~~a period of~~ at least 7 business days. The description must
475 include a request that prospective vendors provide information
476 regarding their ability to supply the commodities or contractual



477 services described. If it is determined in writing by the
478 agency, after reviewing any information received from
479 prospective vendors, that the commodities or contractual
480 services are available only from a single source, the agency
481 shall:

482 ~~1. provide notice of its intended decision to enter a~~
483 ~~single-source purchase contract in the manner specified in s.~~
484 ~~120.57(3), if the amount of the contract does not exceed the~~
485 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

486 ~~2. Request approval from the department for the single-~~
487 ~~source purchase, if the amount of the contract exceeds the~~
488 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~
489 ~~agency shall initiate its request for approval in a form~~
490 ~~prescribed by the department, which request may be~~
491 ~~electronically transmitted. The failure of the department to~~
492 ~~approve or disapprove the agency's request for approval within~~
493 ~~21 days after receiving such request shall constitute prior~~
494 ~~approval of the department. If the department approves the~~
495 ~~agency's request, the agency shall provide notice of its~~
496 ~~intended decision to enter a single-source contract in the~~
497 ~~manner specified in s. 120.57(3).~~

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

503 (d) ~~(e)~~ Prescriptive assistive devices for the purpose of
504 medical, developmental, or vocational rehabilitation of clients



505 are excepted from competitive-solicitation requirements and
506 shall be procured pursuant to an established fee schedule or by
507 any other method that ~~which~~ ensures the best price for the
508 state, taking into consideration the needs of the client.

509 Prescriptive assistive devices include, but are not limited to,
510 prosthetics, orthotics, and wheelchairs. For purchases made
511 pursuant to this paragraph, state agencies shall annually file
512 with the department a description of the purchases and methods
513 of procurement.

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

517 1. Artistic services. As used in ~~For the purposes of~~ this
518 subsection, the term "artistic services" does not include
519 advertising or typesetting. As used in this subparagraph, the
520 term "advertising" means the making of a representation in any
521 form in connection with a trade, business, craft, or profession
522 in order to promote the supply of commodities or services by the
523 person promoting the commodities or contractual services.

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

526 3. Lectures by individuals.

527 4. Legal services, including attorney, paralegal, expert
528 witness, appraisal, or mediator services.

529 ~~5.a.~~ Health services involving examination, diagnosis,
530 treatment, prevention, medical consultation, or administration.

531 The term also includes,

532 ~~b. Beginning January 1, 2011, health services, including,~~



533 but is not limited to, substance abuse and mental health
534 services, involving examination, diagnosis, treatment,
535 prevention, or medical consultation ~~if, when~~ such services are
536 offered to eligible individuals participating in a specific
537 program that qualifies multiple providers and uses a standard
538 payment methodology. Reimbursement of administrative costs for
539 providers of services purchased in this manner are ~~shall~~ also be
540 exempt. For purposes of this subparagraph ~~sub-subparagraph~~, the
541 term "providers" means health professionals and, health
542 facilities, or organizations that deliver or arrange for the
543 delivery of health services.

544 6. Services provided to persons with mental or physical
545 disabilities by not-for-profit corporations that ~~which~~ have
546 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
547 United States Internal Revenue Code or when such services are
548 governed by the ~~provisions of~~ Office of Management and Budget
549 Circular A-122. However, in acquiring such services, the agency
550 shall consider the ability of the vendor, past performance,
551 willingness to meet time requirements, and price.

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

554 8. Family placement services.

555 9. Prevention services related to mental health, including
556 drug abuse prevention programs, child abuse prevention programs,
557 and shelters for runaways, operated by not-for-profit
558 corporations. However, in acquiring such services, the agency
559 shall consider the ability of the vendor, past performance,
560 willingness to meet time requirements, and price.



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

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

564 12. Services or commodities provided by governmental
565 entities ~~agencies~~.

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

570 (f) ~~(g)~~ Continuing education events or programs that are
571 offered to the general public and for which fees have been
572 collected which ~~that~~ pay all expenses associated with the event
573 or program are exempt from requirements for competitive
574 solicitation.

575 (10) A contract for commodities or contractual services may
576 be awarded without competition if state or federal law
577 prescribes with whom the agency must contract or if the rate of
578 payment or the recipient of the funds is established during the
579 appropriations process.

580 (12) Extension of a contract for commodities or contractual
581 services must ~~shall~~ be in writing for a period not to exceed 6
582 months and is ~~shall be~~ subject to the same terms and conditions
583 set forth in the initial contract and any written amendments
584 signed by the parties. There may ~~shall~~ be only one extension of
585 a contract unless the failure to meet the criteria set forth in
586 the contract for completion of the contract is due to events
587 beyond the control of the contractor.

588 (13) Contracts for commodities or contractual services may



589 | be renewed for a period that may not exceed 3 years or the term
590 | of the original contract, whichever ~~period~~ is longer. Renewal of
591 | a contract for commodities or contractual services must ~~shall~~ be
592 | in writing and is ~~shall be~~ subject to the same terms and
593 | conditions set forth in the initial contract and any written
594 | amendments signed by the parties. If the commodity or
595 | contractual service is purchased as a result of the solicitation
596 | of bids, proposals, or replies, the price of the commodity or
597 | contractual service to be renewed must ~~shall~~ be specified in the
598 | bid, proposal, or reply, except that an agency may negotiate
599 | lower pricing. A renewal contract may not include any
600 | compensation for costs associated with the renewal. Renewals are
601 | ~~shall be~~ contingent upon satisfactory performance evaluations by
602 | the agency and subject to the availability of funds. Exceptional
603 | purchase contracts pursuant to paragraphs (3) (a) and (c) may not
604 | be renewed. With the exception of subsection (10) ~~(12)~~, if a
605 | contract amendment results in a longer contract term or
606 | increased payments, a state agency may not renew or amend a
607 | contract for the outsourcing of a service or activity that has
608 | an original term value exceeding ~~the sum of~~ \$10 million before
609 | submitting a written report concerning contract performance to
610 | the Governor, the President of the Senate, and the Speaker of
611 | the House of Representatives at least 90 days before execution
612 | of the renewal or amendment.

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

616 | 1. ~~(a)~~ At least three persons to evaluate proposals and



617 replies who collectively have experience and knowledge in the
618 program areas and service requirements for which commodities or
619 contractual services are sought.

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

625 (b) ~~If~~ ~~When~~ the value of a contract is in excess of \$1
626 million in any fiscal year, at least one of the persons
627 conducting negotiations must be certified as a contract
628 negotiator based upon department rules ~~adopted by the Department~~
629 ~~of Management Services~~ in order to ensure that certified
630 contract negotiators are knowledgeable about effective
631 negotiation strategies, capable of successfully implementing
632 those strategies, and involved appropriately in the procurement
633 process. At a minimum, the rules must address the qualifications
634 required for certification, the method of certification, and the
635 procedure for involving the certified negotiator. If the value
636 of a contract is in excess of \$10 million in any fiscal year, at
637 least one of the persons conducting negotiations must be a
638 Project Management Professional, as certified by the Project
639 Management Institute.

640 (22) The department, in consultation with the Chief
641 Financial Officer ~~Agency for Enterprise Information Technology~~
642 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online
643 procurement of commodities and contractual services. To enable
644 the state to promote open competition and ~~to~~ leverage its buying



645 power, agencies shall participate in the online procurement
646 program, and eligible users may participate in the program. Only
647 vendors prequalified as meeting mandatory requirements and
648 qualifications criteria may participate in online procurement.

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

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

656 1. Determining the requirements and qualification criteria
657 for prequalifying vendors.

658 2. Establishing the procedures for conducting online
659 procurement.

660 3. Establishing the criteria for eligible commodities and
661 contractual services.

662 4. Establishing the procedures for providing access to
663 online procurement.

664 5. Determining the criteria warranting any exceptions to
665 participation in the online procurement program.

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

668 1. The fees may be imposed on an individual transaction
669 basis or as a fixed percentage of the cost savings generated. At
670 a minimum, the fees must be set in an amount sufficient to cover
671 the projected costs of the services, including administrative
672 and project service costs in accordance with the policies of the



673 department.

674 2. If the department contracts with a provider for online
675 procurement, the department, pursuant to appropriation, shall
676 compensate the provider from the fees after the department has
677 satisfied all ongoing costs. The provider shall report
678 transaction data to the department each month so that the
679 department may determine the amount due and payable to the
680 department from each vendor.

681 3. All fees that are due and payable to the state on a
682 transactional basis or as a fixed percentage of the cost savings
683 generated are subject to s. 215.31 and must be remitted within
684 40 days after receipt of payment for which the fees are due. For
685 fees that are not remitted within 40 days, the vendor shall pay
686 interest at the rate established under s. 55.03(1) on the unpaid
687 balance from the expiration of the 40-day period until the fees
688 are remitted.

689 4. All fees and surcharges collected under this paragraph
690 shall be deposited in the Operating Trust Fund as provided by
691 law.

692 Section 6. Effective December 1, 2014, subsection (14) of
693 section 287.057, Florida Statutes, is amended to read:

694 287.057 Procurement of commodities or contractual
695 services.—

696 (14) For each contractual services contract, the agency
697 shall designate an employee to function as contract manager who
698 is ~~shall be~~ responsible for enforcing performance of the
699 contract terms and conditions and serve as a liaison with the
700 contractor.



701 (a) Each contract manager who is responsible for contracts
702 in excess of the threshold amount for CATEGORY TWO must, at a
703 minimum, complete ~~attend~~ training conducted by the Chief
704 Financial Officer for accountability in contracts and grant
705 management. The Chief Financial Officer shall establish and
706 disseminate uniform procedures pursuant to s. 17.03(3) to ensure
707 that contractual services have been rendered in accordance with
708 the contract terms before the agency processes the invoice for
709 payment. The procedures must ~~shall~~ include, but need not be
710 limited to, procedures for monitoring and documenting contractor
711 performance, reviewing and documenting all deliverables for
712 which payment is requested by vendors, and providing written
713 certification by contract managers of the agency's receipt of
714 goods and services.

715 (b) Each contract manager who is responsible for contracts
716 in excess of \$100,000 annually must complete training in
717 contract management and become a certified contract manager. The
718 department is responsible for establishing and disseminating the
719 requirements for certification which include completing the
720 training conducted by the Chief Financial Officer for
721 accountability in contracts and grant management. Training and
722 certification must be coordinated by the department, and the
723 training must be conducted jointly by the department and the
724 Department of Financial Services. Training must promote best
725 practices and procedures related to negotiating, managing, and
726 ensuring accountability in agency contracts and grant
727 agreements, which must include the use of case studies based
728 upon previous audits, contracts, and grant agreements. All



729 agency contract managers must become certified within 24 months
730 after establishment of the training and certification
731 requirements by the department and the Department of Financial
732 Services.

733 Section 7. Paragraph (a) of subsection (3) of section
734 287.0571, Florida Statutes, is amended to read:

735 287.0571 Business case to outsource; applicability.—

736 (3) This section does not apply to:

737 (a) A procurement of commodities and contractual services
738 listed in s. 287.057(3)(d) and (e) ~~287.057(3)(e), (f), and (g)~~
739 and (21).

740 Section 8. Subsections (1), (2), and (5) of section
741 287.058, Florida Statutes, are amended to read:

742 287.058 Contract document.—

743 (1) Every procurement of contractual services in excess of
744 the threshold amount provided in s. 287.017 for CATEGORY TWO,
745 except for the providing of health and mental health services or
746 drugs in the examination, diagnosis, or treatment of sick or
747 injured state employees or the providing of other benefits as
748 required by ~~the provisions of~~ chapter 440, shall be evidenced by
749 a written agreement embodying all provisions and conditions of
750 the procurement of such services, which shall, where applicable,
751 include, but not be limited to, a provision:

752 (a) That bills for fees or other compensation for services
753 or expenses be submitted in detail sufficient for a proper
754 preaudit and postaudit thereof.

755 (b) That bills for any travel expenses be submitted in
756 accordance with s. 112.061. A state agency may establish rates



757 lower than the maximum provided in s. 112.061.

758 (c) Allowing unilateral cancellation by the agency for
759 refusal by the contractor to allow public access to all
760 documents, papers, letters, or other material made or received
761 by the contractor in conjunction with the contract, unless the
762 records are exempt from s. 24(a) of Art. I of the State
763 Constitution and s. 119.07(1).

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

766 (e) Dividing the contract into quantifiable, measurable,
767 and verifiable units of deliverables that must be received and
768 accepted in writing by the contract manager before payment. Each
769 deliverable must be directly related to the scope of work and
770 specify a performance measure. As used in this paragraph, the
771 term "performance measure" means the required minimum acceptable
772 level of service to be performed and criteria for evaluating the
773 successful completion of each deliverable.

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

776 (g) Specifying that the contract may be renewed for a
777 period that may not exceed 3 years or the term of the original
778 contract, whichever ~~period~~ is longer, specifying the renewal
779 price for the contractual service as set forth in the bid,
780 proposal, or reply, specifying that costs for the renewal may
781 not be charged, and specifying that renewals are ~~shall be~~
782 contingent upon satisfactory performance evaluations by the
783 agency and subject to the availability of funds. Exceptional
784 purchase contracts pursuant to s. 287.057(3) (a) and (c) may not



785 be renewed.

786 (h) Specifying the financial consequences that the agency
787 must apply if the contractor fails to perform in accordance with
788 the contract.

789 (i) Addressing the property rights of any intellectual
790 property related to the contract and the specific rights of the
791 state regarding the intellectual property if the contractor
792 fails to provide the services or is no longer providing
793 services.

794

795 In lieu of a written agreement, the agency ~~department~~ may
796 authorize the use of a purchase order for classes of contractual
797 services, if the provisions of paragraphs (a)-(i) are included
798 in the purchase order or solicitation. The purchase order must
799 include, but need not be limited to, an adequate description of
800 the services, the contract period, and the method of payment. In
801 lieu of printing the provisions of paragraphs (a)-(c) and (g)
802 ~~(a)-(i)~~ in the contract document or purchase order, agencies may
803 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~
804 ~~(i)~~ by reference.

805 (2) The written agreement shall be signed by the agency
806 head or designee and the contractor before ~~prior to~~ the
807 rendering of any contractual service the value of which is in
808 excess of the threshold amount provided in s. 287.017 for
809 CATEGORY TWO, except in the case of a valid emergency as
810 certified by the agency head. The written statement
811 ~~certification~~ of an emergency must ~~shall~~ be prepared within 30
812 days after the contractor begins rendering the service and must



813 ~~shall~~ state the particular facts and circumstances which
814 precluded the execution of the written agreement before ~~prior to~~
815 the rendering of the service. If the agency fails to have the
816 contract signed by the agency head or designee and the
817 contractor before ~~prior to~~ rendering the contractual service,
818 and if an emergency does not exist, the agency head shall,
819 within no later than 30 days after the contractor begins
820 rendering the service, certify the specific conditions and
821 circumstances to the department as well as describe actions
822 taken to prevent recurrence of such noncompliance. The agency
823 head may delegate the written statement ~~certification~~ only to
824 other senior management agency personnel. A copy of the written
825 statement ~~certification~~ shall be furnished to the Chief
826 Financial Officer with the voucher authorizing payment. The
827 department shall report repeated instances of noncompliance by
828 an agency to the Auditor General. ~~Nothing in~~ This subsection
829 does not ~~shall be deemed to~~ authorize additional compensation
830 prohibited under ~~by~~ s. 215.425. The procurement of contractual
831 services may ~~shall~~ not be divided so as to avoid the provisions
832 of this section.

833 (5) Unless otherwise provided in the General Appropriations
834 Act or the substantive bill implementing the General
835 Appropriations Act, the Chief Financial Officer may waive the
836 requirements of this section for services which are included in
837 s. 287.057(3)(e) ~~287.057(3)(f)~~.

838 Section 9. Section 287.136, Florida Statutes, is created to
839 read:

840 287.136 Audit of executed contract documents.—After



841 execution of a contract, the Chief Financial Officer shall
842 perform audits of the executed contract document and contract
843 manager's records to ensure that adequate internal controls are
844 in place for complying with the terms and conditions of the
845 contract and for the validation and receipt of goods and
846 services.

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

851 (2) Within 30 days after receipt of the final audit report,
852 the agency head shall submit to the Chief Financial Officer or
853 designee his or her written statement of explanation or rebuttal
854 concerning findings requiring corrective action, including
855 corrective action to be taken to preclude a recurrence.

856 Section 10. Section 287.076, Florida Statutes, is amended
857 to read:

858 287.076 Project Management Professionals training for
859 personnel involved in managing outsourcings and negotiations;
860 funding.—~~The department of Management Services may implement a~~
861 ~~program to train state agency employees who are involved in~~
862 ~~managing outsourcings as Project Management Professionals, as~~
863 ~~certified by the Project Management Institute. Subject to annual~~
864 ~~appropriations, For the 2006-2007 fiscal year, the sum of~~
865 ~~\$500,000 in recurring funds from the General Revenue Fund is~~
866 ~~appropriated to the Department of Management Services to~~
867 ~~implement this program. the department of Management Services,~~
868 in consultation with entities subject to this part act, shall



869 identify personnel to participate in this training based on
870 requested need and ensure that each agency is represented. The
871 department ~~of Management Services~~ may remit payment for this
872 training on behalf of all participating personnel.

873 Section 11. Subsection (3) of section 16.0155, Florida
874 Statutes, is amended to read:

875 16.0155 Contingency fee agreements.—

876 (3) Notwithstanding the exemption provided in s.
877 287.057(3)(e), if the Attorney General makes the determination
878 described in subsection (2), he or she ~~notwithstanding the~~
879 ~~exemption provided in s. 287.057(3)(f)~~, the Attorney General
880 shall request proposals from private attorneys to represent the
881 department on a contingency-fee basis, unless the Attorney
882 General determines in writing that requesting proposals is not
883 feasible under the circumstances. The written determination does
884 not constitute a final agency action subject to review pursuant
885 to ss. 120.569 and 120.57. For purposes of this subsection only,
886 the department is exempt from ~~the requirements of s. 120.57(3)~~,
887 and neither the request for proposals nor the contract award is
888 subject to challenge pursuant to ss. 120.569 and 120.57.

889 Section 12. Subsection (1) of section 283.33, Florida
890 Statutes, is amended to read:

891 283.33 Printing of publications; lowest bidder awards.—

892 (1) Publications may be printed and prepared in-house, by
893 another agency or the Legislature, or purchased on bid,
894 whichever is more economical and practicable as determined by
895 the agency. An agency may contract for binding separately when
896 more economical or practicable, whether or not the remainder of



897 the printing is done in-house. A vendor may subcontract for
 898 binding and still be considered a responsible vendor as defined
 899 in s. 287.012, ~~notwithstanding s. 287.012(24)~~.

900 Section 13. Subsection (3) of section 394.457, Florida
 901 Statutes, is amended to read:

902 394.457 Operation and administration.—

903 (3) POWER TO CONTRACT.—The department may contract to
 904 provide, and be provided with, services and facilities in order
 905 to carry out its responsibilities under this part with the
 906 following agencies: public and private hospitals; receiving and
 907 treatment facilities; clinics; laboratories; departments,
 908 divisions, and other units of state government; the state
 909 colleges and universities; the community colleges; private
 910 colleges and universities; counties, municipalities, and any
 911 other governmental unit, including facilities of the United
 912 States Government; and any other public or private entity which
 913 provides or needs facilities or services. Baker Act funds for
 914 community inpatient, crisis stabilization, short-term
 915 residential treatment, and screening services must be allocated
 916 to each county pursuant to the department's funding allocation
 917 methodology. Notwithstanding s. 287.057(3)(e) ~~the provisions of~~
 918 ~~s. 287.057(3)(f)~~, contracts for community-based Baker Act
 919 services for inpatient, crisis stabilization, short-term
 920 residential treatment, and screening provided under this part,
 921 other than those with other units of government, to be provided
 922 for the department must be awarded using competitive sealed bids
 923 if ~~when~~ the county commission of the county receiving the
 924 services makes a request to the department's district office by



925 January 15 of the contracting year. The district may ~~shall~~ not
 926 enter into a competitively bid contract under this provision if
 927 such action will result in increases of state or local
 928 expenditures for Baker Act services within the district.
 929 Contracts for these Baker Act services using competitive sealed
 930 bids are ~~will be~~ effective for 3 years. The department shall
 931 adopt rules establishing minimum standards for such contracted
 932 services and facilities and shall make periodic audits and
 933 inspections to assure that the contracted services are provided
 934 and meet the standards of the department.

935 Section 14. Paragraph (a) of subsection (2) of section
 936 402.7305, Florida Statutes, is amended to read:

937 402.7305 Department of Children and Family Services;
 938 procurement of contractual services; contract management.—

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

940 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,
 941 if ~~whenever~~ the department intends to contract with a public
 942 postsecondary institution to provide a service, the department
 943 must allow all public postsecondary institutions in this state
 944 that are accredited by the Southern Association of Colleges and
 945 Schools to bid on the contract. Thereafter, notwithstanding any
 946 other provision of law ~~to the contrary~~, if a public
 947 postsecondary institution intends to subcontract for any service
 948 awarded in the contract, the subcontracted service must be
 949 procured by competitive procedures.

950 Section 15. Section 409.9132, Florida Statutes, is amended
 951 to read:

952 409.9132 Pilot project to monitor home health services.—The



953 Agency for Health Care Administration shall expand the home
954 health agency monitoring pilot project in Miami-Dade County on a
955 statewide basis effective July 1, 2012, except in counties in
956 which the program is ~~will~~ not ~~be~~ cost-effective, as determined
957 by the agency. The agency shall contract with a vendor to verify
958 the utilization and delivery of home health services and provide
959 an electronic billing interface for home health services. The
960 contract must require the creation of a program to submit claims
961 electronically for the delivery of home health services. The
962 program must verify telephonically visits for the delivery of
963 home health services using voice biometrics. The agency may seek
964 amendments to the Medicaid state plan and waivers of federal
965 laws, as necessary, to implement or expand the pilot project.
966 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must
967 award the contract through the competitive solicitation process
968 and may use the current contract to expand the home health
969 agency monitoring pilot project to include additional counties
970 as authorized under this section.

971 Section 16. Subsection (3) of section 427.0135, Florida
972 Statutes, is amended to read:

973 427.0135 Purchasing agencies; duties and responsibilities.—
974 Each purchasing agency, in carrying out the policies and
975 procedures of the commission, shall:

976 (3) Not procure transportation disadvantaged services
977 without initially negotiating with the commission, as provided
978 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise
979 authorized by statute. If the purchasing agency, after
980 consultation with the commission, determines that it cannot



981 reach mutually acceptable contract terms with the commission,
 982 the purchasing agency may contract for the same transportation
 983 services provided in a more cost-effective manner and of
 984 comparable or higher quality and standards. The Medicaid agency
 985 shall implement this subsection in a manner consistent with s.
 986 409.908(18) and as otherwise limited or directed by the General
 987 Appropriations Act.

988 Section 17. Paragraph (c) of subsection (5) of section
 989 445.024, Florida Statutes, is amended to read:

990 445.024 Work requirements.—

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

995 (c) Notwithstanding the exemption from the competitive
 996 sealed bid requirements provided in s. 287.057(3)(e)
 997 ~~287.057(3)(f)~~ for certain contractual services, each contract
 998 awarded under this chapter must be awarded on the basis of a
 999 competitive sealed bid, except for a contract with a
 1000 governmental entity as determined by the regional workforce
 1001 board.

1002 Section 18. Paragraph (c) of subsection (5) of section
 1003 627.311, Florida Statutes, is amended to read:

1004 627.311 Joint underwriters and joint reinsurers; public
 1005 records and public meetings exemptions.—

1006 (5)

1007 (c) The operation of the plan shall be governed by a plan
 1008 of operation that is prepared at the direction of the board of



1009 | governors and approved by order of the office. The plan is
 1010 | subject to continuous review by the office. The office may, by
 1011 | order, withdraw approval of all or part of a plan if the office
 1012 | determines that conditions have changed since approval was
 1013 | granted and that the purposes of the plan require changes in the
 1014 | plan. The plan of operation must ~~shall~~:

1015 | 1. Authorize the board to engage in the activities
 1016 | necessary to implement this subsection, including, but not
 1017 | limited to, borrowing money.

1018 | 2. Develop criteria for eligibility for coverage by the
 1019 | plan, including, but not limited to, documented rejection by at
 1020 | least two insurers which reasonably assures that insureds
 1021 | covered under the plan are unable to acquire coverage in the
 1022 | voluntary market.

1023 | 3. Require notice from the agent to the insured at the time
 1024 | of the application for coverage that the application is for
 1025 | coverage with the plan and that coverage may be available
 1026 | through an insurer, group self-insurers' fund, commercial self-
 1027 | insurance fund, or assessable mutual insurer through another
 1028 | agent at a lower cost.

1029 | 4. Establish programs to encourage insurers to provide
 1030 | coverage to applicants of the plan in the voluntary market and
 1031 | to insureds of the plan, including, but not limited to:

1032 | a. Establishing procedures for an insurer to use in
 1033 | notifying the plan of the insurer's desire to provide coverage
 1034 | to applicants to the plan or existing insureds of the plan and
 1035 | in describing the types of risks in which the insurer is
 1036 | interested. The description of the desired risks must be on a



1037 form developed by the plan.

1038 b. Developing forms and procedures that provide an insurer
1039 with the information necessary to determine whether the insurer
1040 wants to write particular applicants to the plan or insureds of
1041 the plan.

1042 c. Developing procedures for notice to the plan and the
1043 applicant to the plan or insured of the plan that an insurer
1044 will insure the applicant or the insured of the plan, and notice
1045 of the cost of the coverage offered; and developing procedures
1046 for the selection of an insuring entity by the applicant or
1047 insured of the plan.

1048 d. Provide for a market-assistance plan to assist in the
1049 placement of employers. All applications for coverage in the
1050 plan received 45 days before the effective date for coverage
1051 shall be processed through the market-assistance plan. A market-
1052 assistance plan specifically designed to serve the needs of
1053 small, good policyholders as defined by the board must be
1054 reviewed and updated periodically.

1055 5. Provide for policy and claims services to the insureds
1056 of the plan of the nature and quality provided for insureds in
1057 the voluntary market.

1058 6. Provide for the review of applications for coverage with
1059 the plan for reasonableness and accuracy, using any available
1060 historic information regarding the insured.

1061 7. Provide for procedures for auditing insureds of the plan
1062 which are based on reasonable business judgment and are designed
1063 to maximize the likelihood that the plan will collect the
1064 appropriate premiums.



1065 | 8. Authorize the plan to terminate the coverage of and
 1066 | refuse future coverage for any insured that submits a fraudulent
 1067 | application to the plan or provides fraudulent or grossly
 1068 | erroneous records to the plan or to any service provider of the
 1069 | plan in conjunction with the activities of the plan.

1070 | 9. Establish service standards for agents who submit
 1071 | business to the plan.

1072 | 10. Establish criteria and procedures to prohibit any agent
 1073 | who does not adhere to the established service standards from
 1074 | placing business with the plan or receiving, directly or
 1075 | indirectly, any commissions for business placed with the plan.

1076 | 11. Provide for the establishment of reasonable safety
 1077 | programs for all insureds in the plan. All insureds of the plan
 1078 | must participate in the safety program.

1079 | 12. Authorize the plan to terminate the coverage of and
 1080 | refuse future coverage to any insured who fails to pay premiums
 1081 | or surcharges when due; who, at the time of application, is
 1082 | delinquent in payments of workers' compensation or employer's
 1083 | liability insurance premiums or surcharges owed to an insurer,
 1084 | group self-insurers' fund, commercial self-insurance fund, or
 1085 | assessable mutual insurer licensed to write such coverage in
 1086 | this state; or who refuses to substantially comply with any
 1087 | safety programs recommended by the plan.

1088 | 13. Authorize the board of governors to provide the goods
 1089 | and services required by the plan through staff employed by the
 1090 | plan, through reasonably compensated service providers who
 1091 | contract with the plan to provide services as specified by the
 1092 | board of governors, or through a combination of employees and



1093 service providers.

1094 a. Purchases that equal or exceed \$2,500 but are less than
 1095 or equal to \$25,000, shall be made by receipt of written quotes,
 1096 telephone quotes, or informal bids, if ~~whenever~~ practical. The
 1097 procurement of goods or services valued over \$25,000 is subject
 1098 to competitive solicitation, except in situations in which the
 1099 goods or services are provided by a sole source or are deemed an
 1100 emergency purchase, or the services are exempted from
 1101 competitive-solicitation requirements under s. 287.057(3)(e)
 1102 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency
 1103 procurement must be documented. Contracts for goods or services
 1104 valued at or over \$100,000 are subject to board approval.

1105 b. The board shall determine whether it is more cost-
 1106 effective and in the best interests of the plan to use legal
 1107 services provided by in-house attorneys employed by the plan
 1108 rather than contracting with outside counsel. In making such
 1109 determination, the board shall document its findings and shall
 1110 consider the expertise needed; whether time commitments exceed
 1111 in-house staff resources; whether local representation is
 1112 needed; the travel, lodging, and other costs associated with in-
 1113 house representation; and such other factors that the board
 1114 determines are relevant.

1115 14. Provide for service standards for service providers,
 1116 methods of determining adherence to those service standards,
 1117 incentives and disincentives for service, and procedures for
 1118 terminating contracts for service providers that fail to adhere
 1119 to service standards.

1120 15. Provide procedures for selecting service providers and



1121 standards for qualification as a service provider that
 1122 reasonably assure that any service provider selected will
 1123 continue to operate as an ongoing concern and is capable of
 1124 providing the specified services in the manner required.

1125 16. Provide for reasonable accounting and data-reporting
 1126 practices.

1127 17. Provide for annual review of costs associated with the
 1128 administration and servicing of the policies issued by the plan
 1129 to determine alternatives by which costs can be reduced.

1130 18. Authorize the acquisition of such excess insurance or
 1131 reinsurance as is consistent with the purposes of the plan.

1132 19. Provide for an annual report to the office on a date
 1133 specified by the office and containing such information as the
 1134 office reasonably requires.

1135 20. Establish multiple rating plans for various
 1136 classifications of risk which reflect risk of loss, hazard
 1137 grade, actual losses, size of premium, and compliance with loss
 1138 control. At least one of such plans must be a preferred-rating
 1139 plan to accommodate small-premium policyholders with good
 1140 experience as defined in sub-subparagraph 22.a.

1141 21. Establish agent commission schedules.

1142 22. For employers otherwise eligible for coverage under the
 1143 plan, establish three tiers of employers meeting the criteria
 1144 and subject to the rate limitations specified in this
 1145 subparagraph.

1146 a. Tier One.—

1147 (I) Criteria; rated employers.—An employer that has an
 1148 experience modification rating shall be included in Tier One if



1149 the employer meets all of the following:

1150 (A) The experience modification is below 1.00.

1151 (B) The employer had no lost-time claims subsequent to the
1152 applicable experience modification rating period.

1153 (C) The total of the employer's medical-only claims
1154 subsequent to the applicable experience modification rating
1155 period did not exceed 20 percent of premium.

1156 (II) Criteria; non-rated employers.—An employer that does
1157 not have an experience modification rating shall be included in
1158 Tier One if the employer meets all of the following:

1159 (A) The employer had no lost-time claims for the 3-year
1160 period immediately preceding the inception date or renewal date
1161 of the employer's coverage under the plan.

1162 (B) The total of the employer's medical-only claims for the
1163 3-year period immediately preceding the inception date or
1164 renewal date of the employer's coverage under the plan did not
1165 exceed 20 percent of premium.

1166 (C) The employer has secured workers' compensation coverage
1167 for the entire 3-year period immediately preceding the inception
1168 date or renewal date of the employer's coverage under the plan.

1169 (D) The employer is able to provide the plan with a loss
1170 history generated by the employer's prior workers' compensation
1171 insurer, except if the employer is not able to produce a loss
1172 history due to the insolvency of an insurer, the receiver shall
1173 provide to the plan, upon the request of the employer or the
1174 employer's agent, a copy of the employer's loss history from the
1175 records of the insolvent insurer if the loss history is
1176 contained in records of the insurer which are in the possession



1177 of the receiver. If the receiver is unable to produce the loss
1178 history, the employer may, in lieu of the loss history, submit
1179 an affidavit from the employer and the employer's insurance
1180 agent setting forth the loss history.

1181 (E) The employer is not a new business.

1182 (III) Premiums.—The premiums for Tier One insureds shall be
1183 set at a premium level 25 percent above the comparable voluntary
1184 market premiums until the plan has sufficient experience as
1185 determined by the board to establish an actuarially sound rate
1186 for Tier One, at which point the board shall, subject to
1187 paragraph (e), adjust the rates, if necessary, to produce
1188 actuarially sound rates, provided such rate adjustment shall not
1189 take effect prior to January 1, 2007.

1190 b. Tier Two.—

1191 (I) Criteria; rated employers.—An employer that has an
1192 experience modification rating shall be included in Tier Two if
1193 the employer meets all of the following:

1194 (A) The experience modification is equal to or greater than
1195 1.00 but not greater than 1.10.

1196 (B) The employer had no lost-time claims subsequent to the
1197 applicable experience modification rating period.

1198 (C) The total of the employer's medical-only claims
1199 subsequent to the applicable experience modification rating
1200 period did not exceed 20 percent of premium.

1201 (II) Criteria; non-rated employers.—An employer that does
1202 not have any experience modification rating shall be included in
1203 Tier Two if the employer is a new business. An employer shall be
1204 included in Tier Two if the employer has less than 3 years of



1205 loss experience in the 3-year period immediately preceding the
1206 inception date or renewal date of the employer's coverage under
1207 the plan and the employer meets all of the following:

1208 (A) The employer had no lost-time claims for the 3-year
1209 period immediately preceding the inception date or renewal date
1210 of the employer's coverage under the plan.

1211 (B) The total of the employer's medical-only claims for the
1212 3-year period immediately preceding the inception date or
1213 renewal date of the employer's coverage under the plan did not
1214 exceed 20 percent of premium.

1215 (C) The employer is able to provide the plan with a loss
1216 history generated by the workers' compensation insurer that
1217 provided coverage for the portion or portions of such period
1218 during which the employer had secured workers' compensation
1219 coverage, except if the employer is not able to produce a loss
1220 history due to the insolvency of an insurer, the receiver shall
1221 provide to the plan, upon the request of the employer or the
1222 employer's agent, a copy of the employer's loss history from the
1223 records of the insolvent insurer if the loss history is
1224 contained in records of the insurer which are in the possession
1225 of the receiver. If the receiver is unable to produce the loss
1226 history, the employer may, in lieu of the loss history, submit
1227 an affidavit from the employer and the employer's insurance
1228 agent setting forth the loss history.

1229 (III) Premiums.—The premiums for Tier Two insureds shall be
1230 set at a rate level 50 percent above the comparable voluntary
1231 market premiums until the plan has sufficient experience as
1232 determined by the board to establish an actuarially sound rate



1233 for Tier Two, at which point the board shall, subject to
 1234 paragraph (e), adjust the rates, if necessary, to produce
 1235 actuarially sound rates, provided such rate adjustment shall not
 1236 take effect prior to January 1, 2007.

1237 c. Tier Three.—

1238 (I) Eligibility.—An employer shall be included in Tier
 1239 Three if the employer does not meet the criteria for Tier One or
 1240 Tier Two.

1241 (II) Rates.—The board shall establish, subject to paragraph
 1242 (e), and the plan shall charge, actuarially sound rates for Tier
 1243 Three insureds.

1244 23. For Tier One or Tier Two employers which employ no
 1245 nonexempt employees or which report payroll which is less than
 1246 the minimum wage hourly rate for one full-time employee for 1
 1247 year at 40 hours per week, the plan shall establish actuarially
 1248 sound premiums, provided, however, that the premiums may not
 1249 exceed \$2,500. These premiums shall be in addition to the fee
 1250 specified in subparagraph 26. When the plan establishes
 1251 actuarially sound rates for all employers in Tier One and Tier
 1252 Two, the premiums for employers referred to in this paragraph
 1253 are no longer subject to the \$2,500 cap.

1254 24. Provide for a depopulation program to reduce the number
 1255 of insureds in the plan. If an employer insured through the plan
 1256 is offered coverage from a voluntary market carrier:

- 1257 a. During the first 30 days of coverage under the plan;
- 1258 b. Before a policy is issued under the plan;
- 1259 c. By issuance of a policy upon expiration or cancellation
- 1260 of the policy under the plan; or



1261 d. By assumption of the plan's obligation with respect to
1262 an in-force policy,
1263
1264 that employer is no longer eligible for coverage through the
1265 plan. The premium for risks assumed by the voluntary market
1266 carrier must be no greater than the premium the insured would
1267 have paid under the plan, and shall be adjusted upon renewal to
1268 reflect changes in the plan rates and the tier for which the
1269 insured would qualify as of the time of renewal. The insured may
1270 be charged such premiums only for the first 3 years of coverage
1271 in the voluntary market. A premium under this subparagraph is
1272 deemed approved and is not an excess premium for purposes of s.
1273 627.171.

1274 25. Require that policies issued and applications must
1275 include a notice that the policy could be replaced by a policy
1276 issued from a voluntary market carrier and that, if an offer of
1277 coverage is obtained from a voluntary market carrier, the
1278 policyholder is no longer eligible for coverage through the
1279 plan. The notice must also specify that acceptance of coverage
1280 under the plan creates a conclusive presumption that the
1281 applicant or policyholder is aware of this potential.

1282 26. Require that each application for coverage and each
1283 renewal premium be accompanied by a nonrefundable fee of \$475 to
1284 cover costs of administration and fraud prevention. The board
1285 may, with the prior approval of the office, increase the amount
1286 of the fee pursuant to a rate filing to reflect increased costs
1287 of administration and fraud prevention. The fee is not subject
1288 to commission and is fully earned upon commencement of coverage.



1289 Section 19. Paragraph (e) of subsection (6) of section
 1290 627.351, Florida Statutes, is amended to read:
 1291 627.351 Insurance risk apportionment plans.—
 1292 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
 1293 (e) Purchases that equal or exceed \$2,500, but are less
 1294 than \$25,000, shall be made by receipt of written quotes,
 1295 written record of telephone quotes, or informal bids, if
 1296 ~~whenever~~ practical. The procurement of goods or services valued
 1297 at or over \$25,000 is ~~shall be~~ subject to competitive
 1298 solicitation, except in situations where the goods or services
 1299 are provided by a sole source or are deemed an emergency
 1300 purchase; the services are exempted from competitive
 1301 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~;
 1302 or the procurement of services is subject to s. 627.3513.
 1303 Justification for the sole-sourcing or emergency procurement
 1304 must be documented. Contracts for goods or services valued at or
 1305 over \$100,000 are subject to approval by the board.
 1306 Section 20. Subsection (2) of section 765.5155, Florida
 1307 Statutes, is amended to read:
 1308 765.5155 Donor registry; education program.—
 1309 (2) The agency and the department shall jointly contract
 1310 for the operation of a donor registry and education program. The
 1311 contractor shall be procured by competitive solicitation
 1312 pursuant to chapter 287, notwithstanding an ~~any~~ exemption under
 1313 ~~in~~ s. 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,
 1314 priority shall be given to existing nonprofit groups that are
 1315 based within the state, have expertise working with procurement
 1316 organizations, have expertise in conducting statewide organ and



1317 tissue donor public education campaigns, and represent the needs
 1318 of the organ and tissue donation community in the state.

1319 Section 21. Subsection (10) of section 893.055, Florida
 1320 Statutes, is amended to read:

1321 893.055 Prescription drug monitoring program.—

1322 (10) All costs incurred by the department in administering
 1323 the prescription drug monitoring program shall be funded through
 1324 federal grants or private funding applied for or received by the
 1325 state. The department may not commit funds for the monitoring
 1326 program without ensuring funding is available. The prescription
 1327 drug monitoring program and the implementation thereof are
 1328 contingent upon receipt of the nonstate funding. The department
 1329 and state government shall cooperate with the direct-support
 1330 organization established pursuant to subsection (11) in seeking
 1331 federal grant funds, other nonstate grant funds, gifts,
 1332 donations, or other private moneys for the department if so long
 1333 ~~as~~ the costs of doing so are not considered material.

1334 Nonmaterial costs for this purpose include, but are not limited
 1335 to, the costs of mailing and personnel assigned to research or
 1336 apply for a grant. Notwithstanding the exemptions to
 1337 competitive-solicitation requirements under s. 287.057(3)(e)
 1338 ~~287.057(3)(f)~~, the department shall comply with the competitive-
 1339 solicitation requirements under s. 287.057 for the procurement
 1340 of any goods or services required by this section. Funds
 1341 provided, directly or indirectly, by prescription drug
 1342 manufacturers may not be used to implement the program.

1343



CS/CS/HB 1309, Engrossed 2

2013

1344 | Section 22. Except as otherwise expressly provided in this
1345 | act, this act shall take effect July 1, 2013.