

By the Committee on Governmental Oversight and Accountability;  
and Senator Hays

585-02205-14

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1                                   A bill to be entitled  
2           An act relating to government contracting; amending s.  
3           215.985, F.S.; revising information to be posted on  
4           the Chief Financial Officer's contract tracking system  
5           to conform to changes made by the act; amending s.  
6           287.084, F.S.; expanding provisions that require an  
7           agency, university, college, school district, or other  
8           political subdivision of the state to provide  
9           preferential consideration to a Florida business in  
10          awarding competitively bid contracts to purchase  
11          personal property to include the purchase of  
12          construction services; providing an exception;  
13          requiring counties and municipalities to provide such  
14          preferential consideration; providing that for  
15          specified competitive solicitations the authority to  
16          grant a preference supersedes any local ordinance or  
17          regulation that restricts specified contractors from  
18          competing for an award based upon certain conditions;  
19          requiring a university, college, county, municipality,  
20          school district, or other political subdivision to  
21          make specified disclosures in competitive solicitation  
22          documents; providing that a university, college,  
23          county, municipality, school district, or other  
24          political subdivision is not prohibited from awarding  
25          a contract to a vendor under certain circumstances;  
26          amending s. 287.1335, F.S.; defining terms; requiring  
27          agencies to provide the Department of Management  
28          Services with copies of vendor complaints and names of  
29          suspended and terminated vendors; authorizing local

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30 governmental entities to provide such information to  
31 the department; requiring the department to maintain  
32 certain information regarding vendors on its website;  
33 requiring an agency to submit specified information to  
34 the department on a quarterly basis; authorizing a  
35 local governmental entity to submit such information  
36 on the same basis; requiring a vendor responding to an  
37 agency's competitive solicitation to disclose certain  
38 information; specifying certain requirements for  
39 considering a response to a competitive solicitation  
40 or entering a contract; providing an effective date.

41  
42 Be It Enacted by the Legislature of the State of Florida:

43  
44 Section 1. Section 1. Paragraph (a) of subsection (14) of  
45 section 215.985, Florida Statutes, is amended to read:

46 215.985 Transparency in government spending.—

47 (14) The Chief Financial Officer shall establish and  
48 maintain a secure contract tracking system available for viewing  
49 and downloading by the public through a secure website. The  
50 Chief Financial Officer shall use appropriate Internet security  
51 measures to ensure that no person has the ability to alter or  
52 modify records available on the website.

53 (a) Within 30 calendar days after executing a contract,  
54 each state entity shall post the following information relating  
55 to the contract on the contract tracking system:

- 56 1. The names of the contracting entities.
- 57 2. The procurement method.
- 58 3. The contract beginning and ending dates.

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- 59           4. The nature or type of the commodities or services  
60 purchased.
- 61           5. Applicable contract unit prices and deliverables.
- 62           6. Total compensation to be paid or received under the  
63 contract.
- 64           7. All payments made to the contractor to date.
- 65           8. Applicable contract performance measures.
- 66           9. If a competitive solicitation was not used to procure  
67 the goods or services, the justification of such action,  
68 including citation to a statutory exemption or exception from  
69 competitive solicitation, if any.
- 70           10. Electronic copies of the contract and procurement  
71 documents that have been redacted to exclude confidential or  
72 exempt information.
- 73           11. Whether the contractor was listed on the vendor  
74 complaint list, suspended vendor list, or terminated vendor list  
75 under s. 287.1335 at the time the contract was initially entered  
76 into.
- 77           Section 2. Subsection (1) of section 287.084, Florida  
78 Statutes, is amended to read:
- 79           287.084 Preference to Florida businesses.—
- 80           (1) (a) If ~~When~~ an agency, university, college, school  
81 district, or other political subdivision of the state is  
82 required to make purchases of personal property or construction  
83 services through competitive solicitation and the lowest  
84 responsible and responsive bid, proposal, or reply is by a  
85 vendor whose principal place of business is in a state or  
86 political subdivision thereof which grants a preference for the  
87 purchase of such personal property or construction services to a

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88 person whose principal place of business is in such state, then  
89 the agency, university, college, school district, or other  
90 political subdivision of this state shall award a preference to  
91 the lowest responsible and responsive vendor having a principal  
92 place of business within this state, which preference is equal  
93 to the preference granted by the state or political subdivision  
94 thereof in which the lowest responsible and responsive vendor  
95 has its principal place of business. In a competitive  
96 solicitation in which the lowest bid is submitted by a vendor  
97 whose principal place of business is located outside the state  
98 and that state does not grant a preference in competitive  
99 solicitation to vendors having a principal place of business in  
100 that state, the preference to the lowest responsible and  
101 responsive vendor having a principal place of business in this  
102 state shall be 5 percent.

103 (b) To ensure the availability of federal aid funds,  
104 paragraph (a) does not apply to contracts for transportation  
105 projects procured by the Department of Transportation ~~for which~~  
106 ~~federal aid funds are available.~~

107 (c)1. For a competitive solicitation in which payment for  
108 the personal property or construction services is to be made in  
109 whole or in part from funds appropriated by the state, this  
110 section preempts and supersedes any local ordinance or  
111 regulation that restricts a contractor certified under s.  
112 489.105(8) from competing for an award based upon:

113 a. The vendor maintaining an office or place of business  
114 within a particular local jurisdiction;

115 b. The vendor hiring employees or subcontractors from  
116 within a particular local jurisdiction; or

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117 c. The vendor's prior payment of local taxes, assessments,  
118 or duties within a particular local jurisdiction.

119 2. In any competitive solicitation subject to this section,  
120 a university, college, county, municipality, school district, or  
121 other political subdivision of this state shall disclose in the  
122 solicitation document whether payment will come from funds  
123 appropriated by the state and, if known, the amount of such  
124 funds or the percentage of such funds as compared to the  
125 anticipated total cost of the personal property or construction  
126 services.

127 3. Except as provided in subparagraph 1., this section does  
128 not prohibit a university, college, county, municipality, school  
129 district, or other political subdivision of this state from  
130 awarding a contract to a vendor in accordance with applicable  
131 state laws or local ordinances or regulations.

132 ~~(c) As used in this section, the term "other political~~  
133 ~~subdivision of this state" does not include counties or~~  
134 ~~municipalities.~~

135 Section 3. Section 287.1335, Florida Statutes, is created  
136 to read:

137 287.1335 Vendors; reporting by agencies and local  
138 governmental entities.-

139 (1) As used in this section, the term:

140 (a) "Suspended vendor list" means a list compiled by the  
141 department of all reported vendors whose ability to bid or  
142 perform state or local government contracts has been temporarily  
143 suspended by an agency or a participating local governmental  
144 entity due to a contract default by the vendor or for other good  
145 cause.

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146 (b) "Terminated vendor list" means a list compiled by the  
147 department of all reported vendors whose contracts have been  
148 terminated by an agency or a participating local governmental  
149 entity due to a contract default by the vendor or for other good  
150 cause.

151 (c) "Vendor" means an entity or person in a contractual  
152 relationship with an agency or a local governmental entity.

153 (d) "Vendor complaint list" means a list compiled by the  
154 department of complaints that have been issued to vendors by an  
155 agency or participating local governmental entity.

156 (2) An agency shall provide the department with copies of  
157 complaints issued to vendors and the names of suspended and  
158 terminated vendors for the vendor complaint list, the suspended  
159 vendor list, and the terminated vendor list, respectively. A  
160 local governmental entity may provide such information to the  
161 department.

162 (3) The department shall maintain and update, on its  
163 website, the vendor complaint list, the suspended vendor list,  
164 and the terminated vendor list. In addition, the department  
165 shall provide public access through its website of copies of  
166 complaints issued to a vendor by an agency or participating  
167 local governmental entity.

168 (4) An agency shall provide the department each quarter  
169 with updated information necessary to maintain the vendor  
170 complaint list, the suspended vendor list, and the terminated  
171 vendor list. A local governmental entity may provide such  
172 information to the department each quarter. An agency shall  
173 report to the department all instances of a material breach of a  
174 contract or a notice of default and subsequent termination

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175 within 30 days after such occurrence.

176 (5) (a) An agency shall require that a vendor responding to  
177 a competitive solicitation disclose whether the vendor has,  
178 within the previous 5 years, had a contract terminated by a  
179 federal, state, or local governmental entity after defaulting on  
180 a contract; paid a fine or penalty incurred by nonperformance of  
181 a federal, state, or local government contract; or entered into  
182 an agreement with a federal, state, or local governmental entity  
183 in settlement of any issues related to default or nonperformance  
184 of a contract. An agency may consider a vendor's failure to  
185 disclose such information in determining whether the vendor is  
186 in breach of any resulting contract.

187 (b) A local governmental entity may require such  
188 disclosures from a vendor in response to a competitive  
189 solicitation.

190 (6) When evaluating bids, proposals, or replies to  
191 competitive solicitations, an agency must consider information  
192 available on the vendor complaint list, suspended vendor list,  
193 and terminated vendor list in determining whether the vendor  
194 submitting a response to the competitive solicitation is a  
195 responsible and responsive vendor. If an agency enters into a  
196 contract with a vendor on the vendor complaint list, suspended  
197 vendor list, or terminated vendor list, the contract file must  
198 contain documentation specifying that the agency's designee with  
199 authority to sign the contract was aware that the contracted  
200 vendor was named on the vendor complaint list, suspended vendor  
201 list, or terminated vendor list at the time the contract was  
202 initially entered into.

203 Section 4. This act shall take effect July 1, 2014.