

**By** the Committees on Community Affairs; and Governmental Oversight and Accountability; and Senator Hays

578-02843-14

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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.; preempting and superseding a local  
7           ordinance or regulation that gives preference for an  
8           award to a certified contractor under certain  
9           circumstances; requiring a university, college,  
10          county, municipality, school district, or other  
11          political subdivision to make specified disclosures in  
12          competitive solicitation documents; providing that a  
13          university, college, county, municipality, school  
14          district, or other political subdivision is not  
15          prohibited from awarding a contract to a vendor under  
16          certain circumstances; amending s. 287.1335, F.S.;  
17          defining terms; requiring agencies to provide the  
18          Department of Management Services with copies of  
19          vendor complaints and names of suspended and  
20          terminated vendors; authorizing local governmental  
21          entities to provide such information to the  
22          department; requiring the department to maintain  
23          certain information regarding vendors on its website;  
24          requiring an agency to submit specified information to  
25          the department on a quarterly basis; authorizing a  
26          local governmental entity to submit such information  
27          on the same basis; requiring a vendor responding to an  
28          agency's competitive solicitation to disclose certain  
29          information; specifying certain requirements for

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30 considering a response to a competitive solicitation  
31 or entering a contract; providing an effective date.  
32

33 Be It Enacted by the Legislature of the State of Florida:  
34

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

37 215.985 Transparency in government spending.—

38 (14) The Chief Financial Officer shall establish and  
39 maintain a secure contract tracking system available for viewing  
40 and downloading by the public through a secure website. The  
41 Chief Financial Officer shall use appropriate Internet security  
42 measures to ensure that no person has the ability to alter or  
43 modify records available on the website.

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

- 47 1. The names of the contracting entities.
- 48 2. The procurement method.
- 49 3. The contract beginning and ending dates.
- 50 4. The nature or type of the commodities or services  
51 purchased.
- 52 5. Applicable contract unit prices and deliverables.
- 53 6. Total compensation to be paid or received under the  
54 contract.
- 55 7. All payments made to the contractor to date.
- 56 8. Applicable contract performance measures.
- 57 9. If a competitive solicitation was not used to procure  
58 the goods or services, the justification of such action,

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59 including citation to a statutory exemption or exception from  
60 competitive solicitation, if any.

61 10. Electronic copies of the contract and procurement  
62 documents that have been redacted to exclude confidential or  
63 exempt information.

64 11. Whether the contractor was listed on the vendor  
65 complaint list, suspended vendor list, or terminated vendor list  
66 under s. 287.1335 at the time the contract was initially entered  
67 into.

68 Section 2. Paragraph (c) of subsection (1) of section  
69 287.084, Florida Statutes, is amended to read:

70 287.084 Preference to Florida businesses.—

71 (1)

72 (c)1. If a competitive solicitation for personal property  
73 or construction services provides that 20 percent or more of the  
74 cost is to be paid from state-appropriated funds, this section  
75 preempts and supersedes any local ordinance or regulation that  
76 gives preference to a vendor who is a certified contractor as  
77 defined in s. 489.105(8) for an award predicated upon:

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

80 b. The vendor hiring employees or subcontractors from  
81 within a particular local jurisdiction; or

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

84 2. In any competitive solicitation subject to this section,  
85 a university, college, county, municipality, school district, or  
86 other political subdivision of this state shall disclose in the  
87 solicitation document whether payment will come from funds

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88 appropriated by the state and, if known, the amount of such  
89 funds or the percentage of such funds as compared to the  
90 anticipated total cost of the personal property or construction  
91 services.

92 3. Except as provided in subparagraph 1., this section does  
93 not prohibit a university, college, county, municipality, school  
94 district, or other political subdivision of this state from  
95 awarding a contract to a vendor in accordance with applicable  
96 state laws or local ordinances or regulations. ~~As used in this~~  
97 section, the term "other political subdivision of this state"  
98 does not include counties or municipalities.

99 Section 3. Section 287.1335, Florida Statutes, is created  
100 to read:

101 287.1335 Vendors; reporting by agencies and local  
102 governmental entities.-

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

104 (a) "Suspended vendor list" means a list compiled by the  
105 department of all reported vendors whose ability to bid or  
106 perform state or local government contracts has been temporarily  
107 suspended by an agency or a participating local governmental  
108 entity due to a contract default by the vendor or for other good  
109 cause.

110 (b) "Terminated vendor list" means a list compiled by the  
111 department of all reported vendors whose contracts have been  
112 terminated by an agency or a participating local governmental  
113 entity due to a contract default by the vendor or for other good  
114 cause.

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

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

120 (2) An agency shall provide the department with copies of  
121 complaints issued to vendors and the names of suspended and  
122 terminated vendors for the vendor complaint list, the suspended  
123 vendor list, and the terminated vendor list, respectively. A  
124 local governmental entity may provide such information to the  
125 department.

126 (3) The department shall maintain and update, on its  
127 website, the vendor complaint list, the suspended vendor list,  
128 and the terminated vendor list. In addition, the department  
129 shall provide public access through its website of copies of  
130 complaints issued to a vendor by an agency or participating  
131 local governmental entity.

132 (4) An agency shall provide the department each quarter  
133 with updated information necessary to maintain the vendor  
134 complaint list, the suspended vendor list, and the terminated  
135 vendor list. A local governmental entity may provide such  
136 information to the department each quarter. An agency shall  
137 report to the department all instances of a material breach of a  
138 contract or a notice of default and subsequent termination  
139 within 30 days after such occurrence.

140 (5) (a) An agency shall require that a vendor responding to  
141 a competitive solicitation disclose whether the vendor has,  
142 within the previous 5 years, had a contract terminated by a  
143 federal, state, or local governmental entity after defaulting on  
144 a contract; paid a fine or penalty incurred by nonperformance of  
145 a federal, state, or local government contract; or entered into

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146 an agreement with a federal, state, or local governmental entity  
147 in settlement of any issues related to default or nonperformance  
148 of a contract. An agency may consider a vendor's failure to  
149 disclose such information in determining whether the vendor is  
150 in breach of any resulting contract.

151 (b) A local governmental entity may require such  
152 disclosures from a vendor in response to a competitive  
153 solicitation.

154 (6) When evaluating bids, proposals, or replies to  
155 competitive solicitations, an agency must consider information  
156 available on the vendor complaint list, suspended vendor list,  
157 and terminated vendor list in determining whether the vendor  
158 submitting a response to the competitive solicitation is a  
159 responsible and responsive vendor. If an agency enters into a  
160 contract with a vendor on the vendor complaint list, suspended  
161 vendor list, or terminated vendor list, the contract file must  
162 contain documentation specifying that the agency's designee with  
163 authority to sign the contract was aware that the contracted  
164 vendor was named on the vendor complaint list, suspended vendor  
165 list, or terminated vendor list at the time the contract was  
166 initially entered into.

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