

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative Mariano offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Notwithstanding the expiration date in section
7 106 of chapter 2020-114, Laws of Florida, section 216.1366,
8 Florida Statutes, is reenacted and amended to read:

9 216.1366 Contract terms.—

10 (1) In order to preserve the interest of the state in the
11 prudent expenditure of state funds, each public agency contract
12 for services entered into or amended on or after July 1, 2020,
13 shall authorize the public agency to inspect the:

14 (a) Financial records, papers, and documents of the
15 contractor that are directly related to the performance of the
16 contract or the expenditure of state funds.

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17 (b) Programmatic records, papers, and documents of the
18 contractor which the public agency determines are necessary to
19 monitor the performance of the contract or to ensure that the
20 terms of the contract are being met.

21 (2) The contract shall require the contractor to provide
22 such records, papers, and documents requested by the public
23 agency within 10 business days after the request is made.

24 ~~(3) This section expires July 1, 2021.~~

25 Section 2. Subsection (16) of section 287.042, Florida
26 Statutes, is amended to read:

27 287.042 Powers, duties, and functions.—The department
28 shall have the following powers, duties, and functions:

29 (16) To evaluate contracts let by the Federal Government,
30 another state, or a political subdivision for the provision of
31 commodities and contract services, and, if it is determined by
32 the Secretary of Management Services in writing to be cost-
33 effective and ~~in the best~~ value to ~~interest of~~ the state, to
34 enter into a written agreement authorizing an agency to make
35 purchases under such contract.

36 Section 3. Subsection (2) of section 287.056, Florida
37 Statutes, is amended, and subsection (4) is added to that
38 section, to read:

39 287.056 Purchases from purchasing agreements and state
40 term contracts.—

41 (2) Agencies and eligible users may use a request for

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42 quote to obtain written pricing or services information from a
43 state term contract vendor for commodities or contractual
44 services available on state term contract from that vendor. The
45 purpose of a request for quote is to determine whether a price,
46 term, or condition more favorable to the agency or eligible user
47 than that provided in the state term contract is available. If
48 an agency issues a request for quote for contractual services
49 for any contract with 25 approved vendors or fewer, the agency
50 must issue a request for quote to all vendors approved to
51 provide such contractual services. For any contract with more
52 than 25 approved vendors, the agency must issue a request for
53 quote to at least 25 of the vendors approved to provide such
54 contractual services. Use of a request for quote does not
55 constitute a decision or intended decision that is subject to
56 protest under s. 120.57(3).

57 (4) A firm or individual placed on the suspended vendor
58 list pursuant to s. 287.1351 or placed on a disqualified vendor
59 list pursuant to s. 287.133 or s. 287.134 is immediately
60 disqualified from state term contract eligibility.

61 Section 4. Subsections (4) through (16) and (17) through
62 (23) of section 287.057, Florida Statutes, are renumbered as
63 subsections (5) through (17) and (19) through (25),
64 respectively, paragraph (c) of subsection (3) and present
65 subsections (13) through (16) are amended, and new subsections
66 (4), (18), and (26) are added to that section, to read:

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67 287.057 Procurement of commodities or contractual
68 services.—

69 (3) If the purchase price of commodities or contractual
70 services exceeds the threshold amount provided in s. 287.017 for
71 CATEGORY TWO, purchase of commodities or contractual services
72 may not be made without receiving competitive sealed bids,
73 competitive sealed proposals, or competitive sealed replies
74 unless:

75 (c) Commodities or contractual services available only
76 from a single source may be excepted from the competitive-
77 solicitation requirements. If an agency believes that
78 commodities or contractual services are available only from a
79 single source, the agency shall electronically post a
80 description of the commodities or contractual services sought
81 for at least 15 7 business days. The description must include a
82 request that prospective vendors provide information regarding
83 their ability to supply the commodities or contractual services
84 described. If it is determined in writing by the agency, after
85 reviewing any information received from prospective vendors that
86 the commodities or contractual services are available only from
87 a single source, the agency shall provide notice of its intended
88 decision to enter a single-source purchase contract in the
89 manner specified in s. 120.57(3). Each agency shall report all
90 such actions to the department on a quarterly basis in a manner
91 and form prescribed by the department and the department shall

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92 report such information to the Governor, the President of the
93 Senate, and the Speaker of the House of Representatives no later
94 than January 1, 2022, and each January 1 thereafter.

95 (4) A state agency may not initiate a competitive
96 solicitation for a product or service if the completion of such
97 competitive solicitation would:

98 (a) Require a change in law; or

99 (b) Require a change to the agency's budget other than a
100 transfer authorized in s. 216.292(2) or (3), unless the
101 initiation of such competitive solicitation is specifically
102 authorized in law, in the General Appropriations Act, or by the
103 Legislative Budget Commission.

104 (c) This subsection does not apply to a competitive
105 solicitation for which the agency head certifies that a valid
106 emergency exists.

107 (14) ~~(13)~~ Contracts for commodities or contractual services
108 may be renewed for a period that may not exceed 3 years or the
109 term of the original contract, whichever is longer. Renewal of a
110 contract for commodities or contractual services must be in
111 writing and is subject to the same terms and conditions set
112 forth in the initial contract and any written amendments signed
113 by the parties. If the commodity or contractual service is
114 purchased as a result of the solicitation of bids, proposals, or
115 replies, the price of the commodity or contractual service to be
116 renewed must be specified in the bid, proposal, or reply, except

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117 that an agency may negotiate lower pricing. A renewal contract
118 may not include any compensation for costs associated with the
119 renewal. Renewals are contingent upon satisfactory performance
120 evaluations by the agency and subject to the availability of
121 funds. Exceptional purchase contracts pursuant to paragraphs
122 (3) (a) and (c) may not be renewed. With the exception of
123 subsection (11) ~~(10)~~, if a contract amendment results in a
124 longer contract term or increased payments, a state agency may
125 not renew or amend a contract for the outsourcing of a service
126 or activity that has an original term value exceeding \$5 ~~\$10~~
127 million before submitting a written report concerning contract
128 performance to the Governor, the President of the Senate, and
129 the Speaker of the House of Representatives at least 90 days
130 before execution of the renewal or amendment.

131 (15) (a) ~~(14)~~ For each contractual services contract, the
132 agency shall designate an employee to function as contract
133 manager who is responsible for enforcing performance of the
134 contract terms and conditions and serve as a liaison between
135 ~~with~~ the contractor and the agency. The contract manager may not
136 be an individual who has been employed, within the previous 5
137 years, by the vendor awarded the contractual services contract.
138 The primary responsibilities of a contract manager include:

139 1. Participating in the solicitation development and
140 review of contract documents.

141 2. Monitoring the contractor's progress and performance to

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142 ensure procured products and services conform to the contract
143 requirements and keep timely records of findings.

144 3. Managing and documenting any changes to the contract
145 through the amendment process authorized by the terms of the
146 contract.

147 4. Monitoring the contract budget to ensure sufficient
148 funds are available throughout the term of the contract.

149 5. Exercising applicable remedies, as appropriate, when a
150 contractor's performance is deficient.

151 (b) ~~(a)~~ Each contract manager who is responsible for
152 contracts in excess of the threshold amount for CATEGORY TWO
153 must, at a minimum, complete training conducted by the Chief
154 Financial Officer for accountability in contracts and grant
155 management. The Chief Financial Officer shall evaluate such
156 training every 5 years to assess its effectiveness and update
157 the training curriculum. The Chief Financial Officer shall
158 establish and disseminate uniform procedures pursuant to s.
159 17.03(3) to ensure that contractual services have been rendered
160 in accordance with the contract terms before the agency
161 processes the invoice for payment. The procedures must include,
162 but need not be limited to, procedures for monitoring and
163 documenting contractor performance, reviewing and documenting
164 all deliverables for which payment is requested by vendors, and
165 providing written certification by contract managers of the
166 agency's receipt of goods and services.

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167 ~~(c)-(b)~~ Each contract manager who is responsible for
168 contracts in excess of \$100,000 annually must, in addition to
169 the accountability in contracts and grant management training
170 required in paragraph (b) and within 6 months after being
171 assigned responsibility for such contracts, complete training in
172 contract management and become a certified contract manager. The
173 department is responsible for establishing and disseminating the
174 training and certification requirements for certified contract
175 managers. Training must promote best practices and procedures
176 related to negotiating, managing, and ensuring accountability in
177 agency contracts and grant agreements, which must include the
178 use of case studies based upon previous audits, contracts, and
179 grant agreements. A certified contract manager must complete
180 training every 5 years for certification renewal requirements
181 ~~for certification which include completing the training~~
182 ~~conducted by the Chief Financial Officer for accountability in~~
183 ~~contracts and grant management.~~ Training and certification must
184 be coordinated by the department, and the training must be
185 conducted jointly by the department and the Department of
186 Financial Services. The department shall evaluate such training
187 every 5 years to assess its effectiveness and update the
188 training curriculum. ~~Training must promote best practices and~~
189 ~~procedures related to negotiating, managing, and ensuring~~
190 ~~accountability in agency contracts and grant agreements, which~~
191 ~~must include the use of case studies based upon previous audits,~~

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192 ~~contracts, and grant agreements. All agency contract managers~~
193 ~~must become certified within 24 months after establishment of~~
194 ~~the training and certification requirements by the department~~
195 ~~and the Department of Financial Services.~~

196 (d) Each contract manager who is responsible for contracts
197 in excess of \$10 million annually must, in addition to the
198 training required in paragraph (b) and the training and
199 certification required in paragraph (c), possess at least 5
200 years of experience managing contracts in excess of \$5 million
201 annually.

202 (16) ~~(15)~~ Each agency shall designate at least one employee
203 who shall serve as a contract administrator responsible for
204 maintaining a contract file and financial information on all
205 contractual services contracts and who shall serve as a liaison
206 with the contract managers and the department. For a contract of
207 \$500,000 or less annually, the contract administrator may also
208 serve as the contract manager if he or she has completed the
209 required training. For a contract in excess of \$500,000
210 annually, the contract administrator may not serve as both the
211 contract administrator and the contract manager.

212 (17) (a) ~~(16) (a)~~ For a contract in excess of the threshold
213 amount provided in s. 287.017 for CATEGORY FOUR, the agency head
214 shall appoint:

215 1. At least three persons to independently evaluate
216 proposals and replies who collectively have experience and

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217 knowledge in the program areas and service requirements for the
218 commodity ~~which commodities~~ or contractual services ~~are~~ sought.

219 2. At least three persons to a negotiation team to conduct
220 negotiations during a competitive sealed reply procurement. The
221 negotiation team members must ~~who~~ collectively have experience
222 and knowledge in negotiating contracts, contract procurement,
223 and the program areas and service requirements for the commodity
224 ~~which commodities~~ or contractual services ~~are~~ sought.

225 (b)1. If the value of a contract is in excess of \$1
226 million in any fiscal year, at least one of the persons
227 conducting negotiations must be ~~certified as a~~ certified
228 contract negotiator. ~~based upon department rules in order to~~
229 ~~ensure that certified contract negotiators are knowledgeable~~
230 ~~about effective negotiation strategies, capable of successfully~~
231 ~~implementing those strategies, and involved appropriately in the~~
232 ~~procurement process. At a minimum, the rules must address the~~
233 ~~qualifications required for certification, the method of~~
234 ~~certification, and the procedure for involving the certified~~
235 ~~negotiator.~~

236 2. If the value of a contract is in excess of \$10 million
237 in any fiscal year, at least one of the persons conducting
238 negotiations must be a Project Management Professional, as
239 certified by the Project Management Institute. The Project
240 Management Professional shall provide guidance based on his or
241 her experience, education, and competency to lead and direct

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242 complex projects.

243 3. The department is responsible for establishing and
244 disseminating the certification and training requirements for
245 certified contract negotiators. Training must ensure that
246 certified contract negotiators are knowledgeable about effective
247 negotiation strategies, capable of successfully implementing
248 those strategies, and involved appropriately in the procurement
249 process. The department shall evaluate such training every 5
250 years in order to assess its effectiveness and update the
251 training curriculum. A certified contract negotiator is required
252 to complete training every 5 years for certification renewal.

253 Qualification requirements for certification must include:

254 a. At least 12 months' experience as a purchasing agent,
255 contract manager, or contract administrator for an agency or
256 local governmental entity where at least 50 percent of the
257 designated duties included procuring commodities or contractual
258 services, participating in contract negotiation, contract
259 management, or contract administration, or working as an agency
260 attorney whose duties included providing legal counsel to the
261 agency's purchasing or contracting staff.

262 b. Experience during the preceding 5 years in leading at
263 least two federal, state, or local government negotiation teams
264 through a negotiated procurement, or participation in at least
265 three federal, state, or local government negotiated
266 procurements.

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267 (18) Any person who supervises contract administrators or
268 contract or grant managers that meet criteria for certification
269 in subsection (15) shall annually complete public procurement
270 training for supervisors within 12 months of appointment to the
271 supervisory position. The department is responsible for
272 establishing and disseminating the training course content
273 required for supervisors and training shall commence no later
274 than July 1, 2022.

275 (26) (a) For each contractual services contract of \$5
276 million or greater, the agency head shall establish a continuing
277 oversight team after the contract has been awarded. The agency
278 head shall appoint at least four persons, one of whom must be
279 the certified contract manager, to the continuing oversight
280 team. If the value of the contractual services contract of \$10
281 million or greater, at least one of the persons on the
282 continuing oversight team must possess at least 5 years of
283 experience in managing contracts of a similar scope or size. If
284 the value of the contractual services contract of \$20 million or
285 greater, the continuing oversight team shall consist of at least
286 five persons, at least one of the persons on the continuing
287 oversight team must be from a state agency other than the agency
288 or agencies participating in the contract. Members of the
289 continuing oversight team must be employees of the state and
290 must collectively have experience and knowledge in contract
291 management, contract administration, contract enforcement, and

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292 the program areas and service requirements for the contractual
293 services purchased.

294 (b)1. For contracts of \$5 million or greater, each
295 continuing oversight team must meet at least quarterly.

296 2. For contracts of \$10 million or greater, each
297 continuing oversight team must meet at least monthly. A
298 representative of the contractor must be made available to
299 members of the continuing oversight team for at least one
300 meeting every calendar quarter to respond to any questions or
301 requests for information from the continuing oversight team
302 concerning contractor performance.

303 (c)1. Within 30 days of the formation of the continuing
304 oversight team, the continuing oversight team must convene an
305 initial meeting with representatives of the contractor to
306 achieve a mutual understanding of the contract requirements, to
307 provide the contractor with an orientation to the contract
308 management process, and to provide an explanation of the role of
309 the continuing oversight team, contract manager, and contract
310 administrator.

311 2. The continuing oversight team must meet to discuss the
312 status of the contract, the pace of deliverables, the quality of
313 deliverables, contractor responsiveness, and contractor
314 performance. The contract administrator must be present at each
315 meeting with the contract file and all applicable financial
316 information. The continuing oversight team may submit written

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317 questions to the contractor concerning any items discussed
318 during a continuing oversight team meeting. The contractor must
319 respond to the team's questions within 10 business days after
320 receiving the written questions. The questions and responses
321 must be included in the contract file.

322 (d) The continuing oversight team must notify, in writing:

323 1. The agency head and the department of any deficiency in
324 a contractor's performance which substantially affects the pace
325 of deliverables or the likelihood of the successful completion
326 of the contract.

327 2. The agency head, the department, and the Office of
328 Policy and Budget in the Executive Office of the Governor of any
329 significant change in contract scope or any increase in the cost
330 of the contract that is 5 percent of the planned contract cost
331 or greater within the fiscal year for contractual service
332 contracts of at least \$5 million.

333 3. The agency head, the department, the Office of Policy
334 and Budget in the Executive Office of the Governor, and the
335 legislative appropriations committees of any significant change
336 in contract scope or any increase in the cost of the contract
337 that is 5 percent of the planned contract cost or greater within
338 the fiscal year for contractual service contracts of \$10 million
339 or greater.

340 Section 5. Subsection (7) is added to section 287.058,
341 Florida Statutes, to read:

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342 287.058 Contract document.—

343 (7) A contract may not contain a nondisclosure clause that
344 prohibits the contractor from disclosing information relevant to
345 the performance of the contract to members or staff of the
346 Senate or the House of Representatives.

347 Section 6. Section 287.1351, Florida Statutes, is created
348 to read:

349 287.1351 Suspended vendors; state contracts.—

350 (1) As used in this section, the term "vendor" means a
351 person or an entity that provides goods or services to an agency
352 under a contract or submits a bid, proposal, or reply to provide
353 goods or services to an agency.

354 (2) (a) A vendor that is in default on any contract with an
355 agency or has otherwise repeatedly demonstrated a recent
356 inability to fulfill the terms and conditions of previous state
357 contracts or to adequately perform its duties under those
358 contracts may not submit a bid, proposal, or reply to an agency
359 or enter into or renew a contract to provide any goods or
360 services to an agency after its placement, pursuant to this
361 section, on the suspended vendor list.

362 (b) An agency may not accept a bid, proposal, or reply
363 from, or enter into or renew any contract with, a vendor on the
364 suspended vendor list until such vendor has been removed from
365 the suspended vendor list and returned to the vendor list
366 maintained by the department pursuant to s. 287.042(1)(a) and

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367 (b) and the vendor has reimbursed the agency for any
368 reprocurement costs.

369 (3) An agency shall notify the department of any vendor
370 that has met the grounds for suspension described in paragraph
371 (2) (a). The agency must provide documentation to the department
372 evidencing the vendor's default or other grounds for suspension.
373 The department shall review the documentation provided and
374 determine whether good cause exists to remove the vendor from
375 the vendor list and to place it on the suspended vendor list. If
376 good cause exists, the department must notify the vendor in
377 writing of its intent to remove the vendor from the vendor list
378 and of the vendor's right to an administrative hearing and the
379 applicable procedures and time requirements for any such
380 hearing. If the vendor does not request an administrative
381 hearing, the department must enter a final order removing the
382 vendor from the vendor list. A vendor may not be removed from
383 the vendor list without receiving an individual notice of intent
384 from the department.

385 (4) Within 21 days after receipt of the notice of intent,
386 the vendor may file with the department a petition for a formal
387 hearing pursuant to ss. 120.569 and 120.57 to challenge the
388 department's decision to remove the vendor from the vendor list.
389 A vendor that fails to timely file a petition in accordance with
390 this subsection is deemed to have waived its right to a hearing,
391 and the department's decision to remove the vendor from the

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392 vendor list becomes final agency action.

393 (5) (a) The department shall place any vendor removed from
394 the vendor list pursuant to this section on the suspended vendor
395 list. One year or more after entry of the final order of its
396 suspension, a suspended vendor may file a petition with the
397 department for removal from the suspended vendor list. The
398 proceeding on the petition must be conducted in accordance with
399 chapter 120. The vendor may be removed from the suspended vendor
400 list if the administrative law judge determines that removal
401 from the list would be in the public interest. In determining
402 whether removal from the list would be in the public interest,
403 the administrative law judge may consider, but is not limited
404 to, whether the suspended vendor has prepared a corrective
405 action plan that addresses the original grounds for default or
406 failure to fulfill the terms and conditions of the contract,
407 reimbursed the agency for any reprocurement costs, or provided
408 additional evidence that the vendor has taken other remedial
409 action.

410 (b) If a petition for removal from the suspended vendor
411 list is denied, the vendor may not petition for another hearing
412 on removal for a period of at least 9 months after the date of
413 the denial. The department may petition for the suspended
414 vendor's removal before the expiration of such period if, in the
415 department's discretion, the department determines that removal
416 from the suspended vendor list would be in the public interest.

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417 Section 7. Section 287.136, Florida Statutes, is amended
418 to read:

419 287.136 Audit of executed contract documents.—

420 (1) After execution of a contract, the Chief Financial
421 Officer shall perform audits of the executed contract document
422 and contract manager's records to ensure that adequate internal
423 controls are in place for complying with the terms and
424 conditions of the contract and for the validation and receipt of
425 goods and services.

426 (a)~~(1)~~ At the conclusion of the audit, the Chief Financial
427 Officer's designee shall discuss the audit and potential
428 findings with the official whose office is subject to audit. The
429 final audit report shall be submitted to the agency head.

430 (b)~~(2)~~ Within 30 days after receipt of the final audit
431 report, the agency head shall submit to the Chief Financial
432 Officer or designee his or her written statement of explanation
433 or rebuttal concerning findings requiring corrective action,
434 including corrective action to be taken to preclude a
435 recurrence.

436 (2) Beginning October 1, 2021, and every 3 years
437 thereafter, each agency inspector general shall complete a risk
438 based compliance audit of all contracts executed by the agency
439 for the preceding 3 fiscal years. The audit must include an
440 evaluation of and identify any trend in vendor preference. The
441 audit findings must be submitted to the agency head, the

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442 Secretary of the Department of Management Services, and the
443 Governor.

444 Section 8. Subsection (1) of section 43.16, Florida
445 Statutes, is amended to read:

446 43.16 Justice Administrative Commission; membership,
447 powers and duties.—

448 (1) There is hereby created a Justice Administrative
449 Commission, with headquarters located in the state capital. The
450 necessary office space for use of the commission shall be
451 furnished by the proper state agency in charge of state
452 buildings. For purposes of the fees imposed on agencies pursuant
453 to s. 287.057(24) ~~s. 287.057(22)~~, the Justice Administrative
454 Commission shall be exempt from such fees.

455 Section 9. Paragraph (a) of subsection (2) of section
456 215.971, Florida Statutes, is amended to read:

457 215.971 Agreements funded with federal or state
458 assistance.—

459 (2) For each agreement funded with federal or state
460 financial assistance, the state agency shall designate an
461 employee to function as a grant manager who shall be responsible
462 for enforcing performance of the agreement's terms and
463 conditions and who shall serve as a liaison with the recipient
464 or subrecipient.

465 (a)1. Each grant manager who is responsible for agreements
466 in excess of the threshold amount for CATEGORY TWO under s.

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467 287.017 must, at a minimum, complete training conducted by the
468 Chief Financial Officer for accountability in contracts and
469 grant management.

470 2. Effective December 1, 2014, each grant manager
471 responsible for agreements in excess of \$100,000 annually must
472 complete the training and become a certified contract manager as
473 provided under s. 287.057(15) ~~s. 287.057(14)~~. All grant managers
474 must become certified contract managers within 24 months after
475 establishment of the training and certification requirements by
476 the Department of Management Services and the Department of
477 Financial Services.

478 Section 10. Paragraph (a) of subsection (3) of section
479 287.0571, Florida Statutes, is amended to read:

480 287.0571 Business case to outsource; applicability.-

481 (3) This section does not apply to:

482 (a) A procurement of commodities and contractual services
483 listed in s. 287.057(3)(d) and (e) and (23) ~~(21)~~.

484 Section 11. Paragraph (b) of subsection (4) of section
485 295.187, Florida Statutes, is amended to read:

486 295.187 Florida Veteran Business Enterprise Opportunity
487 Act.-

488 (4) VENDOR PREFERENCE.-

489 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a
490 veteran business enterprise entitled to the vendor preference
491 under this section and one or more businesses entitled to this

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492 preference or another vendor preference provided by law submit
493 bids, proposals, or replies for procurement of commodities or
494 contractual services which are equal with respect to all
495 relevant considerations, including price, quality, and service,
496 the state agency shall award the procurement or contract to the
497 business having the smallest net worth.

498 Section 12. Paragraph (a) of subsection (1) of section
499 394.47865, Florida Statutes, is amended to read:

500 394.47865 South Florida State Hospital; privatization.—

501 (1) The Department of Children and Families shall, through
502 a request for proposals, privatize South Florida State Hospital.
503 The department shall plan to begin implementation of this
504 privatization initiative by July 1, 1998.

505 (a) Notwithstanding s. 287.057(14) ~~s. 287.057(13)~~, the
506 department may enter into agreements, not to exceed 20 years,
507 with a private provider, a coalition of providers, or another
508 agency to finance, design, and construct a treatment facility
509 having up to 350 beds and to operate all aspects of daily
510 operations within the facility. The department may subcontract
511 any or all components of this procurement to a statutorily
512 established state governmental entity that has successfully
513 contracted with private companies for designing, financing,
514 acquiring, leasing, constructing, and operating major privatized
515 state facilities.

516 Section 13. Paragraph (b) of subsection (2) and subsection

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517 (3) of section 402.7305, Florida Statutes, are amended to read:
518 402.7305 Department of Children and Families; procurement
519 of contractual services; contract management.—

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

521 (b) When it is in the best interest of a defined segment
522 of its consumer population, the department may competitively
523 procure and contract for systems of treatment or service that
524 involve multiple providers, rather than procuring and
525 contracting for treatment or services separately from each
526 participating provider. The department must ensure that all
527 providers that participate in the treatment or service system
528 meet all applicable statutory, regulatory, service quality, and
529 cost control requirements. If other governmental entities or
530 units of special purpose government contribute matching funds to
531 the support of a given system of treatment or service, the
532 department shall formally request information from those funding
533 entities in the procurement process and may take the information
534 received into account in the selection process. If a local
535 government contributes matching funds to support the system of
536 treatment or contracted service and if the match constitutes at
537 least 25 percent of the value of the contract, the department
538 shall afford the governmental match contributor an opportunity
539 to name an employee as one of the persons required by s.
540 287.057(17) ~~s. 287.057(16)~~ to evaluate or negotiate certain
541 contracts, unless the department sets forth in writing the

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542 reason why the inclusion would be contrary to the best interest
543 of the state. Any employee so named by the governmental match
544 contributor shall qualify as one of the persons required by s.
545 287.057(17) ~~s. 287.057(16)~~. A governmental entity or unit of
546 special purpose government may not name an employee as one of
547 the persons required by s. 287.057(17) ~~s. 287.057(16)~~ if it, or
548 any of its political subdivisions, executive agencies, or
549 special districts, intends to compete for the contract to be
550 awarded. The governmental funding entity or contributor of
551 matching funds must comply with all procurement procedures set
552 forth in s. 287.057 when appropriate and required.

553 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
554 Department of Children and Families shall review the time period
555 for which the department executes contracts and shall execute
556 multiyear contracts to make the most efficient use of the
557 resources devoted to contract processing and execution. Whenever
558 the department chooses not to use a multiyear contract, a
559 justification for that decision must be contained in the
560 contract. Notwithstanding s. 287.057(15) ~~s. 287.057(14)~~, the
561 department is responsible for establishing a contract management
562 process that requires a member of the department's Senior
563 Management or Selected Exempt Service to assign in writing the
564 responsibility of a contract to a contract manager. The
565 department shall maintain a set of procedures describing its
566 contract management process which must minimally include the

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567 following requirements:

568 (a) The contract manager shall maintain the official
569 contract file throughout the duration of the contract and for a
570 period not less than 6 years after the termination of the
571 contract.

572 (b) The contract manager shall review all invoices for
573 compliance with the criteria and payment schedule provided for
574 in the contract and shall approve payment of all invoices before
575 their transmission to the Department of Financial Services for
576 payment.

577 (c) The contract manager shall maintain a schedule of
578 payments and total amounts disbursed and shall periodically
579 reconcile the records with the state's official accounting
580 records.

581 (d) For contracts involving the provision of direct client
582 services, the contract manager shall periodically visit the
583 physical location where the services are delivered and speak
584 directly to clients receiving the services and the staff
585 responsible for delivering the services.

586 (e) The contract manager shall meet at least once a month
587 directly with the contractor's representative and maintain
588 records of such meetings.

589 (f) The contract manager shall periodically document any
590 differences between the required performance measures and the
591 actual performance measures. If a contractor fails to meet and

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592 comply with the performance measures established in the
593 contract, the department may allow a reasonable period for the
594 contractor to correct performance deficiencies. If performance
595 deficiencies are not resolved to the satisfaction of the
596 department within the prescribed time, and if no extenuating
597 circumstances can be documented by the contractor to the
598 department's satisfaction, the department must terminate the
599 contract. The department may not enter into a new contract with
600 that same contractor for the services for which the contract was
601 previously terminated for a period of at least 24 months after
602 the date of termination. The contract manager shall obtain and
603 enforce corrective action plans, if appropriate, and maintain
604 records regarding the completion or failure to complete
605 corrective action items.

606 (g) The contract manager shall document any contract
607 modifications, which shall include recording any contract
608 amendments as provided for in this section.

609 (h) The contract manager shall be properly trained before
610 being assigned responsibility for any contract.

611 Section 14. Subsection (2) of section 408.045, Florida
612 Statutes, is amended to read:

613 408.045 Certificate of need; competitive sealed
614 proposals.—

615 (2) The agency shall make a decision regarding the
616 issuance of the certificate of need in accordance with the

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617 provisions of s. 287.057(17) ~~s. 287.057(16)~~, rules adopted by
618 the agency relating to intermediate care facilities for the
619 developmentally disabled, and the criteria in s. 408.035, as
620 further defined by rule.

621 Section 15. Subsection (42) of section 570.07, Florida
622 Statutes, is amended to read:

623 570.07 Department of Agriculture and Consumer Services;
624 functions, powers, and duties.—The department shall have and
625 exercise the following functions, powers, and duties:

626 (42) Notwithstanding the provisions of s. 287.057(24) ~~s.~~
627 ~~287.057(22)~~ that require all agencies to use the online
628 procurement system developed by the Department of Management
629 Services, the department may continue to use its own online
630 system. However, vendors utilizing such system shall be
631 prequalified as meeting mandatory requirements and
632 qualifications and shall remit fees pursuant to s. 287.057(24)
633 ~~s. 287.057(22)~~, and any rules implementing s. 287.057.

634 Section 16. Paragraph (e) of subsection (6) of section
635 627.351, Florida Statutes, is amended to read:

636 627.351 Insurance risk apportionment plans.—

637 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

638 (e) The corporation is subject to s. 287.057 for the
639 purchase of commodities and contractual services except as
640 otherwise provided in this paragraph. Services provided by
641 tradepersons or technical experts to assist a licensed adjuster

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642 in the evaluation of individual claims are not subject to the
643 procurement requirements of this section. Additionally, the
644 procurement of financial services providers and underwriters
645 must be made pursuant to s. 627.3513. Contracts for goods or
646 services valued at or more than \$100,000 are subject to approval
647 by the board.

648 1. The corporation is an agency for purposes of s.
649 287.057, except that, for purposes of s. 287.057(24) ~~s.~~
650 ~~287.057(22)~~, the corporation is an eligible user.

651 a. The authority of the Department of Management Services
652 and the Chief Financial Officer under s. 287.057 extends to the
653 corporation as if the corporation were an agency.

654 b. The executive director of the corporation is the agency
655 head under s. 287.057, except for resolution of bid protests for
656 which the board would serve as the agency head.

657 2. The corporation must provide notice of a decision or
658 intended decision concerning a solicitation, contract award, or
659 exceptional purchase by electronic posting. Such notice must
660 contain the following statement: "Failure to file a protest
661 within the time prescribed in this section constitutes a waiver
662 of proceedings."

663 a. A person adversely affected by the corporation's
664 decision or intended decision to award a contract pursuant to s.
665 287.057(1) or (3)(c) who elects to challenge the decision must
666 file a written notice of protest with the executive director of

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667 the corporation within 72 hours after the corporation posts a
668 notice of its decision or intended decision. For a protest of
669 the terms, conditions, and specifications contained in a
670 solicitation, including provisions governing the methods for
671 ranking bids, proposals, replies, awarding contracts, reserving
672 rights of further negotiation, or modifying or amending any
673 contract, the notice of protest must be filed in writing within
674 72 hours after posting the solicitation. Saturdays, Sundays, and
675 state holidays are excluded in the computation of the 72-hour
676 time period.

677 b. A formal written protest must be filed within 10 days
678 after the date the notice of protest is filed. The formal
679 written protest must state with particularity the facts and law
680 upon which the protest is based. Upon receipt of a formal
681 written protest that has been timely filed, the corporation must
682 stop the solicitation or contract award process until the
683 subject of the protest is resolved by final board action unless
684 the executive director sets forth in writing particular facts
685 and circumstances that require the continuance of the
686 solicitation or contract award process without delay in order to
687 avoid an immediate and serious danger to the public health,
688 safety, or welfare.

689 (I) The corporation must provide an opportunity to resolve
690 the protest by mutual agreement between the parties within 7
691 business days after receipt of the formal written protest.

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692 (II) If the subject of a protest is not resolved by mutual
693 agreement within 7 business days, the corporation's board must
694 transmit the protest to the Division of Administrative Hearings
695 and contract with the division to conduct a hearing to determine
696 the merits of the protest and to issue a recommended order. The
697 contract must provide for the corporation to reimburse the
698 division for any costs incurred by the division for court
699 reporters, transcript preparation, travel, facility rental, and
700 other customary hearing costs in the manner set forth in s.
701 120.65(9). The division has jurisdiction to determine the facts
702 and law concerning the protest and to issue a recommended order.
703 The division's rules and procedures apply to these proceedings;
704 the division's applicable bond requirements do not apply. The
705 protest must be heard by the division at a publicly noticed
706 meeting in accordance with procedures established by the
707 division.

708 c. In a protest of an invitation-to-bid or request-for-
709 proposals procurement, submissions made after the bid or
710 proposal opening which amend or supplement the bid or proposal
711 may not be considered. In protesting an invitation-to-negotiate
712 procurement, submissions made after the corporation announces
713 its intent to award a contract, reject all replies, or withdraw
714 the solicitation that amends or supplements the reply may not be
715 considered. Unless otherwise provided by law, the burden of
716 proof rests with the party protesting the corporation's action.

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717 In a competitive-procurement protest, other than a rejection of
718 all bids, proposals, or replies, the administrative law judge
719 must conduct a de novo proceeding to determine whether the
720 corporation's proposed action is contrary to the corporation's
721 governing statutes, the corporation's rules or policies, or the
722 solicitation specifications. The standard of proof for the
723 proceeding is whether the corporation's action was clearly
724 erroneous, contrary to competition, arbitrary, or capricious. In
725 any bid-protest proceeding contesting an intended corporation
726 action to reject all bids, proposals, or replies, the standard
727 of review by the board is whether the corporation's intended
728 action is illegal, arbitrary, dishonest, or fraudulent.

729 d. Failure to file a notice of protest or failure to file
730 a formal written protest constitutes a waiver of proceedings.

731 3. The board, acting as agency head, shall consider the
732 recommended order of an administrative law judge in a public
733 meeting and take final action on the protest. Any further legal
734 remedy lies with the First District Court of Appeal.

735 Section 17. This act shall take effect July 1, 2021.

736

737

738 **T I T L E A M E N D M E N T**

739 Remove everything before the enacting clause and insert:
740 An act relating to agency contracts for commodities and
741 contractual services; reenacting and amending s. 216.1366, F.S.;

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742 abrogating the scheduled expiration of provisions relating to
743 certain public agency contracts for services; amending s.
744 287.042, F.S.; providing that the Department of Management
745 Services may enter into an agreement authorizing an agency to
746 make purchases under certain contracts if the Secretary of
747 Management Services makes a certain determination; amending s.
748 287.056, F.S.; providing that an agency must issue a request for
749 quote to certain approved vendors when it issues a request for
750 quote for contractual services; providing for the
751 disqualification of certain firms or individuals from state term
752 contract eligibility; amending s. 287.057, F.S.; revising the
753 period of time during which an agency must electronically post a
754 description of certain services in certain circumstances;
755 requiring an agency to report certain actions to the department
756 in a specified manner and form; requiring the department to
757 annually report certain information to the Governor and the
758 Legislature by a specified date; prohibiting an agency from
759 initiating a competitive solicitation in certain circumstances;
760 requiring an agency to submit a report concerning contract
761 performance before certain contract renewals or amendments are
762 executed; providing that a designated contract manager serves as
763 a liaison between the contractor and the agency; prohibiting
764 certain individuals from serving as a contract manager;
765 providing the responsibilities of a contract manager; requiring
766 the Chief Financial Officer to evaluate certain training at

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767 certain intervals; requiring that certain contract managers
768 complete training and certification within a specified
769 timeframe; requiring the department to establish and disseminate
770 certain training and certification requirements; requiring the
771 department to evaluate certain training at certain intervals;
772 requiring certain contract managers to possess certain
773 experience in managing contracts; authorizing a contract
774 administrator to also serve as a contract manager in certain
775 circumstances; providing that evaluations of proposals and
776 replies must be conducted independently; providing for specified
777 teams to conduct certain negotiations; requiring a Project
778 Management Professional to provide guidance based on certain
779 qualifications; providing qualification requirements for
780 contract negotiator certification; requiring supervisors of
781 contract administrators or contract and grant managers meeting
782 certain criteria to complete training within a specified period;
783 providing that the department is responsible for establishing
784 and disseminating supervisor training by a date certain;
785 providing for a continuing oversight team in certain
786 circumstances; providing requirements for continuing oversight
787 team members and meetings; requiring a continuing oversight team
788 to provide notice of certain deficiencies and changes in
789 contract scope to certain entities; amending s. 287.058, F.S.;
790 prohibiting a contract document for certain contractual services
791 from containing a certain nondisclosure clause; creating s.

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792 287.1351, F.S.; defining the term "vendor"; prohibiting certain
793 vendors from submitting bids, proposals, or replies from, or
794 entering into or renewing any contract with, an agency;
795 prohibiting an agency from accepting a bid, proposal, or reply
796 from, or entering into a contract with, a suspended vendor until
797 certain conditions are met; requiring an agency to notify the
798 department of, and provide certain information regarding, any
799 such vendors; requiring the department to review any vendor
800 reported by an agency; requiring the department to notify a
801 vendor of any intended removal from the vendor list; specifying
802 administrative remedies, and applicable procedures, for an
803 affected vendor; requiring the department to place any such
804 vendor on the suspended vendor list; authorizing the removal of
805 a suspended vendor from the suspended vendor list in accordance
806 with specified procedures; specifying requirements and
807 limitations; amending s. 287.136, F.S; requiring each agency
808 inspector general to complete certain audits of executed
809 contracts at certain intervals; amending ss. 43.16, 215.971,
810 287.0571, 295.187, 394.47865, 402.7305, 408.045, 570.07, and
811 627.351, F.S.; conforming cross-references; providing an
812 effective date.

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