

1 A bill to be entitled
2 An act relating to agency contracts for commodities
3 and contractual services; amending s. 287.042, F.S.;
4 providing that the Department of Management Services
5 may enter into an agreement authorizing an agency to
6 make purchases under certain contracts if the
7 Secretary of Management Services makes a certain
8 determination; amending s. 287.056, F.S.; providing
9 that an agency must issue a request for quote to
10 certain approved vendors when it issues a request for
11 quote for commodities or contractual services;
12 providing for the disqualification of certain firms or
13 individuals from state term contract eligibility;
14 amending s. 287.057, F.S.; revising the period of time
15 during which an agency must electronically post a
16 description of certain services in certain
17 circumstances; requiring an agency to report certain
18 actions to the department in a specified manner and
19 form; requiring an agency to submit a report
20 concerning contract performance before certain
21 contract renewals or amendments are executed;
22 providing that a designated contract manager serves as
23 a liaison between the contractor and the agency;
24 prohibiting certain individuals from serving as a
25 contract manager; providing the responsibilities of a

26 contract manager; requiring the Chief Financial
27 Officer to evaluate certain training at certain
28 intervals; requiring that certain contract managers
29 complete training and certification within a specified
30 timeframe; requiring the department to establish and
31 disseminate certain training and certification
32 requirements; requiring the department to evaluate
33 certain training at certain intervals; requiring
34 certain contract managers to be certified Project
35 Management Professionals; authorizing a contract
36 administrator to also serve as a contract manager in
37 certain circumstances; providing for specified teams
38 to make certain evaluations and conduct certain
39 negotiations; requiring a Project Management
40 Professional to provide guidance based on certain
41 qualifications; providing qualification requirements
42 for contract negotiator certification; providing for a
43 continuing oversight team in certain circumstances;
44 providing requirements for continuing oversight team
45 members and meetings; requiring a continuing oversight
46 team to provide notice of certain changes in contract
47 scope to certain entities; amending s. 287.136, F.S;
48 requiring each agency inspector general to complete
49 certain audits of executed contracts at certain
50 intervals; providing an effective date.

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75

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

Section 1. Subsection (16) of section 287.042, Florida Statutes, is amended to read:

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

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

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

287.056 Purchases from purchasing agreements and state term contracts.—

(2) Agencies and eligible users may use a request for quote to obtain written pricing or services information from a state term contract vendor for commodities or contractual services available on state term contract from that vendor. The purpose of a request for quote is to determine whether a price, term, or condition more favorable to the agency or eligible user

76 | than that provided in the state term contract is available. If
77 | an agency issues a request for quote for commodities or
78 | contractual services, the agency must issue a request for quote
79 | to all vendors approved to provide such commodity or contractual
80 | services. Use of a request for quote does not constitute a
81 | decision or intended decision that is subject to protest under
82 | s. 120.57(3).

83 | (4) A firm or individual removed from the source of supply
84 | pursuant to s. 287.042(1)(b) or placed on a disqualified vendor
85 | list pursuant to s. 287.133 or s. 287.134 is immediately
86 | disqualified from state term contract eligibility.

87 | Section 3. Paragraph (c) of subsection (3) and subsections
88 | (13) through (16) of section 287.057, Florida Statutes, are
89 | amended, and subsection (24) is added to that section, to read:

90 | 287.057 Procurement of commodities or contractual
91 | services.—

92 | (3) If the purchase price of commodities or contractual
93 | services exceeds the threshold amount provided in s. 287.017 for
94 | CATEGORY TWO, purchase of commodities or contractual services
95 | may not be made without receiving competitive sealed bids,
96 | competitive sealed proposals, or competitive sealed replies
97 | unless:

98 | (c) Commodities or contractual services available only
99 | from a single source may be excepted from the competitive-
100 | solicitation requirements. If an agency believes that

101 commodities or contractual services are available only from a
102 single source, the agency shall electronically post a
103 description of the commodities or contractual services sought
104 for at least ~~15~~ 7 business days. The description must include a
105 request that prospective vendors provide information regarding
106 their ability to supply the commodities or contractual services
107 described. If it is determined in writing by the agency, after
108 reviewing any information received from prospective vendors that
109 the commodities or contractual services are available only from
110 a single source, the agency shall provide notice of its intended
111 decision to enter a single-source purchase contract in the
112 manner specified in s. 120.57(3). Each agency shall report all
113 such actions to the department on a quarterly basis in a manner
114 and form prescribed by the department.

115 (13) Contracts for commodities or contractual services may
116 be renewed for a period that may not exceed 3 years or the term
117 of the original contract, whichever is longer. Renewal of a
118 contract for commodities or contractual services must be in
119 writing and is subject to the same terms and conditions set
120 forth in the initial contract and any written amendments signed
121 by the parties. If the commodity or contractual service is
122 purchased as a result of the solicitation of bids, proposals, or
123 replies, the price of the commodity or contractual service to be
124 renewed must be specified in the bid, proposal, or reply, except
125 that an agency may negotiate lower pricing. A renewal contract

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

139 (14) (a) For each contractual services contract, the agency
140 shall designate an employee to function as contract manager who
141 is responsible for enforcing performance of the contract terms
142 and conditions and serve as a liaison between ~~with~~ the
143 contractor and the agency. The contract manager may not be an
144 individual who has been employed, within the previous 5 years,
145 by the vendor awarded the contractual services contract. The
146 primary responsibilities of a contract manager include:

147 1. Participating in the solicitation development and
148 review of contract documents.

149 2. Monitoring the contractor's progress and performance to
150 ensure procured products and services conform to the contract

151 requirements and keep timely records of findings.

152 3. Managing and documenting any changes to the contract
153 through the amendment process authorized by the terms of the
154 contract.

155 4. Monitoring the contract budget to ensure sufficient
156 funds are available throughout the term of the contract.

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

159 (b)~~(a)~~ Each contract manager who is responsible for
160 contracts in excess of the threshold amount for CATEGORY TWO
161 must, at a minimum, complete training conducted by the Chief
162 Financial Officer for accountability in contracts and grant
163 management. The Chief Financial Officer shall evaluate such
164 training every 5 years to assess its effectiveness and update
165 the training curriculum. The Chief Financial Officer shall
166 establish and disseminate uniform procedures pursuant to s.
167 17.03(3) to ensure that contractual services have been rendered
168 in accordance with the contract terms before the agency
169 processes the invoice for payment. The procedures must include,
170 but need not be limited to, procedures for monitoring and
171 documenting contractor performance, reviewing and documenting
172 all deliverables for which payment is requested by vendors, and
173 providing written certification by contract managers of the
174 agency's receipt of goods and services.

175 (c)~~(b)~~ Each contract manager who is responsible for

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

201 ~~must become certified within 24 months after establishment of~~
202 ~~the training and certification requirements by the department~~
203 ~~and the Department of Financial Services.~~

204 (d) Each contract manager who is responsible for contracts
205 in excess of \$10 million annually must, in addition to the
206 training required in paragraph (b) and the training and
207 certification required in paragraph (c), be a Project Management
208 Professional, as certified by the Project Management Institute.

209 (15) Each agency shall designate at least one employee who
210 shall serve as a contract administrator responsible for
211 maintaining a contract file and financial information on all
212 contractual services contracts and who shall serve as a liaison
213 with the contract managers and the department. For a contract of
214 \$250,000 or less annually, the contract administrator may also
215 serve as the contract manager if he or she has completed the
216 required training. For a contract in excess of \$250,000
217 annually, the contract administrator may not serve as both the
218 contract administrator and the contract manager.

219 (16) (a) For a contract in excess of the threshold amount
220 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
221 appoint:

222 1. At least three persons to an evaluation team to
223 evaluate proposals and replies. The members of the evaluation
224 team must ~~who~~ collectively have experience and knowledge in the
225 program areas and service requirements for the commodity ~~which~~

HB 1079

2021

226 ~~commodities~~ or contractual services ~~are~~ sought.

227 2. At least three persons to a negotiation team to conduct
228 negotiations during a competitive sealed reply procurement. The
229 negotiation team members must ~~who~~ collectively have experience
230 and knowledge in negotiating contracts, contract procurement,
231 and the program areas and service requirements for the commodity
232 ~~which commodities~~ or contractual services ~~are~~ sought.

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

244 2. If the value of a contract is in excess of \$10 million
245 in any fiscal year, at least one of the persons conducting
246 negotiations must be a Project Management Professional, as
247 certified by the Project Management Institute. The Project
248 Management Professional shall provide guidance based on his or
249 her experience, education, and competency to lead and direct
250 complex projects.

251 3. The department is responsible for establishing and
252 disseminating the certification and training requirements for
253 certified contract negotiators. Training must ensure that
254 certified contract negotiators are knowledgeable about effective
255 negotiation strategies, capable of successfully implementing
256 those strategies, and involved appropriately in the procurement
257 process. The department shall evaluate such training every 5
258 years in order to assess its effectiveness and update the
259 training curriculum. A certified contract negotiator is required
260 to complete training every 5 years for certification renewal.
261 Qualification requirements for certification must include:

262 a. At least 12 months' experience as a purchasing agent,
263 contract manager, or contract administrator for an agency or
264 local governmental entity where at least 50 percent of the
265 designated duties included procuring commodities or contractual
266 services, participating in contract negotiation, contract
267 management, or contract administration, or working as an agency
268 attorney whose duties included providing legal counsel to the
269 agency's purchasing or contracting staff.

270 b. Experience during the preceding 5 years in leading at
271 least three federal, state, or local government negotiation
272 teams through a negotiated procurement, or participation in at
273 least five federal, state, or local government negotiated
274 procurements.

275 (24) (a) For each contractual services contract in excess

276 of \$1 million, 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 contract manager, to the continuing oversight team. If the
280 value of the contractual services contract is in excess of \$5
281 million, at least one of the persons on the continuing oversight
282 team must be a Project Management Professional, as certified by
283 the Project Management Institute. Members of the continuing
284 oversight team must collectively have experience and knowledge
285 in contract management, contract administration, contract
286 enforcement, and the program areas and service requirements for
287 the contractual services purchased.

288 (b) Continuing oversight teams must meet at least
289 quarterly to discuss the status of the contract, the pace of
290 deliverables, and contractor performance. The contract
291 administrator must be present at each meeting with the contract
292 file and all applicable financial information. The continuing
293 oversight team must notify, in writing:

294 1. The agency head and the department of any deficiency in
295 a contractor's performance.

296 2. The agency head, the department, and the Office of
297 Policy and Budget in the Executive Office of the Governor of any
298 significant change in contract scope and any increase in the
299 cost of the contract that is 5 percent of the planned contract
300 cost or greater within the fiscal year for contractual service

301 contracts of less than \$5 million.

302 3. The agency head, the department, the Office of Policy
303 and Budget in the Executive Office of the Governor, and the
304 legislative appropriations committees of any significant change
305 in contract scope and any increase in the cost of the contract
306 that is 5 percent of the planned contract cost or greater within
307 the fiscal year for contractual service contracts of \$5 million
308 or greater.

309 Section 4. Section 287.136, Florida Statutes, is amended
310 to read:

311 287.136 Audit of executed contract documents.—

312 (1) After execution of a contract, the Chief Financial
313 Officer shall perform audits of the executed contract document
314 and contract manager's records to ensure that adequate internal
315 controls are in place for complying with the terms and
316 conditions of the contract and for the validation and receipt of
317 goods and services.

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

322 (b)~~(2)~~ Within 30 days after receipt of the final audit
323 report, the agency head shall submit to the Chief Financial
324 Officer or designee his or her written statement of explanation
325 or rebuttal concerning findings requiring corrective action,

326 including corrective action to be taken to preclude a
327 recurrence.

328 (2) Beginning October 1, 2021, and every 3 years
329 thereafter, each agency inspector general shall complete a
330 compliance audit of all contract documents executed by the
331 agency for the preceding 3 fiscal years. The audit must include
332 an evaluation of and identify any trend in vendor preference.
333 The audit findings must be submitted to the agency head, the
334 Secretary of the Department of Management Services, and the
335 Governor.

336 Section 5. This act shall take effect July 1, 2021.