

1 A bill to be entitled
2 An act relating to agency contracts for commodities
3 and contractual services; reenacting and amending s.
4 216.1366, F.S.; abrogating the scheduled expiration of
5 provisions relating to certain public agency contracts
6 for services; amending s. 287.042, F.S.; providing
7 that the Department of Management Services may enter
8 into an agreement authorizing an agency to make
9 purchases under certain contracts if the Secretary of
10 Management Services makes a certain determination;
11 amending s. 287.056, F.S.; providing that an agency
12 must issue a request for quote to certain approved
13 vendors when it issues a request for quote for
14 contractual services; providing for the
15 disqualification of certain firms or individuals from
16 state term contract eligibility; amending s. 287.057,
17 F.S.; revising the period of time during which an
18 agency must electronically post a description of
19 certain services in certain circumstances; requiring
20 an agency to report certain actions to the department
21 in a specified manner and form; requiring the
22 department to annually report certain information to
23 the Governor and the Legislature by a specified date;
24 prohibiting an agency from initiating a competitive
25 solicitation in certain circumstances; requiring an

26 | agency to submit a report concerning contract
27 | performance before certain contract renewals or
28 | amendments are executed; providing that a designated
29 | contract manager serves as a liaison between the
30 | contractor and the agency; prohibiting certain
31 | individuals from serving as a contract manager;
32 | providing the responsibilities of a contract manager;
33 | requiring the Chief Financial Officer to evaluate
34 | certain training at certain intervals; requiring that
35 | certain contract managers complete training and
36 | certification within a specified timeframe; requiring
37 | the department to establish and disseminate certain
38 | training and certification requirements; requiring the
39 | department to evaluate certain training at certain
40 | intervals; requiring certain contract managers to
41 | possess certain experience in managing contracts;
42 | authorizing a contract administrator to also serve as
43 | a contract manager in certain circumstances; providing
44 | that evaluations of proposals and replies must be
45 | conducted independently; providing for specified teams
46 | to conduct certain negotiations; requiring a Project
47 | Management Professional to provide guidance based on
48 | certain qualifications; providing qualification
49 | requirements for contract negotiator certification;
50 | requiring supervisors of contract administrators or

51 contract and grant managers meeting certain criteria
52 to complete training within a specified period;
53 providing that the department is responsible for
54 establishing and disseminating supervisor training by
55 a date certain; providing for a continuing oversight
56 team in certain circumstances; providing requirements
57 for continuing oversight team members and meetings;
58 requiring a continuing oversight team to provide
59 notice of certain deficiencies and changes in contract
60 scope to certain entities; amending s. 287.058, F.S.;
61 prohibiting a contract document for certain
62 contractual services from containing a certain
63 nondisclosure clause; creating s. 287.1351, F.S.;
64 defining the term "vendor"; prohibiting certain
65 vendors from submitting bids, proposals, or replies
66 to, or entering into or renewing any contract with, an
67 agency; prohibiting an agency from accepting a bid,
68 proposal, or reply from, or entering into a contract
69 with, a suspended vendor until certain conditions are
70 met; requiring an agency to notify the department of,
71 and provide certain information regarding, any such
72 vendors; requiring the department to review any vendor
73 reported by an agency; requiring the department to
74 notify a vendor of any intended removal from the
75 vendor list; specifying administrative remedies, and

76 applicable procedures, for an affected vendor;
77 requiring the department to place any such vendor on
78 the suspended vendor list; authorizing the removal of
79 a suspended vendor from the suspended vendor list in
80 accordance with specified procedures; specifying
81 requirements and limitations; amending s. 287.136,
82 F.S.; requiring each agency inspector general to
83 complete certain audits of executed contracts at
84 certain intervals; amending ss. 43.16, 215.971,
85 287.0571, 295.187, 394.47865, 402.7305, 408.045,
86 570.07, and 627.351, F.S.; conforming cross-
87 references; providing an effective date.

88
89 Be It Enacted by the Legislature of the State of Florida:

90
91 Section 1. Notwithstanding the expiration date in section
92 106 of chapter 2020-114, Laws of Florida, section 216.1366,
93 Florida Statutes, is reenacted and amended to read:

94 216.1366 Contract terms.—

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

99 (a) Financial records, papers, and documents of the
100 contractor that are directly related to the performance of the

101 contract or the expenditure of state funds.

102 (b) Programmatic records, papers, and documents of the
 103 contractor which the public agency determines are necessary to
 104 monitor the performance of the contract or to ensure that the
 105 terms of the contract are being met.

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

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

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

112 287.042 Powers, duties, and functions.—The department
 113 shall have the following powers, duties, and functions:

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

121 Section 3. Subsection (2) of section 287.056, Florida
 122 Statutes, is amended, and subsection (4) is added to that
 123 section, to read:

124 287.056 Purchases from purchasing agreements and state
 125 term contracts.—

126 (2) Agencies and eligible users may use a request for
127 quote to obtain written pricing or services information from a
128 state term contract vendor for commodities or contractual
129 services available on state term contract from that vendor. The
130 purpose of a request for quote is to determine whether a price,
131 term, or condition more favorable to the agency or eligible user
132 than that provided in the state term contract is available. If
133 an agency issues a request for quote for contractual services
134 for any contract with 25 approved vendors or fewer, the agency
135 must issue a request for quote to all vendors approved to
136 provide such contractual services. For any contract with more
137 than 25 approved vendors, the agency must issue a request for
138 quote to at least 25 of the vendors approved to provide such
139 contractual services. Use of a request for quote does not
140 constitute a decision or intended decision that is subject to
141 protest under s. 120.57(3).

142 (4) A firm or individual placed on the suspended vendor
143 list pursuant to s. 287.1351 or placed on a disqualified vendor
144 list pursuant to s. 287.133 or s. 287.134 is immediately
145 disqualified from state term contract eligibility.

146 Section 4. Subsections (4) through (16) and (17) through
147 (23) of section 287.057, Florida Statutes, are renumbered as
148 subsections (5) through (17) and (19) through (25),
149 respectively, paragraph (c) of subsection (3) and present
150 subsections (13) through (16) are amended, and new subsections

151 (4), (18), and (26) are added to that section, to read:

152 287.057 Procurement of commodities or contractual
153 services.—

154 (3) If the purchase price of commodities or contractual
155 services exceeds the threshold amount provided in s. 287.017 for
156 CATEGORY TWO, purchase of commodities or contractual services
157 may not be made without receiving competitive sealed bids,
158 competitive sealed proposals, or competitive sealed replies
159 unless:

160 (c) Commodities or contractual services available only
161 from a single source may be excepted from the competitive-
162 solicitation requirements. If an agency believes that
163 commodities or contractual services are available only from a
164 single source, the agency shall electronically post a
165 description of the commodities or contractual services sought
166 for at least 15 ~~7~~ business days. The description must include a
167 request that prospective vendors provide information regarding
168 their ability to supply the commodities or contractual services
169 described. If it is determined in writing by the agency, after
170 reviewing any information received from prospective vendors that
171 the commodities or contractual services are available only from
172 a single source, the agency shall provide notice of its intended
173 decision to enter a single-source purchase contract in the
174 manner specified in s. 120.57(3). Each agency shall report all
175 such actions to the department on a quarterly basis in a manner

176 and form prescribed by the department and the department shall
177 report such information to the Governor, the President of the
178 Senate, and the Speaker of the House of Representatives no later
179 than January 1, 2022, and each January 1 thereafter.

180 (4) (a) An agency may not initiate a competitive
181 solicitation for a product or service if the completion of such
182 competitive solicitation would:

183 1. Require a change in law; or
184 2. Require a change to the agency's original approved
185 budget, as defined in s. 216.011, other than a
186 transfer authorized in s. 216.292(2) or (3), unless the
187 initiation of such competitive solicitation is specifically
188 authorized in law, in the General Appropriations Act, or by the
189 Legislative Budget Commission.

190 (b) This subsection does not apply to a competitive
191 solicitation for which the agency head certifies that a valid
192 emergency exists.

193 (14)-(13) Contracts for commodities or contractual services
194 may be renewed for a period that may not exceed 3 years or the
195 term of the original contract, whichever is longer. Renewal of a
196 contract for commodities or contractual services must be in
197 writing and is subject to the same terms and conditions set
198 forth in the initial contract and any written amendments signed
199 by the parties. If the commodity or contractual service is
200 purchased as a result of the solicitation of bids, proposals, or

201 replies, the price of the commodity or contractual service to be
202 renewed must be specified in the bid, proposal, or reply, except
203 that an agency may negotiate lower pricing. A renewal contract
204 may not include any compensation for costs associated with the
205 renewal. Renewals are contingent upon satisfactory performance
206 evaluations by the agency and subject to the availability of
207 funds. Exceptional purchase contracts pursuant to paragraphs
208 (3) (a) and (c) may not be renewed. With the exception of
209 subsection (11) ~~(10)~~, if a contract amendment results in a
210 longer contract term or increased payments, a state agency may
211 not renew or amend a contract for the outsourcing of a service
212 or activity that has an original term value exceeding \$5 ~~\$10~~
213 million before submitting a written report concerning contract
214 performance to the Governor, the President of the Senate, and
215 the Speaker of the House of Representatives at least 90 days
216 before execution of the renewal or amendment.

217 (15) (a) ~~(14)~~ For each contractual services contract, the
218 agency shall designate an employee to function as contract
219 manager who is responsible for enforcing performance of the
220 contract terms and conditions and serve as a liaison between
221 ~~with~~ the contractor and the agency. The contract manager may not
222 be an individual who has been employed, within the previous 5
223 years, by the vendor awarded the contractual services contract.

224 The primary responsibilities of a contract manager include:

225 1. Participating in the solicitation development and

226 review of contract documents.

227 2. Monitoring the contractor's progress and performance to
228 ensure procured products and services conform to the contract
229 requirements and keep timely records of findings.

230 3. Managing and documenting any changes to the contract
231 through the amendment process authorized by the terms of the
232 contract.

233 4. Monitoring the contract budget to ensure sufficient
234 funds are available throughout the term of the contract.

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

237 (b) ~~(a)~~ Each contract manager who is responsible for
238 contracts in excess of the threshold amount for CATEGORY TWO
239 must, at a minimum, complete training conducted by the Chief
240 Financial Officer for accountability in contracts and grant
241 management. The Chief Financial Officer shall evaluate such
242 training every 5 years to assess its effectiveness and update
243 the training curriculum. The Chief Financial Officer shall
244 establish and disseminate uniform procedures pursuant to s.
245 17.03(3) to ensure that contractual services have been rendered
246 in accordance with the contract terms before the agency
247 processes the invoice for payment. The procedures must include,
248 but need not be limited to, procedures for monitoring and
249 documenting contractor performance, reviewing and documenting
250 all deliverables for which payment is requested by vendors, and

251 providing written certification by contract managers of the
252 agency's receipt of goods and services.

253 (c)~~(b)~~ Each contract manager who is responsible for
254 contracts in excess of \$100,000 annually must, in addition to
255 the accountability in contracts and grant management training
256 required in paragraph (b) and within 6 months after being
257 assigned responsibility for such contracts, complete training in
258 contract management and become a certified contract manager. The
259 department is responsible for establishing and disseminating the
260 training and certification requirements for certified contract
261 managers. Training must promote best practices and procedures
262 related to negotiating, managing, and ensuring accountability in
263 agency contracts and grant agreements, which must include the
264 use of case studies based upon previous audits, contracts, and
265 grant agreements. A certified contract manager must complete
266 training every 5 years for certification renewal ~~requirements~~
267 ~~for certification which include completing the training~~
268 ~~conducted by the Chief Financial Officer for accountability in~~
269 ~~contracts and grant management.~~ Training and certification must
270 be coordinated by the department, and the training must be
271 conducted jointly by the department and the Department of
272 Financial Services. The department shall evaluate such training
273 every 5 years to assess its effectiveness and update the
274 training curriculum. ~~Training must promote best practices and~~
275 ~~procedures related to negotiating, managing, and ensuring~~

276 ~~accountability in agency contracts and grant agreements, which~~
277 ~~must include the use of case studies based upon previous audits,~~
278 ~~contracts, and grant agreements. All agency contract managers~~
279 ~~must become certified within 24 months after establishment of~~
280 ~~the training and certification requirements by the department~~
281 ~~and the Department of Financial Services.~~

282 (d) Each contract manager who is responsible for contracts
283 in excess of \$10 million annually must, in addition to the
284 training required in paragraph (b) and the training and
285 certification required in paragraph (c), possess at least 5
286 years of experience managing contracts in excess of \$5 million
287 annually.

288 (16)-(15) Each agency shall designate at least one employee
289 who shall serve as a contract administrator responsible for
290 maintaining a contract file and financial information on all
291 contractual services contracts and who shall serve as a liaison
292 with the contract managers and the department. For a contract of
293 \$500,000 or less annually, the contract administrator may also
294 serve as the contract manager if he or she has completed the
295 required training. For a contract in excess of \$500,000
296 annually, the contract administrator may not serve as both the
297 contract administrator and the contract manager.

298 (17) (a)-(16) (a) For a contract in excess of the threshold
299 amount provided in s. 287.017 for CATEGORY FOUR, the agency head
300 shall appoint:

301 1. At least three persons to independently evaluate
302 proposals and replies who collectively have experience and
303 knowledge in the program areas and service requirements for the
304 commodity ~~which commodities~~ or contractual services ~~are~~ sought.

305 2. At least three persons to a negotiation team to conduct
306 negotiations during a competitive sealed reply procurement. The
307 negotiation team members must ~~who~~ collectively have experience
308 and knowledge in negotiating contracts, contract procurement,
309 and the program areas and service requirements for the commodity
310 ~~which commodities~~ or contractual services ~~are~~ sought.

311 (b)1. If the value of a contract is in excess of \$1
312 million in any fiscal year, at least one of the persons
313 conducting negotiations must be ~~certified as a~~ certified
314 contract negotiator. ~~based upon department rules in order to~~
315 ~~ensure that certified contract negotiators are knowledgeable~~
316 ~~about effective negotiation strategies, capable of successfully~~
317 ~~implementing those strategies, and involved appropriately in the~~
318 ~~procurement process. At a minimum, the rules must address the~~
319 ~~qualifications required for certification, the method of~~
320 ~~certification, and the procedure for involving the certified~~
321 ~~negotiator.~~

322 2. If the value of a contract is in excess of \$10 million
323 in any fiscal year, at least one of the persons conducting
324 negotiations must be a Project Management Professional, as
325 certified by the Project Management Institute. The Project

326 Management Professional shall provide guidance based on his or
327 her experience, education, and competency to lead and direct
328 complex projects.

329 3. The department is responsible for establishing and
330 disseminating the certification and training requirements for
331 certified contract negotiators. Training must ensure that
332 certified contract negotiators are knowledgeable about effective
333 negotiation strategies, capable of successfully implementing
334 those strategies, and involved appropriately in the procurement
335 process. The department shall evaluate such training every 5
336 years in order to assess its effectiveness and update the
337 training curriculum. A certified contract negotiator is required
338 to complete training every 5 years for certification renewal.
339 Qualification requirements for certification must include:

340 a. At least 12 months' experience as a purchasing agent,
341 contract manager, or contract administrator for an agency or a
342 local governmental entity where at least 50 percent of the
343 designated duties included procuring commodities or contractual
344 services, participating in contract negotiation, contract
345 management, or contract administration, or working as an agency
346 attorney whose duties included providing legal counsel to the
347 agency's purchasing or contracting staff.

348 b. Experience during the preceding 5 years in leading at
349 least two federal, state, or local government negotiation teams
350 through a negotiated procurement, or participation in at least

351 three federal, state, or local government negotiated
352 procurements.

353 (18) Any person who supervises contract administrators or
354 contract or grant managers that meet criteria for certification
355 in subsection (15) shall annually complete public procurement
356 training for supervisors within 12 months after appointment to
357 the supervisory position. The department is responsible for
358 establishing and disseminating the training course content
359 required for supervisors and training shall commence no later
360 than July 1, 2022.

361 (26) (a) For each contractual services contract of \$5
362 million or greater, the agency head shall establish a continuing
363 oversight team after the contract has been awarded. The agency
364 head shall appoint at least four persons, one of whom must be
365 the certified contract manager, to the continuing oversight
366 team. If the value of the contractual services contract is \$10
367 million or greater, at least one of the persons on the
368 continuing oversight team must possess at least 5 years of
369 experience in managing contracts of a similar scope or size. If
370 the value of the contractual services contract is \$20 million or
371 greater, the continuing oversight team shall consist of at least
372 five persons, at least one of the persons on the continuing
373 oversight team must be from an agency other than the agency or
374 agencies participating in the contract. Members of the
375 continuing oversight team must be agency employees and must

376 collectively have experience and knowledge in contract
377 management, contract administration, contract enforcement, and
378 the program areas and service requirements for the contractual
379 services purchased.

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

382 2. For contracts of \$10 million or greater, each
383 continuing oversight team must meet at least monthly. A
384 representative of the contractor must be made available to
385 members of the continuing oversight team for at least one
386 meeting every calendar quarter to respond to any questions or
387 requests for information from the continuing oversight team
388 concerning contractor performance.

389 (c)1. Within 30 days after the formation of the continuing
390 oversight team, the continuing oversight team must convene an
391 initial meeting with representatives of the contractor to
392 achieve a mutual understanding of the contract requirements, to
393 provide the contractor with an orientation to the contract
394 management process, and to provide an explanation of the role of
395 the continuing oversight team, contract manager, and contract
396 administrator.

397 2. The continuing oversight team must meet to discuss the
398 status of the contract, the pace of deliverables, the quality of
399 deliverables, contractor responsiveness, and contractor
400 performance. The contract administrator must be present at each

401 meeting with the contract file and all applicable financial
402 information. The continuing oversight team may submit written
403 questions to the contractor concerning any items discussed
404 during a continuing oversight team meeting. The contractor must
405 respond to the team's questions within 10 business days after
406 receiving the written questions. The questions and responses
407 must be included in the contract file.

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

409 1. The agency head and the department of any deficiency in
410 a contractor's performance which substantially affects the pace
411 of deliverables or the likelihood of the successful completion
412 of the contract.

413 2. The agency head, the department, and the Office of
414 Policy and Budget in the Executive Office of the Governor of any
415 significant change in contract scope or any increase in the cost
416 of the contract that is 5 percent of the planned contract cost
417 or greater within the fiscal year for contractual service
418 contracts of at least \$5 million.

419 3. The agency head, the department, the Office of Policy
420 and Budget in the Executive Office of the Governor, and the
421 legislative appropriations committees of any significant change
422 in contract scope or any increase in the cost of the contract
423 that is 5 percent of the planned contract cost or greater within
424 the fiscal year for contractual service contracts of \$10 million
425 or greater.

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

428 287.058 Contract document.—

429 (7) A contract may not contain a nondisclosure clause that
430 prohibits the contractor from disclosing information relevant to
431 the performance of the contract to members or staff of the
432 Senate or the House of Representatives.

433 Section 6. Section 287.1351, Florida Statutes, is created
434 to read:

435 287.1351 Suspended vendors; state contracts.—

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

440 (2)(a) A vendor that is in default on any contract with an
441 agency or has otherwise repeatedly demonstrated a recent
442 inability to fulfill the terms and conditions of previous state
443 contracts or to adequately perform its duties under those
444 contracts may not submit a bid, proposal, or reply to an agency
445 or enter into or renew a contract to provide any goods or
446 services to an agency after its placement, pursuant to this
447 section, on the suspended vendor list.

448 (b) An agency may not accept a bid, proposal, or reply
449 from, or enter into or renew any contract with, a vendor on the
450 suspended vendor list until such vendor has been removed from

451 the suspended vendor list and returned to the vendor list
452 maintained by the department pursuant to s. 287.042(1)(a) and
453 (b) and the vendor has reimbursed the agency for any
454 reprocurement costs.

455 (3) An agency shall notify the department of any vendor
456 that has met the grounds for suspension described in paragraph
457 (2)(a). The agency must provide documentation to the department
458 evidencing the vendor's default or other grounds for suspension.
459 The department shall review the documentation provided and
460 determine whether good cause exists to remove the vendor from
461 the vendor list and to place it on the suspended vendor list. If
462 good cause exists, the department must notify the vendor in
463 writing of its intent to remove the vendor from the vendor list
464 and of the vendor's right to an administrative hearing and the
465 applicable procedures and time requirements for any such
466 hearing. If the vendor does not request an administrative
467 hearing, the department must enter a final order removing the
468 vendor from the vendor list. A vendor may not be removed from
469 the vendor list without receiving an individual notice of intent
470 from the department.

471 (4) Within 21 days after receipt of the notice of intent,
472 the vendor may file with the department a petition for a formal
473 hearing pursuant to ss. 120.569 and 120.57 to challenge the
474 department's decision to remove the vendor from the vendor list.
475 A vendor that fails to timely file a petition in accordance with

476 this subsection is deemed to have waived its right to a hearing,
477 and the department's decision to remove the vendor from the
478 vendor list becomes final agency action.

479 (5) (a) The department shall place any vendor removed from
480 the vendor list pursuant to this section on the suspended vendor
481 list. One year or more after entry of the final order of its
482 suspension, a suspended vendor may file a petition with the
483 department for removal from the suspended vendor list. The
484 proceeding on the petition must be conducted in accordance with
485 chapter 120. The vendor may be removed from the suspended vendor
486 list if the administrative law judge determines that removal
487 from the list would be in the public interest. In determining
488 whether removal from the list would be in the public interest,
489 the administrative law judge may consider, but is not limited
490 to, whether the suspended vendor has prepared a corrective
491 action plan that addresses the original grounds for default or
492 failure to fulfill the terms and conditions of the contract,
493 reimbursed the agency for any procurement costs, or provided
494 additional evidence that the vendor has taken other remedial
495 action.

496 (b) If a petition for removal from the suspended vendor
497 list is denied, the vendor may not petition for another hearing
498 on removal for a period of at least 9 months after the date of
499 the denial. The department may petition for the suspended
500 vendor's removal before the expiration of such period if, in the

501 department's discretion, the department determines that removal
 502 from the suspended vendor list would be in the public interest.

503 Section 7. Section 287.136, Florida Statutes, is amended
 504 to read:

505 287.136 Audit of executed contract documents.—

506 (1) After execution of a contract, the Chief Financial
 507 Officer shall perform audits of the executed contract document
 508 and contract manager's records to ensure that adequate internal
 509 controls are in place for complying with the terms and
 510 conditions of the contract and for the validation and receipt of
 511 goods and services.

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

516 (b)~~(2)~~ Within 30 days after receipt of the final audit
 517 report, the agency head shall submit to the Chief Financial
 518 Officer or designee his or her written statement of explanation
 519 or rebuttal concerning findings requiring corrective action,
 520 including corrective action to be taken to preclude a
 521 recurrence.

522 (2) Beginning October 1, 2021, and every 3 years
 523 thereafter, each agency inspector general shall complete a risk-
 524 based compliance audit of all contracts executed by the agency
 525 for the preceding 3 fiscal years. The audit must include an

526 evaluation of, and identify any trend in, vendor preference. The
527 audit findings must be submitted to the agency head, the
528 secretary of the Department of Management Services, and the
529 Governor.

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

532 43.16 Justice Administrative Commission; membership,
533 powers and duties.—

534 (1) There is hereby created a Justice Administrative
535 Commission, with headquarters located in the state capital. The
536 necessary office space for use of the commission shall be
537 furnished by the proper state agency in charge of state
538 buildings. For purposes of the fees imposed on agencies pursuant
539 to s. 287.057(24) ~~s. 287.057(22)~~, the Justice Administrative
540 Commission shall be exempt from such fees.

541 Section 9. Paragraph (a) of subsection (2) of section
542 215.971, Florida Statutes, is amended to read:

543 215.971 Agreements funded with federal or state
544 assistance.—

545 (2) For each agreement funded with federal or state
546 financial assistance, the state agency shall designate an
547 employee to function as a grant manager who shall be responsible
548 for enforcing performance of the agreement's terms and
549 conditions and who shall serve as a liaison with the recipient
550 or subrecipient.

551 (a)1. Each grant manager who is responsible for agreements
 552 in excess of the threshold amount for CATEGORY TWO under s.
 553 287.017 must, at a minimum, complete training conducted by the
 554 Chief Financial Officer for accountability in contracts and
 555 grant management.

556 2. Effective December 1, 2014, each grant manager
 557 responsible for agreements in excess of \$100,000 annually must
 558 complete the training and become a certified contract manager as
 559 provided under s. 287.057(15) ~~s. 287.057(14)~~. All grant managers
 560 must become certified contract managers within 24 months after
 561 establishment of the training and certification requirements by
 562 the Department of Management Services and the Department of
 563 Financial Services.

564 Section 10. Paragraph (a) of subsection (3) of section
 565 287.0571, Florida Statutes, is amended to read:

566 287.0571 Business case to outsource; applicability.—

567 (3) This section does not apply to:

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

570 Section 11. Paragraph (b) of subsection (4) of section
 571 295.187, Florida Statutes, is amended to read:

572 295.187 Florida Veteran Business Enterprise Opportunity
 573 Act.—

574 (4) VENDOR PREFERENCE.—

575 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a

576 | veteran business enterprise entitled to the vendor preference
577 | under this section and one or more businesses entitled to this
578 | preference or another vendor preference provided by law submit
579 | bids, proposals, or replies for procurement of commodities or
580 | contractual services which are equal with respect to all
581 | relevant considerations, including price, quality, and service,
582 | the state agency shall award the procurement or contract to the
583 | business having the smallest net worth.

584 | Section 12. Paragraph (a) of subsection (1) of section
585 | 394.47865, Florida Statutes, is amended to read:

586 | 394.47865 South Florida State Hospital; privatization.—

587 | (1) The Department of Children and Families shall, through
588 | a request for proposals, privatize South Florida State Hospital.
589 | The department shall plan to begin implementation of this
590 | privatization initiative by July 1, 1998.

591 | (a) Notwithstanding s. 287.057(14) ~~s. 287.057(13)~~, the
592 | department may enter into agreements, not to exceed 20 years,
593 | with a private provider, a coalition of providers, or another
594 | agency to finance, design, and construct a treatment facility
595 | having up to 350 beds and to operate all aspects of daily
596 | operations within the facility. The department may subcontract
597 | any or all components of this procurement to a statutorily
598 | established state governmental entity that has successfully
599 | contracted with private companies for designing, financing,
600 | acquiring, leasing, constructing, and operating major privatized

601 state facilities.

602 Section 13. Paragraph (b) of subsection (2) and subsection
603 (3) of section 402.7305, Florida Statutes, are amended to read:

604 402.7305 Department of Children and Families; procurement
605 of contractual services; contract management.—

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

607 (b) When it is in the best interest of a defined segment
608 of its consumer population, the department may competitively
609 procure and contract for systems of treatment or service that
610 involve multiple providers, rather than procuring and
611 contracting for treatment or services separately from each
612 participating provider. The department must ensure that all
613 providers that participate in the treatment or service system
614 meet all applicable statutory, regulatory, service quality, and
615 cost control requirements. If other governmental entities or
616 units of special purpose government contribute matching funds to
617 the support of a given system of treatment or service, the
618 department shall formally request information from those funding
619 entities in the procurement process and may take the information
620 received into account in the selection process. If a local
621 government contributes matching funds to support the system of
622 treatment or contracted service and if the match constitutes at
623 least 25 percent of the value of the contract, the department
624 shall afford the governmental match contributor an opportunity
625 to name an employee as one of the persons required by s.

626 287.057(17) ~~s. 287.057(16)~~ to evaluate or negotiate certain
627 contracts, unless the department sets forth in writing the
628 reason why the inclusion would be contrary to the best interest
629 of the state. Any employee so named by the governmental match
630 contributor shall qualify as one of the persons required by s.
631 287.057(17) ~~s. 287.057(16)~~. A governmental entity or unit of
632 special purpose government may not name an employee as one of
633 the persons required by s. 287.057(17) ~~s. 287.057(16)~~ if it, or
634 any of its political subdivisions, executive agencies, or
635 special districts, intends to compete for the contract to be
636 awarded. The governmental funding entity or contributor of
637 matching funds must comply with all procurement procedures set
638 forth in s. 287.057 when appropriate and required.

639 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
640 Department of Children and Families shall review the time period
641 for which the department executes contracts and shall execute
642 multiyear contracts to make the most efficient use of the
643 resources devoted to contract processing and execution. Whenever
644 the department chooses not to use a multiyear contract, a
645 justification for that decision must be contained in the
646 contract. Notwithstanding s. 287.057(15) ~~s. 287.057(14)~~, the
647 department is responsible for establishing a contract management
648 process that requires a member of the department's Senior
649 Management or Selected Exempt Service to assign in writing the
650 responsibility of a contract to a contract manager. The

651 department shall maintain a set of procedures describing its
652 contract management process which must minimally include the
653 following requirements:

654 (a) The contract manager shall maintain the official
655 contract file throughout the duration of the contract and for a
656 period not less than 6 years after the termination of the
657 contract.

658 (b) The contract manager shall review all invoices for
659 compliance with the criteria and payment schedule provided for
660 in the contract and shall approve payment of all invoices before
661 their transmission to the Department of Financial Services for
662 payment.

663 (c) The contract manager shall maintain a schedule of
664 payments and total amounts disbursed and shall periodically
665 reconcile the records with the state's official accounting
666 records.

667 (d) For contracts involving the provision of direct client
668 services, the contract manager shall periodically visit the
669 physical location where the services are delivered and speak
670 directly to clients receiving the services and the staff
671 responsible for delivering the services.

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

675 (f) The contract manager shall periodically document any

676 differences between the required performance measures and the
677 actual performance measures. If a contractor fails to meet and
678 comply with the performance measures established in the
679 contract, the department may allow a reasonable period for the
680 contractor to correct performance deficiencies. If performance
681 deficiencies are not resolved to the satisfaction of the
682 department within the prescribed time, and if no extenuating
683 circumstances can be documented by the contractor to the
684 department's satisfaction, the department must terminate the
685 contract. The department may not enter into a new contract with
686 that same contractor for the services for which the contract was
687 previously terminated for a period of at least 24 months after
688 the date of termination. The contract manager shall obtain and
689 enforce corrective action plans, if appropriate, and maintain
690 records regarding the completion or failure to complete
691 corrective action items.

692 (g) The contract manager shall document any contract
693 modifications, which shall include recording any contract
694 amendments as provided for in this section.

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

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

699 408.045 Certificate of need; competitive sealed
700 proposals.—

701 (2) The agency shall make a decision regarding the
 702 issuance of the certificate of need in accordance with the
 703 provisions of s. 287.057(17) ~~s. 287.057(16)~~, rules adopted by
 704 the agency relating to intermediate care facilities for the
 705 developmentally disabled, and the criteria in s. 408.035, as
 706 further defined by rule.

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

709 570.07 Department of Agriculture and Consumer Services;
 710 functions, powers, and duties.—The department shall have and
 711 exercise the following functions, powers, and duties:

712 (42) Notwithstanding the provisions of s. 287.057(24) ~~s.~~
 713 ~~287.057(22)~~ that require all agencies to use the online
 714 procurement system developed by the Department of Management
 715 Services, the department may continue to use its own online
 716 system. However, vendors utilizing such system shall be
 717 prequalified as meeting mandatory requirements and
 718 qualifications and shall remit fees pursuant to s. 287.057(24)
 719 ~~s. 287.057(22)~~, and any rules implementing s. 287.057.

720 Section 16. Paragraph (e) of subsection (6) of section
 721 627.351, Florida Statutes, is amended to read:

722 627.351 Insurance risk apportionment plans.—

723 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

724 (e) The corporation is subject to s. 287.057 for the
 725 purchase of commodities and contractual services except as

726 otherwise provided in this paragraph. Services provided by
727 tradepersons or technical experts to assist a licensed adjuster
728 in the evaluation of individual claims are not subject to the
729 procurement requirements of this section. Additionally, the
730 procurement of financial services providers and underwriters
731 must be made pursuant to s. 627.3513. Contracts for goods or
732 services valued at or more than \$100,000 are subject to approval
733 by the board.

734 1. The corporation is an agency for purposes of s.
735 287.057, except that, for purposes of s. 287.057(24) ~~s.~~
736 ~~287.057(22)~~, the corporation is an eligible user.

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

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

743 2. The corporation must provide notice of a decision or
744 intended decision concerning a solicitation, contract award, or
745 exceptional purchase by electronic posting. Such notice must
746 contain the following statement: "Failure to file a protest
747 within the time prescribed in this section constitutes a waiver
748 of proceedings."

749 a. A person adversely affected by the corporation's
750 decision or intended decision to award a contract pursuant to s.

751 287.057(1) or (3)(c) who elects to challenge the decision must
752 file a written notice of protest with the executive director of
753 the corporation within 72 hours after the corporation posts a
754 notice of its decision or intended decision. For a protest of
755 the terms, conditions, and specifications contained in a
756 solicitation, including provisions governing the methods for
757 ranking bids, proposals, replies, awarding contracts, reserving
758 rights of further negotiation, or modifying or amending any
759 contract, the notice of protest must be filed in writing within
760 72 hours after posting the solicitation. Saturdays, Sundays, and
761 state holidays are excluded in the computation of the 72-hour
762 time period.

763 b. A formal written protest must be filed within 10 days
764 after the date the notice of protest is filed. The formal
765 written protest must state with particularity the facts and law
766 upon which the protest is based. Upon receipt of a formal
767 written protest that has been timely filed, the corporation must
768 stop the solicitation or contract award process until the
769 subject of the protest is resolved by final board action unless
770 the executive director sets forth in writing particular facts
771 and circumstances that require the continuance of the
772 solicitation or contract award process without delay in order to
773 avoid an immediate and serious danger to the public health,
774 safety, or welfare.

775 (I) The corporation must provide an opportunity to resolve

776 | the protest by mutual agreement between the parties within 7
777 | business days after receipt of the formal written protest.

778 | (II) If the subject of a protest is not resolved by mutual
779 | agreement within 7 business days, the corporation's board must
780 | transmit the protest to the Division of Administrative Hearings
781 | and contract with the division to conduct a hearing to determine
782 | the merits of the protest and to issue a recommended order. The
783 | contract must provide for the corporation to reimburse the
784 | division for any costs incurred by the division for court
785 | reporters, transcript preparation, travel, facility rental, and
786 | other customary hearing costs in the manner set forth in s.
787 | 120.65(9). The division has jurisdiction to determine the facts
788 | and law concerning the protest and to issue a recommended order.
789 | The division's rules and procedures apply to these proceedings;
790 | the division's applicable bond requirements do not apply. The
791 | protest must be heard by the division at a publicly noticed
792 | meeting in accordance with procedures established by the
793 | division.

794 | c. In a protest of an invitation-to-bid or request-for-
795 | proposals procurement, submissions made after the bid or
796 | proposal opening which amend or supplement the bid or proposal
797 | may not be considered. In protesting an invitation-to-negotiate
798 | procurement, submissions made after the corporation announces
799 | its intent to award a contract, reject all replies, or withdraw
800 | the solicitation that amends or supplements the reply may not be

801 considered. Unless otherwise provided by law, the burden of
802 proof rests with the party protesting the corporation's action.
803 In a competitive-procurement protest, other than a rejection of
804 all bids, proposals, or replies, the administrative law judge
805 must conduct a de novo proceeding to determine whether the
806 corporation's proposed action is contrary to the corporation's
807 governing statutes, the corporation's rules or policies, or the
808 solicitation specifications. The standard of proof for the
809 proceeding is whether the corporation's action was clearly
810 erroneous, contrary to competition, arbitrary, or capricious. In
811 any bid-protest proceeding contesting an intended corporation
812 action to reject all bids, proposals, or replies, the standard
813 of review by the board is whether the corporation's intended
814 action is illegal, arbitrary, dishonest, or fraudulent.

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

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

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