

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

1  
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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.—

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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



ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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~~

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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:

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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



ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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



ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.—

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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

ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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



ENROLLED

CS/CS/HB 1079, Engrossed 1

2021 Legislature

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.