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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
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Appropriations Subcommittee on Agriculture, Environment, and General Government (Brodeur) recommended the following:

Senate Substitute for Amendment (215548)

Delete lines 183 - 383

and insert:

(4) A state agency as defined in s. 287.012 may not initiate a competitive solicitation for a product or service if the completion of such competitive solicitation would:

(a) Require a change in law; or

(b) Require a change to the agency's budget other than a transfer authorized in s. 216.292(2) or (3), unless the



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11 initiation of such competitive solicitation is specifically
12 authorized in law, in the General Appropriations Act, or by the
13 Legislative Budget Commission.

14 (c) This subsection does not apply to a competitive
15 solicitation for which the agency head certifies that a valid
16 emergency exists.

17 (14)~~(13)~~ Contracts for commodities or contractual services
18 may be renewed for a period that may not exceed 3 years or the
19 term of the original contract, whichever is longer. Renewal of a
20 contract for commodities or contractual services must be in
21 writing and is subject to the same terms and conditions set
22 forth in the initial contract and any written amendments signed
23 by the parties. If the commodity or contractual service is
24 purchased as a result of the solicitation of bids, proposals, or
25 replies, the price of the commodity or contractual service to be
26 renewed must be specified in the bid, proposal, or reply, except
27 that an agency may negotiate lower pricing. A renewal contract
28 may not include any compensation for costs associated with the
29 renewal. Renewals are contingent upon satisfactory performance
30 evaluations by the agency and subject to the availability of
31 funds. Exceptional purchase contracts pursuant to paragraphs
32 (3) (a) and (c) may not be renewed. With the exception of
33 subsection (11) ~~(10)~~, if a contract amendment results in a
34 longer contract term or increased payments, a state agency may
35 not renew or amend a contract for the outsourcing of a service
36 or activity that has an original term value exceeding \$5 ~~\$10~~
37 million before submitting a written report concerning contract
38 performance to the Governor, the President of the Senate, and
39 the Speaker of the House of Representatives at least 90 days



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40 before execution of the renewal or amendment.

41 (15) (a) ~~(14)~~ For each contractual services contract, the
42 agency shall designate an employee to function as contract
43 manager who is responsible for enforcing performance of the
44 contract terms and conditions and serve as a liaison between
45 ~~with~~ the contractor and the agency. The contract manager may not
46 be an individual who has been employed, within the previous 5
47 years, by the vendor awarded the contractual services contract.
48 The primary responsibilities of a contract manager include, but
49 are not limited to:

50 1. Participating in the solicitation development and review
51 of contract documents.

52 2. Monitoring the contractor's progress and performance to
53 ensure procured products and services conform to the contract
54 requirements and keeping timely records of findings.

55 3. Managing and documenting any changes to the contract
56 through the amendment process authorized by the terms of the
57 contract.

58 4. Monitoring the contract budget to ensure sufficient
59 funds are available throughout the term of the contract.

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

62 (b) ~~(a)~~ Each contract manager who is responsible for
63 contracts in excess of the threshold amount for CATEGORY TWO
64 must, at a minimum, complete training conducted by the Chief
65 Financial Officer for accountability in contracts and grant
66 management. The Chief Financial Officer shall evaluate such
67 training every 5 years to assess its effectiveness and update
68 the training curriculum. The Chief Financial Officer shall



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69 establish and disseminate uniform procedures pursuant to s.
70 17.03(3) to ensure that contractual services have been rendered
71 in accordance with the contract terms before the agency
72 processes the invoice for payment. The procedures must include,
73 but need not be limited to, procedures for monitoring and
74 documenting contractor performance, reviewing and documenting
75 all deliverables for which payment is requested by vendors, and
76 providing written certification by contract managers of the
77 agency's receipt of goods and services.

78 (c) ~~(b)~~ Each contract manager who is responsible for
79 contracts in excess of \$100,000 annually must, in addition to
80 the accountability in contracts and grant management training
81 required in paragraph (b) and within 6 months after being
82 assigned responsibility for such contracts, complete training in
83 contract management and become a certified contract manager. The
84 department is responsible for establishing and disseminating the
85 training and certification requirements for certified contract
86 managers. Training must promote best practices and procedures
87 related to negotiating, managing, and ensuring accountability in
88 agency contracts and grant agreements, which must include the
89 use of case studies based upon previous audits, contracts, and
90 grant agreements. A certified contract manager must complete
91 training every 5 years for certification renewal requirements
92 for certification which include completing the training
93 conducted by the Chief Financial Officer for accountability in
94 contracts and grant management. Training and certification must
95 be coordinated by the department, and the training must be
96 conducted jointly by the department and the Department of
97 Financial Services. The department shall evaluate such training



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98 every 5 years to assess its effectiveness and update the
99 training curriculum ~~Training must promote best practices and~~
100 ~~procedures related to negotiating, managing, and ensuring~~
101 ~~accountability in agency contracts and grant agreements, which~~
102 ~~must include the use of case studies based upon previous audits,~~
103 ~~contracts, and grant agreements. All agency contract managers~~
104 ~~must become certified within 24 months after establishment of~~
105 ~~the training and certification requirements by the department~~
106 ~~and the Department of Financial Services.~~

107 (d) Each contract manager who is responsible for contracts
108 in excess of \$10 million annually must, in addition to the
109 training required in paragraph (b) and the training and
110 certification required in paragraph (c), possess at least 5
111 years of experience managing contracts in excess of \$5 million
112 annually.

113 (16) ~~(15)~~ Each agency shall designate at least one employee
114 who shall serve as a contract administrator responsible for
115 maintaining a contract file and financial information on all
116 contractual services contracts and who shall serve as a liaison
117 with the contract managers and the department. For a contract of
118 \$500,000 or less annually, the contract administrator may also
119 serve as the contract manager if he or she has completed the
120 required training. For a contract in excess of \$500,000
121 annually, the contract administrator may not serve as both the
122 contract administrator and the contract manager.

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

126 1. At least three persons to independently evaluate



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127 proposals and replies who collectively have experience and
128 knowledge in the program areas and service requirements for the
129 commodity ~~which commodities~~ or contractual services ~~are~~ sought.

130 2. At least three persons to a negotiation team to conduct
131 negotiations during a competitive sealed reply procurement. The
132 negotiation team members must ~~who~~ collectively have experience
133 and knowledge in negotiating contracts, contract procurement,
134 and the program areas and service requirements for the commodity
135 ~~which commodities~~ or contractual services ~~are~~ sought.

136 (b)1. If the value of a contract is in excess of \$1 million
137 in any fiscal year, at least one of the persons conducting
138 negotiations must be ~~certified as a~~ certified contract
139 negotiator ~~based upon department rules in order to ensure that~~
140 ~~certified contract negotiators are knowledgeable about effective~~
141 ~~negotiation strategies, capable of successfully implementing~~
142 ~~those strategies, and involved appropriately in the procurement~~
143 ~~process. At a minimum, the rules must address the qualifications~~
144 ~~required for certification, the method of certification, and the~~
145 ~~procedure for involving the certified negotiator.~~

146 2. If the value of a contract is in excess of \$10 million
147 in any fiscal year, at least one of the persons conducting
148 negotiations must be a Project Management Professional, as
149 certified by the Project Management Institute. The Project
150 Management Professional shall provide guidance based on his or
151 her experience, education, and competency to lead and direct
152 complex projects.

153 3. The department is responsible for establishing and
154 disseminating the certification and training requirements for
155 certified contract negotiators. Training must ensure that



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156 certified contract negotiators are knowledgeable about effective
157 negotiation strategies, capable of successfully implementing
158 those strategies, and involved appropriately in the procurement
159 process. The department shall evaluate such training every 5
160 years in order to assess its effectiveness and update the
161 training curriculum. A certified contract negotiator is required
162 to complete training every 5 years for certification renewal.

163 Qualification requirements for certification must include:

164 a. At least 12 months' experience as a purchasing agent,
165 contract manager, or contract administrator for an agency or a
166 local governmental entity where at least 50 percent of the
167 designated duties included procuring commodities or contractual
168 services; participating in contract negotiation, contract
169 management, or contract administration; or working as an agency
170 attorney whose duties included providing legal counsel to the
171 agency's purchasing or contracting staff; and

172 b. Experience during the preceding 5 years in leading at
173 least two federal, state, or local government negotiation teams
174 through a negotiated procurement, or participation in at least
175 three federal, state, or local government-negotiated
176 procurements.

177 (18) Any person who supervises contract administrators or
178 contract or grant managers who meet criteria for certification
179 in subsection (15) shall annually complete public procurement
180 training for supervisors within 12 months after appointment to
181 the supervisory position. The department is responsible for
182 establishing and disseminating the training course content
183 required for supervisors, and training shall commence no later
184 than July 1, 2022.



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185 (26) (a) For each contractual services contract in excess of
186 \$5 million, the agency head of an agency as defined in s.
187 287.012 shall establish a continuing oversight team after the
188 contract has been awarded. The agency head shall appoint at
189 least four persons, one of whom must be the certified contract
190 manager, to the continuing oversight team. If the value of the
191 contractual services contract is in excess of \$10 million, at
192 least one of the persons on the continuing oversight team must
193 possess at least 5 years of experience in managing contracts of
194 a similar scope or size. If the value of the contractual
195 services contract is in excess of \$20 million, the continuing
196 oversight team must consist of at least five persons, and at
197 least one of the persons on the continuing oversight team must
198 be from a state agency other than the agency or agencies
199 participating in the contract. Members of the continuing
200 oversight team must be employees of the state and must
201 collectively have experience and knowledge in contract
202 management, contract administration, contract enforcement, and
203 the program areas and service requirements for the contractual
204 services purchased.

205 (b)1. For contracts in excess of \$5 million, each
206 continuing oversight team must meet at least quarterly.