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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

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 certain requests 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 periodically report certain actions to
21 the department in a specified manner and form;
22 requiring the department to annually report certain
23 information to the Governor and the Legislature by a
24 specified date; prohibiting an agency from initiating
25 a competitive solicitation in certain circumstances;
26 providing applicability; revising the maximum value of



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27 certain contracts that may not be renewed or amended
28 by state agency before submitting a written report to
29 the Governor and the Legislature; requiring the agency
30 to designate a contract manager to serve as a liaison
31 between the contractor and the agency; prohibiting
32 certain individuals from serving as a contract
33 manager; providing the responsibilities of a contract
34 manager; requiring the Chief Financial Officer to
35 evaluate certain training at certain intervals;
36 requiring that certain contract managers complete
37 training and certification within a specified
38 timeframe; requiring the department to establish and
39 disseminate certain training and certification
40 requirements; requiring the department to evaluate
41 certain training at certain intervals; requiring
42 certain contract managers to possess certain
43 experience in managing contracts; authorizing a
44 contract administrator to also serve as a contract
45 manager in certain circumstances; providing that
46 evaluations of proposals and replies must be conducted
47 independently; providing for specified teams to
48 conduct certain negotiations; requiring a Project
49 Management Professional to provide guidance based on
50 certain qualifications; providing qualification
51 requirements for contract negotiator certification;
52 requiring supervisors of contract administrators or
53 contract and grant managers meeting certain criteria
54 to complete training within a specified period;
55 providing that the department is responsible for



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56 establishing and disseminating supervisor training by
57 a certain date; providing for a continuing oversight
58 team in certain circumstances; providing requirements
59 for continuing oversight team members and meetings;
60 requiring a continuing oversight team to provide
61 notice of certain deficiencies and changes in contract
62 scope to certain entities; amending s. 287.058, F.S.;
63 prohibiting a contract document for certain
64 contractual services from containing a certain
65 nondisclosure clause; creating s. 287.1351, F.S.;
66 defining the term "vendor"; prohibiting certain
67 vendors from submitting bids, proposals, or replies
68 to, or entering into or renewing any contract with, an
69 agency; prohibiting an agency from accepting a bid,
70 proposal, or reply from, or entering into a contract
71 with, a suspended vendor until certain conditions are
72 met; requiring an agency to notify the department of,
73 and provide certain information regarding, any such
74 vendors; requiring the department to review any vendor
75 reported by an agency; requiring the department to
76 notify a vendor of any intended removal from the
77 vendor list; specifying administrative remedies and
78 applicable procedures for an affected vendor;
79 requiring the department to place certain vendors on
80 the suspended vendor list; authorizing the removal of
81 a suspended vendor from the suspended vendor list in
82 accordance with specified procedures; specifying
83 requirements and limitations; amending s. 287.136,
84 F.S.; requiring each agency inspector general to



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85 complete certain audits of executed contracts at
86 certain intervals; amending ss. 43.16, 215.971,
87 287.0571, 295.187, 394.47865, 402.7305, 408.045,
88 570.07, and 627.351, F.S.; conforming cross-references
89 to changes made by the act; providing an effective
90 date.

91

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

93

94 Section 1. Notwithstanding the expiration date in section
95 106 of chapter 2020-114, Laws of Florida, section 216.1366,
96 Florida Statutes, is reenacted and amended to read:

97 216.1366 Contract terms.—

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

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

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

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

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

113 Section 2. Subsection (16) of section 287.042, Florida



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114 Statutes, is amended to read:

115 287.042 Powers, duties, and functions.—The department shall
116 have the following powers, duties, and functions:

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

124 Section 3. Subsection (2) of section 287.056, Florida
125 Statutes, is amended, and subsection (4) is added to that
126 section, to read:

127 287.056 Purchases from purchasing agreements and state term
128 contracts.—

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



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143 intended decision that is subject to protest under s. 120.57(3).

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

148 Section 4. Present subsections (4) through (16) and (17)
149 through (23) of section 287.057, Florida Statutes, are
150 redesignated as subsections (5) through (17) and (19) through
151 (25), respectively, new subsections (4) and (18) and subsection
152 (26) are added to that section, and paragraph (c) of subsection
153 (3) and present subsections (13) through (16) of that section
154 are amended, to read:

155 287.057 Procurement of commodities or contractual
156 services.—

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

163 (c) Commodities or contractual services available only from
164 a single source may be excepted from the competitive-
165 solicitation requirements. If an agency believes that
166 commodities or contractual services are available only from a
167 single source, the agency shall electronically post a
168 description of the commodities or contractual services sought
169 for at least 15 7 business days. The description must include a
170 request that prospective vendors provide information regarding
171 their ability to supply the commodities or contractual services



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172 described. If it is determined in writing by the agency, after
173 reviewing any information received from prospective vendors that
174 the commodities or contractual services are available only from
175 a single source, the agency shall provide notice of its intended
176 decision to enter a single-source purchase contract in the
177 manner specified in s. 120.57(3). Each agency shall report all
178 such actions to the department on a quarterly basis in a manner
179 and form prescribed by the department, and the department shall
180 report such information to the Governor, the President of the
181 Senate, and the Speaker of the House of Representatives no later
182 than January 1, 2022, and each January 1 thereafter.

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

186 (a) Require a change in law; or

187 (b) Require a change to the agency's budget other than a
188 transfer authorized in s. 216.292(2) or (3), unless the
189 initiation of such competitive solicitation is specifically
190 authorized in law, in the General Appropriations Act, or by the
191 Legislative Budget Commission.

192 (c) This subsection does not apply to a competitive
193 solicitation for which the agency head certifies that a valid
194 emergency exists.

195 (14) ~~(13)~~ Contracts for commodities or contractual services
196 may be renewed for a period that may not exceed 3 years or the
197 term of the original contract, whichever is longer. Renewal of a
198 contract for commodities or contractual services must be in
199 writing and is subject to the same terms and conditions set
200 forth in the initial contract and any written amendments signed



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

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

228 1. Participating in the solicitation development and review
229 of contract documents.



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230 2. Monitoring the contractor's progress and performance to
231 ensure procured products and services conform to the contract
232 requirements and keeping timely records of findings.

233 3. Managing and documenting any changes to the contract
234 through the amendment process authorized by the terms of the
235 contract.

236 4. Monitoring the contract budget to ensure sufficient
237 funds are available throughout the term of the contract.

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

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

256 (c) ~~(b)~~ Each contract manager who is responsible for
257 contracts in excess of \$100,000 annually must, in addition to
258 the accountability in contracts and grant management training



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259 required in paragraph (b) and within 6 months after being
260 assigned responsibility for such contracts, complete training in
261 contract management and become a certified contract manager. The
262 department is responsible for establishing and disseminating the
263 training and certification requirements for certified contract
264 managers. Training must promote best practices and procedures
265 related to negotiating, managing, and ensuring accountability in
266 agency contracts and grant agreements, which must include the
267 use of case studies based upon previous audits, contracts, and
268 grant agreements. A certified contract manager must complete
269 training every 5 years for certification renewal requirements
270 ~~for certification which include completing the training~~
271 ~~conducted by the Chief Financial Officer for accountability in~~
272 ~~contracts and grant management. Training and certification must~~
273 ~~be coordinated by the department, and the training must be~~
274 ~~conducted jointly by the department and the Department of~~
275 ~~Financial Services. The department shall evaluate such training~~
276 every 5 years to assess its effectiveness and update the
277 training curriculum ~~Training must promote best practices and~~
278 ~~procedures related to negotiating, managing, and ensuring~~
279 ~~accountability in agency contracts and grant agreements, which~~
280 ~~must include the use of case studies based upon previous audits,~~
281 ~~contracts, and grant agreements. All agency contract managers~~
282 ~~must become certified within 24 months after establishment of~~
283 ~~the training and certification requirements by the department~~
284 ~~and the Department of Financial Services.~~

285 (d) Each contract manager who is responsible for contracts
286 in excess of \$10 million annually must, in addition to the
287 training required in paragraph (b) and the training and



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288 certification required in paragraph (c), possess at least 5
289 years of experience managing contracts in excess of \$5 million
290 annually.

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

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

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

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

314 (b) 1. If the value of a contract is in excess of \$1 million
315 in any fiscal year, at least one of the persons conducting
316 negotiations must be ~~certified as~~ a certified contract



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317 ~~negotiator based upon department rules in order to ensure that~~
318 ~~certified contract negotiators are knowledgeable about effective~~
319 ~~negotiation strategies, capable of successfully implementing~~
320 ~~those strategies, and involved appropriately in the procurement~~
321 ~~process. At a minimum, the rules must address the qualifications~~
322 ~~required for certification, the method of certification, and the~~
323 ~~procedure for involving the certified negotiator.~~

324 2. If the value of a contract is in excess of \$10 million
325 in any fiscal year, at least one of the persons conducting
326 negotiations must be a Project Management Professional, as
327 certified by the Project Management Institute. The Project
328 Management Professional shall provide guidance based on his or
329 her experience, education, and competency to lead and direct
330 complex projects.

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

342 a. At least 12 months' experience as a purchasing agent,
343 contract manager, or contract administrator for an agency or a
344 local governmental entity where at least 50 percent of the
345 designated duties included procuring commodities or contractual



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346 services; participating in contract negotiation, contract
347 management, or contract administration; or working as an agency
348 attorney whose duties included providing legal counsel to the
349 agency's purchasing or contracting staff; and

350 b. Experience during the preceding 5 years in leading at
351 least two federal, state, or local government negotiation teams
352 through a negotiated procurement, or participation in at least
353 three federal, state, or local government-negotiated
354 procurements.

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

363 (26) (a) For each contractual services contract in excess of
364 \$5 million, the agency head of an agency as defined in s.
365 287.012 shall establish a continuing oversight team after the
366 contract has been awarded. The agency head shall appoint at
367 least four persons, one of whom must be the certified contract
368 manager, to the continuing oversight team. If the value of the
369 contractual services contract is in excess of \$10 million, at
370 least one of the persons on the continuing oversight team must
371 possess at least 5 years of experience in managing contracts of
372 a similar scope or size. If the value of the contractual
373 services contract is in excess of \$20 million, the continuing
374 oversight team must consist of at least five persons, and at



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375 least one of the persons on the continuing oversight team must
376 be from a state agency other than the agency or agencies
377 participating in the contract. Members of the continuing
378 oversight team must be employees of the state and must
379 collectively have experience and knowledge in contract
380 management, contract administration, contract enforcement, and
381 the program areas and service requirements for the contractual
382 services purchased.

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

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

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

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



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

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

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

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

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

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

431 287.058 Contract document.—

432 (7) A contract may not contain a nondisclosure clause that



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433 prohibits the contractor from disclosing information relevant to
434 the performance of the contract to members or staff of the
435 Senate or the House of Representatives.

436 Section 6. Section 287.1351, Florida Statutes, is created
437 to read:

438 287.1351 Suspended vendors; state contracts.—

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

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

451 (b) An agency may not accept a bid, proposal, or reply
452 from, or enter into or renew any contract with, a vendor on the
453 suspended vendor list until such vendor has been removed from
454 the suspended vendor list and returned to the vendor list
455 maintained by the department pursuant to s. 287.042(1) (a) and
456 (b) and the vendor has reimbursed the agency for any
457 reprocurement costs.

458 (3) An agency shall notify the department of any vendor
459 that has met the grounds for suspension described in paragraph
460 (2) (a). The agency must provide documentation to the department
461 evidencing the vendor's default or other grounds for suspension.



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462 The department shall review the documentation provided and
463 determine whether good cause exists to remove the vendor from
464 the vendor list and to place it on the suspended vendor list. If
465 good cause exists, the department must notify the vendor in
466 writing of its intent to remove the vendor from the vendor list
467 and of the vendor's right to an administrative hearing and the
468 applicable procedures and time requirements for any such
469 hearing. If the vendor does not request an administrative
470 hearing, the department must enter a final order removing the
471 vendor from the vendor list. A vendor may not be removed from
472 the vendor list without receiving an individual notice of intent
473 from the department.

474 (4) Within 21 days after receipt of the notice of intent,
475 the vendor may file with the department a petition for a formal
476 hearing pursuant to ss. 120.569 and 120.57 to challenge the
477 department's decision to remove the vendor from the vendor list.
478 A vendor that fails to timely file a petition in accordance with
479 this subsection is deemed to have waived its right to a hearing,
480 and the department's decision to remove the vendor from the
481 vendor list becomes final agency action.

482 (5) (a) The department shall place any vendor removed from
483 the vendor list pursuant to this section on the suspended vendor
484 list. One year or more after entry of the final order of its
485 suspension, a suspended vendor may file a petition with the
486 department for removal from the suspended vendor list. The
487 proceeding on the petition must be conducted in accordance with
488 chapter 120. The vendor may be removed from the suspended vendor
489 list if the administrative law judge determines that removal
490 from the list would be in the public interest. In determining



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491 whether removal from the list would be in the public interest,
492 the administrative law judge may consider, but is not limited
493 to, whether the suspended vendor has prepared a corrective
494 action plan that addresses the original grounds for default or
495 failure to fulfill the terms and conditions of the contract,
496 reimbursed the agency for any reprocurement costs, or provided
497 additional evidence that the vendor has taken other remedial
498 action.

499 (b) If a petition for removal from the suspended vendor
500 list is denied, the vendor may not petition for another hearing
501 on removal for a period of at least 9 months after the date of
502 the denial. The department may petition for the suspended
503 vendor's removal before the expiration of such period if, in the
504 department's discretion, the department determines that removal
505 from the suspended vendor list would be in the public interest.

506 Section 7. Section 287.136, Florida Statutes, is amended to
507 read:

508 287.136 Audit of executed contract documents.—

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

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

519 (b) ~~(2)~~ Within 30 days after receipt of the final audit



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520 report, the agency head shall submit to the Chief Financial
521 Officer or designee his or her written statement of explanation
522 or rebuttal concerning findings requiring corrective action,
523 including corrective action to be taken to preclude a
524 recurrence.

525 (2) Beginning October 1, 2021, and every 3 years
526 thereafter, each agency inspector general shall complete a risk-
527 based compliance audit of all contracts executed by the agency
528 for the preceding 3 fiscal years. The audit must include an
529 evaluation of and identify any trend in vendor preference. The
530 audit findings must be submitted to the agency head, the
531 secretary of the Department of Management Services, and the
532 Governor.

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

535 43.16 Justice Administrative Commission; membership, powers
536 and duties.—

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

544 Section 9. Paragraph (a) of subsection (2) of section
545 215.971, Florida Statutes, is amended to read:

546 215.971 Agreements funded with federal or state
547 assistance.—

548 (2) For each agreement funded with federal or state



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549 financial assistance, the state agency shall designate an
550 employee to function as a grant manager who shall be responsible
551 for enforcing performance of the agreement's terms and
552 conditions and who shall serve as a liaison with the recipient
553 or subrecipient.

554 (a)1. Each grant manager who is responsible for agreements
555 in excess of the threshold amount for CATEGORY TWO under s.
556 287.017 must, at a minimum, complete training conducted by the
557 Chief Financial Officer for accountability in contracts and
558 grant management.

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

567 Section 10. Paragraph (a) of subsection (3) of section
568 287.0571, Florida Statutes, is amended to read:

569 287.0571 Business case to outsource; applicability.—

570 (3) This section does not apply to:

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

573 Section 11. Paragraph (b) of subsection (4) of section
574 295.187, Florida Statutes, is amended to read:

575 295.187 Florida Veteran Business Enterprise Opportunity
576 Act.—

577 (4) VENDOR PREFERENCE.—



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578 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a
579 veteran business enterprise entitled to the vendor preference
580 under this section and one or more businesses entitled to this
581 preference or another vendor preference provided by law submit
582 bids, proposals, or replies for procurement of commodities or
583 contractual services which are equal with respect to all
584 relevant considerations, including price, quality, and service,
585 the state agency shall award the procurement or contract to the
586 business having the smallest net worth.

587 Section 12. Paragraph (a) of subsection (1) of section
588 394.47865, Florida Statutes, is amended to read:

589 394.47865 South Florida State Hospital; privatization.—

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

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

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



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607 402.7305 Department of Children and Families; procurement
608 of contractual services; contract management.—

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

610 (b) When it is in the best interest of a defined segment of
611 its consumer population, the department may competitively
612 procure and contract for systems of treatment or service that
613 involve multiple providers, rather than procuring and
614 contracting for treatment or services separately from each
615 participating provider. The department must ensure that all
616 providers that participate in the treatment or service system
617 meet all applicable statutory, regulatory, service quality, and
618 cost control requirements. If other governmental entities or
619 units of special purpose government contribute matching funds to
620 the support of a given system of treatment or service, the
621 department shall formally request information from those funding
622 entities in the procurement process and may take the information
623 received into account in the selection process. If a local
624 government contributes matching funds to support the system of
625 treatment or contracted service and if the match constitutes at
626 least 25 percent of the value of the contract, the department
627 shall afford the governmental match contributor an opportunity
628 to name an employee as one of the persons required by s.
629 287.057(17) ~~s. 287.057(16)~~ to evaluate or negotiate certain
630 contracts, unless the department sets forth in writing the
631 reason why the inclusion would be contrary to the best interest
632 of the state. Any employee so named by the governmental match
633 contributor shall qualify as one of the persons required by s.
634 287.057(17) ~~s. 287.057(16)~~. A governmental entity or unit of
635 special purpose government may not name an employee as one of



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636 the persons required by s. 287.057(17) ~~s. 287.057(16)~~ if it, or
637 any of its political subdivisions, executive agencies, or
638 special districts, intends to compete for the contract to be
639 awarded. The governmental funding entity or contributor of
640 matching funds must comply with all procurement procedures set
641 forth in s. 287.057 when appropriate and required.

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

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

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



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665 payment.

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

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

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

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



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694 corrective action items.

695 (g) The contract manager shall document any contract
696 modifications, which shall include recording any contract
697 amendments as provided for in this section.

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

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

702 408.045 Certificate of need; competitive sealed proposals.—

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

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

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

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

722 Section 16. Paragraph (e) of subsection (6) of section



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723 627.351, Florida Statutes, is amended to read:

724 627.351 Insurance risk apportionment plans.—

725 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

726 (e) The corporation is subject to s. 287.057 for the
727 purchase of commodities and contractual services except as
728 otherwise provided in this paragraph. Services provided by
729 tradepersons or technical experts to assist a licensed adjuster
730 in the evaluation of individual claims are not subject to the
731 procurement requirements of this section. Additionally, the
732 procurement of financial services providers and underwriters
733 must be made pursuant to s. 627.3513. Contracts for goods or
734 services valued at or more than \$100,000 are subject to approval
735 by the board.

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

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

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

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

751 a. A person adversely affected by the corporation's



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

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

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

780 (II) If the subject of a protest is not resolved by mutual



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

796 c. In a protest of an invitation-to-bid or request-for-
797 proposals procurement, submissions made after the bid or
798 proposal opening which amend or supplement the bid or proposal
799 may not be considered. In protesting an invitation-to-negotiate
800 procurement, submissions made after the corporation announces
801 its intent to award a contract, reject all replies, or withdraw
802 the solicitation that amends or supplements the reply may not be
803 considered. Unless otherwise provided by law, the burden of
804 proof rests with the party protesting the corporation's action.
805 In a competitive-procurement protest, other than a rejection of
806 all bids, proposals, or replies, the administrative law judge
807 must conduct a de novo proceeding to determine whether the
808 corporation's proposed action is contrary to the corporation's
809 governing statutes, the corporation's rules or policies, or the



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810 solicitation specifications. The standard of proof for the
811 proceeding is whether the corporation's action was clearly
812 erroneous, contrary to competition, arbitrary, or capricious. In
813 any bid-protest proceeding contesting an intended corporation
814 action to reject all bids, proposals, or replies, the standard
815 of review by the board is whether the corporation's intended
816 action is illegal, arbitrary, dishonest, or fraudulent.

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

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

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