

By the Committee on Governmental Oversight and Accountability;
and Senator Brodeur

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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
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

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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
56 establishing and disseminating supervisor training by
57 a certain date; providing for a continuing oversight
58 team in certain circumstances; providing requirements

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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
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,

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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
114 Statutes, is amended to read:

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

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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 100 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 100
140 vendors, the agency must issue a request for quote to a minimum
141 of 100 vendors approved to provide such contractual services.
142 Use of a request for quote does not constitute a decision or
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

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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
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

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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 may not initiate a competitive
184 solicitation for a product or service if the completion of such
185 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
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

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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.

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.

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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
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

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

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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
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~~

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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
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

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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 \$1 million, the agency head shall establish a continuing
365 oversight team after the contract has been awarded. The agency
366 head shall appoint at least four persons, one of whom must be
367 the certified contract manager, to the continuing oversight
368 team. If the value of the contractual services contract is in
369 excess of \$5 million, at least one of the persons on the
370 continuing oversight team must possess at least 5 years of
371 experience in managing contracts of a similar scope or size. If
372 the value of the contractual services contract is in excess of
373 \$20 million, the continuing oversight team shall consist of at
374 least five persons, at least one of the persons on the
375 continuing oversight team must be from a state agency other than
376 the agency or agencies participating in the contract. Members of
377 the continuing oversight team must be employees of the state and

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

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

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

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

399 2. The continuing oversight team must meet to discuss the
400 status of the contract, the pace of deliverables, the quality of
401 deliverables, contractor responsiveness, and contractor
402 performance. The contract administrator must be present at each
403 meeting with the contract file and all applicable financial
404 information. The continuing oversight team may submit written
405 questions to the contractor concerning any items discussed
406 during a continuing oversight team meeting. The contractor must

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407 respond to the team's questions within 10 business days after
408 receiving the written questions. The questions and responses
409 must be included in the contract file.

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

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

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

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

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

430 287.058 Contract document.—

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

435 Section 6. Section 287.1351, Florida Statutes, is created

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436 to read:

437 287.1351 Suspended vendors; state contracts.-

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

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

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

457 (3) An agency shall notify the department of any vendor
458 that has met the grounds for suspension described in paragraph
459 (2) (a). The agency must provide documentation to the department
460 evidencing the vendor's default or other grounds for suspension.
461 The department shall review the documentation provided and
462 determine whether good cause exists to remove the vendor from
463 the vendor list and to place it on the suspended vendor list. If
464 good cause exists, the department must notify the vendor in

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465 writing of its intent to remove the vendor from the vendor list
466 and of the vendor's right to an administrative hearing and the
467 applicable procedures and time requirements for any such
468 hearing. If the vendor does not request an administrative
469 hearing, the department must enter a final order removing the
470 vendor from the vendor list. A vendor may not be removed from
471 the vendor list without receiving an individual notice of intent
472 from the department.

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

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

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494 failure to fulfill the terms and conditions of the contract,
495 reimbursed the agency for any reprocurement costs, or provided
496 additional evidence that the vendor has taken other remedial
497 action.

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

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

507 287.136 Audit of executed contract documents.—

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

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

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

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523 recurrence.

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

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

534 43.16 Justice Administrative Commission; membership, powers
535 and duties.—

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

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

545 215.971 Agreements funded with federal or state
546 assistance.—

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

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552 or subrecipient.

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

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

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

568 287.0571 Business case to outsource; applicability.—

569 (3) This section does not apply to:

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

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

574 295.187 Florida Veteran Business Enterprise Opportunity
575 Act.—

576 (4) VENDOR PREFERENCE.—

577 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a
578 veteran business enterprise entitled to the vendor preference
579 under this section and one or more businesses entitled to this
580 preference or another vendor preference provided by law submit

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581 bids, proposals, or replies for procurement of commodities or
582 contractual services which are equal with respect to all
583 relevant considerations, including price, quality, and service,
584 the state agency shall award the procurement or contract to the
585 business having the smallest net worth.

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

588 394.47865 South Florida State Hospital; privatization.—

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

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

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

606 402.7305 Department of Children and Families; procurement
607 of contractual services; contract management.—

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

609 (b) When it is in the best interest of a defined segment of

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

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639 matching funds must comply with all procurement procedures set
640 forth in s. 287.057 when appropriate and required.

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

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

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

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

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668 records.

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

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

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

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

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

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

701 408.045 Certificate of need; competitive sealed proposals.—

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

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

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

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

721 Section 16. Paragraph (e) of subsection (6) of section
722 627.351, Florida Statutes, is amended to read:

723 627.351 Insurance risk apportionment plans.—

724 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

725 (e) The corporation is subject to s. 287.057 for the

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

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

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

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

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

750 a. A person adversely affected by the corporation's
751 decision or intended decision to award a contract pursuant to s.
752 287.057(1) or (3)(c) who elects to challenge the decision must
753 file a written notice of protest with the executive director of
754 the corporation within 72 hours after the corporation posts a

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755 notice of its decision or intended decision. For a protest of
756 the terms, conditions, and specifications contained in a
757 solicitation, including provisions governing the methods for
758 ranking bids, proposals, replies, awarding contracts, reserving
759 rights of further negotiation, or modifying or amending any
760 contract, the notice of protest must be filed in writing within
761 72 hours after posting the solicitation. Saturdays, Sundays, and
762 state holidays are excluded in the computation of the 72-hour
763 time period.

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

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

779 (II) If the subject of a protest is not resolved by mutual
780 agreement within 7 business days, the corporation's board must
781 transmit the protest to the Division of Administrative Hearings
782 and contract with the division to conduct a hearing to determine
783 the merits of the protest and to issue a recommended order. The

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

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

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813 action to reject all bids, proposals, or replies, the standard
814 of review by the board is whether the corporation's intended
815 action is illegal, arbitrary, dishonest, or fraudulent.

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

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

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