

26 technical change; amending s. 287.084, F.S.; providing
27 that a vendor is deemed to have its principal place of
28 business in this state if it meets certain criteria;
29 requiring agencies to consider a specified price
30 preference for bids and proposals for certain
31 competitive solicitations from vendors whose principal
32 places of business are in this state; requiring
33 agencies to disclose such preference in the stated
34 goals of an invitation to negotiate to determine best
35 value; providing an order of preference when two or
36 more bids, proposals, or replies for certain
37 competitive solicitations are submitted by such
38 vendors; prohibiting such vendors from substituting
39 end products that would otherwise not qualify for a
40 certain preference after the award of the contract or
41 during the contract term unless specified conditions
42 exist; requiring agencies to consider a specified
43 price preference for bids and proposals for certain
44 competitive solicitations from vendors whose principal
45 places of business are in the United States; requiring
46 agencies to disclose such preference in the stated
47 goals of an invitation to negotiate to determine best
48 value; providing construction; providing an order of
49 preference when two or more bids, proposals, or
50 replies for certain competitive solicitations are

51 submitted by such vendors; prohibiting such vendors
 52 from substituting end products that would otherwise
 53 not qualify for a certain preference after the award
 54 of the contract or during the contract term unless
 55 specified conditions exist; providing applicability;
 56 authorizing agencies to apply a preference upon
 57 receipt and review of documentation submitted by a
 58 vendor establishing that its supply chain does not use
 59 child or forced labor; revising applicability;
 60 creating s. 287.0841, F.S.; requiring agencies to
 61 consider a price preference for bids and proposals
 62 from vendors that have obtained investments from the
 63 Florida Venture Capital Program; providing an
 64 effective date.

65

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

67

68 Section 1. Paragraph (n) of subsection (2) and subsection
 69 (4) of section 110.205, Florida Statutes, are amended, and
 70 paragraphs (y), (z), and (aa) are added to subsection (2) of
 71 that section, to read:

72 110.205 Career service; exemptions.—

73 (2) EXEMPT POSITIONS.—The exempt positions that are not
 74 covered by this part include the following:

75 (n)1.a. In addition to those positions exempted by other

76 paragraphs of this subsection, each department head may
 77 designate a maximum of 20 policymaking or managerial positions,
 78 as defined by the department and approved by the Administration
 79 Commission, as being exempt from the Career Service System.
 80 Career service employees who occupy a position designated as a
 81 position in the Selected Exempt Service under this paragraph
 82 shall have the right to remain in the Career Service System by
 83 opting to serve in a position not exempted by the employing
 84 agency. Unless otherwise fixed by law, the department shall set
 85 the salary and benefits of these positions in accordance with
 86 the rules of the Selected Exempt Service; ~~provided, however,~~
 87 ~~that if the agency head determines that the general counsel,~~
 88 ~~chief Cabinet aide, public information administrator or~~
 89 ~~comparable position for a Cabinet officer, inspector general, or~~
 90 ~~legislative affairs director has both policymaking and~~
 91 ~~managerial responsibilities and if the department determines~~
 92 ~~that any such position has both policymaking and managerial~~
 93 ~~responsibilities, the salary and benefits for each such position~~
 94 ~~shall be established by the department in accordance with the~~
 95 ~~rules of the Senior Management Service.~~

96 b. In addition, each department may designate one
 97 additional position in the Senior Management Service if that
 98 position reports directly to the agency head or to a position in
 99 the Senior Management Service and if any additional costs are
 100 absorbed from the existing budget of that department.

101 2. If otherwise exempt, employees of the Public Employees
102 Relations Commission, the Commission on Human Relations, and the
103 Reemployment Assistance Appeals Commission, upon the
104 certification of their respective commission heads, may be
105 provided for under this paragraph as members of the Senior
106 Management Service, if otherwise qualified. However, the deputy
107 general counsel of the Public Employees Relations Commission
108 shall be compensated as members of the Selected Exempt Service.

109 (y) The general counsel, chief or senior Cabinet aide,
110 public information administrator, communications director or
111 comparable position, inspector general, chief information
112 officer, agency information security manager designated pursuant
113 to s. 282.318(4)(a), and legislative affairs director of each
114 department. The department shall establish the salary and
115 benefits for these positions in accordance with the rules of the
116 Senior Management Service.

117 (z) Personnel employed by or reporting to the inspector
118 general, general counsel, state chief information security
119 officer, state chief data officer, and agency information
120 security manager designated pursuant to s. 282.318(4)(a). Unless
121 otherwise fixed by law, the department shall establish the
122 salary and benefits for these positions in accordance with the
123 rules of the Selected Exempt Service.

124 (aa) All actuaries at each department. Unless otherwise
125 fixed by law, the department shall establish the salaries and

126 | benefits for these positions in accordance with the rules of the
 127 | Selected Exempt Service.

128 | (4) DEFINITION OF DEPARTMENT.—When used in this section,
 129 | the term "department" shall mean all departments and commissions
 130 | of the executive branch, whether created by the State
 131 | Constitution or chapter 20; the office of the Governor; the
 132 | Office of Insurance Regulation of the Financial Services
 133 | Commission; the Office of Financial Regulation of the Financial
 134 | Services Commission; the Florida Gaming Control Commission; the
 135 | Division of Administrative Hearings; the Commission on Offender
 136 | Review; the Florida Commission on Human Relations; the Public
 137 | Employees Relations Commission; and the Public Service
 138 | Commission; however, the term "department" shall mean the
 139 | Department of Management Services when used in the context of
 140 | the authority to establish pay bands and benefits.

141 | Section 2. Subsection (1) of section 110.211, Florida
 142 | Statutes, is amended to read:

143 | 110.211 Recruitment.—

144 | (1) Recruiting must ~~shall~~ be planned and carried out in a
 145 | manner that assures open competition based upon current and
 146 | projected employing agency needs, taking into consideration the
 147 | number and types of positions to be filled and the labor market
 148 | conditions, with special emphasis placed on recruiting efforts
 149 | to attract minorities, women, or other groups ~~that are~~
 150 | underrepresented in the workforce of the employing agency.

151 However, open competition is not required when an employing
 152 agency is filling a position with an apprentice participating in
 153 an apprenticeship program as defined in s. 446.021(6) in a
 154 related field.

155 Section 3. Section 217.07, Florida Statutes, is amended to
 156 read:

157 217.07 Transfer of surplus property assets to department.—
 158 The Chief Financial Officer is authorized to transfer to the
 159 department any funds unexpended in the Surplus Property
 160 Revolving Trust Fund account in the State Treasury. This
 161 revolving fund shall remain in existence as a separate trust
 162 fund as long as the surplus property program exists. Upon
 163 termination of the program, any remaining funds shall be
 164 disposed of as provided by federal law. All funds held in the
 165 Surplus Property Revolving Trust Fund account in the State
 166 Treasury generated by the Federal Surplus Personal Property
 167 Donation Program may be used only for the direct and indirect
 168 operating expenses of the Federal Surplus Personal Property
 169 Donation Program administered by the department.

170 Section 4. Section 217.22, Florida Statutes, is created to
 171 read:

172 217.22 Exemption from sales tax on donated personal
 173 property.—Notwithstanding chapter 212, regarding taxes on the
 174 sale of personal property, eligible United States Small Business
 175 Administration-approved veteran-owned small businesses, service-

176 disabled veteran-owned small businesses or businesses which
177 participate in the United States Small Business Administration
178 business development program, and other entities eligible to
179 receive a distribution under the Federal Surplus Personal
180 Property Donation Program are exempt from sales tax otherwise
181 assessed pursuant to chapter 212 on any costs, charges, or fees
182 assessed in connection with the transfer of personal property
183 through the Federal Surplus Personal Property Donation Program.

184 Section 5. Present subsections (3) through (29) of section
185 287.012, Florida Statutes, are redesignated as subsections (4)
186 through (30), respectively, and a new subsection (3) is added to
187 that section, to read:

188 287.012 Definitions.—As used in this part, the term:

189 (3) "Aircraft" means an airplane, a helicopter, or other
190 machine capable of flight. The term does not include unmanned
191 aircraft systems as defined in s. 330.41(2) or drones as defined
192 in s. 934.50(2).

193 Section 6. Paragraph (e) of subsection (3) and paragraph
194 (d) of subsection (15) of section 287.057, Florida Statutes, are
195 amended to read:

196 287.057 Procurement of commodities or contractual
197 services.—

198 (3) If the purchase price of commodities or contractual
199 services exceeds the threshold amount provided in s. 287.017 for
200 CATEGORY TWO, purchase of commodities or contractual services

201 may not be made without receiving competitive sealed bids,
 202 competitive sealed proposals, or competitive sealed replies
 203 unless:

204 (e) The following contractual services and commodities are
 205 not subject to the competitive-solicitation requirements of this
 206 section:

207 1. Artistic services. As used in this subsection, the term
 208 "artistic services" does not include advertising or typesetting.
 209 As used in this subparagraph, the term "advertising" means the
 210 making of a representation in any form in connection with a
 211 trade, business, craft, or profession in order to promote the
 212 supply of commodities or services by the person promoting the
 213 commodities or contractual services.

214 2. Academic program reviews if the fee for such services
 215 does not exceed \$50,000.

216 3. Lectures by individuals.

217 4. Legal services, including attorney, paralegal, expert
 218 witness, appraisal, or mediator services.

219 5. Health services involving examination, diagnosis,
 220 treatment, prevention, medical consultation, or administration.
 221 The term also includes, but is not limited to, substance abuse
 222 and mental health services involving examination, diagnosis,
 223 treatment, prevention, or medical consultation if such services
 224 are offered to eligible individuals participating in a specific
 225 program that qualifies multiple providers and uses a standard

226 | payment methodology. Reimbursement of administrative costs for
 227 | providers of services purchased in this manner are also exempt.
 228 | For purposes of this subparagraph, the term "providers" means
 229 | health professionals and health facilities, or organizations
 230 | that deliver or arrange for the delivery of health services.

231 | 6. Services provided to persons with mental or physical
 232 | disabilities by not-for-profit corporations that have obtained
 233 | exemptions under s. 501(c)(3) of the United States Internal
 234 | Revenue Code or when such services are governed by Office of
 235 | Management and Budget Circular A-122. However, in acquiring such
 236 | services, the agency shall consider the ability of the vendor,
 237 | past performance, willingness to meet time requirements, and
 238 | price.

239 | 7. Medicaid services delivered to an eligible Medicaid
 240 | recipient unless the agency is directed otherwise in law.

241 | 8. Family placement services.

242 | 9. Prevention services related to mental health, including
 243 | drug abuse prevention programs, child abuse prevention programs,
 244 | and shelters for runaways, operated by not-for-profit
 245 | corporations. However, in acquiring such services, the agency
 246 | shall consider the ability of the vendor, past performance,
 247 | willingness to meet time requirements, and price.

248 | 10. Training and education services provided to injured
 249 | employees pursuant to s. 440.491(6).

250 | 11. Contracts entered into pursuant to s. 337.11.

251 12. Services or commodities provided by governmental
 252 entities.

253 13. Statewide public service announcement programs
 254 provided by a Florida statewide nonprofit corporation under s.
 255 501(c)(6) of the Internal Revenue Code which have a guaranteed
 256 documented match of at least \$3 to \$1.

257 14. Aircraft maintenance, repairs, modifications, systems,
 258 parts, and other related components.

259 (15)

260 (d) Each contract manager who is responsible for contracts
 261 in excess of \$10 million annually must, in addition to the
 262 training required in paragraph (b) and the training and
 263 certification required in paragraph (c), possess at least 3 ~~5~~
 264 years of experience managing contracts totaling at least ~~in~~
 265 ~~excess of~~ \$5 million annually.

266 Section 7. Section 287.084, Florida Statutes, is amended
 267 to read:

268 287.084 Preference to Florida businesses.—

269 (1) For the purposes of this section, a vendor is deemed
 270 to have its principal place of business in this state if the
 271 vendor meets all of the following criteria:

272 (a) Is incorporated in this state as a Florida business
 273 entity, not a foreign business entity, excluding cases in which
 274 incorporation is used to do business on behalf of a parent
 275 company or to benefit an owner outside of this state.

276 (b) Maintains a physical location in this state.

277 (c) More than 50 percent of its workforce is domiciled in
 278 this state.

279 (2) For all competitive solicitations for contracts for
 280 commodities and contractual services with an annual value in
 281 excess of the threshold amount for CATEGORY TWO in s. 287.017,
 282 an agency must consider a price preference for bids and
 283 proposals from vendors whose principal places of business are in
 284 this state. For competitive solicitations pursuant to s.
 285 287.057(1)(c), an agency must consider a preference for vendors
 286 whose principal places of business are in this state and must
 287 disclose this preference in the stated goals of an invitation to
 288 negotiate in order to determine best value.

289 (3) When two or more bids, proposals, or replies for
 290 competitive solicitations for contracts for commodities and
 291 contractual services are submitted by vendors whose principal
 292 places of business are in this state, and when all things stated
 293 in such bids, proposals, or replies are equal with respect to
 294 price, quality, and service, the following preferences must be
 295 granted in the following order:

296 (a) To a vendor whose goods are manufactured and assembled
 297 in their entirety in this state. A vendor may not substitute end
 298 products that would otherwise not qualify for this preference
 299 after the award of the contract or during the contract term
 300 unless pricing or availability of supply is affected by extreme

301 and unforeseen volatility in the marketplace.

302 (b) To a vendor that manufactures a larger percentage of
 303 its goods in this state.

304 (c) To a vendor that employs the greater number of
 305 individuals domiciled in this state.

306 (4) For all competitive solicitations for contracts for
 307 commodities and contractual services with an annual value in
 308 excess of the threshold amount for CATEGORY TWO in s. 287.017,
 309 an agency must consider a price preference for bids and
 310 proposals from vendors whose principal places of business are in
 311 the United States. For competitive solicitations pursuant to s.
 312 287.057(1)(c), an agency must consider a preference for vendors
 313 whose principal places of business are in the United States and
 314 must disclose this preference in the stated goals of an
 315 invitation to negotiate in order to determine best value. For
 316 vendors whose principal places of business are in this state,
 317 this preference must be calculated after the preference provided
 318 in subsection (2).

319 (5) When two or more bids, proposals, or replies for
 320 competitive solicitations for contracts for commodities and
 321 contractual services are submitted by vendors whose principal
 322 places of business are in the United States, and when all things
 323 stated in such bids, proposals, or replies are equal with
 324 respect to price, quality, and service, the following
 325 preferences must be granted in the following order:

326 (a) To a vendor whose goods are manufactured and assembled
327 in their entirety in the United States. A vendor may not
328 substitute end products that would otherwise not qualify for
329 this preference after the award of the contract or during the
330 contract term unless pricing or availability of supply is
331 affected by extreme and unforeseen volatility in the
332 marketplace.

333 (b) To a vendor that manufactures a larger percentage of
334 its goods in the United States.

335 (c) To a vendor that employs the greater number of
336 individuals domiciled in the United States.

337 (6) Preferences applied under this section have precedence
338 over those applied pursuant to s. 287.092.

339 (7) An agency may also apply a preference upon receipt and
340 review of documentation submitted by a vendor establishing that
341 the vendor's supply chain does not produce commodities resulting
342 from the use of child or forced labor as those terms are defined
343 by the Bureau of International Labor Affairs of the United
344 States Department of Labor.

345 ~~(1)(a) When an agency, university, college, school~~
346 ~~district, or other political subdivision of the state is~~
347 ~~required to make purchases of personal property through~~
348 ~~competitive solicitation and the lowest responsible and~~
349 ~~responsive bid, proposal, or reply is by a vendor whose~~
350 ~~principal place of business is in a state or political~~

351 ~~subdivision thereof which grants a preference for the purchase~~
352 ~~of such personal property to a person whose principal place of~~
353 ~~business is in such state, then the agency, university, college,~~
354 ~~school district, or other political subdivision of this state~~
355 ~~shall award a preference to the lowest responsible and~~
356 ~~responsive vendor having a principal place of business within~~
357 ~~this state, which preference is equal to the preference granted~~
358 ~~by the state or political subdivision thereof in which the~~
359 ~~lowest responsible and responsive vendor has its principal place~~
360 ~~of business. In a competitive solicitation in which the lowest~~
361 ~~bid is submitted by a vendor whose principal place of business~~
362 ~~is located outside the state and that state does not grant a~~
363 ~~preference in competitive solicitation to vendors having a~~
364 ~~principal place of business in that state, the preference to the~~
365 ~~lowest responsible and responsive vendor having a principal~~
366 ~~place of business in this state shall be 5 percent.~~

367 ~~(b) Paragraph (a) does not apply to transportation~~
368 ~~projects for which federal aid funds are available.~~

369 ~~(c) As used in this section, the term "other political~~
370 ~~subdivision of this state" does not include counties or~~
371 ~~municipalities.~~

372 ~~(2) A vendor whose principal place of business is outside~~
373 ~~this state must accompany any written bid, proposal, or reply~~
374 ~~documents with a written opinion of an attorney at law licensed~~
375 ~~to practice law in that foreign state, as to the preferences, if~~

376 ~~any or none, granted by the law of that state to its own~~
 377 ~~business entities whose principal places of business are in that~~
 378 ~~foreign state in the letting of any or all public contracts.~~

379 (8)(3)(a) A vendor whose principal place of business is in
 380 this state may not be precluded from being an authorized
 381 reseller of information technology commodities of a state
 382 contractor as long as the vendor demonstrates that it employs an
 383 internationally recognized quality management system, such as
 384 ISO 9001 or its equivalent, and provides a warranty on the
 385 information technology commodities which is, at a minimum, of
 386 equal scope and length as that of the contract.

387 (9)(b) This section subsection applies to any solicitation
 388 or renewal of any state contract executed on or after September
 389 1, 2024 ~~July 1, 2012~~. However, the preferences in this section
 390 do not apply to transportation projects for which federal funds
 391 are available.

392 Section 8. Section 287.0841, Florida Statutes, is created
 393 to read:

394 287.0841 Florida Venture Capital Program preference.—In
 395 addition to the preferences considered in s. 287.084, for all
 396 competitive solicitations for contracts for commodities and
 397 contractual services with an annual value in excess of the
 398 threshold amount for CATEGORY TWO in s. 287.017, an agency must
 399 consider a price preference for bids and proposals from vendors
 400 that have obtained investments from the Florida Venture Capital

HB 1339

2024

401 | Program provided by the Florida Opportunity Fund pursuant to s.
402 | 288.9624.

403 | Section 9. This act shall take effect July 1, 2024.