



1 A bill to be entitled

2 An act relating to the procurement of commodities and
3 contractual services; amending s. 215.971, F.S.;
4 providing additional information that must be included
5 in an agency agreement that provides state financial
6 assistance to a recipient or subrecipient; requiring
7 each state agency to designate an employee to function
8 as a grant manager for purposes of the agreement;
9 requiring training for certain grant managers;
10 requiring the Chief Financial Officer to establish and
11 disseminate uniform procedures for grant management;
12 requiring the grant manager to report certain
13 information; requiring the Chief Financial Officer to
14 perform audits of executed grant agreements; amending
15 s. 215.985, F.S.; requiring the Chief Financial
16 Officer to establish and maintain a secure contract
17 tracking system; providing requirements for the
18 system; requiring state agencies to post certain
19 information on the contract tracking system within a
20 specified timeframe; specifying information that must
21 be posted on the contract tracking system; providing
22 that records posted on the system may not contain
23 confidential or exempt information; requiring state
24 agencies to redact confidential or exempt information
25 prior to posting records on the system; providing a
26 process for a party to the contract to request
27 redaction of confidential or exempt information;
28 providing notice requirements; providing that posting



29 | of information on the contract tracking system does
30 | not supersede the duty of a state agency to respond to
31 | a public record request; providing that a subpoena for
32 | certain contract information must be served on the
33 | state agency that is party to the contract;
34 | authorizing the Chief Financial Officer to adopt
35 | rules; defining the term "state agency"; authorizing
36 | the judicial branch, Department of Legal Affairs,
37 | Department of Agriculture and Consumer Services, and
38 | Department of Financial Services to elect to comply
39 | with the posting requirements; amending s. 287.012,
40 | F.S.; providing and revising definitions; amending s.
41 | 287.042, F.S.; revising powers, duties, and functions
42 | of the Department of Management Services; eliminating
43 | a duty of the department to maintain a vendor list;
44 | providing an additional circumstance under which the
45 | department may proceed with a competitive solicitation
46 | or contract award process of a term contract as an
47 | alternative to the stay of such process pursuant to a
48 | formal written protest under the Administrative
49 | Procedure Act; authorizing the department to lead or
50 | enter into joint agreements with governmental entities
51 | for the purchase of commodities or contractual
52 | services that can be used by multiple agencies;
53 | amending s. 287.056, F.S.; eliminating provisions
54 | requiring certain inclusions in agency agreements;
55 | amending s. 287.057, F.S.; providing that contracts
56 | awarded pursuant to an invitation to bid shall be



57 | awarded to the responsible and responsive vendor that
58 | submits the lowest responsive bid; revising exceptions
59 | to the requirement that the purchase of specified
60 | commodities or contractual services be made only as a
61 | result of receiving competitive sealed bids,
62 | competitive sealed proposals, or competitive sealed
63 | replies; revising contractual services and commodities
64 | that are not subject to competitive solicitation
65 | requirements by virtue of being available only from a
66 | single source; providing that a contract for
67 | commodities or contractual services may be awarded
68 | without competition if the recipient of funds is
69 | established during the appropriations process;
70 | revising provisions relating to extension of a
71 | contract for commodities or contractual services;
72 | authorizing an agency to negotiate better pricing upon
73 | renewal of a contract; providing training requirements
74 | for contract managers responsible for contracts in
75 | excess of a specified threshold amount; providing
76 | contract manager certification for contract managers
77 | responsible for contracts in excess of a specified
78 | threshold amount; providing that the Department of
79 | Management Services is responsible for establishing
80 | and disseminating the requirements for certification
81 | of a contract manager; providing that training will be
82 | conducted jointly by the Department of Management
83 | Services and the Department of Financial Services;
84 | providing training guidelines and requirements;



85 requiring the department, in consultation with the
86 Chief Financial Officer to maintain a program for
87 online procurement of commodities and contractual
88 services; amending s. 287.0571, F.S.; revising
89 nonapplicability of a business case to outsource;
90 amending s. 287.058, F.S.; defining the term
91 "performance measure"; revising references within
92 provisions relating to purchase orders used in lieu of
93 written agreements for classes of contractual
94 services; revising terminology; amending s. 287.076,
95 F.S.; providing that Project Management Professionals
96 training for personnel involved in managing
97 outsourcings and negotiations is subject to annual
98 appropriations; creating s. 287.136, F.S.; requiring
99 the Chief Financial Officer to perform audits of
100 executed contracts; creating reporting requirements;
101 amending ss. 16.0155, 283.33, 394.457, 402.7305,
102 409.9132, 427.0135, 445.024, 627.311, 627.351,
103 765.5155, and 893.055, F.S.; conforming cross-
104 references; requiring the Department of Management
105 Services, in consultation with the Chief Financial
106 Officer, to prepare and submit a report to the
107 Governor and Legislature relating to the eradication
108 of human trafficking, slavery, and exploitive labor
109 from supply chains for tangible goods offered for sale
110 to the state; providing effective dates.

111
112 Be It Enacted by the Legislature of the State of Florida:



113
114 Section 1. Section 215.971, Florida Statutes, is amended
115 to read:

116 215.971 Agreements funded with federal and state
117 assistance.—

118 (1) For an agency agreement that provides state financial
119 assistance to a recipient or subrecipient, as those terms are
120 defined in s. 215.97, or that provides federal financial
121 assistance to a subrecipient, as defined by applicable United
122 States Office of Management and Budget circulars, the agreement
123 must ~~shall~~ include the following:

124 (a) ~~(1)~~ A provision specifying a scope of work that clearly
125 establishes the tasks that the recipient or subrecipient is
126 required to perform. ~~;~~ and

127 (b) ~~(2)~~ A provision dividing the agreement into
128 quantifiable units of deliverables that must be received and
129 accepted in writing by the agency before payment. Each
130 deliverable must be directly related to the scope of work and
131 ~~must~~ specify the required minimum level of service to be
132 performed and the criteria for evaluating the successful
133 completion of each deliverable.

134 (c) A provision specifying the financial consequences that
135 apply if the recipient or subrecipient fails to perform the
136 minimum level of service required by the agreement. The
137 provision can be excluded from the agreement only if financial
138 consequences are prohibited by the federal agency awarding the
139 grant. Funds refunded to a state agency from a recipient or
140 subrecipient for failure to perform as required under the



141 agreement may be expended only in direct support of the program
142 from which the agreement originated.

143 (d) A provision specifying that a recipient or
144 subrecipient of federal or state financial assistance may expend
145 funds only for allowable costs resulting from obligations
146 incurred during the specified agreement period.

147 (e) A provision specifying that any balance of unobligated
148 funds which has been advanced or paid must be refunded to the
149 state agency.

150 (f) A provision specifying that any funds paid in excess
151 of the amount to which the recipient or subrecipient is entitled
152 under the terms and conditions of the agreement must be refunded
153 to the state agency.

154 (g) Any additional information required pursuant to s.
155 215.97.

156 (2) For each agreement funded with federal or state
157 financial assistance, the state agency shall designate an
158 employee to function as a grant manager who shall be responsible
159 for enforcing performance of the agreement's terms and
160 conditions and who shall serve as a liaison with the recipient
161 or subrecipient.

162 (a) Each grant manager who is responsible for agreements
163 in excess of the threshold amount for CATEGORY TWO under s.
164 287.017 must complete the training and become a certified
165 contract manager as provided under s. 287.057(14).

166 (b) The Chief Financial Officer shall establish and
167 disseminate uniform procedures for grant management pursuant to
168 s. 17.03(3) to ensure that services have been rendered in



169 accordance with agreement terms before the agency processes an
170 invoice for payment. The procedures must include, but need not
171 be limited to, procedures for monitoring and documenting
172 recipient or subrecipient performance, reviewing and documenting
173 all deliverables for which payment is requested by the recipient
174 or subrecipient, and providing written certification by the
175 grant manager of the agency's receipt of goods and services.

176 (c) The grant manager shall reconcile and verify all funds
177 received against all funds expended during the grant agreement
178 period and produce a final reconciliation report. The final
179 report must identify any funds paid in excess of the
180 expenditures incurred by the recipient or subrecipient.

181 (3) After the execution of a grant agreement, the Chief
182 Financial Officer shall perform audits of the executed state and
183 federal grant agreement documents and grant manager's records in
184 order to ensure that adequate internal controls are in place for
185 complying with the terms and conditions of such agreements and
186 for validation and receipt of goods and services.

187 (a) At the conclusion of the audit, the Chief Financial
188 Officer's designee shall discuss the audit and potential
189 findings with the official whose office is subject to audit. The
190 final audit report shall be submitted to the agency head.

191 (b) Within 30 days after the receipt of the final audit
192 report, the agency head shall submit to the Chief Financial
193 Officer or designee, his or her written statement of explanation
194 or rebuttal concerning findings requiring corrective action,
195 including corrective action to be taken to preclude a
196 recurrence.



197 Section 2. Subsection (16) of section 215.985, Florida
198 Statutes, is amended to read:

199 215.985 Transparency in government spending.—

200 (16) The Chief Financial Officer shall establish and
201 maintain a secure, contract tracking ~~provide public access to a~~
202 ~~state contract management~~ system available for viewing and
203 downloading by the public through a secure website. The Chief
204 Financial Officer shall use appropriate Internet security
205 measures to ensure that no person has the ability to alter or
206 modify records available on the website ~~that provides~~
207 ~~information and documentation relating to contracts procured by~~
208 ~~governmental entities.~~

209 (a) Within 30 calendar days after executing a contract,
210 each state agency must post the following information relating
211 to that contract on the contract tracking system:

- 212 1. The names of the contracting entities;
- 213 2. The procurement method;
- 214 3. The contract beginning and ending dates;
- 215 4. The nature or type of the commodities or services
216 purchased;
- 217 5. Applicable contract unit prices and deliverables;
- 218 6. Total compensation to be paid or received under the
219 contract;
- 220 7. All payments made to the contractor to date;
- 221 8. Applicable contract performance measures; and
- 222 9. Electronic copies of the contract that have been
223 redacted to exclude confidential or exempt information ~~The data~~
224 ~~collected in the system must include, but need not be limited~~



225 ~~to, the contracting agency; the procurement method; the contract~~
226 ~~beginning and ending dates; the type of commodity or service;~~
227 ~~the purpose of the commodity or service; the compensation to be~~
228 ~~paid; compliance information, such as performance metrics for~~
229 ~~the service or commodity; contract violations; the number of~~
230 ~~extensions or renewals; and the statutory authority for~~
231 ~~providing the service.~~

232 (b) Within 30 days after an amendment ~~a major change~~ to an
233 existing contract, ~~or the execution of a new contract,~~ agency
234 ~~procurement staff of the~~ state agency that is a party to the
235 contract must ~~affected state governmental entity~~ shall update
236 the ~~necessary~~ information described in paragraph (a) in the
237 state contract tracking management system. An amendment ~~A major~~
238 ~~change~~ to a contract includes, but is not limited to, a renewal,
239 termination, or extension of the contract or any modification ~~an~~
240 ~~amendment~~ to the terms of the contract.

241 (c) By January 1, 2014, each state agency must post to the
242 contract tracking system the information required in paragraph
243 (a) for each existing contract that was executed more than 30
244 calendar days prior to July 1, 2013.

245 (d)1. Records made available on the contract tracking
246 system may not reveal information made confidential or exempt by
247 law.

248 2. Each state agency that is a party to a contract must
249 redact any confidential or exempt information from the contract
250 before posting an electronic copy on the contract tracking
251 system. If a state agency that is a party to the contract
252 becomes aware that an electronic copy of a contract has been



253 posted that has not been properly redacted, such state agency
254 must immediately notify the Chief Financial Officer and must
255 immediately remove the contract from the contract tracking
256 system. Within seven business days, the state agency must post a
257 properly redacted copy of the contract on the contract tracking
258 system.

259 3.a. If a party to a contract, or an authorized
260 representative thereof, discovers that an electronic copy of a
261 contract has been posted to the contract tracking system that
262 has not been properly redacted, the party or representative may
263 request the state agency that is a party to the contract to
264 redact the confidential or exempt information. Upon receipt of
265 the request, such state agency shall redact the confidential or
266 exempt information.

267 b. A request to redact confidential or exempt information
268 must be made in writing and delivered by mail, facsimile, or
269 electronic transmission, or in person to the state agency that
270 is a party to the contract. The request must identify the
271 specific document, the page numbers that include the
272 confidential or exempt information, the information that is
273 confidential or exempt, and the applicable statutory exemption.
274 A fee may not be charged for a redaction made pursuant to such
275 request.

276 4. The contract tracking system must display a notice of
277 the right of an affected party to request redaction of
278 confidential or exempt information contained on the system.

279 5.a. The Chief Financial Officer, the Department of
280 Financial Services, or any officer, employee, or contractor



281 thereof, is not responsible for redacting confidential or exempt
282 information from an electronic copy of a contract posted by
283 another state agency on the system.

284 b. The Chief Financial Officer, the Department of
285 Financial Services, or any officer, employee, or contractor
286 thereof, is not liable for the failure of a state agency to
287 redact the confidential or exempt information.

288 (e)1. The posting of information on the contract tracking
289 system or the provision of contract information on a website for
290 public viewing and downloading does not supersede the duty of a
291 state agency to respond to a public record request for such
292 information or to a subpoena for such information.

293 2. A request for a copy of a contract or certified copy of
294 a contract shall be made to the state agency that is party to
295 the contract. Such request may not be made to the Chief
296 Financial Officer or the Department of Financial Services or any
297 officer, employee, or contractor thereof, unless the Chief
298 Financial Officer or the department is a party to the contract.

299 3. A subpoena for a copy of a contract or certified copy
300 of a contract must be served on the state agency that is a party
301 to the contract and that maintains the original documents. The
302 Chief Financial Officer or the Department of Financial Services
303 or any officer, employee, or contractor thereof may not be
304 served a subpoena for those records unless the Chief Financial
305 Officer or the department is a party to the contract.

306 (f) The Chief Financial Officer may adopt rules to
307 administer this subsection.



308 (g) For purposes of this subsection, the term "state
 309 agency" means a state agency as defined in s. 216.011, excluding
 310 the judicial branch, the Department of Legal Affairs, the
 311 Department of Agriculture and Consumer Services, and the
 312 Department of Financial Services. However, the judicial branch,
 313 the Department of Legal Affairs, the Department of Agriculture
 314 and Consumer Services, and the Department of Financial Services
 315 may elect to comply with the provisions of this subsection in
 316 whole or in part.

317 Section 3. Subsections (4), (5), (10), and (13) through
 318 (28) of section 287.012, Florida Statutes, are amended to read:

319 287.012 Definitions.—As used in this part, the term:

320 (4) "Best value" means the highest overall value to the
 321 state based on ~~objective~~ factors that include, but are not
 322 limited to, price, quality, design, and workmanship.

323 (5) "Commodity" means any of the various supplies,
 324 materials, goods, merchandise, food, equipment, information
 325 technology, and other personal property, including a mobile
 326 home, trailer, or other portable structure with floor space of
 327 less than 5,000 square feet, purchased, leased, or otherwise
 328 contracted for by the state and its agencies. "Commodity" also
 329 includes interest on deferred-payment commodity contracts
 330 approved pursuant to s. 287.063 entered into by an agency for
 331 the purchase of other commodities. However, commodities
 332 purchased for resale are excluded from this definition. Printing
 333 of publications shall be considered a commodity when procured
 334 ~~let upon contract~~ pursuant to s. 283.33, whether purchased for
 335 resale or not.



336 (10) "Electronic posting" or "electronically post" means
337 the noticing of solicitations, agency decisions or intended
338 decisions, or other matters relating to procurement, on a
339 centralized Internet website designated by the department for
340 this purpose, in the manner and form required by s.
341 120.57(3) (a).

342 (13) "Extension" means an increase in the time allowed for
343 the contract period ~~due to circumstances which, without fault of~~
344 ~~either party, make performance impracticable or impossible, or~~
345 ~~which prevent a new contract from being executed, with or~~
346 ~~without a proportional increase in the total dollar amount, with~~
347 ~~any increase to be based on the method and rate previously~~
348 ~~established in the contract.~~

349 (14) "Governmental entity" means a political subdivision
350 or agency of this state or of any state of the United States,
351 including, but not limited to, state government, county, city,
352 school district, nonprofit public university or college, single-
353 purpose or multipurpose special district, single-purpose or
354 multipurpose public authority, metropolitan or consolidated
355 government, separate legal entity or administrative entity, or
356 any agency of the Federal Government.

357 (15)~~(14)~~ "Information technology" has the meaning ascribed
358 in s. 282.0041.

359 (16)~~(15)~~ "Invitation to bid" means a written or
360 electronically posted solicitation for competitive sealed bids.

361 (17)~~(16)~~ "Invitation to negotiate" means a written or
362 electronically posted solicitation for competitive sealed
363 replies to select one or more vendors with which to commence



364 negotiations for the procurement of commodities or contractual
365 services.

366 (18)~~(17)~~ "Minority business enterprise" has the meaning
367 ascribed in s. 288.703.

368 (19)~~(18)~~ "Office" means the Office of Supplier Diversity
369 of the Department of Management Services.

370 (20)~~(19)~~ "Outsource" means the process of contracting with
371 a vendor to provide a service as defined in s. 216.011(1)(f), in
372 whole or in part, or an activity as defined in s.
373 216.011(1)(rr), while a state agency retains the responsibility
374 and accountability for the service or activity and there is a
375 transfer of management responsibility for the delivery of
376 resources and the performance of those resources.

377 (21)~~(20)~~ "Renewal" means contracting with the same
378 contractor for an additional contract period after the initial
379 contract period, only if pursuant to contract terms specifically
380 providing for such renewal.

381 (22)~~(21)~~ "Request for information" means a written or
382 electronically posted request made by an agency to vendors for
383 information concerning commodities or contractual services.
384 Responses to these requests are not offers and may not be
385 accepted by the agency to form a binding contract.

386 (23)~~(22)~~ "Request for proposals" means a written or
387 electronically posted solicitation for competitive sealed
388 proposals.

389 (24)~~(23)~~ "Request for a quote" means an electronic, oral
390 or written request for written pricing or services information



391 from a state term contract vendor for commodities or contractual
392 services available on a state term contract from that vendor.

393 (25)~~(24)~~ "Responsible vendor" means a vendor who has the
394 capability in all respects to fully perform the contract
395 requirements and the integrity and reliability that will assure
396 good faith performance.

397 (26)~~(25)~~ "Responsive bid," "responsive proposal," or
398 "responsive reply" means a bid, or proposal, or reply submitted
399 by a responsive and responsible vendor that conforms in all
400 material respects to the solicitation.

401 (27)~~(26)~~ "Responsive vendor" means a vendor that has
402 submitted a bid, proposal, or reply that conforms in all
403 material respects to the solicitation.

404 (28)~~(27)~~ "State term contract" means a term contract that
405 is competitively procured by the department pursuant to s.
406 287.057 and that is used by agencies and eligible users pursuant
407 to s. 287.056.

408 (29)~~(28)~~ "Term contract" means an indefinite quantity
409 contract to furnish commodities or contractual services during a
410 defined period.

411 Section 4. Paragraph (a) of subsection (1), paragraph (b)
412 of subsection (2), and subsections (8) and (15) of section
413 287.042, Florida Statutes, are amended to read:

414 287.042 Powers, duties, and functions.—The department
415 shall have the following powers, duties, and functions:

416 (1) (a) To canvass all sources of supply, ~~establish and~~
417 ~~maintain a vendor list,~~ and contract for the purchase, lease, or
418 acquisition, including purchase by installment sales or lease-



419 purchase contracts which may provide for the payment of interest
420 on unpaid portions of the purchase price, of all commodities and
421 contractual services required by any agency under this chapter.
422 Any contract providing for deferred payments and the payment of
423 interest shall be subject to specific rules adopted by the
424 department.

425 (2)

426 (b) As an alternative to any provision in s. 120.57(3)(c),
427 the department may proceed with the competitive solicitation or
428 contract award process of a term contract in the following
429 circumstances:

430 1. When the Secretary of Management Services ~~the~~
431 ~~department~~ or his or her designee sets forth in writing
432 particular facts and circumstances that ~~which~~ demonstrate that
433 the delay incident to staying the solicitation or contract award
434 process would be detrimental to the interests of the state.
435 After the award of a contract resulting from a competitive
436 solicitation in which a timely protest was received and in which
437 the state did not prevail, the contract may be canceled and
438 reawarded.

439 2. When a vendor protests a notice of intent to award a
440 contract to multiple vendors, the intended award may proceed
441 unless the protesting vendor submits to the department in
442 writing particular facts and circumstances that demonstrate a
443 reasonable basis for protesting the award to the other vendor or
444 vendors. The Secretary of Management Services or his or her
445 designee shall determine in writing whether the vendor has
446 demonstrated a sufficient basis for stay of the intended award.



447 If the vendor prevails in the protest, the vendor shall be added
448 to the contract with the same terms and conditions as the other
449 awarded vendors.

450 (8) To provide any commodity and contractual service
451 purchasing rules to the Chief Financial Officer and all agencies
452 electronically or through an electronic medium or other means.
453 Agencies may not approve any account or request any payment of
454 any account for the purchase of any commodity or the procurement
455 of any contractual service covered by a purchasing or
456 contractual service rule except as authorized therein. The
457 department shall furnish copies of rules adopted by the
458 department to any county, municipality, or other local public
459 agency requesting them.

460 (15) To lead or enter into joint agreements with
461 governmental entities ~~agencies, as defined in s. 163.3164,~~ for
462 ~~the purpose of pooling funds~~ for the purchase of commodities or
463 contractual services ~~information technology~~ that can be used by
464 multiple agencies.

465 (a) Each agency that has been appropriated or has existing
466 funds for such purchase, shall, upon contract award by the
467 department, transfer their portion of the funds into the
468 department's Operating Trust Fund for payment by the department.
469 The funds shall be transferred by the Executive Office of the
470 Governor pursuant to the agency budget amendment request
471 provisions in chapter 216.

472 (b) Agencies that sign the joint agreements are
473 financially obligated for their portion of the agreed-upon
474 funds. If an agency becomes more than 90 days delinquent in



475 | paying the funds, the department shall certify to the Chief
476 | Financial Officer the amount due, and the Chief Financial
477 | Officer shall transfer the amount due to the Operating Trust
478 | Fund of the department from any of the agency's available funds.
479 | The Chief Financial Officer shall report these transfers and the
480 | reasons for the transfers to the Executive Office of the
481 | Governor and the legislative appropriations committees.

482 | Section 5. Subsection (1) of section 287.056, Florida
483 | Statutes, is amended to read:

484 | 287.056 Purchases from purchasing agreements and state
485 | term contracts.—

486 | (1) Agencies shall, and eligible users may, purchase
487 | commodities and contractual services from purchasing agreements
488 | established and state term contracts procured, pursuant to s.
489 | 287.057, by the department. ~~Each agency agreement made under~~
490 | ~~this subsection shall include:~~

491 | ~~(a) A provision specifying a scope of work that clearly~~
492 | ~~establishes all tasks that the contractor is required to~~
493 | ~~perform.~~

494 | ~~(b) A provision dividing the contract into quantifiable,~~
495 | ~~measurable, and verifiable units of deliverables that must be~~
496 | ~~received and accepted in writing by the contract manager before~~
497 | ~~payment. Each deliverable must be directly related to the scope~~
498 | ~~of work and specify the required minimum level of service to be~~
499 | ~~performed and the criteria for evaluating the successful~~
500 | ~~completion of each deliverable.~~



501 Section 6. Paragraph (a) of subsection (1) and subsections
502 (3), (10), (12), (13), (16), and (22) of section 287.057,
503 Florida Statutes, are amended to read:

504 287.057 Procurement of commodities or contractual
505 services.—

506 (1) The competitive solicitation processes authorized in
507 this section shall be used for procurement of commodities or
508 contractual services in excess of the threshold amount provided
509 for CATEGORY TWO in s. 287.017. Any competitive solicitation
510 shall be made available simultaneously to all vendors, must
511 include the time and date for the receipt of bids, proposals, or
512 replies and of the public opening, and must include all
513 contractual terms and conditions applicable to the procurement,
514 including the criteria to be used in determining acceptability
515 and relative merit of the bid, proposal, or reply.

516 (a) Invitation to bid.—The invitation to bid shall be used
517 when the agency is capable of specifically defining the scope of
518 work for which a contractual service is required or when the
519 agency is capable of establishing precise specifications
520 defining the actual commodity or group of commodities required.

521 1. All invitations to bid must include:

522 a. A detailed description of the commodities or
523 contractual services sought; and

524 b. If the agency contemplates renewal of the contract, a
525 statement to that effect.

526 2. Bids submitted in response to an invitation to bid in
527 which the agency contemplates renewal of the contract must



528 | include the price for each year for which the contract may be
529 | renewed.

530 | 3. Evaluation of bids shall include consideration of the
531 | total cost for each year of the contract, including renewal
532 | years, as submitted by the vendor.

533 | 4. The contract shall be awarded to the responsible and
534 | responsive vendor that submits the lowest responsive bid.

535 | (3) When the purchase price of commodities or contractual
536 | services exceeds the threshold amount provided in s. 287.017 for
537 | CATEGORY TWO, no purchase of commodities or contractual services
538 | may be made without receiving competitive sealed bids,
539 | competitive sealed proposals, or competitive sealed replies
540 | unless:

541 | (a) The agency head determines in writing that an
542 | immediate danger to the public health, safety, or welfare or
543 | other substantial loss to the state requires emergency action.
544 | After the agency head signs ~~makes such~~ a written determination,
545 | the agency may proceed with the procurement of commodities or
546 | contractual services necessitated by the immediate danger,
547 | without receiving competitive sealed bids, competitive sealed
548 | proposals, or competitive sealed replies. However, such
549 | emergency procurement shall be made by obtaining pricing
550 | information from at least two prospective vendors, which must be
551 | retained in the contract file, unless the agency determines in
552 | writing that the time required to obtain pricing information
553 | will increase the immediate danger to the public health, safety,
554 | or welfare or other substantial loss to the state. The agency
555 | shall furnish copies of all written determinations ~~certified~~



556 ~~under oath~~ and any other documents relating to the emergency
557 action to the department. A copy of the written statement shall
558 be furnished to the Chief Financial Officer with the voucher
559 authorizing payment. The individual purchase of personal
560 clothing, shelter, or supplies which are needed on an emergency
561 basis to avoid institutionalization or placement in a more
562 restrictive setting is an emergency for the purposes of this
563 paragraph, and the filing with the department of such statement
564 is not required in such circumstances. In the case of the
565 emergency purchase of insurance, the period of coverage of such
566 insurance shall not exceed a period of 30 days, and all such
567 emergency purchases shall be reported to the department.

568 (b) The purchase is made by an agency from a state term
569 contract procured, pursuant to this section, by the department
570 or by an agency, after receiving approval from the department,
571 from a contract procured, pursuant to subsection (1), by another
572 agency.

573 (c) Commodities or contractual services available only
574 from a single source may be excepted from the competitive-
575 solicitation requirements. When an agency believes that
576 commodities or contractual services are available only from a
577 single source, the agency shall electronically post a
578 description of the commodities or contractual services sought
579 for a period of at least 7 business days. The description must
580 include a request that prospective vendors provide information
581 regarding their ability to supply the commodities or contractual
582 services described. If it is determined in writing by the
583 agency, after reviewing any information received from



584 prospective vendors, that the commodities or contractual
585 services are available only from a single source, the agency
586 shall:

587 ~~1. provide notice of its intended decision to enter a~~
588 ~~single-source purchase contract in the manner specified in s.~~
589 ~~120.57(3), if the amount of the contract does not exceed the~~
590 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

591 ~~2. Request approval from the department for the single-~~
592 ~~source purchase, if the amount of the contract exceeds the~~
593 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~
594 ~~agency shall initiate its request for approval in a form~~
595 ~~prescribed by the department, which request may be~~
596 ~~electronically transmitted. The failure of the department to~~
597 ~~approve or disapprove the agency's request for approval within~~
598 ~~21 days after receiving such request shall constitute prior~~
599 ~~approval of the department. If the department approves the~~
600 ~~agency's request, the agency shall provide notice of its~~
601 ~~intended decision to enter a single-source contract in the~~
602 ~~manner specified in s. 120.57(3).~~

603 ~~(d) When it is in the best interest of the state, the~~
604 ~~secretary of the department or his or her designee may authorize~~
605 ~~the Support Program to purchase insurance by negotiation, but~~
606 ~~such purchase shall be made only under conditions most favorable~~
607 ~~to the public interest.~~

608 (d)(e) Prescriptive assistive devices for the purpose of
609 medical, developmental, or vocational rehabilitation of clients
610 are excepted from competitive-solicitation requirements and
611 shall be procured pursuant to an established fee schedule or by



612 any other method which ensures the best price for the state,
613 taking into consideration the needs of the client. Prescriptive
614 assistive devices include, but are not limited to, prosthetics,
615 orthotics, and wheelchairs. For purchases made pursuant to this
616 paragraph, state agencies shall annually file with the
617 department a description of the purchases and methods of
618 procurement.

619 (e)~~(f)~~ The following contractual services and commodities
620 are not subject to the competitive-solicitation requirements of
621 this section:

622 1. Artistic services. For the purposes of this subsection,
623 the term "artistic services" does not include advertising or
624 typesetting. As used in this subparagraph, the term
625 "advertising" means the making of a representation in any form
626 in connection with a trade, business, craft, or profession in
627 order to promote the supply of commodities or services by the
628 person promoting the commodities or contractual services.

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

631 3. Lectures by individuals.

632 4. Legal services, including attorney, paralegal, expert
633 witness, appraisal, or mediator services.

634 5.a. Health services involving examination, diagnosis,
635 treatment, prevention, medical consultation, or administration.

636 b. Beginning January 1, 2011, health services, including,
637 but not limited to, substance abuse and mental health services,
638 involving examination, diagnosis, treatment, prevention, or
639 medical consultation, when such services are offered to eligible



640 individuals participating in a specific program that qualifies
641 multiple providers and uses a standard payment methodology.
642 Reimbursement of administrative costs for providers of services
643 purchased in this manner shall also be exempt. For purposes of
644 this sub-subparagraph, "providers" means health professionals,
645 health facilities, or organizations that deliver or arrange for
646 the delivery of health services.

647 6. Services provided to persons with mental or physical
648 disabilities by not-for-profit corporations which have obtained
649 exemptions under the provisions of s. 501(c)(3) of the United
650 States Internal Revenue Code or when such services are governed
651 by the provisions of Office of Management and Budget Circular A-
652 122. However, in acquiring such services, the agency shall
653 consider the ability of the vendor, past performance,
654 willingness to meet time requirements, and price.

655 7. Medicaid services delivered to an eligible Medicaid
656 recipient unless the agency is directed otherwise in law.

657 8. Family placement services.

658 9. Prevention services related to mental health, including
659 drug abuse prevention programs, child abuse prevention programs,
660 and shelters for runaways, operated by not-for-profit
661 corporations. However, in acquiring such services, the agency
662 shall consider the ability of the vendor, past performance,
663 willingness to meet time requirements, and price.

664 10. Training and education services provided to injured
665 employees pursuant to s. 440.491(6).

666 11. Contracts entered into pursuant to s. 337.11.



667 12. Services or commodities provided by governmental
668 entities ~~agencies~~.

669 13. Statewide public service announcement programs
670 provided by a Florida statewide nonprofit corporation under s.
671 501(c)(6) of the Internal Revenue Code, with a guaranteed
672 documented match of at least \$3 to \$1.

673 (f) ~~(g)~~ Continuing education events or programs that are
674 offered to the general public and for which fees have been
675 collected that pay all expenses associated with the event or
676 program are exempt from requirements for competitive
677 solicitation.

678 (10) A contract for commodities or contractual services
679 may be awarded without competition if state or federal law
680 prescribes with whom the agency must contract or if the rate of
681 payment or the recipient of the funds is established during the
682 appropriations process.

683 (12) Extension of a contract for commodities or
684 contractual services shall be in writing for a period not to
685 exceed 6 months and shall be subject to the same terms and
686 conditions set forth in the initial contract and any written
687 amendments signed by the parties. There shall be only one
688 extension of a contract unless the failure to meet the criteria
689 set forth in the contract for completion of the contract is due
690 to events beyond the control of the contractor.

691 (13) Contracts for commodities or contractual services may
692 be renewed for a period that may not exceed 3 years or the term
693 of the original contract, whichever period is longer. Renewal of
694 a contract for commodities or contractual services shall be in



695 writing and shall be subject to the same terms and conditions
696 set forth in the initial contract and any written amendments
697 signed by the parties. If the commodity or contractual service
698 is purchased as a result of the solicitation of bids, proposals,
699 or replies, the price of the commodity or contractual service to
700 be renewed shall be specified in the bid, proposal, or reply,
701 except that an agency may negotiate lower pricing. A renewal
702 contract may not include any compensation for costs associated
703 with the renewal. Renewals shall be contingent upon satisfactory
704 performance evaluations by the agency and subject to the
705 availability of funds. Exceptional purchase contracts pursuant
706 to paragraphs (3) (a) and (c) may not be renewed. With the
707 exception of subsection (10)~~(12)~~, if a contract amendment
708 results in a longer contract term or increased payments, a state
709 agency may not renew or amend a contract for the outsourcing of
710 a service or activity that has an original term value exceeding
711 the sum of \$10 million before submitting a written report
712 concerning contract performance to the Governor, the President
713 of the Senate, and the Speaker of the House of Representatives
714 at least 90 days before execution of the renewal or amendment.

715 (16) For a contract in excess of the threshold amount
716 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
717 appoint:

718 (a) At least three persons to evaluate proposals and
719 replies who collectively have experience and knowledge in the
720 program areas and service requirements for which commodities or
721 contractual services are sought.



722 (b) At least three persons to conduct negotiations during
723 a competitive sealed reply procurement who collectively have
724 experience and knowledge in negotiating contracts, contract
725 procurement, and the program areas and service requirements for
726 which commodities or contractual services are sought.

727 (c) When the value of a contract is in excess of \$1
728 million in any fiscal year, at least one of the persons
729 conducting negotiations must be certified as a contract
730 negotiator based upon rules adopted by the Department of
731 Management Services in order to ensure that certified contract
732 negotiators are knowledgeable about effective negotiation
733 strategies, capable of successfully implementing those
734 strategies, and involved appropriately in the procurement
735 process. At a minimum, the rules must address the qualifications
736 required for certification, the method of certification, and the
737 procedure for involving the certified negotiator. If the value
738 of a contract is in excess of \$10 million in any fiscal year, at
739 least one of the persons conducting negotiations must be a
740 Project Management Professional, as certified by the Project
741 Management Institute.

742 (22) The department, in consultation with the Chief
743 Financial Officer ~~Agency for Enterprise Information Technology~~
744 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online
745 procurement of commodities and contractual services. To enable
746 the state to promote open competition and to leverage its buying
747 power, agencies shall participate in the online procurement
748 program, and eligible users may participate in the program. Only



749 vendors prequalified as meeting mandatory requirements and
750 qualifications criteria may participate in online procurement.

751 (a) The department, ~~in consultation with the agency,~~ may
752 contract for equipment and services necessary to develop and
753 implement online procurement.

754 (b) The department, ~~in consultation with the agency,~~ shall
755 adopt rules, pursuant to ss. 120.536(1) and 120.54, to
756 administer the program for online procurement. The rules shall
757 include, but not be limited to:

758 1. Determining the requirements and qualification criteria
759 for prequalifying vendors.

760 2. Establishing the procedures for conducting online
761 procurement.

762 3. Establishing the criteria for eligible commodities and
763 contractual services.

764 4. Establishing the procedures for providing access to
765 online procurement.

766 5. Determining the criteria warranting any exceptions to
767 participation in the online procurement program.

768 (c) The department may impose and shall collect all fees
769 for the use of the online procurement systems.

770 1. The fees may be imposed on an individual transaction
771 basis or as a fixed percentage of the cost savings generated. At
772 a minimum, the fees must be set in an amount sufficient to cover
773 the projected costs of the services, including administrative
774 and project service costs in accordance with the policies of the
775 department.



776 2. If the department contracts with a provider for online
777 procurement, the department, pursuant to appropriation, shall
778 compensate the provider from the fees after the department has
779 satisfied all ongoing costs. The provider shall report
780 transaction data to the department each month so that the
781 department may determine the amount due and payable to the
782 department from each vendor.

783 3. All fees that are due and payable to the state on a
784 transactional basis or as a fixed percentage of the cost savings
785 generated are subject to s. 215.31 and must be remitted within
786 40 days after receipt of payment for which the fees are due. For
787 fees that are not remitted within 40 days, the vendor shall pay
788 interest at the rate established under s. 55.03(1) on the unpaid
789 balance from the expiration of the 40-day period until the fees
790 are remitted.

791 4. All fees and surcharges collected under this paragraph
792 shall be deposited in the Operating Trust Fund as provided by
793 law.

794 Section 7. Effective December 1, 2014, subsection (14) of
795 section 287.057, Florida Statutes, is amended to read:

796 287.057 Procurement of commodities or contractual
797 services.—

798 (14) (a) For each contractual services contract, the agency
799 shall designate an employee to function as contract manager who
800 is ~~shall be~~ responsible for enforcing performance of the
801 contract terms and conditions and serve as a liaison with the
802 contractor.



803 (b) Each contract manager who is responsible for contracts
804 in excess of the threshold amount for CATEGORY TWO must, at a
805 minimum, complete ~~attend~~ training conducted by the Chief
806 Financial Officer for accountability in contracts and grant
807 management. The Chief Financial Officer shall establish and
808 disseminate uniform procedures pursuant to s. 17.03(3) to ensure
809 that contractual services have been rendered in accordance with
810 the contract terms before the agency processes the invoice for
811 payment. The procedures shall include, but need not be limited
812 to, procedures for monitoring and documenting contractor
813 performance, reviewing and documenting all deliverables for
814 which payment is requested by vendors, and providing written
815 certification by contract managers of the agency's receipt of
816 goods and services.

817 (c) Each contract manager who is responsible for contracts
818 in excess of \$100,000 annually must complete training in
819 contract management and become a certified contract manager. The
820 department is responsible for establishing and disseminating the
821 requirements for certification, which include completing the
822 training conducted by the Chief Financial Officer for
823 accountability in contracts and grant management. Training and
824 certification must be coordinated by the department and the
825 training must be conducted jointly by the department and the
826 Department of Financial Services. Training must promote best
827 practices and procedures related to negotiating, managing, and
828 ensuring accountability in agency contracts and grant
829 agreements, which must include the use of case studies based
830 upon previous audits, contracts, and grant agreements. All



831 agency contract managers must become certified within 24 months
832 after establishment of the training and certification
833 requirements by the department and the Department of Financial
834 Services.

835 Section 8. Paragraph (a) of subsection (3) of section
836 287.0571, Florida Statutes, is amended to read:

837 287.0571 Business case to outsource; applicability.—

838 (3) This section does not apply to:

839 (a) A procurement of commodities and contractual services
840 listed in s. 287.057(3)(d) and (e) and (21) 287.057(3)(e), (f),
841 and (g) and (21).

842 Section 9. Subsections (1) and (2) of section 287.058,
843 Florida Statutes, are amended to read:

844 287.058 Contract document.—

845 (1) Every procurement of contractual services in excess of
846 the threshold amount provided in s. 287.017 for CATEGORY TWO,
847 except for the providing of health and mental health services or
848 drugs in the examination, diagnosis, or treatment of sick or
849 injured state employees or the providing of other benefits as
850 required by the provisions of chapter 440, shall be evidenced by
851 a written agreement embodying all provisions and conditions of
852 the procurement of such services, which shall, where applicable,
853 include, but not be limited to, a provision:

854 (a) That bills for fees or other compensation for services
855 or expenses be submitted in detail sufficient for a proper
856 preaudit and postaudit thereof.



857 (b) That bills for any travel expenses be submitted in
858 accordance with s. 112.061. A state agency may establish rates
859 lower than the maximum provided in s. 112.061.

860 (c) Allowing unilateral cancellation by the agency for
861 refusal by the contractor to allow public access to all
862 documents, papers, letters, or other material made or received
863 by the contractor in conjunction with the contract, unless the
864 records are exempt from s. 24(a) of Art. I of the State
865 Constitution and s. 119.07(1).

866 (d) Specifying a scope of work that clearly establishes
867 all tasks the contractor is required to perform.

868 (e) Dividing the contract into quantifiable, measurable,
869 and verifiable units of deliverables that must be received and
870 accepted in writing by the contract manager before payment. Each
871 deliverable must be directly related to the scope of work and
872 specify a performance measure. As used in this paragraph,
873 performance measure means the required minimum acceptable level
874 of service to be performed and criteria for evaluating the
875 successful completion of each deliverable.

876 (f) Specifying the criteria and the final date by which
877 such criteria must be met for completion of the contract.

878 (g) Specifying that the contract may be renewed for a
879 period that may not exceed 3 years or the term of the original
880 contract, whichever period is longer, specifying the renewal
881 price for the contractual service as set forth in the bid,
882 proposal, or reply, specifying that costs for the renewal may
883 not be charged, and specifying that renewals shall be contingent
884 upon satisfactory performance evaluations by the agency and



885 subject to the availability of funds. Exceptional purchase
886 contracts pursuant to s. 287.057(3)(a) and (c) may not be
887 renewed.

888 (h) Specifying the financial consequences that the agency
889 must apply if the contractor fails to perform in accordance with
890 the contract.

891 (i) Addressing the property rights of any intellectual
892 property related to the contract and the specific rights of the
893 state regarding the intellectual property if the contractor
894 fails to provide the services or is no longer providing
895 services.

896

897 In lieu of a written agreement, the agency ~~department~~ may
898 authorize the use of a purchase order for classes of contractual
899 services, if the provisions of paragraphs (a)-(i) are included
900 in the purchase order or solicitation. The purchase order must
901 include, but need not be limited to, an adequate description of
902 the services, the contract period, and the method of payment. In
903 lieu of printing the provisions of paragraphs (a)-(c) and (g)
904 ~~(a)-(i)~~ in the contract document or purchase order, agencies may
905 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~
906 ~~(i)~~ by reference.

907 (2) The written agreement shall be signed by the agency
908 head or designee and the contractor before ~~prior to~~ the
909 rendering of any contractual service the value of which is in
910 excess of the threshold amount provided in s. 287.017 for
911 CATEGORY TWO, except in the case of a valid emergency as
912 certified by the agency head. The written statement



913 ~~certification~~ of an emergency shall be prepared within 30 days
914 after the contractor begins rendering the service and shall
915 state the particular facts and circumstances which precluded the
916 execution of the written agreement before ~~prior to~~ the rendering
917 of the service. If the agency fails to have the contract signed
918 by the agency head or designee and the contractor before ~~prior~~
919 ~~to~~ rendering the contractual service, and if an emergency does
920 not exist, the agency head shall, within ~~no later than~~ 30 days
921 after the contractor begins rendering the service, certify the
922 specific conditions and circumstances to the department as well
923 as describe actions taken to prevent recurrence of such
924 noncompliance. The agency head may delegate the written
925 statement ~~certification~~ only to other senior management agency
926 personnel. A copy of the written statement ~~certification~~ shall
927 be furnished to the Chief Financial Officer with the voucher
928 authorizing payment. The department shall report repeated
929 instances of noncompliance by an agency to the Auditor General.
930 Nothing in this subsection shall be deemed to authorize
931 additional compensation prohibited by s. 215.425. The
932 procurement of contractual services shall not be divided so as
933 to avoid the provisions of this section.

934 Section 10. Section 287.076, Florida Statutes, is amended
935 to read:

936 287.076 Project Management Professionals training for
937 personnel involved in managing outsourcings and negotiations;
938 funding.—The Department of Management Services may implement a
939 program to train state agency employees who are involved in
940 managing outsourcings as Project Management Professionals, as



941 certified by the Project Management Institute. Subject to annual
942 appropriations, For the 2006-2007 fiscal year, the sum of
943 \$500,000 in recurring funds from the General Revenue Fund is
944 appropriated to the Department of Management Services to
945 implement this program. the Department of Management Services,
946 in consultation with entities subject to this act, shall
947 identify personnel to participate in this training based on
948 requested need and ensure that each agency is represented. The
949 Department of Management Services may remit payment for this
950 training on behalf of all participating personnel.

951 Section 11. Section 287.136, F.S., is created to read:
952 287.136 Audit of executed contract documents.-

953 (1) After the execution of a contract, the Chief Financial
954 Officer shall perform audits of the executed contract documents
955 and contract manager's records to ensure that adequate internal
956 controls are in place for complying with the terms and
957 conditions of the contract and for the validation and receipt of
958 goods and services.

959 (2) At the conclusion of the audit, the Chief Financial
960 Officer's designee shall discuss the audit and potential
961 findings with the official whose office is subject to audit. The
962 final audit report shall be submitted to the agency head.

963 (3) Within 30 days after the receipt of the final audit
964 report, the agency head shall submit to the Chief Financial
965 Officer or designee, his or her written statement of explanation
966 or rebuttal concerning findings requiring corrective action,
967 including corrective action to be taken to preclude a
968 recurrence.



969 Section 12. Subsection (3) of section 16.0155, Florida
 970 Statutes, is amended to read:

971 16.0155 Contingency fee agreements.—

972 (3) If the Attorney General makes the determination
 973 described in subsection (2), notwithstanding the exemption
 974 provided in s. 287.057(3)(e) ~~287.057(3)(f)~~, the Attorney General
 975 shall request proposals from private attorneys to represent the
 976 department on a contingency-fee basis, unless the Attorney
 977 General determines in writing that requesting proposals is not
 978 feasible under the circumstances. The written determination does
 979 not constitute a final agency action subject to review pursuant
 980 to ss. 120.569 and 120.57. For purposes of this subsection only,
 981 the department is exempt from the requirements of s. 120.57(3),
 982 and neither the request for proposals nor the contract award is
 983 subject to challenge pursuant to ss. 120.569 and 120.57.

984 Section 13. Subsection (1) of section 283.33, Florida
 985 Statutes, is amended to read:

986 283.33 Printing of publications; lowest bidder awards.—

987 (1) Publications may be printed and prepared in-house, by
 988 another agency or the Legislature, or purchased on bid,
 989 whichever is more economical and practicable as determined by
 990 the agency. An agency may contract for binding separately when
 991 more economical or practicable, whether or not the remainder of
 992 the printing is done in-house. A vendor may subcontract for
 993 binding and still be considered a responsible vendor,
 994 notwithstanding s. 287.012(25) ~~287.012(24)~~.

995 Section 14. Subsection (3) of section 394.457, Florida
 996 Statutes, is amended to read:



997 | 394.457 Operation and administration.—

998 | (3) POWER TO CONTRACT.—The department may contract to

999 | provide, and be provided with, services and facilities in order

1000 | to carry out its responsibilities under this part with the

1001 | following agencies: public and private hospitals; receiving and

1002 | treatment facilities; clinics; laboratories; departments,

1003 | divisions, and other units of state government; the state

1004 | colleges and universities; the community colleges; private

1005 | colleges and universities; counties, municipalities, and any

1006 | other governmental unit, including facilities of the United

1007 | States Government; and any other public or private entity which

1008 | provides or needs facilities or services. Baker Act funds for

1009 | community inpatient, crisis stabilization, short-term

1010 | residential treatment, and screening services must be allocated

1011 | to each county pursuant to the department's funding allocation

1012 | methodology. Notwithstanding the provisions of s. 287.057(3)(e)

1013 | ~~287.057(3)(f)~~, contracts for community-based Baker Act services

1014 | for inpatient, crisis stabilization, short-term residential

1015 | treatment, and screening provided under this part, other than

1016 | those with other units of government, to be provided for the

1017 | department must be awarded using competitive sealed bids when

1018 | the county commission of the county receiving the services makes

1019 | a request to the department's district office by January 15 of

1020 | the contracting year. The district shall not enter into a

1021 | competitively bid contract under this provision if such action

1022 | will result in increases of state or local expenditures for

1023 | Baker Act services within the district. Contracts for these

1024 | Baker Act services using competitive sealed bids will be



1025 effective for 3 years. The department shall adopt rules
1026 establishing minimum standards for such contracted services and
1027 facilities and shall make periodic audits and inspections to
1028 assure that the contracted services are provided and meet the
1029 standards of the department.

1030 Section 15. Paragraph (a) of subsection (2) of section
1031 402.7305, Florida Statutes, is amended to read:

1032 402.7305 Department of Children and Family Services;
1033 procurement of contractual services; contract management.—

1034 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

1035 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,
1036 whenever the department intends to contract with a public
1037 postsecondary institution to provide a service, the department
1038 must allow all public postsecondary institutions in this state
1039 that are accredited by the Southern Association of Colleges and
1040 Schools to bid on the contract. Thereafter, notwithstanding any
1041 other provision to the contrary, if a public postsecondary
1042 institution intends to subcontract for any service awarded in
1043 the contract, the subcontracted service must be procured by
1044 competitive procedures.

1045 Section 16. Section 409.9132, Florida Statutes, is amended
1046 to read:

1047 409.9132 Pilot project to monitor home health services.—
1048 The Agency for Health Care Administration shall expand the home
1049 health agency monitoring pilot project in Miami-Dade County on a
1050 statewide basis effective July 1, 2012, except in counties in
1051 which the program will not be cost-effective, as determined by
1052 the agency. The agency shall contract with a vendor to verify



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1053 the utilization and delivery of home health services and provide
1054 an electronic billing interface for home health services. The
1055 contract must require the creation of a program to submit claims
1056 electronically for the delivery of home health services. The
1057 program must verify telephonically visits for the delivery of
1058 home health services using voice biometrics. The agency may seek
1059 amendments to the Medicaid state plan and waivers of federal
1060 laws, as necessary, to implement or expand the pilot project.
1061 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must
1062 award the contract through the competitive solicitation process
1063 and may use the current contract to expand the home health
1064 agency monitoring pilot project to include additional counties
1065 as authorized under this section.

1066 Section 17. Subsection (3) of section 427.0135, Florida
1067 Statutes, is amended to read:

1068 427.0135 Purchasing agencies; duties and
1069 responsibilities.—Each purchasing agency, in carrying out the
1070 policies and procedures of the commission, shall:

1071 (3) Not procure transportation disadvantaged services
1072 without initially negotiating with the commission, as provided
1073 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise
1074 authorized by statute. If the purchasing agency, after
1075 consultation with the commission, determines that it cannot
1076 reach mutually acceptable contract terms with the commission,
1077 the purchasing agency may contract for the same transportation
1078 services provided in a more cost-effective manner and of
1079 comparable or higher quality and standards. The Medicaid agency
1080 shall implement this subsection in a manner consistent with s.



1081 409.908(18) and as otherwise limited or directed by the General
 1082 Appropriations Act.

1083 Section 18. Paragraph (c) of subsection (5) of section
 1084 445.024, Florida Statutes, is amended to read:

1085 445.024 Work requirements.—

1086 (5) USE OF CONTRACTS.—Regional workforce boards shall
 1087 provide work activities, training, and other services, as
 1088 appropriate, through contracts. In contracting for work
 1089 activities, training, or services, the following applies:

1090 (c) Notwithstanding the exemption from the competitive
 1091 sealed bid requirements provided in s. 287.057(3)(e)
 1092 ~~287.057(3)(f)~~ for certain contractual services, each contract
 1093 awarded under this chapter must be awarded on the basis of a
 1094 competitive sealed bid, except for a contract with a
 1095 governmental entity as determined by the regional workforce
 1096 board.

1097 Section 19. Paragraph (c) of subsection (5) of section
 1098 627.311, Florida Statutes, is amended to read:

1099 627.311 Joint underwriters and joint reinsurers; public
 1100 records and public meetings exemptions.—

1101 (5)

1102 (c) The operation of the plan shall be governed by a plan
 1103 of operation that is prepared at the direction of the board of
 1104 governors and approved by order of the office. The plan is
 1105 subject to continuous review by the office. The office may, by
 1106 order, withdraw approval of all or part of a plan if the office
 1107 determines that conditions have changed since approval was



1108 granted and that the purposes of the plan require changes in the
1109 plan. The plan of operation shall:

1110 1. Authorize the board to engage in the activities
1111 necessary to implement this subsection, including, but not
1112 limited to, borrowing money.

1113 2. Develop criteria for eligibility for coverage by the
1114 plan, including, but not limited to, documented rejection by at
1115 least two insurers which reasonably assures that insureds
1116 covered under the plan are unable to acquire coverage in the
1117 voluntary market.

1118 3. Require notice from the agent to the insured at the
1119 time of the application for coverage that the application is for
1120 coverage with the plan and that coverage may be available
1121 through an insurer, group self-insurers' fund, commercial self-
1122 insurance fund, or assessable mutual insurer through another
1123 agent at a lower cost.

1124 4. Establish programs to encourage insurers to provide
1125 coverage to applicants of the plan in the voluntary market and
1126 to insureds of the plan, including, but not limited to:

1127 a. Establishing procedures for an insurer to use in
1128 notifying the plan of the insurer's desire to provide coverage
1129 to applicants to the plan or existing insureds of the plan and
1130 in describing the types of risks in which the insurer is
1131 interested. The description of the desired risks must be on a
1132 form developed by the plan.

1133 b. Developing forms and procedures that provide an insurer
1134 with the information necessary to determine whether the insurer



1135 wants to write particular applicants to the plan or insureds of
 1136 the plan.

1137 c. Developing procedures for notice to the plan and the
 1138 applicant to the plan or insured of the plan that an insurer
 1139 will insure the applicant or the insured of the plan, and notice
 1140 of the cost of the coverage offered; and developing procedures
 1141 for the selection of an insuring entity by the applicant or
 1142 insured of the plan.

1143 d. Provide for a market-assistance plan to assist in the
 1144 placement of employers. All applications for coverage in the
 1145 plan received 45 days before the effective date for coverage
 1146 shall be processed through the market-assistance plan. A market-
 1147 assistance plan specifically designed to serve the needs of
 1148 small, good policyholders as defined by the board must be
 1149 reviewed and updated periodically.

1150 5. Provide for policy and claims services to the insureds
 1151 of the plan of the nature and quality provided for insureds in
 1152 the voluntary market.

1153 6. Provide for the review of applications for coverage
 1154 with the plan for reasonableness and accuracy, using any
 1155 available historic information regarding the insured.

1156 7. Provide for procedures for auditing insureds of the
 1157 plan which are based on reasonable business judgment and are
 1158 designed to maximize the likelihood that the plan will collect
 1159 the appropriate premiums.

1160 8. Authorize the plan to terminate the coverage of and
 1161 refuse future coverage for any insured that submits a fraudulent
 1162 application to the plan or provides fraudulent or grossly



1163 erroneous records to the plan or to any service provider of the
1164 plan in conjunction with the activities of the plan.

1165 9. Establish service standards for agents who submit
1166 business to the plan.

1167 10. Establish criteria and procedures to prohibit any
1168 agent who does not adhere to the established service standards
1169 from placing business with the plan or receiving, directly or
1170 indirectly, any commissions for business placed with the plan.

1171 11. Provide for the establishment of reasonable safety
1172 programs for all insureds in the plan. All insureds of the plan
1173 must participate in the safety program.

1174 12. Authorize the plan to terminate the coverage of and
1175 refuse future coverage to any insured who fails to pay premiums
1176 or surcharges when due; who, at the time of application, is
1177 delinquent in payments of workers' compensation or employer's
1178 liability insurance premiums or surcharges owed to an insurer,
1179 group self-insurers' fund, commercial self-insurance fund, or
1180 assessable mutual insurer licensed to write such coverage in
1181 this state; or who refuses to substantially comply with any
1182 safety programs recommended by the plan.

1183 13. Authorize the board of governors to provide the goods
1184 and services required by the plan through staff employed by the
1185 plan, through reasonably compensated service providers who
1186 contract with the plan to provide services as specified by the
1187 board of governors, or through a combination of employees and
1188 service providers.

1189 a. Purchases that equal or exceed \$2,500 but are less than
1190 or equal to \$25,000, shall be made by receipt of written quotes,



1191 telephone quotes, or informal bids, whenever practical. The
1192 procurement of goods or services valued over \$25,000 is subject
1193 to competitive solicitation, except in situations in which the
1194 goods or services are provided by a sole source or are deemed an
1195 emergency purchase, or the services are exempted from
1196 competitive-solicitation requirements under s. 287.057(3)(e)
1197 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency
1198 procurement must be documented. Contracts for goods or services
1199 valued at or over \$100,000 are subject to board approval.

1200 b. The board shall determine whether it is more cost-
1201 effective and in the best interests of the plan to use legal
1202 services provided by in-house attorneys employed by the plan
1203 rather than contracting with outside counsel. In making such
1204 determination, the board shall document its findings and shall
1205 consider the expertise needed; whether time commitments exceed
1206 in-house staff resources; whether local representation is
1207 needed; the travel, lodging, and other costs associated with in-
1208 house representation; and such other factors that the board
1209 determines are relevant.

1210 14. Provide for service standards for service providers,
1211 methods of determining adherence to those service standards,
1212 incentives and disincentives for service, and procedures for
1213 terminating contracts for service providers that fail to adhere
1214 to service standards.

1215 15. Provide procedures for selecting service providers and
1216 standards for qualification as a service provider that
1217 reasonably assure that any service provider selected will



1218 | continue to operate as an ongoing concern and is capable of
 1219 | providing the specified services in the manner required.

1220 | 16. Provide for reasonable accounting and data-reporting
 1221 | practices.

1222 | 17. Provide for annual review of costs associated with the
 1223 | administration and servicing of the policies issued by the plan
 1224 | to determine alternatives by which costs can be reduced.

1225 | 18. Authorize the acquisition of such excess insurance or
 1226 | reinsurance as is consistent with the purposes of the plan.

1227 | 19. Provide for an annual report to the office on a date
 1228 | specified by the office and containing such information as the
 1229 | office reasonably requires.

1230 | 20. Establish multiple rating plans for various
 1231 | classifications of risk which reflect risk of loss, hazard
 1232 | grade, actual losses, size of premium, and compliance with loss
 1233 | control. At least one of such plans must be a preferred-rating
 1234 | plan to accommodate small-premium policyholders with good
 1235 | experience as defined in sub-subparagraph 22.a.

1236 | 21. Establish agent commission schedules.

1237 | 22. For employers otherwise eligible for coverage under
 1238 | the plan, establish three tiers of employers meeting the
 1239 | criteria and subject to the rate limitations specified in this
 1240 | subparagraph.

1241 | a. Tier One.—

1242 | (I) Criteria; rated employers.—An employer that has an
 1243 | experience modification rating shall be included in Tier One if
 1244 | the employer meets all of the following:

1245 | (A) The experience modification is below 1.00.



1246 (B) The employer had no lost-time claims subsequent to the
1247 applicable experience modification rating period.

1248 (C) The total of the employer's medical-only claims
1249 subsequent to the applicable experience modification rating
1250 period did not exceed 20 percent of premium.

1251 (II) Criteria; non-rated employers.—An employer that does
1252 not have an experience modification rating shall be included in
1253 Tier One if the employer meets all of the following:

1254 (A) The employer had no lost-time claims for the 3-year
1255 period immediately preceding the inception date or renewal date
1256 of the employer's coverage under the plan.

1257 (B) The total of the employer's medical-only claims for
1258 the 3-year period immediately preceding the inception date or
1259 renewal date of the employer's coverage under the plan did not
1260 exceed 20 percent of premium.

1261 (C) The employer has secured workers' compensation
1262 coverage for the entire 3-year period immediately preceding the
1263 inception date or renewal date of the employer's coverage under
1264 the plan.

1265 (D) The employer is able to provide the plan with a loss
1266 history generated by the employer's prior workers' compensation
1267 insurer, except if the employer is not able to produce a loss
1268 history due to the insolvency of an insurer, the receiver shall
1269 provide to the plan, upon the request of the employer or the
1270 employer's agent, a copy of the employer's loss history from the
1271 records of the insolvent insurer if the loss history is
1272 contained in records of the insurer which are in the possession
1273 of the receiver. If the receiver is unable to produce the loss



1274 history, the employer may, in lieu of the loss history, submit
1275 an affidavit from the employer and the employer's insurance
1276 agent setting forth the loss history.

1277 (E) The employer is not a new business.

1278 (III) Premiums.—The premiums for Tier One insureds shall
1279 be set at a premium level 25 percent above the comparable
1280 voluntary market premiums until the plan has sufficient
1281 experience as determined by the board to establish an
1282 actuarially sound rate for Tier One, at which point the board
1283 shall, subject to paragraph (e), adjust the rates, if necessary,
1284 to produce actuarially sound rates, provided such rate
1285 adjustment shall not take effect prior to January 1, 2007.

1286 b. Tier Two.—

1287 (I) Criteria; rated employers.—An employer that has an
1288 experience modification rating shall be included in Tier Two if
1289 the employer meets all of the following:

1290 (A) The experience modification is equal to or greater
1291 than 1.00 but not greater than 1.10.

1292 (B) The employer had no lost-time claims subsequent to the
1293 applicable experience modification rating period.

1294 (C) The total of the employer's medical-only claims
1295 subsequent to the applicable experience modification rating
1296 period did not exceed 20 percent of premium.

1297 (II) Criteria; non-rated employers.—An employer that does
1298 not have any experience modification rating shall be included in
1299 Tier Two if the employer is a new business. An employer shall be
1300 included in Tier Two if the employer has less than 3 years of
1301 loss experience in the 3-year period immediately preceding the



1302 inception date or renewal date of the employer's coverage under
1303 the plan and the employer meets all of the following:

1304 (A) The employer had no lost-time claims for the 3-year
1305 period immediately preceding the inception date or renewal date
1306 of the employer's coverage under the plan.

1307 (B) The total of the employer's medical-only claims for
1308 the 3-year period immediately preceding the inception date or
1309 renewal date of the employer's coverage under the plan did not
1310 exceed 20 percent of premium.

1311 (C) The employer is able to provide the plan with a loss
1312 history generated by the workers' compensation insurer that
1313 provided coverage for the portion or portions of such period
1314 during which the employer had secured workers' compensation
1315 coverage, except if the employer is not able to produce a loss
1316 history due to the insolvency of an insurer, the receiver shall
1317 provide to the plan, upon the request of the employer or the
1318 employer's agent, a copy of the employer's loss history from the
1319 records of the insolvent insurer if the loss history is
1320 contained in records of the insurer which are in the possession
1321 of the receiver. If the receiver is unable to produce the loss
1322 history, the employer may, in lieu of the loss history, submit
1323 an affidavit from the employer and the employer's insurance
1324 agent setting forth the loss history.

1325 (III) Premiums.—The premiums for Tier Two insureds shall
1326 be set at a rate level 50 percent above the comparable voluntary
1327 market premiums until the plan has sufficient experience as
1328 determined by the board to establish an actuarially sound rate
1329 for Tier Two, at which point the board shall, subject to



1330 paragraph (e), adjust the rates, if necessary, to produce
1331 actuarially sound rates, provided such rate adjustment shall not
1332 take effect prior to January 1, 2007.

1333 c. Tier Three.—

1334 (I) Eligibility.—An employer shall be included in Tier
1335 Three if the employer does not meet the criteria for Tier One or
1336 Tier Two.

1337 (II) Rates.—The board shall establish, subject to
1338 paragraph (e), and the plan shall charge, actuarially sound
1339 rates for Tier Three insureds.

1340 23. For Tier One or Tier Two employers which employ no
1341 nonexempt employees or which report payroll which is less than
1342 the minimum wage hourly rate for one full-time employee for 1
1343 year at 40 hours per week, the plan shall establish actuarially
1344 sound premiums, provided, however, that the premiums may not
1345 exceed \$2,500. These premiums shall be in addition to the fee
1346 specified in subparagraph 26. When the plan establishes
1347 actuarially sound rates for all employers in Tier One and Tier
1348 Two, the premiums for employers referred to in this paragraph
1349 are no longer subject to the \$2,500 cap.

1350 24. Provide for a depopulation program to reduce the
1351 number of insureds in the plan. If an employer insured through
1352 the plan is offered coverage from a voluntary market carrier:

1353 a. During the first 30 days of coverage under the plan;

1354 b. Before a policy is issued under the plan;

1355 c. By issuance of a policy upon expiration or cancellation
1356 of the policy under the plan; or



1357 d. By assumption of the plan's obligation with respect to
1358 an in-force policy,
1359
1360 that employer is no longer eligible for coverage through the
1361 plan. The premium for risks assumed by the voluntary market
1362 carrier must be no greater than the premium the insured would
1363 have paid under the plan, and shall be adjusted upon renewal to
1364 reflect changes in the plan rates and the tier for which the
1365 insured would qualify as of the time of renewal. The insured may
1366 be charged such premiums only for the first 3 years of coverage
1367 in the voluntary market. A premium under this subparagraph is
1368 deemed approved and is not an excess premium for purposes of s.
1369 627.171.

1370 25. Require that policies issued and applications must
1371 include a notice that the policy could be replaced by a policy
1372 issued from a voluntary market carrier and that, if an offer of
1373 coverage is obtained from a voluntary market carrier, the
1374 policyholder is no longer eligible for coverage through the
1375 plan. The notice must also specify that acceptance of coverage
1376 under the plan creates a conclusive presumption that the
1377 applicant or policyholder is aware of this potential.

1378 26. Require that each application for coverage and each
1379 renewal premium be accompanied by a nonrefundable fee of \$475 to
1380 cover costs of administration and fraud prevention. The board
1381 may, with the prior approval of the office, increase the amount
1382 of the fee pursuant to a rate filing to reflect increased costs
1383 of administration and fraud prevention. The fee is not subject
1384 to commission and is fully earned upon commencement of coverage.



1385 Section 20. Paragraph (e) of subsection (6) of section
1386 627.351, Florida Statutes, is amended to read:
1387 627.351 Insurance risk apportionment plans.—
1388 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
1389 (e) Purchases that equal or exceed \$2,500, but are less
1390 than \$25,000, shall be made by receipt of written quotes,
1391 written record of telephone quotes, or informal bids, whenever
1392 practical. The procurement of goods or services valued at or
1393 over \$25,000 shall be subject to competitive solicitation,
1394 except in situations where the goods or services are provided by
1395 a sole source or are deemed an emergency purchase; the services
1396 are exempted from competitive solicitation requirements under s.
1397 287.057(3)(e) ~~287.057(3)(f)~~; or the procurement of services is
1398 subject to s. 627.3513. Justification for the sole-sourcing or
1399 emergency procurement must be documented. Contracts for goods or
1400 services valued at or over \$100,000 are subject to approval by
1401 the board.

1402 Section 21. Subsection (2) of section 765.5155, Florida
1403 Statutes, is amended to read:
1404 765.5155 Donor registry; education program.—
1405 (2) The agency and the department shall jointly contract
1406 for the operation of a donor registry and education program. The
1407 contractor shall be procured by competitive solicitation
1408 pursuant to chapter 287, notwithstanding any exemption in s.
1409 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,
1410 priority shall be given to existing nonprofit groups that are
1411 based within the state, have expertise working with procurement
1412 organizations, have expertise in conducting statewide organ and



1413 tissue donor public education campaigns, and represent the needs
1414 of the organ and tissue donation community in the state.

1415 Section 22. Subsection (10) of section 893.055, Florida
1416 Statutes, is amended to read:

1417 893.055 Prescription drug monitoring program.—

1418 (10) All costs incurred by the department in administering
1419 the prescription drug monitoring program shall be funded through
1420 federal grants or private funding applied for or received by the
1421 state. The department may not commit funds for the monitoring
1422 program without ensuring funding is available. The prescription
1423 drug monitoring program and the implementation thereof are
1424 contingent upon receipt of the nonstate funding. The department
1425 and state government shall cooperate with the direct-support
1426 organization established pursuant to subsection (11) in seeking
1427 federal grant funds, other nonstate grant funds, gifts,
1428 donations, or other private moneys for the department so long as
1429 the costs of doing so are not considered material. Nonmaterial
1430 costs for this purpose include, but are not limited to, the
1431 costs of mailing and personnel assigned to research or apply for
1432 a grant. Notwithstanding the exemptions to competitive-
1433 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~,
1434 the department shall comply with the competitive-solicitation
1435 requirements under s. 287.057 for the procurement of any goods
1436 or services required by this section. Funds provided, directly
1437 or indirectly, by prescription drug manufacturers may not be
1438 used to implement the program.

1439 Section 23. The Department of Management Services, in
1440 consultation with the Chief Financial Officer, shall prepare and



1441 submit a report by December 1, 2013, to the Governor, the
1442 President of the Senate, and the Speaker of the House of
1443 Representatives recommending policies and statutory changes
1444 necessary to ensure that companies doing business with the state
1445 are taking necessary actions to identify and eradicate human
1446 trafficking, slavery, and exploitive labor from their supply
1447 chains for tangible goods offered for sale to the state. The
1448 report shall address the following factors:

1449 (1) Minimum actions that companies should be required to
1450 take to identify and eradicate human trafficking, slavery, and
1451 exploitive labor from their supply chains for tangible goods
1452 offered for sale to the state. Such minimum actions should
1453 include the adoption and enforcement of minimum company
1454 standards regarding human trafficking, slavery, and exploitive
1455 labor and public disclosure, either on the company's website
1456 through a conspicuous and easily understandable link or through
1457 an alternative method if the company does not have a website, of
1458 the extent to which the company:

1459 (a) Engages in verification of the supply chain to
1460 evaluate and address the supply chain's possible involvement in
1461 human trafficking, slavery, or exploitive labor. The disclosure
1462 should specify whether such verification is conducted by a third
1463 party.

1464 (b) Conducts audits of suppliers to evaluate supplier
1465 compliance with the company's standards regarding human
1466 trafficking, slavery, or exploitive labor in supply chains. The
1467 disclosure should specify whether such audits are conducted as
1468 independent, unannounced audits.



1469 (c) Requires suppliers to certify that materials
1470 incorporated into the product comply with laws regarding human
1471 trafficking, slavery, and exploitive labor in the country or
1472 countries in which they are doing business.

1473 (d) Maintains internal accountability standards and
1474 procedures for employees or contractors who fail to meet the
1475 company's standards regarding human trafficking, slavery, and
1476 exploitive labor.

1477 (e) Provides training on human trafficking, slavery, and
1478 exploitive labor to employees and managerial staff who have
1479 direct responsibility for supply chain management, particularly
1480 with respect to mitigating risks within the supply chain.

1481 (2) Whether as a condition of doing business with the
1482 state all companies or only those companies doing some threshold
1483 level of business with the state should be required to take
1484 minimum actions to identify and eradicate human trafficking,
1485 slavery, and exploitive labor from their supply chains for
1486 tangible goods offered for sale to the state.

1487 (3) The most efficient and effective mechanisms for the
1488 state to monitor and enforce compliance with recommended
1489 requirements for companies to take minimum actions to identify
1490 and eradicate human trafficking, slavery, and exploitive labor
1491 from their supply chains for tangible goods offered for sale to
1492 the state.

1493 Section 24. Except as otherwise expressly provided in this
1494 act, this act shall take effect July 1, 2013.