

By the Committees on Judiciary; Community Affairs; and Governmental Oversight and Accountability; and Senator Hays

590-03982-14

2014612c3

1 A bill to be entitled
2 An act relating to government contracting; amending s.
3 215.985, F.S.; revising information to be posted on
4 the Chief Financial Officer's contract tracking system
5 to conform to changes made by the act; amending s.
6 287.084, F.S.; preempting and superseding a local
7 ordinance or regulation that gives preference for an
8 award to a certified contractor under certain
9 circumstances; requiring a university, college,
10 county, municipality, school district, or other
11 political subdivision to make specified disclosures in
12 competitive solicitation documents; providing that a
13 university, college, county, municipality, school
14 district, or other political subdivision is not
15 prohibited from awarding a contract to a vendor under
16 certain circumstances; amending s. 287.1335, F.S.;
17 defining terms; requiring agencies to provide the
18 Department of Management Services with copies of
19 vendor complaints and names of suspended and
20 terminated vendors; authorizing local governmental
21 entities to provide such information to the
22 department; requiring the department to maintain
23 certain information regarding vendors on its website;
24 requiring an agency to submit specified information to
25 the department on a quarterly basis; authorizing a
26 local governmental entity to submit such information
27 on the same basis; requiring a vendor responding to an
28 agency's competitive solicitation to disclose certain
29 information; specifying certain requirements for

590-03982-14

2014612c3

30 considering a response to a competitive solicitation
31 or entering a contract; providing an effective date.
32

33 Be It Enacted by the Legislature of the State of Florida:
34

35 Section 1. Section 1. Paragraph (a) of subsection (14) of
36 section 215.985, Florida Statutes, is amended to read:

37 215.985 Transparency in government spending.—

38 (14) The Chief Financial Officer shall establish and
39 maintain a secure contract tracking system available for viewing
40 and downloading by the public through a secure website. The
41 Chief Financial Officer shall use appropriate Internet security
42 measures to ensure that no person has the ability to alter or
43 modify records available on the website.

44 (a) Within 30 calendar days after executing a contract,
45 each state entity shall post the following information relating
46 to the contract on the contract tracking system:

- 47 1. The names of the contracting entities.
- 48 2. The procurement method.
- 49 3. The contract beginning and ending dates.
- 50 4. The nature or type of the commodities or services
51 purchased.
- 52 5. Applicable contract unit prices and deliverables.
- 53 6. Total compensation to be paid or received under the
54 contract.
- 55 7. All payments made to the contractor to date.
- 56 8. Applicable contract performance measures.
- 57 9. If a competitive solicitation was not used to procure
58 the goods or services, the justification of such action,

590-03982-14

2014612c3

59 including citation to a statutory exemption or exception from
60 competitive solicitation, if any.

61 10. Electronic copies of the contract and procurement
62 documents that have been redacted to exclude confidential or
63 exempt information.

64 11. Whether the contractor was listed on the vendor
65 complaint list, suspended vendor list, or terminated vendor list
66 under s. 287.1335 at the time the contract was initially entered
67 into.

68 Section 2. Paragraph (c) of subsection (1) of section
69 287.084, Florida Statutes, is amended to read:

70 287.084 Preference to Florida businesses.—

71 (1)

72 (c)1. If a competitive solicitation for personal property
73 or construction services provides that 51 percent or more of the
74 cost is to be paid from state-appropriated funds, this section
75 preempts and supersedes any local ordinance or regulation that
76 gives preference to a vendor who is a certified contractor as
77 defined in s. 489.105(8) for an award predicated upon:

78 a. The vendor maintaining an office or place of business
79 within a particular local jurisdiction;

80 b. The vendor hiring employees or subcontractors from
81 within a particular local jurisdiction; or

82 c. The vendor's prior payment of local taxes, assessments,
83 or duties within a particular local jurisdiction.

84 2. In any competitive solicitation subject to this section,
85 a university, college, county, municipality, school district, or
86 other political subdivision of this state shall disclose in the
87 solicitation document whether payment will come from funds

590-03982-14

2014612c3

88 appropriated by the state and, if known, the amount of such
89 funds or the percentage of such funds as compared to the
90 anticipated total cost of the personal property or construction
91 services.

92 3. Except as provided in subparagraph 1., this section does
93 not prohibit a university, college, county, municipality, school
94 district, or other political subdivision of this state from
95 awarding a contract to a vendor in accordance with applicable
96 state laws or local ordinances or regulations. ~~As used in this~~
97 section, the term "other political subdivision of this state"
98 does not include counties or municipalities.

99 Section 3. Section 287.1335, Florida Statutes, is created
100 to read:

101 287.1335 Vendors; reporting by agencies and local
102 governmental entities.-

103 (1) As used in this section, the term:

104 (a) "Suspended vendor list" means a list compiled by the
105 department of all reported vendors whose ability to bid or
106 perform state or local government contracts has been temporarily
107 suspended by an agency or a participating local governmental
108 entity due to a contract default by the vendor or for other good
109 cause.

110 (b) "Terminated vendor list" means a list compiled by the
111 department of all reported vendors whose contracts have been
112 terminated by an agency or a participating local governmental
113 entity due to a contract default by the vendor or for other good
114 cause.

115 (c) "Vendor" means an entity or person in a contractual
116 relationship with an agency or a local governmental entity.

590-03982-14

2014612c3

117 (d) "Vendor complaint list" means a list compiled by the
118 department of complaints that have been issued to vendors by an
119 agency or participating local governmental entity.

120 (2) An agency shall provide the department with copies of
121 complaints issued to vendors and the names of suspended and
122 terminated vendors for the vendor complaint list, the suspended
123 vendor list, and the terminated vendor list, respectively. A
124 local governmental entity may provide such information to the
125 department.

126 (3) The department shall maintain and update, on its
127 website, the vendor complaint list, the suspended vendor list,
128 and the terminated vendor list. In addition, the department
129 shall provide public access through its website of copies of
130 complaints issued to a vendor by an agency or participating
131 local governmental entity.

132 (4) An agency shall provide the department each quarter
133 with updated information necessary to maintain the vendor
134 complaint list, the suspended vendor list, and the terminated
135 vendor list. A local governmental entity may provide such
136 information to the department each quarter. An agency shall
137 report to the department all instances of a material breach of a
138 contract or a notice of default and subsequent termination
139 within 30 days after such occurrence.

140 (5) (a) An agency shall require that a vendor responding to
141 a competitive solicitation disclose whether the vendor has,
142 within the previous 5 years, had a contract terminated by a
143 federal, state, or local governmental entity after defaulting on
144 a contract; paid a fine or penalty incurred by nonperformance of
145 a federal, state, or local government contract; or entered into

590-03982-14

2014612c3

146 an agreement with a federal, state, or local governmental entity
147 in settlement of any issues related to default or nonperformance
148 of a contract. An agency may consider a vendor's failure to
149 disclose such information in determining whether the vendor is
150 in breach of any resulting contract.

151 (b) A local governmental entity may require such
152 disclosures from a vendor in response to a competitive
153 solicitation.

154 (6) When evaluating bids, proposals, or replies to
155 competitive solicitations, an agency must consider information
156 available on the vendor complaint list, suspended vendor list,
157 and terminated vendor list in determining whether the vendor
158 submitting a response to the competitive solicitation is a
159 responsible and responsive vendor. If an agency enters into a
160 contract with a vendor on the vendor complaint list, suspended
161 vendor list, or terminated vendor list, the contract file must
162 contain documentation specifying that the agency's designee with
163 authority to sign the contract was aware that the contracted
164 vendor was named on the vendor complaint list, suspended vendor
165 list, or terminated vendor list at the time the contract was
166 initially entered into.

167 Section 4. This act shall take effect July 1, 2014.