A bill to be entitled
An act relating to government integrity; creating s. 11.421, F.S.; creating the Florida Accountability Office within the Office of Auditor General; providing definitions; providing duties and powers of the Florida Accountability Officer; amending s. 14.32, F.S.; providing definitions; providing investigative duties to the Chief Inspector General and agency inspectors general; providing liability; amending s. 17.325, F.S.; requiring certain records to be sent to the Florida Accountability Officer within a specified timeframe; amending s. 20.055, F.S.; requiring agency inspectors general to make certain determinations and reports; amending s. 110.1245, F.S.; providing requirements for awards given to employees who make a report under the Whistle-blower's Act; authorizing expenditures for such awards; amending s. 112.3187, F.S.; revising the definition of the term "gross mismanagement"; conforming provisions to changes made by the act; amending s. 287.057, F.S.; requiring certain state contracts to include a good faith estimate of gross profit; requiring a determination of reasonableness under certain conditions; prohibiting certain state employees from participating in the negotiation or award of state contracts; providing
definitions; revising the list of contractual services and commodities that are not subject to competitive-solicitation requirements; amending ss. 112.3188, 112.3189, and 112.31895, F.S.; conforming provisions to changes made by the act; authorizing the Office of the Auditor General to use carryforward funds to fund the Florida Accountability Office; providing an effective date.

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

Section 1. Section 11.421, Florida Statutes, is created to read:

11.421  Florida Accountability Office.—

(1) There is created within the Office of Auditor General the Florida Accountability Office for the purpose of ensuring accountability and integrity in state and local government and identifying, investigating, and recommending the elimination of waste, fraud, abuse, gross mismanagement, and related misconduct in government.

(2) The Florida Accountability Officer shall oversee the efficient operation of the office. The Florida Accountability Officer shall be a legislative employee and serve at the pleasure of the Auditor General.

(3) The Auditor General shall employ qualified individuals
for the office pursuant to s. 11.42.

(4) As used in this section, the term:

(a) "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for private gain.

(b) "Appropriations project" means a specific appropriation or proviso that provides funding for a specified entity that is a local government, private entity, or privately-operated program. The term does not include an appropriation or proviso:

1. Specifically authorized by statute;
2. That is part of a statewide distribution to local governments;
3. Recommended by a commission, council, or other similar entity created in statute to make annual funding recommendations, provided that such appropriation does not exceed the amount of funding recommended by the commission, council, or other similar entity;
4. For a specific transportation facility that is part of the Department of Transportation's 5-year work program submitted pursuant to s. 339.135;
5. For an education fixed capital outlay project that is submitted pursuant to s. 1013.64 or s. 1031.60; or
6. For a specified program, research initiative, institute, center, or similar entity at a specific state college or university recommended by the Board of Governors or the State Board of Education in their Legislative Budget Request.

(c) "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an organization's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

(d) "Gross mismanagement" has the same meaning as in s. 112.3187.

(e) "Misconduct" means conduct which, though not illegal, is inappropriate for a person in his or her specified position.

(f) "Office" means the Florida Accountability Office.

(g) "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

(5) The Florida Accountability Officer may investigate a complaint alleging waste, fraud, abuse, gross mismanagement, or misconduct in connection with the expenditure of public funds.

(6) A complaint may be submitted to the office by any of the following persons:
(a) The President of the Senate.
(b) The Speaker of the House of Representatives.
(c) The chair of an appropriations committee in the Senate or House of Representatives.
(d) The Auditor General.

(7)(a) Upon receipt of a complaint, the Florida Accountability Officer shall determine whether the complaint alleges facts supporting a reasonable suspicion of waste, fraud, abuse, gross mismanagement, or misconduct. The Florida Accountability Officer shall determine whether an investigation into the matter has already been initiated by a law enforcement agency, the Commission on Ethics, the Chief Financial Officer, the Office of Chief Inspector General, or the applicable agency inspector general.

(b) If the Florida Accountability Officer determines that the complaint does not allege facts supporting reasonable suspicion of waste, fraud, abuse, gross mismanagement, or misconduct, the Florida Accountability Officer shall notify the complainant in writing and the complaint shall be closed.

(c) If the complaint supports a reasonable suspicion of waste, fraud, abuse, gross mismanagement, or misconduct, the Florida Accountability Officer shall, within available resources, conduct an investigation and issue a report of the investigative findings to the complainant and to the President of the Senate and the Speaker of the House of Representatives.
The Florida Accountability Officer may refer the matter to the Auditor General, the appropriate law enforcement agency, the Commission on Ethics, the Chief Financial Officer, the Office of the Chief Inspector General, or the applicable agency inspector general. The Auditor General may provide staff and other resources to assist in the investigation.

(8)(a) The Florida Accountability Officer, or his or her designee, may investigate the books, records, papers, documents, data, operation, and physical location of any public agency in this state and the public records of any entity that has received public funds, including any confidential information.

(b) Upon the request of the Florida Accountability Officer, the Legislative Auditing Committee or any other committee of the Legislature may issue subpoenas and subpoenas duces tecum, as provided in s. 11.143, to compel testimony or the production of evidence when deemed necessary to an investigation authorized by this section. Consistent with s. 11.143, such subpoenas and subpoenas duces tecum may be issued as provided by applicable legislative rules, or in the absence of applicable rules, by the chair of the Legislative Auditing Committee with the approval of the Legislative Auditing Committee and of the President of the Senate and the Speaker of the House of Representatives, or either the President or Speaker if such officer alone designated the Legislative Auditing Committee under s. 1.01(17).
(c) If a witness fails or refuses to comply with a lawful subpoena issued pursuant to this subsection at a time when the Legislature is not in session, the Florida Accountability Officer may file a complaint before any circuit court of the state to enforce the subpoena. On the filing of such complaint, the court shall take jurisdiction of the witness and the subject matter of the complaint and shall direct the witness to respond to all lawful questions and to produce all documentary evidence in the possession of the witness which is lawfully demanded. The failure of a witness to comply with such order constitutes a direct and criminal contempt of court, and the court shall punish the witness accordingly.

(d) When the Legislature is in session, upon the request of the Florida Accountability Officer or the motion of a member of the Legislative Auditing Committee, either house may order compliance with the subpoena and subpoena duces tecum. Either house may punish by fine or imprisonment a witness who refuses to obey a lawful subpoena and subpoena duces tecum in accordance with s. 5, Art. III of the Florida Constitution, but such imprisonment may not extend beyond the final adjournment of the session.

(9) The Florida Accountability Officer shall receive copies of all reports required by ss. 14.32, 17.325, and 20.055.

(10) Each fiscal year, the Auditor General and the Florida Accountability Officer shall conduct random audits and
inspections of at least one-third of the appropriations projects appropriated in the prior year. Each audit and inspection must include, but is not limited to, evaluating the performance of the recipient of the appropriations project and the effect and public value produced by the appropriations project.

Section 2. Subsections (1) through (5) of section 14.32, Florida Statutes, are renumbered as subsections (2) through (6), respectively, and new subsections (1) and (7) are added to that section, to read:

14.32 Office of Chief Inspector General.—

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

(a) "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for private gain.

(b) "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an organization's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

(c) "Independent contractor" has the same meaning as in s.
112.3187.

(d) "Misconduct" means conduct which, though not illegal, is inappropriate for a person in his or her specified position.

(e) "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

(7)(a) Within 6 months of the initiation of an investigation of fraud, waste, abuse, mismanagement, or misconduct in government, the Chief Inspector General or an agency inspector general must determine whether there is reasonable suspicion to believe that fraud, waste, abuse, mismanagement, or misconduct in government has occurred. If the determination is that reasonable suspicion has not been found to exist and the investigation continues, a new determination must be made every 3 months until the investigation is closed or reasonable suspicion is found to exist.

(b) If the Chief Inspector General or an agency inspector general determines that there is reasonable suspicion to believe a public official, independent contractor, or agency has committed fraud, waste, abuse, mismanagement, or misconduct in government, the inspector general shall report such findings to the Florida Accountability Officer and to the Commission on Ethics or proper law enforcement agency, if the commission or law enforcement agency has jurisdiction over the subject matter.

(c) If the findings of an investigation conducted pursuant
to this subsection conclude that a public official, independent contractor, or agency has committed fraud, waste, abuse, mismanagement, or misconduct in government, the Chief Inspector General or agency inspector general shall report such findings to the Chief Financial Officer within 30 days after the investigation is closed. Such public official, independent contractor, or person responsible within the agency is personally liable for repayment of the funds that were diverted or lost as a result of the fraud, waste, abuse, mismanagement, or misconduct in government. If the person liable fails to repay such funds voluntarily and the state does not agree to a settlement, the Chief Financial Officer shall bring a civil action to recover the funds within 60 days after receipt of such findings.

Section 3. Subsections (4) and (5) of section 17.325, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

17.325 Governmental efficiency hotline; duties of Chief Financial Officer.—

(4) A copy of each suggestion or item of information received through the hotline that is logged pursuant to this section must be provided to the Florida Accountability Officer by the 15th of each month.

Section 4. Paragraph (g) is added to subsection (7) of
section 20.055, Florida Statutes, to read:

20.055 Agency inspectors general.—

(7) In carrying out the investigative duties and responsibilities specified in this section, each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. For these purposes, each inspector general shall:

(g) Make determinations and reports as required by s. 14.32(7).

Section 5. Paragraphs (a) and (b) of subsection (1) and subsection (2) of section 110.1245, Florida Statutes, are amended, and a new subsection (6) is added to that section, to read:

110.1245 Savings sharing program; bonus payments; other awards.—

(1)(a) The Department of Management Services shall adopt rules that prescribe procedures and promote a savings sharing program for an individual or group of employees who propose procedures or ideas that are adopted and that result in eliminating or reducing state expenditures, including employees reporting under the Whistle-blower's Act, if such proposals are placed in effect and may be implemented under current statutory authority.
(b) Each agency head shall recommend employees individually or by group to be awarded an amount of money, which amount shall be directly related to the cost savings realized. Each proposed award and amount of money must be approved by the Legislative Budget Commission, except an award under subsection (6).

(2) In June of each year, bonuses shall be paid to employees from funds authorized by the Legislature in an appropriation specifically for bonuses. For purposes of this subsection, awards issued under subsection (6) are not considered bonuses. Each agency shall develop a plan for awarding lump-sum bonuses, which plan shall be submitted no later than September 15 of each year and approved by the Office of Policy and Budget in the Executive Office of the Governor. Such plan shall include, at a minimum, but is not limited to:

(a) A statement that bonuses are subject to specific appropriation by the Legislature.

(b) Eligibility criteria as follows:
1. The employee must have been employed before July 1 of that fiscal year and have been continuously employed through the date of distribution.
2. The employee must not have been on leave without pay consecutively for more than 6 months during the fiscal year.
3. The employee must have had no sustained disciplinary action during the period beginning July 1 through the date the...
bonus checks are distributed. Disciplinary actions include written reprimands, suspensions, dismissals, and involuntary or voluntary demotions that were associated with a disciplinary action.

4. The employee must have demonstrated a commitment to the agency mission by reducing the burden on those served, continually improving the way business is conducted, producing results in the form of increased outputs, and working to improve processes.

5. The employee must have demonstrated initiative in work and have exceeded normal job expectations.

6. The employee must have modeled the way for others by displaying agency values of fairness, cooperation, respect, commitment, honesty, excellence, and teamwork.

(c) A periodic evaluation process of the employee's performance.

(d) A process for peer input that is fair, respectful of employees, and affects the outcome of the bonus distribution.

(e) A division of the agency by work unit for purposes of peer input and bonus distribution.

(f) A limitation on bonus distributions equal to 35 percent of the agency's total authorized positions. This requirement may be waived by the Office of Policy and Budget in the Executive Office of the Governor upon a showing of exceptional circumstances.
(6) Each agency inspector general shall report employees whose reports under the Whistle-blower's Act resulted in savings or recovery of public funds in excess of $1,000 to the agency head. Whistle-blower awards shall be awarded by each agency, and each agency head is authorized to incur expenditures to provide such awards. The award shall be paid from the specific appropriation or trust fund from which the savings or recovery resulted. The agency inspector general to whom the whistle-blower report was made or referred shall certify the identity of the employee and, along with the agency head or his or her designee, the savings or recovery resulting from the investigation. If more than one employee makes a relevant report, the award shall be shared in proportion to each employee's contribution to the investigation as certified by the agency inspector general. Whistle-blower awards shall be made in the following amounts:

(a) A career service employee shall receive 10 percent of the savings or recovery certified, but not less than $500 and not more than a total of $50,000 for whistle-blower reports in any 1 year. If the employee had any fault for the misspending or attempted misspending of public funds identified in the investigation that resulted in the savings, the award may be denied at the discretion of the agency head. If the award is not denied by the agency head, the award may not exceed $500. The agency inspector general shall certify any fault on the part of
the employee.

(b) A Senior Management Service employee or employee in a select exempt position shall receive 5 percent of the savings or recovery certified, but not more than a total of $1,000 for whistle-blower reports in any 1 year. An employee may not receive an award under this subsection if he or she had any fault for the misspending or attempted misspending of public funds identified in the investigation that resulted in the savings or recover. The agency inspector general shall certify any fault on the part of the employee.

Section 6. Subsection (2), paragraph (e) of subsection (3), and paragraph (b) of subsection (5) of section 112.3187, Florida Statutes, are amended to read:

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency.
alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.

(3) DEFINITIONS.—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:

(e) "Gross Mismanagement" means a continuous or repeated pattern of neglect of managerial duty, managerial abuses, wrongful or arbitrary and capricious actions, or deceptive, fraudulent, or criminal conduct which may have a substantial adverse economic impact.

(5) NATURE OF INFORMATION DISCLOSED.—The information disclosed under this section must include:

(b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

Section 7. Subsection (1) of section 112.3188, Florida Statutes, is amended to read:

112.3188 Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.—

(1) The name or identity of any individual who discloses in good faith to the Chief Inspector General or an agency
inspector general, a local chief executive officer, or other appropriate local official information that alleges that an employee or agent of an agency or independent contractor:

(a) Has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or

(b) Has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty

may not be disclosed to anyone other than a member of the Chief Inspector General's, agency inspector general's, internal auditor's, local chief executive officer's, or other appropriate local official's staff without the written consent of the individual, unless the Chief Inspector General, internal auditor, agency inspector general, local chief executive officer, or other appropriate local official determines that:

the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.

Section 8. Paragraph (c) of subsection (3), subsection
(4), and paragraph (a) of subsection (5) of section 112.3189, Florida Statutes, are amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(3) When a person alleges information described in s. 112.3187(5), the Chief Inspector General or agency inspector general actually receiving such information shall within 20 days of receiving such information determine:

(c) Whether the information actually disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

(4) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is not the type of information described in s. 112.3187(5), or that the source of the information is not a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, or that the information disclosed does not demonstrate reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal,
state, or local law, rule, or regulation, thereby creating and
presenting a substantial and specific danger to the public's
health, safety, or welfare, or has committed an act of gross
mismanagement, malfeasance, misfeasance, gross waste of public
funds, or gross neglect of duty, the Chief Inspector General or
agency inspector general shall notify the complainant of such
fact and copy and return, upon request of the complainant, any
documents and other materials that were provided by the
complainant.

(5)(a) If the Chief Inspector General or agency inspector
general under subsection (3) determines that the information
disclosed is the type of information described in s.
112.3187(5), that the source of the information is from a person
who is an employee or former employee of, or an applicant for
employment with, a state agency, as defined in s. 216.011, and
that the information disclosed demonstrates reasonable cause to
suspect that an employee or agent of an agency or independent
contractor has violated any federal, state, or local law, rule,
or regulation, thereby creating a substantial and specific
danger to the public's health, safety, or welfare, or has
committed an act of gross mismanagement, malfeasance,
misfeasance, gross waste of public funds, or gross neglect of
duty, the Chief Inspector General or agency inspector general
making such determination shall then conduct an investigation,
unless the Chief Inspector General or the agency inspector
general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.

2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.

3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 110.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

Section 9. Paragraph (a) of subsection (3) of section 112.31895, Florida Statutes, is amended to read:

112.31895 Investigative procedures in response to
prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Public
Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Florida Commission on Human Relations must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited
action has occurred, is occurring, or is to be taken.

Section 10. Paragraph (e) of subsection (3) and subsection (9) of section 287.057, Florida Statutes, are amended, and new subsections (24) and (25) are added to that section, to read:

287.057 Procurement of commodities or contractual services.—

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

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

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

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

3. Lectures by individuals.
4. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.

5. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration. The term also includes, but is not limited to, substance abuse and mental health services involving examination, diagnosis, treatment, prevention, or medical consultation if such services are offered to eligible individuals participating in a specific program that qualifies multiple providers and uses a standard payment methodology. Reimbursement of administrative costs for providers of services purchased in this manner are also exempt. For purposes of this subparagraph, the term "providers" means health professionals and health facilities, or organizations that deliver or arrange for the delivery of health services.

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

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

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

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

11. Contracts entered into pursuant to s. 337.11.

12. Services or commodities provided by governmental entities.

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

(9) An agency shall not divide the solicitation of commodities or contractual services so as to avoid the requirements of subsections (1)-(3) or subsection (24).

(24)(a) For any contract in excess of $50,000 that is awarded through an invitation to negotiate or awarded without competitive solicitation under paragraph (3)(c) or paragraph (3)(e) or subsection (10), the proposal, offer, or response of the contractor must include a good faith estimate of gross profit for each year of the proposed contract, including renewal years. If, in determining the good faith estimate of gross
profit, the contractor includes the cost of products or services
expected to be provided by a participant closely associated with
the contractor, the contractor must also identify such
participant, describe the association, and provide a good faith
estimate of gross profit for such participant for each year of
the contract, which must be attested to by an authorized
representative of the participant. If the estimate of gross
profit for any contractor and all such participants exceeds 15
percent of the total expected receipts in any 1 year, the agency
must, before awarding the contract, make a written determination
that the estimated gross profit is not excessive and specify the
reasons for such determination. Notwithstanding any provision of
the contract, a contractor is liable to the agency for three
times the amount or value of any misrepresentation of estimated
gross profit as liquidated damages for such misrepresentation.

(b) For purposes of this subsection, the term:

1. "Closely associated with the contractor" means the
contractor, principal of the contractor, or a family member or
business associate of a principal of the contractor is a
principal of the participant. "Principal" means a person who
owns at least 5 percent interest in the business or entity or is
a manager of the business or entity. "Business associate" means
a person or entity with whom a principal of the contractor has
substantial investment, employment, or partnership interests.

2. "Good faith estimate of gross profit" means a good
faith estimate of the total receipts expected under the contract
less the cost of providing contracted commodities and services
under the contract, not including overhead costs. "Overhead
costs" means all costs not directly related to contract
performance, including, but not limited to, marketing and
administrative expenses.

3. "Participant" means a person or entity with whom the
contractor expects to subcontract with for services or
commodities in carrying out a contract with an agency.

(25) Notwithstanding any other provision of law, a state
employee who is registered to lobby the Legislature, other than
an agency head, may not participate in the negotiation or award
of any contract required or expressly funded under a specific
legislative appropriation or proviso in an appropriation act.

Section 11. The Office of the Auditor General is
authorized to use carryforward funds to fund the establishment
and operations of the Florida Accountability Office as created
by this act.

Section 12. This act shall take effect July 1, 2018.