

By the Committees on Appropriations; and Governmental Oversight and Accountability; and Senator Brodeur

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1 A bill to be entitled
2 An act relating to agency contracts for commodities
3 and contractual services; reenacting and amending s.
4 216.1366, F.S.; abrogating the scheduled expiration of
5 provisions relating to certain public agency contracts
6 for services; amending s. 287.042, F.S.; providing
7 that the Department of Management Services may enter
8 into an agreement authorizing an agency to make
9 purchases under certain contracts if the Secretary of
10 Management Services makes a certain determination;
11 amending s. 287.056, F.S.; providing that an agency
12 must issue a request for quote to certain approved
13 vendors when it issues certain requests for quote for
14 contractual services; providing for the
15 disqualification of certain firms or individuals from
16 state term contract eligibility; amending s. 287.057,
17 F.S.; revising the period of time during which an
18 agency must electronically post a description of
19 certain commodities or services in certain
20 circumstances; requiring an agency to periodically
21 report certain actions to the department in a
22 specified manner and form; requiring the department to
23 annually report certain information to the Governor
24 and the Legislature by a specified date; prohibiting
25 an agency from initiating a competitive solicitation
26 in certain circumstances; providing applicability;
27 revising the maximum value of certain contracts that
28 may not be renewed or amended by a state agency before
29 submitting a written report to the Governor and the

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30 Legislature; requiring the agency to designate a
31 contract manager to serve as a liaison between the
32 contractor and the agency; prohibiting certain
33 individuals from serving as a contract manager;
34 providing the responsibilities of a contract manager;
35 requiring the Chief Financial Officer to evaluate
36 certain training at certain intervals; requiring that
37 certain contract managers complete training and
38 certification within a specified timeframe; requiring
39 the department to establish and disseminate certain
40 training and certification requirements; requiring the
41 department to evaluate certain training at certain
42 intervals; requiring certain contract managers to
43 possess certain experience in managing contracts;
44 authorizing a contract administrator to also serve as
45 a contract manager in certain circumstances; providing
46 that evaluations of proposals and replies must be
47 conducted independently; providing for specified teams
48 to conduct certain negotiations; requiring a Project
49 Management Professional to provide guidance based on
50 certain qualifications; providing qualification
51 requirements for contract negotiator certification;
52 requiring supervisors of contract administrators or
53 contract and grant managers meeting certain criteria
54 to complete training within a specified period;
55 providing that the department is responsible for
56 establishing and disseminating supervisor training by
57 a certain date; providing for a continuing oversight
58 team in certain circumstances; providing requirements

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59 for continuing oversight team members and meetings;
60 requiring a continuing oversight team to provide
61 notice of certain deficiencies and changes in contract
62 scope to certain entities; amending s. 287.058, F.S.;

63 prohibiting a contract document for certain
64 contractual services from containing a certain
65 nondisclosure clause; creating s. 287.1351, F.S.;

66 defining the term "vendor"; prohibiting certain
67 vendors from submitting bids, proposals, or replies
68 to, or entering into or renewing any contract with, an
69 agency; prohibiting an agency from accepting a bid,
70 proposal, or reply from, or entering into a contract
71 with, a suspended vendor until certain conditions are
72 met; requiring an agency to notify the department of,
73 and provide certain information regarding, any such
74 vendors; requiring the department to review any vendor
75 reported by an agency; requiring the department to
76 notify a vendor of any intended removal from the
77 vendor list; specifying administrative remedies and
78 applicable procedures for an affected vendor;

79 requiring the department to place certain vendors on
80 the suspended vendor list; authorizing the removal of
81 a suspended vendor from the suspended vendor list in
82 accordance with specified procedures; specifying
83 requirements and limitations; amending s. 287.136,
84 F.S.; requiring each agency inspector general to
85 complete certain audits of executed contracts at
86 certain intervals; amending ss. 43.16, 215.971,
87 287.0571, 295.187, 394.47865, 402.7305, 408.045,

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88 570.07, and 627.351, F.S.; conforming cross-
89 references; requiring the Department of Management
90 Services to conduct a study evaluating fleet
91 management options to identify any potential savings;
92 requiring the department to submit a report to the
93 Legislature by a specified date; providing an
94 effective date.

95

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

97

98 Section 1. Notwithstanding the expiration date in section
99 106 of chapter 2020-114, Laws of Florida, section 216.1366,
100 Florida Statutes, is reenacted and amended to read:

101 216.1366 Contract terms.—

102 (1) In order to preserve the interest of the state in the
103 prudent expenditure of state funds, each public agency contract
104 for services entered into or amended on or after July 1, 2020,
105 shall authorize the public agency to inspect the:

106 (a) Financial records, papers, and documents of the
107 contractor that are directly related to the performance of the
108 contract or the expenditure of state funds.

109 (b) Programmatic records, papers, and documents of the
110 contractor which the public agency determines are necessary to
111 monitor the performance of the contract or to ensure that the
112 terms of the contract are being met.

113 (2) The contract shall require the contractor to provide
114 such records, papers, and documents requested by the public
115 agency within 10 business days after the request is made.

116 ~~(3) This section expires July 1, 2021.~~

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117 Section 2. Subsection (16) of section 287.042, Florida
118 Statutes, is amended to read:

119 287.042 Powers, duties, and functions.—The department shall
120 have the following powers, duties, and functions:

121 (16) To evaluate contracts let by the Federal Government,
122 another state, or a political subdivision for the provision of
123 commodities and contract services, and, if it is determined by
124 the Secretary of Management Services in writing to be cost-
125 effective and ~~in the best value to interest~~ of the state, to
126 enter into a written agreement authorizing an agency to make
127 purchases under such contract.

128 Section 3. Subsection (2) of section 287.056, Florida
129 Statutes, is amended, and subsection (4) is added to that
130 section, to read:

131 287.056 Purchases from purchasing agreements and state term
132 contracts.—

133 (2) Agencies and eligible users may use a request for quote
134 to obtain written pricing or services information from a state
135 term contract vendor for commodities or contractual services
136 available on state term contract from that vendor. The purpose
137 of a request for quote is to determine whether a price, term, or
138 condition more favorable to the agency or eligible user than
139 that provided in the state term contract is available. If an
140 agency issues a request for quote for contractual services for
141 any contract with 25 vendors or fewer, the agency must issue a
142 request for quote to all vendors approved to provide such
143 contractual services. For any contract with more than 25
144 vendors, the agency must issue a request for quote to a minimum
145 of 25 vendors approved to provide such contractual services. Use

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146 of a request for quote does not constitute a decision or
147 intended decision that is subject to protest under s. 120.57(3).

148 (4) A firm or individual placed on the suspended vendor
149 list pursuant to s. 287.1351 or placed on a disqualified vendor
150 list pursuant to s. 287.133 or s. 287.134 is immediately
151 disqualified from state term contract eligibility.

152 Section 4. Present subsections (4) through (16) and (17)
153 through (23) of section 287.057, Florida Statutes, are
154 redesignated as subsections (5) through (17) and (19) through
155 (25), respectively, new subsections (4) and (18) and subsection
156 (26) are added to that section, and paragraph (c) of subsection
157 (3) and present subsections (13) through (16) of that section
158 are amended, to read:

159 287.057 Procurement of commodities or contractual
160 services.—

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

167 (c) Commodities or contractual services available only from
168 a single source may be excepted from the competitive-
169 solicitation requirements. If an agency believes that
170 commodities or contractual services are available only from a
171 single source, the agency shall electronically post a
172 description of the commodities or contractual services sought
173 for at least 15 ~~7~~ business days. The description must include a
174 request that prospective vendors provide information regarding

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175 their ability to supply the commodities or contractual services
176 described. If it is determined in writing by the agency, after
177 reviewing any information received from prospective vendors that
178 the commodities or contractual services are available only from
179 a single source, the agency shall provide notice of its intended
180 decision to enter a single-source purchase contract in the
181 manner specified in s. 120.57(3). Each agency shall report all
182 such actions to the department on a quarterly basis in a manner
183 and form prescribed by the department, and the department shall
184 report such information to the Governor, the President of the
185 Senate, and the Speaker of the House of Representatives no later
186 than January 1, 2022, and each January 1 thereafter.

187 (4) (a) An agency may not initiate a competitive
188 solicitation for a product or service if the completion of such
189 competitive solicitation would:

190 1. Require a change in law; or

191 2. Require a change to the agency's original approved
192 budget as defined in s. 216.011, other than a transfer
193 authorized in s. 216.292(2) or (3), unless the initiation of
194 such competitive solicitation is specifically authorized in law,
195 in the General Appropriations Act, or by the Legislative Budget
196 Commission.

197 (b) This subsection does not apply to a competitive
198 solicitation for which the agency head certifies that a valid
199 emergency exists.

200 (14) ~~(13)~~ Contracts for commodities or contractual services
201 may be renewed for a period that may not exceed 3 years or the
202 term of the original contract, whichever is longer. Renewal of a
203 contract for commodities or contractual services must be in

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204 writing and is subject to the same terms and conditions set
205 forth in the initial contract and any written amendments signed
206 by the parties. If the commodity or contractual service is
207 purchased as a result of the solicitation of bids, proposals, or
208 replies, the price of the commodity or contractual service to be
209 renewed must be specified in the bid, proposal, or reply, except
210 that an agency may negotiate lower pricing. A renewal contract
211 may not include any compensation for costs associated with the
212 renewal. Renewals are contingent upon satisfactory performance
213 evaluations by the agency and subject to the availability of
214 funds. Exceptional purchase contracts pursuant to paragraphs
215 (3) (a) and (c) may not be renewed. With the exception of
216 subsection (11) ~~(10)~~, if a contract amendment results in a
217 longer contract term or increased payments, a state agency may
218 not renew or amend a contract for the outsourcing of a service
219 or activity that has an original term value exceeding \$5 ~~\$10~~
220 million before submitting a written report concerning contract
221 performance to the Governor, the President of the Senate, and
222 the Speaker of the House of Representatives at least 90 days
223 before execution of the renewal or amendment.

224 (15) (a) ~~(14)~~ For each contractual services contract, the
225 agency shall designate an employee to function as contract
226 manager who is responsible for enforcing performance of the
227 contract terms and conditions and to serve as a liaison between
228 with the contractor and the agency. The contract manager may not
229 be an individual who has been employed within the previous 5
230 years by the vendor awarded the contractual services contract.
231 The primary responsibilities of a contract manager include, but
232 are not limited to:

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233 1. Participating in the solicitation development and review
234 of contract documents.

235 2. Monitoring the contractor's progress and performance to
236 ensure procured products and services conform to the contract
237 requirements and keeping timely records of findings.

238 3. Managing and documenting any changes to the contract
239 through the amendment process authorized by the terms of the
240 contract.

241 4. Monitoring the contract budget to ensure sufficient
242 funds are available throughout the term of the contract.

243 5. Exercising applicable remedies, as appropriate, when a
244 contractor's performance is deficient.

245 (b) ~~(a)~~ Each contract manager who is responsible for
246 contracts in excess of the threshold amount for CATEGORY TWO
247 must, at a minimum, complete training conducted by the Chief
248 Financial Officer for accountability in contracts and grant
249 management. The Chief Financial Officer shall evaluate such
250 training every 5 years to assess its effectiveness and update
251 the training curriculum. The Chief Financial Officer shall
252 establish and disseminate uniform procedures pursuant to s.
253 17.03(3) to ensure that contractual services have been rendered
254 in accordance with the contract terms before the agency
255 processes the invoice for payment. The procedures must include,
256 but need not be limited to, procedures for monitoring and
257 documenting contractor performance, reviewing and documenting
258 all deliverables for which payment is requested by vendors, and
259 providing written certification by contract managers of the
260 agency's receipt of goods and services.

261 (c) ~~(b)~~ Each contract manager who is responsible for

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262 contracts in excess of \$100,000 annually must, in addition to
263 the accountability in contracts and grant management training
264 required in paragraph (b) and within 6 months after being
265 assigned responsibility for such contracts, complete training in
266 contract management and become a certified contract manager. The
267 department is responsible for establishing and disseminating the
268 training and certification requirements for certified contract
269 managers. Training must promote best practices and procedures
270 related to negotiating, managing, and ensuring accountability in
271 agency contracts and grant agreements, which must include the
272 use of case studies based upon previous audits, contracts, and
273 grant agreements. A certified contract manager must complete
274 training every 5 years for certification renewal requirements
275 ~~for certification which include completing the training~~
276 ~~conducted by the Chief Financial Officer for accountability in~~
277 ~~contracts and grant management.~~ Training and certification must
278 be coordinated by the department, and the training must be
279 conducted jointly by the department and the Department of
280 Financial Services. The department shall evaluate such training
281 every 5 years to assess its effectiveness and update the
282 training curriculum ~~Training must promote best practices and~~
283 ~~procedures related to negotiating, managing, and ensuring~~
284 ~~accountability in agency contracts and grant agreements, which~~
285 ~~must include the use of case studies based upon previous audits,~~
286 ~~contracts, and grant agreements. All agency contract managers~~
287 ~~must become certified within 24 months after establishment of~~
288 ~~the training and certification requirements by the department~~
289 ~~and the Department of Financial Services.~~

290 (d) Each contract manager who is responsible for contracts

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291 in excess of \$10 million annually must, in addition to the
292 training required in paragraph (b) and the training and
293 certification required in paragraph (c), possess at least 5
294 years of experience managing contracts in excess of \$5 million
295 annually.

296 (16)~~(15)~~ Each agency shall designate at least one employee
297 who shall serve as a contract administrator responsible for
298 maintaining a contract file and financial information on all
299 contractual services contracts and who shall serve as a liaison
300 with the contract managers and the department. For a contract of
301 \$500,000 or less annually, the contract administrator may also
302 serve as the contract manager if he or she has completed the
303 required training. For a contract in excess of \$500,000
304 annually, the contract administrator may not serve as both the
305 contract administrator and the contract manager.

306 (17) (a)~~(16) (a)~~ For a contract in excess of the threshold
307 amount provided in s. 287.017 for CATEGORY FOUR, the agency head
308 shall appoint:

309 1. At least three persons to independently evaluate
310 proposals and replies who collectively have experience and
311 knowledge in the program areas and service requirements for the
312 commodity ~~which commodities~~ or contractual services ~~are~~ sought.

313 2. At least three persons to a negotiation team to conduct
314 negotiations during a competitive sealed reply procurement. The
315 negotiation team members must ~~who~~ collectively have experience
316 and knowledge in negotiating contracts, contract procurement,
317 and the program areas and service requirements for the commodity
318 ~~which commodities~~ or contractual services ~~are~~ sought.

319 (b) 1. If the value of a contract is in excess of \$1 million

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320 in any fiscal year, at least one of the persons conducting
321 negotiations must be ~~certified as a~~ certified contract
322 negotiator ~~based upon department rules in order to ensure that~~
323 ~~certified contract negotiators are knowledgeable about effective~~
324 ~~negotiation strategies, capable of successfully implementing~~
325 ~~those strategies, and involved appropriately in the procurement~~
326 ~~process. At a minimum, the rules must address the qualifications~~
327 ~~required for certification, the method of certification, and the~~
328 ~~procedure for involving the certified negotiator.~~

329 2. If the value of a contract is in excess of \$10 million
330 in any fiscal year, at least one of the persons conducting
331 negotiations must be a Project Management Professional, as
332 certified by the Project Management Institute. The Project
333 Management Professional shall provide guidance based on his or
334 her experience, education, and competency to lead and direct
335 complex projects.

336 3. The department is responsible for establishing and
337 disseminating the certification and training requirements for
338 certified contract negotiators. Training must ensure that
339 certified contract negotiators are knowledgeable about effective
340 negotiation strategies, capable of successfully implementing
341 those strategies, and involved appropriately in the procurement
342 process. The department shall evaluate such training every 5
343 years in order to assess its effectiveness and update the
344 training curriculum. A certified contract negotiator is required
345 to complete training every 5 years for certification renewal.
346 Qualification requirements for certification must include:

347 a. At least 12 months' experience as a purchasing agent,
348 contract manager, or contract administrator for an agency or a

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349 local governmental entity where at least 50 percent of the
350 designated duties included procuring commodities or contractual
351 services; participating in contract negotiation, contract
352 management, or contract administration; or working as an agency
353 attorney whose duties included providing legal counsel to the
354 agency's purchasing or contracting staff; and

355 b. Experience during the preceding 5 years in leading at
356 least two federal, state, or local government negotiation teams
357 through a negotiated procurement or participation in at least
358 three federal, state, or local government-negotiated
359 procurements.

360 (18) Any person who supervises contract administrators or
361 contract or grant managers who meet criteria for certification
362 in subsection (15) shall annually complete public procurement
363 training for supervisors within 12 months after appointment to
364 the supervisory position. The department is responsible for
365 establishing and disseminating the training course content
366 required for supervisors, and training shall commence no later
367 than July 1, 2022.

368 (26) (a) For each contractual services contract in excess of
369 \$5 million, the agency head shall establish a continuing
370 oversight team after the contract has been awarded. The agency
371 head shall appoint at least four persons, one of whom must be
372 the certified contract manager, to the continuing oversight
373 team. If the value of the contractual services contract is in
374 excess of \$10 million, at least one of the persons on the
375 continuing oversight team must possess at least 5 years of
376 experience in managing contracts of a similar scope or size. If
377 the value of the contractual services contract is in excess of

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378 \$20 million, the continuing oversight team must consist of at
379 least five persons, and at least one of the persons on the
380 continuing oversight team must be from an agency other than the
381 agency or agencies participating in the contract. Members of the
382 continuing oversight team must be agency employees and must
383 collectively have experience and knowledge in contract
384 management, contract administration, contract enforcement, and
385 the program areas and service requirements for the contractual
386 services purchased.

387 (b)1. For contracts in excess of \$5 million, each
388 continuing oversight team must meet at least quarterly.

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

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

404 2. The continuing oversight team must meet to discuss the
405 status of the contract, the pace of deliverables, the quality of
406 deliverables, contractor responsiveness, and contractor

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407 performance. The contract administrator must be present at each
408 meeting with the contract file and all applicable financial
409 information. The continuing oversight team may submit written
410 questions to the contractor concerning any items discussed
411 during a continuing oversight team meeting. The contractor must
412 respond to the team's questions within 10 business days after
413 receiving the written questions. The questions and responses
414 must be included in the contract file.

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

416 1. The agency head and the department of any deficiency in
417 a contractor's performance which substantially affects the pace
418 of deliverables or the likelihood of the successful completion
419 of the contract.

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

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

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

435 287.058 Contract document.—

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436 (7) A contract may not contain a nondisclosure clause that
437 prohibits the contractor from disclosing information relevant to
438 the performance of the contract to members or staff of the
439 Senate or the House of Representatives.

440 Section 6. Section 287.1351, Florida Statutes, is created
441 to read:

442 287.1351 Suspended vendors; state contracts.-

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

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

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

462 (3) An agency shall notify the department of any vendor
463 that has met the grounds for suspension described in paragraph
464 (2) (a). The agency must provide documentation to the department

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465 evidencing the vendor's default or other grounds for suspension.
466 The department shall review the documentation provided and
467 determine whether good cause exists to remove the vendor from
468 the vendor list and to place it on the suspended vendor list. If
469 good cause exists, the department must notify the vendor in
470 writing of its intent to remove the vendor from the vendor list
471 and of the vendor's right to an administrative hearing and the
472 applicable procedures and time requirements for any such
473 hearing. If the vendor does not request an administrative
474 hearing, the department must enter a final order removing the
475 vendor from the vendor list. A vendor may not be removed from
476 the vendor list without receiving an individual notice of intent
477 from the department.

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

486 (5) (a) The department shall place any vendor removed from
487 the vendor list pursuant to this section on the suspended vendor
488 list. One year or more after entry of the final order of its
489 suspension, a suspended vendor may file a petition with the
490 department for removal from the suspended vendor list. The
491 proceeding on the petition must be conducted in accordance with
492 chapter 120. The vendor may be removed from the suspended vendor
493 list if the administrative law judge determines that removal

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494 from the list would be in the public interest. In determining
495 whether removal from the list would be in the public interest,
496 the administrative law judge may consider, but is not limited
497 to, whether the suspended vendor has prepared a corrective
498 action plan that addresses the original grounds for default or
499 failure to fulfill the terms and conditions of the contract,
500 reimbursed the agency for any reprocurement costs, or provided
501 additional evidence that the vendor has taken other remedial
502 action.

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

510 Section 7. Section 287.136, Florida Statutes, is amended to
511 read:

512 287.136 Audit of executed contract documents.—

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

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

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523 (b)~~(2)~~ Within 30 days after receipt of the final audit
524 report, the agency head shall submit to the Chief Financial
525 Officer or designee his or her written statement of explanation
526 or rebuttal concerning findings requiring corrective action,
527 including corrective action to be taken to preclude a
528 recurrence.

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

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

539 43.16 Justice Administrative Commission; membership, powers
540 and duties.—

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

548 Section 9. Paragraph (a) of subsection (2) of section
549 215.971, Florida Statutes, is amended to read:

550 215.971 Agreements funded with federal or state
551 assistance.—

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552 (2) For each agreement funded with federal or state
553 financial assistance, the state agency shall designate an
554 employee to function as a grant manager who shall be responsible
555 for enforcing performance of the agreement's terms and
556 conditions and who shall serve as a liaison with the recipient
557 or subrecipient.

558 (a)1. Each grant manager who is responsible for agreements
559 in excess of the threshold amount for CATEGORY TWO under s.
560 287.017 must, at a minimum, complete training conducted by the
561 Chief Financial Officer for accountability in contracts and
562 grant management.

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

571 Section 10. Paragraph (a) of subsection (3) of section
572 287.0571, Florida Statutes, is amended to read:

573 287.0571 Business case to outsource; applicability.—

574 (3) This section does not apply to:

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

577 Section 11. Paragraph (b) of subsection (4) of section
578 295.187, Florida Statutes, is amended to read:

579 295.187 Florida Veteran Business Enterprise Opportunity
580 Act.—

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581 (4) VENDOR PREFERENCE.—

582 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a
583 veteran business enterprise entitled to the vendor preference
584 under this section and one or more businesses entitled to this
585 preference or another vendor preference provided by law submit
586 bids, proposals, or replies for procurement of commodities or
587 contractual services which are equal with respect to all
588 relevant considerations, including price, quality, and service,
589 the state agency shall award the procurement or contract to the
590 business having the smallest net worth.

591 Section 12. Paragraph (a) of subsection (1) of section
592 394.47865, Florida Statutes, is amended to read:

593 394.47865 South Florida State Hospital; privatization.—

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

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

609 Section 13. Paragraph (b) of subsection (2) and subsection

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610 (3) of section 402.7305, Florida Statutes, are amended to read:

611 402.7305 Department of Children and Families; procurement
612 of contractual services; contract management.—

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

614 (b) When it is in the best interest of a defined segment of
615 its consumer population, the department may competitively
616 procure and contract for systems of treatment or service that
617 involve multiple providers, rather than procuring and
618 contracting for treatment or services separately from each
619 participating provider. The department must ensure that all
620 providers that participate in the treatment or service system
621 meet all applicable statutory, regulatory, service quality, and
622 cost control requirements. If other governmental entities or
623 units of special purpose government contribute matching funds to
624 the support of a given system of treatment or service, the
625 department shall formally request information from those funding
626 entities in the procurement process and may take the information
627 received into account in the selection process. If a local
628 government contributes matching funds to support the system of
629 treatment or contracted service and if the match constitutes at
630 least 25 percent of the value of the contract, the department
631 shall afford the governmental match contributor an opportunity
632 to name an employee as one of the persons required by s.
633 287.057(17) ~~s. 287.057(16)~~ to evaluate or negotiate certain
634 contracts, unless the department sets forth in writing the
635 reason why the inclusion would be contrary to the best interest
636 of the state. Any employee so named by the governmental match
637 contributor shall qualify as one of the persons required by s.
638 287.057(17) ~~s. 287.057(16)~~. A governmental entity or unit of

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639 special purpose government may not name an employee as one of
640 the persons required by s. 287.057(17) ~~s. 287.057(16)~~ if it, or
641 any of its political subdivisions, executive agencies, or
642 special districts, intends to compete for the contract to be
643 awarded. The governmental funding entity or contributor of
644 matching funds must comply with all procurement procedures set
645 forth in s. 287.057 when appropriate and required.

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

661 (a) The contract manager shall maintain the official
662 contract file throughout the duration of the contract and for a
663 period not less than 6 years after the termination of the
664 contract.

665 (b) The contract manager shall review all invoices for
666 compliance with the criteria and payment schedule provided for
667 in the contract and shall approve payment of all invoices before

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668 their transmission to the Department of Financial Services for
669 payment.

670 (c) The contract manager shall maintain a schedule of
671 payments and total amounts disbursed and shall periodically
672 reconcile the records with the state's official accounting
673 records.

674 (d) For contracts involving the provision of direct client
675 services, the contract manager shall periodically visit the
676 physical location where the services are delivered and speak
677 directly to clients receiving the services and the staff
678 responsible for delivering the services.

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

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

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697 records regarding the completion or failure to complete
698 corrective action items.

699 (g) The contract manager shall document any contract
700 modifications, which shall include recording any contract
701 amendments as provided for in this section.

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

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

706 408.045 Certificate of need; competitive sealed proposals.—

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

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

715 570.07 Department of Agriculture and Consumer Services;
716 functions, powers, and duties.—The department shall have and
717 exercise the following functions, powers, and duties:

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

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726 Section 16. Paragraph (e) of subsection (6) of section
727 627.351, Florida Statutes, is amended to read:

728 627.351 Insurance risk apportionment plans.—

729 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

730 (e) The corporation is subject to s. 287.057 for the
731 purchase of commodities and contractual services except as
732 otherwise provided in this paragraph. Services provided by
733 tradepersons or technical experts to assist a licensed adjuster
734 in the evaluation of individual claims are not subject to the
735 procurement requirements of this section. Additionally, the
736 procurement of financial services providers and underwriters
737 must be made pursuant to s. 627.3513. Contracts for goods or
738 services valued at or more than \$100,000 are subject to approval
739 by the board.

740 1. The corporation is an agency for purposes of s. 287.057,
741 except that, for purposes of s. 287.057(24) ~~s. 287.057(22)~~, the
742 corporation is an eligible user.

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

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

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

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755 a. A person adversely affected by the corporation's
756 decision or intended decision to award a contract pursuant to s.
757 287.057(1) or (3)(c) who elects to challenge the decision must
758 file a written notice of protest with the executive director of
759 the corporation within 72 hours after the corporation posts a
760 notice of its decision or intended decision. For a protest of
761 the terms, conditions, and specifications contained in a
762 solicitation, including provisions governing the methods for
763 ranking bids, proposals, replies, awarding contracts, reserving
764 rights of further negotiation, or modifying or amending any
765 contract, the notice of protest must be filed in writing within
766 72 hours after posting the solicitation. Saturdays, Sundays, and
767 state holidays are excluded in the computation of the 72-hour
768 time period.

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

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

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784 (II) If the subject of a protest is not resolved by mutual
785 agreement within 7 business days, the corporation's board must
786 transmit the protest to the Division of Administrative Hearings
787 and contract with the division to conduct a hearing to determine
788 the merits of the protest and to issue a recommended order. The
789 contract must provide for the corporation to reimburse the
790 division for any costs incurred by the division for court
791 reporters, transcript preparation, travel, facility rental, and
792 other customary hearing costs in the manner set forth in s.
793 120.65(9). The division has jurisdiction to determine the facts
794 and law concerning the protest and to issue a recommended order.
795 The division's rules and procedures apply to these proceedings;
796 the division's applicable bond requirements do not apply. The
797 protest must be heard by the division at a publicly noticed
798 meeting in accordance with procedures established by the
799 division.

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

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813 governing statutes, the corporation's rules or policies, or the
814 solicitation specifications. The standard of proof for the
815 proceeding is whether the corporation's action was clearly
816 erroneous, contrary to competition, arbitrary, or capricious. In
817 any bid-protest proceeding contesting an intended corporation
818 action to reject all bids, proposals, or replies, the standard
819 of review by the board is whether the corporation's intended
820 action is illegal, arbitrary, dishonest, or fraudulent.

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

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

827 Section 17. The Department of Management Services shall
828 conduct a study evaluating fleet management options to identify
829 potential savings. The results of the study must be provided in
830 a written report to the President of the Senate and the Speaker
831 of the House of Representatives by January 1, 2022.

832 Section 18. This act shall take effect July 1, 2021.