

20102386e1

1 A bill to be entitled
2 An act relating to state financial matters; amending
3 s. 14.204, F.S.; conforming a cross-reference;
4 amending s. 17.20, F.S.; providing that each agency is
5 responsible for exercising due diligence in securing
6 payment for all accounts receivable and other claims
7 due the state; creating requirements for agencies for
8 purposes of reporting delinquent accounts receivable;
9 requiring agencies to report annually to the
10 Legislature and Chief Financial Officer on accounts
11 receivable and other claims due the state; requiring
12 the Chief Financial Officer to report annually to the
13 Governor and Legislature on claims for collections due
14 the state; amending s. 17.29, F.S.; authorizing the
15 Chief Financial Officer to adopt rules requiring that
16 payments made by the state for goods, services, or
17 anything of value be made by electronic means;
18 requiring that the rules include methods for
19 accommodating persons who may not be able to receive
20 payment by electronic means; authorizing the Chief
21 Financial Officer to make payments by warrant if
22 administratively necessary; amending ss. 43.16,
23 61.1826 and 112.3215, F.S.; conforming cross-
24 references; amending s. 215.322, F.S.; conforming
25 provisions to changes made by the act to authorize
26 state agencies, local governments, and the judicial
27 branch to accept payments by electronic funds
28 transfers; providing for the adoption of rules to
29 facilitate such payments and to accommodate persons

20102386e1

30 who may not be able to make payments by electronic
31 means; authorizing the Chief Financial Officer to
32 adopt rules establishing uniform security safeguards
33 for cardholder data; creating s. 215.971, F.S.;
34 requiring that agency agreements that provide state or
35 federal financial assistance to a recipient or
36 subrecipient include certain provisions; amending s.
37 216.3475, F.S.; requiring an agency that is awarded
38 funding on a noncompetitive basis for certain services
39 as specified in the General Appropriations Act to
40 maintain specified documentation supporting a cost
41 analysis; amending s. 255.249, F.S.; conforming a
42 provision to the repeal of s. 287.1345, F.S.; amending
43 s. 255.25, F.S.; conforming a provision to the repeal
44 of s. 287.1345, F.S.; conforming a cross-reference;
45 amending s. 283.32, F.S.; conforming provisions to the
46 repeal of s. 287.045, F.S.; amending s. 286.0113,
47 F.S.; conforming a cross-reference; amending s.
48 287.012, F.S.; revising, eliminating, and providing
49 definitions; amending s. 287.017, F.S.; revising the
50 threshold amounts for state purchasing categories;
51 eliminating a requirement that the Department of
52 Management Services adopt rules to adjust the
53 threshold amounts; amending s. 287.022, F.S.;
54 conforming a cross-reference; repealing s. 287.045,
55 F.S., relating to procurement of products and
56 materials with recycled content; amending s. 287.056,
57 F.S.; specifying the provisions to be included in
58 state agency purchasing agreements; amending s.

20102386e1

59 287.057, F.S.; revising and organizing provisions
60 relating to the procurement of commodities and
61 contractual services by the state; specifying
62 authorized uses for competitive solicitation
63 processes; providing procedures and requirements with
64 respect to competitive solicitation; specifying types
65 of procurements for which invitations to bid, requests
66 for proposals, and invitations to negotiate are to be
67 used and providing procedures and requirements with
68 respect thereto; revising contractual services and
69 commodities that are not subject to competitive-
70 solicitation requirements; prohibiting an agency from
71 dividing the solicitation of commodities or
72 contractual services in order to avoid specified
73 requirements; requiring that an agency avoid,
74 neutralize, or mitigate significant potential
75 organizational conflicts of interests before a
76 contract is awarded; providing procedures and
77 requirements with respect to mitigation of such
78 conflicts of interest; authorizing an agency to
79 proceed with a contract award when such conflict
80 cannot be avoided or mitigated under specified
81 circumstances and providing a restriction on such
82 award; specifying conditions that constitute an unfair
83 competitive advantage for a vendor; amending s.
84 287.0571, F.S.; revising applicability of ss.
85 287.0571-287.0574, F.S.; specifying procurements and
86 contracts to which s. 287.0571, F.S., relating to
87 agency business cases for outsourcing of specified

20102386e1

88 projects, does not apply; requiring an agency to
89 complete a business case for any outsourcing project
90 that has an expected cost in excess of a specified
91 amount within a single fiscal year; providing for the
92 submission of the business case in accordance with
93 provisions governing the submission of agency
94 legislative budget requests; providing that a business
95 case is not subject to challenge; providing required
96 components of a business case; specifying required
97 provisions for a contract for a proposed outsourcing;
98 repealing s. 287.05721, F.S., relating to definitions;
99 repealing s. 287.0573, F.S., relating to the Council
100 on Efficient Government and its membership and duties;
101 repealing s. 287.0574, F.S., relating to provisions
102 governing business cases for outsourcing and the
103 review and analysis conducted thereunder, the
104 requirements of which are relocated in other sections
105 of Florida Statutes set forth in the act; creating s.
106 287.0575, F.S.; establishing duties and
107 responsibilities of the Department of Children and
108 Family Services, the Agency for Persons with
109 Disabilities, the Department of Health, the Department
110 of Elderly Affairs, and the Department of Veterans'
111 Affairs, and service providers under contract to those
112 agencies, with respect to coordination of contracted
113 services; requiring state agencies contracting for
114 health and human services to notify their contract
115 service providers of certain requirements by a
116 specified date or upon entering into any new contract

20102386e1

117 for health and human services; requiring each service
118 provider that has more than one contract with one or
119 more state agencies to provide health and human
120 services to provide to each of its contract managers a
121 comprehensive list of its health and human services
122 contracts by a specified date; specifying information
123 to be contained in the list; providing for assignment,
124 by a specified date, of a single lead administrative
125 coordinator for each service provider from among
126 agencies having multiple health and human services
127 contracts; requiring that the lead administrative
128 coordinator provide notice of his or her designation
129 to the service provider and to the agency contract
130 managers for each affected contract; providing the
131 method of selecting the lead administrative
132 coordinator; providing responsibilities of the
133 designated lead administrative coordinator; providing
134 duties of contract managers for agency contracts;
135 providing for nonapplicability under certain
136 circumstances; requiring annual performance
137 evaluations of designated lead administrative
138 coordinators by each agency contracting for health and
139 human services; providing for a report to the Governor
140 and Legislature; amending s. 287.058, F.S.; revising
141 provisions regarding contracts for services;
142 specifying provisions to be included in such
143 contracts; amending s. 287.059, F.S.; conforming a
144 cross-reference; repealing s. 287.1345, F.S., relating
145 to surcharge on users of state term contracts;

20102386e1

146 amending ss. 295.187, 394.457, 394.47865, 402.40,
147 402.7305, 408.045, 427.0135, 445.024, 481.205, 570.07,
148 627.311, 627.351, 765.5155, 893.055 and 1013.38, F.S.,
149 and s. 21 of chapter 2009-55 and s. 31 of chapter
150 2009-223, Laws of Florida; conforming cross-
151 references; providing that statutorily authorized
152 transaction or user fees do not apply to certain
153 contracts for services if the services were exempt
154 from such fees before a specified date; requiring
155 state agencies to provide specified information to the
156 Department of Financial Services relating to the
157 purchase of commodities or services; requiring state
158 agencies to review and renegotiate contract renewals
159 and reprocurments in an effort to reduce contract
160 payments; requiring the Executive Office of the
161 Governor to place savings from the renegotiation of
162 contract renewals or reprocurments in reserve;
163 requiring each state agency to review its contracts to
164 ensure that contractors comply with applicable
165 preferred-pricing clauses; requiring certain contracts
166 containing a preferred-pricing clause to require that
167 the contractor submit an affidavit attesting to the
168 contractor's compliance with the clause; defining the
169 term "preferred-pricing clause"; requiring that each
170 entity expending funds provided for in the 2010-2011
171 fiscal year give preference to vendors or businesses
172 that have a principal place of business in Florida and
173 that commit contractually to maximize the use of state
174 residents, products, and businesses; providing an

20102386e1

175 exception; requiring state agencies to report
176 contractor compliance with such requirement to the
177 Agency for Workforce Innovation; providing an
178 appropriation and authorizing additional positions;
179 providing an effective date.

180

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

182

183 Section 1. Paragraph (d) of subsection (4) of section
184 14.204, Florida Statutes, is amended to read:

185 14.204 Agency for Enterprise Information Technology.—The
186 Agency for Enterprise Information Technology is created within
187 the Executive Office of the Governor.

188 (4) The agency shall have the following duties and
189 responsibilities:

190 (d) Plan and establish policies for managing proposed
191 statutorily authorized enterprise information technology
192 services, which includes:

193 1. Developing business cases that, when applicable, include
194 the components identified in s. 287.0571 ~~287.0574~~;

195 2. Establishing and coordinating project-management teams;

196 3. Establishing formal risk-assessment and mitigation
197 processes; and

198 4. Providing for independent monitoring of projects for
199 recommended corrective actions.

200 Section 2. Section 17.20, Florida Statutes, is amended to
201 read:

202 17.20 Assignment of claims for collection.—

203 (1) The Chief Financial Officer shall charge the state

20102386e1

204 attorneys with the collection of all claims that are placed in
205 their hands for collection of money or property for the state or
206 any county or special district, or that it otherwise requires
207 them to collect. The charges are evidence of indebtedness of a
208 state attorney against whom any charge is made for the full
209 amount of the claim, until the charges have been collected and
210 paid into the treasury of the state or of the county or special
211 district or the legal remedies of the state have been exhausted,
212 or until the state attorney demonstrates to the Chief Financial
213 Officer that the failure to collect the charges is not due to
214 negligence and the Chief Financial Officer has made a proper
215 entry of satisfaction of the charge against the state attorney.

216 (2) The Chief Financial Officer may assign the collection
217 of any claim to a collection agent or agents who are ~~is~~
218 registered and in good standing pursuant to chapter 559, if the
219 Chief Financial Officer determines the assignation to be cost-
220 effective. The Chief Financial Officer may ~~pay an agent from any~~
221 ~~amount collected under the claim a fee that the Chief Financial~~
222 ~~Officer and the agent have agreed upon; may authorize the agent~~
223 ~~to deduct the fee from the amount collected; may require the~~
224 ~~appropriate state agency, county, or special district to pay the~~
225 ~~agent the fee from any amount collected by the agent on its~~
226 ~~behalf; or may~~ authorize the agent or agents to add a ~~the~~ fee to
227 the amount to be collected.

228 (3) Each agency shall be responsible for exercising due
229 diligence in securing full payment of all accounts receivable
230 and other claims due the state.

231 (a) No later than 120 days after the date on which the
232 account or other claim was due and payable, unless another

20102386e1

233 period is approved by the Chief Financial Officer, and after
234 exhausting other lawful measures available to the agency, each
235 agency shall report the delinquent accounts receivable as
236 directed by the Chief Financial Officer to the appropriate
237 collection agent for further action, excluding those agencies
238 that collect delinquent accounts pursuant to independent
239 statutory authority.

240 (b) An agency that has delinquent accounts receivable,
241 which the agency considers to be of a nature that assignment to
242 a collection agency would be inappropriate, may request in
243 writing for an exemption for those accounts. The request shall
244 fully explain the nature of the delinquent accounts receivable
245 and the reasons the agency believes such accounts would be
246 precluded from being assigned to a collection agency. The Chief
247 Financial Officer shall disapprove the request in writing unless
248 the agency shows that a demonstrative harm to the state will
249 occur as a result of assignment to a collection agency.

250 (c) Agencies that have delinquent accounts receivable,
251 which accounts are of such a nature that it would not be
252 appropriate to transfer collection of those delinquent accounts
253 to the Chief Financial Officer within 120 days after the date
254 they are due and payable, may request in writing a different
255 period of time for transfer of collection of such accounts. The
256 request shall fully explain the nature of the delinquent
257 accounts receivable and include a recommendation as to an
258 appropriate period.

259 (4) Beginning October 1, 2010, and each October 1
260 thereafter, each agency shall submit a report to the President
261 of the Senate, the Speaker of the House of Representatives, and

20102386e1

262 the Chief Financial Officer which includes:

263 (a) A detailed list and total of all accounts that were
264 referred for collection and the status of such accounts,
265 including the date referred, any amounts collected, and the
266 total that remains uncollected.

267 (b) A list and total of all delinquent accounts that were
268 not referred to a collection agency, the reasons for not
269 referring those accounts, and the actions taken by the agency to
270 collect.

271 (c) A list of all accounts or claims, including a
272 description and the total amount of each account or claim, which
273 were written off or waived by the agency for any reason during
274 the prior fiscal year, the reason for being written off, and
275 whether any of those accounts continue to be pursued by a
276 collection agent.

277 (5) Beginning December 1, 2010, and each December 1
278 thereafter, the Chief Financial Officer shall provide to the
279 Governor, the President of the Senate, and the Speaker of the
280 House of Representatives a report that details the following
281 information for any contracted collection agent:

282 (a) The amount of claims referred for collection by each
283 agency, cumulatively and annually.

284 (b) The number of accounts by age and amount.

285 (c) A listing of those agencies that failed to report known
286 claims to the Chief Financial Officer in a timely manner as
287 prescribed in subsection (3).

288 (d) The total amount of claims collected, cumulatively and
289 annually.

290 (6) ~~(3)~~ Notwithstanding any other provision of law, in any

20102386e1

291 contract providing for the location or collection of unclaimed
292 property, the Chief Financial Officer may authorize the
293 contractor to deduct its fees and expenses for services provided
294 under the contract from the unclaimed property that the
295 contractor has recovered or collected under the contract. The
296 Chief Financial Officer shall annually report to the Governor,
297 President of the Senate, and the Speaker of the House of
298 Representatives the total amount collected or recovered by each
299 contractor during the previous fiscal year and the total fees
300 and expenses deducted by each contractor.

301 Section 3. Section 17.29, Florida Statutes, is amended to
302 read:

303 17.29 Authority to prescribe rules.—The Chief Financial
304 Officer may adopt rules pursuant to ss. 120.536(1) and 120.54 to
305 implement this chapter and the duties assigned by statute or the
306 State Constitution. Such rules may include, but are not limited
307 to, the following:

308 (1) Procedures or policies relating to the processing of
309 payments from salaries, other personal services, or any other
310 applicable appropriation.

311 (2) Procedures for processing interagency and intraagency
312 payments that ~~which~~ do not require the issuance of a state
313 warrant.

314 (3) Procedures or policies requiring that payments made by
315 the state for goods, services, or anything of value be made by
316 electronic means, including, but not limited to, debit cards,
317 credit cards, or electronic funds transfers.

318 (4) A method that reasonably accommodates persons who,
319 because of technological, financial, or other hardship, may not

20102386e1

320 be able to receive payments by electronic means. The Chief
321 Financial Officer may make payments by state warrant if deemed
322 administratively necessary.

323 Section 4. Subsection (1) of section 43.16, Florida
324 Statutes, is amended to read:

325 43.16 Justice Administrative Commission; membership, powers
326 and duties.—

327 (1) There is hereby created a Justice Administrative
328 Commission, with headquarters located in the state capital. The
329 necessary office space for use of the commission shall be
330 furnished by the proper state agency in charge of state
331 buildings. For purposes of the fees imposed on agencies pursuant
332 to s. 287.057(22)~~(23)~~, the Justice Administrative Commission
333 shall be exempt from such fees.

334 Section 5. Paragraph (e) of subsection (1) of section
335 61.1826, Florida Statutes, is amended to read:

336 61.1826 Procurement of services for State Disbursement Unit
337 and the non-Title IV-D component of the State Case Registry;
338 contracts and cooperative agreements; penalties; withholding
339 payment.—

340 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the
341 clerks of court play a vital role, as essential participants in
342 the establishment, modification, collection, and enforcement of
343 child support, in securing the health, safety, and welfare of
344 the children of this state. The Legislature further finds and
345 declares that:

346 (e) The potential loss of substantial federal funds poses a
347 direct and immediate threat to the health, safety, and welfare
348 of the children and citizens of the state and constitutes an

20102386e1

349 emergency for purposes of s. 287.057 (3) ~~(5)~~ (a).

350

351 For these reasons, the Legislature hereby directs the Department
352 of Revenue, subject to the provisions of subsection (5), to
353 contract with the Florida Association of Court Clerks and each
354 depository to perform duties with respect to the operation and
355 maintenance of a State Disbursement Unit and the non-Title IV-D
356 component of the State Case Registry as further provided by this
357 section.

358 Section 6. Paragraph (h) of subsection (1) of section
359 112.3215, Florida Statutes, is amended to read:

360 112.3215 Lobbying before the executive branch or the
361 Constitution Revision Commission; registration and reporting;
362 investigation by commission.-

363 (1) For the purposes of this section:

364 (h) "Lobbyist" means a person who is employed and receives
365 payment, or who contracts for economic consideration, for the
366 purpose of lobbying, or a person who is principally employed for
367 governmental affairs by another person or governmental entity to
368 lobby on behalf of that other person or governmental entity.

369 "Lobbyist" does not include a person who is:

370 1. An attorney, or any person, who represents a client in a
371 judicial proceeding or in a formal administrative proceeding
372 conducted pursuant to chapter 120 or any other formal hearing
373 before an agency, board, commission, or authority of this state.

374 2. An employee of an agency or of a legislative or judicial
375 branch entity acting in the normal course of his or her duties.

376 3. A confidential informant who is providing, or wishes to
377 provide, confidential information to be used for law enforcement

20102386e1

378 purposes.

379 4. A person who lobbies to procure a contract pursuant to
380 chapter 287 which contract is less than the threshold for
381 CATEGORY ONE as provided in s. 287.017~~(1)(a)~~.

382 Section 7. Section 215.322, Florida Statutes, is amended to
383 read:

384 215.322 Acceptance of credit cards, charge cards, ~~or~~ debit
385 cards, or electronic funds transfers by state agencies, units of
386 local government, and the judicial branch.-

387 (1) It is the intent of the Legislature to encourage state
388 agencies, the judicial branch, and units of local government to
389 make their goods, services, and information more convenient to
390 the public through the acceptance of payments by credit cards,
391 charge cards, ~~and~~ debit cards, or other means of electronic
392 funds transfers to the maximum extent practicable when the
393 benefits to the participating agency and the public substantiate
394 the cost of accepting these types of payments.

395 (2) A state agency as defined in s. 216.011, or the
396 judicial branch, may accept credit cards, charge cards, ~~or~~ debit
397 cards, or electronic funds transfers in payment for goods and
398 services with the prior approval of the Chief Financial Officer.
399 If the Internet or other related electronic methods are to be
400 used as the collection medium, the Agency for Enterprise
401 Information Technology shall review and recommend to the Chief
402 Financial Officer whether to approve the request with regard to
403 the process or procedure to be used.

404 (3) The Chief Financial Officer shall adopt rules governing
405 the establishment and acceptance of credit cards, charge cards,
406 ~~or~~ debit cards, or electronic funds transfers by state agencies

20102386e1

407 or the judicial branch, including, but not limited to, the
408 following:

409 (a) Use ~~Utilization~~ of a standardized contract between the
410 financial institution or other appropriate intermediaries and
411 the agency or judicial branch which shall be developed by the
412 Chief Financial Officer or approval by the Chief Financial
413 Officer of a substitute agreement.

414 (b) Procedures that ~~which~~ permit an agency or officer
415 accepting payment by credit card, charge card, ~~or~~ debit card, or
416 electronic funds transfer to impose a convenience fee upon the
417 person making the payment. However, the total amount of such
418 convenience fees may ~~shall~~ not exceed the total cost to the
419 state agency. A convenience fee is not refundable to the payor.
420 However ~~Notwithstanding the foregoing~~, this section does ~~shall~~
421 ~~not be construed to~~ permit the imposition of surcharges on any
422 other credit card purchase in violation of s. 501.0117.

423 (c) All service fees payable pursuant to this section ~~when~~
424 ~~practicable~~ shall be invoiced and paid by state warrant or such
425 other manner that is satisfactory to the Chief Financial Officer
426 in accordance with the time periods specified in s. 215.422, if
427 practicable.

428 (d) Submission of information to the Chief Financial
429 Officer concerning the acceptance of credit cards, charge cards,
430 ~~or~~ debit cards, or electronic funds transfers by all state
431 agencies or the judicial branch.

432 (e) A methodology for agencies to use when completing the
433 cost-benefit analysis referred to in subsection (1). The
434 methodology must consider all quantifiable cost reductions,
435 other benefits to the agency, and the potential impact on

20102386e1

436 general revenue. The methodology must also consider
437 nonquantifiable benefits such as the convenience to individuals
438 and businesses that would benefit from the ability to pay for
439 state goods and services through the use of credit cards, charge
440 cards, ~~and~~ debit cards, or electronic funds transfers.

441 (4) The Chief Financial Officer may establish contracts
442 with one or more financial institutions, credit card companies,
443 or other entities that ~~which~~ may lawfully provide such services,
444 in a manner consistent with chapter 287, for processing credit
445 card, charge card, ~~or~~ debit card, or electronic funds transfer
446 collections for deposit into the State Treasury or another
447 qualified public depository. Any state agency, or the judicial
448 branch, which accepts payment by credit card, charge card, ~~or~~
449 debit card, or electronic funds transfer shall use at least one
450 of the contractors established by the Chief Financial Officer,
451 unless the state agency or judicial branch obtains authorization
452 from the Chief Financial Officer to use another contractor that
453 ~~which~~ is more advantageous to the ~~such~~ state agency or the
454 judicial branch. The ~~Such~~ contracts may authorize a unit of
455 local government to use the services upon the same terms and
456 conditions for deposit of credit card, charge card, ~~or~~ debit
457 card, or electronic funds transfer transactions into its
458 qualified public depositories.

459 (5) A unit of local government, including ~~which term means~~
460 a municipality, special district, or board of county
461 commissioners or other governing body of a county, ~~however~~
462 ~~styled, including that of~~ a consolidated or metropolitan
463 government, and ~~means~~ any clerk of the circuit court, sheriff,
464 property appraiser, tax collector, or supervisor of elections,

20102386e1

465 is authorized to accept payment by use of credit cards, charge
466 cards, ~~and~~ bank debit cards, and electronic funds transfers for
467 financial obligations that are owing to such unit of local
468 government and to surcharge the person who uses a credit card,
469 charge card, ~~or~~ bank debit card, or electronic funds transfer in
470 payment of taxes, license fees, tuition, fines, civil penalties,
471 court-ordered payments, or court costs, or other statutorily
472 prescribed revenues an amount sufficient to pay the service fee
473 charges by the financial institution, vending service company,
474 or credit card company for such services. A unit of local
475 government shall verify both the validity of any credit card,
476 charge card, ~~or~~ bank debit card, or electronic funds transfer
477 used pursuant to this subsection and the existence of
478 appropriate credit with respect to the person using the card or
479 transfer. The unit of local government does not incur any
480 liability as a result of such verification or any subsequent
481 action taken.

482 (6) Any action required to be performed by a state officer
483 or agency pursuant to this section shall be performed within 10
484 working days after receipt of the request for approval or be
485 deemed approved if not acted upon within that time.

486 (7) ~~Nothing contained in~~ This section does not shall be
487 ~~construed to~~ prohibit a state agency or the judicial branch from
488 continuing to accept charge cards, ~~or~~ debit cards, or electronic
489 funds transfers pursuant to a contract that ~~which~~ was lawfully
490 entered into before ~~prior to~~ the effective date of this act,
491 unless specifically directed otherwise in the General
492 Appropriations Act. However, such contract may ~~shall~~ not be
493 extended or renewed after the effective date of this act unless

20102386e1

494 such renewal and extension conforms to the requirements of this
495 section.

496 (8) When deemed administratively necessary, a state agency,
497 as defined in s. 216.011, or the judicial branch may adopt rules
498 requiring that payments for goods, services, or anything of
499 value be made by electronic means, including, but not limited
500 to, credit cards, charge cards, debit cards, or electronic funds
501 transfers. However, the rules may not conflict with any similar
502 rules adopted by the Chief Financial Officer. The rules must
503 provide a method to reasonably accommodate persons who, because
504 of technological, financial, or other hardship, may not be able
505 to make payment by electronic means.

506 (9) For payment programs in which credit cards, charge
507 cards, or debit cards are accepted by state agencies, the
508 judicial branch, or units of local government, the Chief
509 Financial Officer, in consultation with the Agency for
510 Enterprise Information Technology, may adopt rules to establish
511 uniform security safeguards for cardholder data and to ensure
512 compliance with the Payment Card Industry Data Security
513 Standards.

514 Section 8. Section 215.971, Florida Statutes, is created to
515 read:

516 215.971 Agreements funded with federal and state
517 assistance.—For an agency agreement that provides state
518 financial assistance to a recipient or subrecipient, as those
519 terms are defined in s. 215.97, or that provides federal
520 financial assistance to a subrecipient, as defined by applicable
521 United States Office of Management and Budget circulars, the
522 agreement shall include:

20102386e1

523 (1) A provision specifying a scope of work that clearly
524 establishes the tasks that the recipient or subrecipient is
525 required to perform; and

526 (2) A provision dividing the agreement into quantifiable
527 units of deliverables that must be received and accepted in
528 writing by the agency before payment. Each deliverable must be
529 directly related to the scope of work and must specify the
530 required minimum level of service to be performed and the
531 criteria for evaluating the successful completion of each
532 deliverable.

533 Section 9. Section 216.3475, Florida Statutes, is amended
534 to read:

535 216.3475 Maximum rate of payment for services funded under
536 General Appropriations Act or awarded on a noncompetitive
537 basis.—A person or entity that is designated by the General
538 Appropriations Act, or that is awarded funding on a
539 noncompetitive basis, to provide services for which funds are
540 appropriated by that act may not receive a rate of payment in
541 excess of the competitive prevailing rate for those services
542 unless expressly authorized in the General Appropriations Act.
543 Each agency shall maintain records to support a cost analysis,
544 which includes a detailed budget submitted by the person or
545 entity awarded funding and the agency's documented review of
546 individual cost elements from the submitted budget for
547 allowability, reasonableness, and necessity.

548 Section 10. Subsection (6) of section 255.249, Florida
549 Statutes, is amended to read:

550 255.249 Department of Management Services; responsibility;
551 department rules.—

20102386e1

552 (6) The department may contract for real estate consulting
553 or tenant brokerage services in order to carry out its duties
554 relating to the strategic leasing plan. The contract shall be
555 procured pursuant to s. 287.057. The vendor that is awarded the
556 contract shall be compensated by the department, subject to the
557 provisions of the contract, and such compensation is subject to
558 appropriation by the Legislature. The real estate consultant or
559 tenant broker may not receive compensation directly from a
560 lessor for services that are rendered pursuant to the contract.
561 ~~Moneys paid to the real estate consultant or tenant broker are~~
562 ~~exempt from any charge imposed under s. 287.1345.~~ Moneys paid by
563 a lessor to the department under a facility-leasing arrangement
564 are not subject to the charges imposed under s. 215.20.

565 Section 11. Paragraph (h) of subsection (3) of section
566 255.25, Florida Statutes, is amended to read:

567 255.25 Approval required prior to construction or lease of
568 buildings.—

569 (3)

570 (h) The Department of Management Services may, pursuant to
571 s. 287.042(2)(a), procure a term contract for real estate
572 consulting and brokerage services. A state agency may not
573 purchase services from the contract unless the contract has been
574 procured under s. 287.057(1), ~~(2), or (3)~~ after March 1, 2007,
575 and contains the following provisions or requirements:

576 1. Awarded brokers must maintain an office or presence in
577 the market served. In awarding the contract, preference must be
578 given to brokers that are licensed in this state under chapter
579 475 and that have 3 or more years of experience in the market
580 served. The contract may be made with up to three tenant brokers

20102386e1

581 in order to serve the marketplace in the north, central, and
582 south areas of the state.

583 2. Each contracted tenant broker shall work under the
584 direction, supervision, and authority of the state agency,
585 subject to the rules governing lease procurements.

586 3. The department shall provide training for the awarded
587 tenant brokers concerning the rules governing the procurement of
588 leases.

589 4. Tenant brokers must comply with all applicable
590 provisions of s. 475.278.

591 5. Real estate consultants and tenant brokers shall be
592 compensated by the state agency, subject to the provisions of
593 the term contract, and such compensation is subject to
594 appropriation by the Legislature. A real estate consultant or
595 tenant broker may not receive compensation directly from a
596 lessor for services that are rendered under the term contract.
597 ~~Moneys paid to a real estate consultant or tenant broker are~~
598 ~~exempt from any charge imposed under s. 287.1345.~~ Moneys paid by
599 a lessor to the state agency under a facility leasing
600 arrangement are not subject to the charges imposed under s.
601 215.20. All terms relating to the compensation of the real
602 estate consultant or tenant broker shall be specified in the
603 term contract and may not be supplemented or modified by the
604 state agency using the contract.

605 6. The department shall conduct periodic customer-
606 satisfaction surveys.

607 7. Each state agency shall report the following information
608 to the department:

609 a. The number of leases that adhere to the goal of the

20102386e1

610 workspace-management initiative of 180 square feet per FTE.

611 b. The quality of space leased and the adequacy of tenant-
612 improvement funds.

613 c. The timeliness of lease procurement, measured from the
614 date of the agency's request to the finalization of the lease.

615 d. Whether cost-benefit analyses were performed before
616 execution of the lease in order to ensure that the lease is in
617 the best interest of the state.

618 e. The lease costs compared to market rates for similar
619 types and classifications of space according to the official
620 classifications of the Building Owners and Managers Association.

621 Section 12. Subsections (2) and (3) of section 283.32,
622 Florida Statutes, are amended to read:

623 283.32 Recycled paper to be used by each agency; printing
624 bids certifying use of recycled paper; percentage preference in
625 awarding contracts.—

626 (2) Each agency shall require a vendor that submits a bid
627 for a contract for printing ~~and that wishes to be considered for~~
628 ~~the price preference described in s. 287.045~~ to certify in
629 writing the percentage of recycled content of the material used
630 for such printing. Such vendor may certify that the material
631 contains no recycled content.

632 (3) Upon evaluation of bids for each printing contract, the
633 agency shall identify the lowest responsive bid and any other
634 responsive bids in which it has been certified that the
635 materials used in printing contain at least the minimum
636 percentage of recycled content that is set forth by the
637 department. ~~In awarding a contract for printing, the agency may~~
638 ~~allow up to a 10 percent price preference, as provided in s.~~

20102386e1

639 ~~287.045, to a responsible and responsive vendor that has~~
640 ~~certified that the materials used in printing contain at least~~
641 ~~the minimum percentage of recycled content established by the~~
642 ~~department.~~ If no vendors offer materials for printing that
643 contain the minimum prescribed recycled content, the contract
644 shall be awarded to the responsible vendor that submits the
645 lowest responsive bid.

646 Section 13. Paragraph (a) of subsection (2) of section
647 286.0113, Florida Statutes, is amended to read:

648 286.0113 General exemptions from public meetings.—

649 (2) (a) A meeting at which a negotiation with a vendor is
650 conducted pursuant to s. 287.057 (1) ~~(3)~~ is exempt from s. 286.011
651 and s. 24(b), Art. I of the State Constitution.

652 Section 14. Section 287.012, Florida Statutes, is amended
653 to read:

654 287.012 Definitions.—As used in this part, the term:

655 (1) "Agency" means any of the various state officers,
656 departments, boards, commissions, divisions, bureaus, and
657 councils and any other unit of organization, however designated,
658 of the executive branch of state government. "Agency" does not
659 include the university and college boards of trustees or the
660 state universities and colleges.

661 (2) "Agency head" means, with respect to an agency headed
662 by a collegial body, the executive director or chief
663 administrative officer of the agency.

664 (3) "Artistic services" ~~"Artist"~~ means the rendering by a
665 contractor of its time and effort to create or perform an
666 artistic work in the fields ~~an individual or group of~~
667 ~~individuals who profess and practice a demonstrated creative~~

20102386e1

668 ~~talent and skill in the area of music, dance, drama, folk art,~~
669 ~~creative writing, painting, sculpture, photography, graphic~~
670 ~~arts, craft arts, industrial design, costume design, fashion~~
671 ~~design, motion pictures, television, radio, or tape and sound~~
672 ~~recording or in any other related field.~~

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

676 (5) "Commodity" means any of the various supplies,
677 materials, goods, merchandise, food, equipment, information
678 technology, and other personal property, including a mobile
679 home, trailer, or other portable structure with floor space of
680 less than 5,000 square feet, purchased, leased, or otherwise
681 contracted for by the state and its agencies. "Commodity" also
682 includes interest on deferred-payment commodity contracts
683 approved pursuant to s. 287.063 entered into by an agency for
684 the purchase of other commodities. However, commodities
685 purchased for resale are excluded from this definition. ~~Further,~~
686 ~~a prescribed drug, medical supply, or device required by a~~
687 ~~licensed health care provider as a part of providing health~~
688 ~~services involving examination, diagnosis, treatment,~~
689 ~~prevention, medical consultation, or administration for clients~~
690 ~~at the time the service is provided is not considered to be a~~
691 ~~"commodity."~~ Printing of publications shall be considered a
692 commodity when let upon contract pursuant to s. 283.33, whether
693 purchased for resale or not.

694 (6) "Competitive solicitation sealed bids," ~~"competitive~~
695 ~~sealed proposals,"~~ or ~~"competitive sealed replies"~~ means the
696 process of requesting and receiving two or more sealed bids,

20102386e1

697 proposals, or replies submitted by responsive vendors in
698 accordance with the terms of a competitive process, regardless
699 of the method of procurement and includes bids, proposals, or
700 replies transmitted by electronic means in lieu of or in
701 addition to written bids, proposals, or replies.

702 ~~(7) "Competitive solicitation" or "solicitation" means an~~
703 ~~invitation to bid, a request for proposals, or an invitation to~~
704 ~~negotiate.~~

705 (7)~~(8)~~ "Contractor" means a person who contracts to sell
706 commodities or contractual services to an agency.

707 (8)~~(9)~~ "Contractual service" means the rendering by a
708 contractor of its time and effort rather than the furnishing of
709 specific commodities. The term applies only to those services
710 rendered by individuals and firms who are independent
711 contractors, and such services may include, but are not limited
712 to, evaluations; consultations; maintenance; accounting;
713 security; management systems; management consulting; educational
714 training programs; research and development studies or reports
715 on the findings of consultants engaged thereunder; and
716 professional, technical, and social services. "Contractual
717 service" does not include any contract for the furnishing of
718 labor or materials for the construction, renovation, repair,
719 modification, or demolition of any facility, building, portion
720 of building, utility, park, parking lot, or structure or other
721 improvement to real property entered into pursuant to chapter
722 255 and rules adopted thereunder.

723 (9)~~(10)~~ "Department" means the Department of Management
724 Services.

725 (10)~~(11)~~ "Electronic posting" or "electronically post"

20102386e1

726 means the noticing ~~posting~~ of solicitations, agency decisions or
727 intended decisions, or other matters relating to procurement on
728 a centralized Internet website designated by the department for
729 this purpose.

730 (11) ~~(12)~~ "Eligible user" means any person or entity
731 authorized by the department pursuant to rule to purchase from
732 state term contracts or to use the online procurement system.

733 (12) ~~(13)~~ "Exceptional purchase" means any purchase of
734 commodities or contractual services excepted by law or rule from
735 the requirements for competitive solicitation, including, but
736 not limited to, purchases from a single source; purchases upon
737 receipt of less than two responsive bids, proposals, or replies;
738 purchases made by an agency, after receiving approval from the
739 department, from a contract procured, pursuant to s. 287.057(1),
740 or (2), or (3), by another agency; and purchases made without
741 advertisement in the manner required by s. 287.042(3)(b).

742 (13) ~~(14)~~ "Extension" means an increase in the time allowed
743 for the contract period due to circumstances which, without
744 fault of either party, make performance impracticable or
745 impossible, or which prevent a new contract from being executed,
746 with or without a proportional increase in the total dollar
747 amount, with any increase to be based on the method and rate
748 previously established in the contract.

749 (14) ~~(15)~~ "Information technology" has the meaning ascribed
750 in s. 282.0041.

751 (15) ~~(16)~~ "Invitation to bid" means a written or
752 electronically posted solicitation for competitive sealed bids.
753 ~~The invitation to bid is used when the agency is capable of~~
754 ~~specifically defining the scope of work for which a contractual~~

20102386e1

755 ~~service is required or when the agency is capable of~~
756 ~~establishing precise specifications defining the actual~~
757 ~~commodity or group of commodities required. A written~~
758 ~~solicitation includes a solicitation that is electronically~~
759 ~~posted.~~

760 ~~(16)~~(17) "Invitation to negotiate" means a written or
761 electronically posted solicitation for competitive sealed
762 replies to select one or more vendors with which to commence
763 negotiations for the procurement of commodities or contractual
764 services. ~~The invitation to negotiate is used when the agency~~
765 ~~determines that negotiations may be necessary for the state to~~
766 ~~receive the best value. A written solicitation includes a~~
767 ~~solicitation that is electronically posted.~~

768 ~~(17)~~(18) "Minority business enterprise" has the meaning
769 ascribed in s. 288.703.

770 ~~(18)~~(19) "Office" means the Office of Supplier Diversity of
771 the Department of Management Services.

772 (19) "Outsource" means the process of contracting with a
773 vendor to provide a service as defined in s. 216.011(1)(f), in
774 whole or in part, or an activity as defined in s.
775 216.011(1)(rr), while a state agency retains the responsibility
776 and accountability for the service or activity and there is a
777 transfer of management responsibility for the delivery of
778 resources and the performance of those resources.

779 (20) "Renewal" means contracting with the same contractor
780 for an additional contract period after the initial contract
781 period, only if pursuant to contract terms specifically
782 providing for such renewal.

783 (21) "Request for information" means a written or

20102386e1

784 electronically posted request made by an agency to vendors for
785 information concerning commodities or contractual services.
786 Responses to these requests are not offers and may not be
787 accepted by the agency to form a binding contract.

788 (22) "Request for proposals" means a written or
789 electronically posted solicitation for competitive sealed
790 proposals. ~~The request for proposals is used when it is not~~
791 ~~practicable for the agency to specifically define the scope of~~
792 ~~work for which the commodity, group of commodities, or~~
793 ~~contractual service is required and when the agency is~~
794 ~~requesting that a responsible vendor propose a commodity, group~~
795 ~~of commodities, or contractual service to meet the~~
796 ~~specifications of the solicitation document. A written~~
797 ~~solicitation includes a solicitation that is electronically~~
798 ~~posted.~~

799 (23) "Request for a quote" means an oral or written request
800 for written pricing or services information from a state term
801 contract vendor for commodities or contractual services
802 available on a state term contract from that vendor.

803 (24) "Responsible vendor" means a vendor who has the
804 capability in all respects to fully perform the contract
805 requirements and the integrity and reliability that will assure
806 good faith performance.

807 (25) "Responsive bid," "responsive proposal," or
808 "responsive reply" means a bid, or proposal, or reply submitted
809 by a responsive and responsible vendor that conforms in all
810 material respects to the solicitation.

811 (26) "Responsive vendor" means a vendor that has submitted
812 a bid, proposal, or reply that conforms in all material respects

20102386e1

813 to the solicitation.

814 (27) "State term contract" means a term contract that is
815 competitively procured by the department pursuant to s. 287.057
816 and that is used by agencies and eligible users pursuant to s.
817 287.056.

818 (28) "Term contract" means an indefinite quantity contract
819 to furnish commodities or contractual services during a defined
820 period.

821 Section 15. Section 287.017, Florida Statutes, is amended
822 to read:

823 287.017 Purchasing categories, threshold amounts~~+~~
824 ~~procedures for automatic adjustment by department.-~~

825 ~~(1)~~ The following purchasing categories are hereby created:

826 (1) ~~(a)~~ CATEGORY ONE: \$20,000 ~~\$15,000~~.

827 (2) ~~(b)~~ CATEGORY TWO: \$35,000 ~~\$25,000~~.

828 (3) ~~(c)~~ CATEGORY THREE: \$65,000 ~~\$50,000~~.

829 (4) ~~(d)~~ CATEGORY FOUR: \$195,000 ~~\$150,000~~.

830 (5) ~~(e)~~ CATEGORY FIVE: \$325,000 ~~\$250,000~~.

831 ~~(2) The department shall adopt rules to adjust the amounts
832 provided in subsection (1) based upon the rate of change of a
833 nationally recognized price index. Such rules shall include, but
834 not be limited to, the following:~~

835 ~~(a) Designation of the nationally recognized price index or
836 component thereof used to calculate the proper adjustment
837 authorized in this section.~~

838 ~~(b) The procedure for rounding results.~~

839 ~~(c) The effective date of each adjustment based upon the
840 previous calendar year data.~~

841 Section 16. Subsection (1) of section 287.022, Florida

20102386e1

842 Statutes, is amended to read:

843 287.022 Purchase of insurance.—

844 (1) Insurance, while not a commodity, nevertheless shall be
845 purchased for all agencies by the department, except that
846 agencies may purchase title insurance for land acquisition and
847 may make emergency purchases of insurance pursuant to s.
848 287.057 ~~(3)(5)~~(a). The procedures for purchasing insurance,
849 whether the purchase is made by the department or by the
850 agencies, shall be the same as those set forth herein for the
851 purchase of commodities.

852 Section 17. Section 287.045, Florida Statutes, is repealed.

853 Section 18. Subsections (1) and (2) of section 287.056,
854 Florida Statutes, are amended to read:

855 287.056 Purchases from purchasing agreements and state term
856 contracts.—

857 (1) Agencies shall, and eligible users may, purchase
858 commodities and contractual services from purchasing agreements
859 established and state term contracts procured, pursuant to s.
860 287.057, by the department. Each agency agreement made under
861 this subsection shall include:

862 (a) A provision specifying a scope of work that clearly
863 establishes all tasks that the contractor is required to
864 perform.

865 (b) A provision dividing the contract into quantifiable,
866 measurable, and verifiable units of deliverables that must be
867 received and accepted in writing by the contract manager before
868 payment. Each deliverable must be directly related to the scope
869 of work and specify the required minimum level of service to be
870 performed and the criteria for evaluating the successful

20102386e1

871 completion of each deliverable.

872 (2) Agencies may have the option to purchase commodities or
873 contractual services from state term contracts procured,
874 pursuant to s. 287.057, by the department ~~which contain a user~~
875 ~~surcharge pursuant to s. 287.1345 as determined by the~~
876 ~~department.~~

877 Section 19. Section 287.057, Florida Statutes, is amended
878 to read:

879 287.057 Procurement of commodities or contractual
880 services.—

881 (1) The competitive solicitation processes authorized in
882 this section shall be used for procurement of commodities or
883 contractual services in excess of the threshold amount provided
884 for CATEGORY TWO in s. 287.017. Any competitive solicitation
885 shall be made available simultaneously to all vendors, must
886 include the time and date for the receipt of bids, proposals, or
887 replies and of the public opening, and must include all
888 contractual terms and conditions applicable to the procurement,
889 including the criteria to be used in determining acceptability
890 and relative merit of the bid, proposal, or reply.

891 (a) Invitation to bid.—The invitation to bid shall be used
892 when the agency is capable of specifically defining the scope of
893 work for which a contractual service is required or when the
894 agency is capable of establishing precise specifications
895 defining the actual commodity or group of commodities required.

896 1. All invitations to bid must include:

897 a. A detailed description of the commodities or contractual
898 services sought; and

899 b. If the agency contemplates renewal of the contract, a

20102386e1

900 statement to that effect.

901 2. Bids submitted in response to an invitation to bid in
902 which the agency contemplates renewal of the contract must
903 include the price for each year for which the contract may be
904 renewed.

905 3. Evaluation of bids shall include consideration of the
906 total cost for each year of the contract, including renewal
907 years, as submitted by the vendor.

908 (b) Request for proposals.—An agency shall use a request
909 for proposals when the purposes and uses for which the
910 commodity, group of commodities, or contractual service being
911 sought can be specifically defined and the agency is capable of
912 identifying necessary deliverables. Various combinations or
913 versions of commodities or contractual services may be proposed
914 by a responsive vendor to meet the specifications of the
915 solicitation document.

916 1. Before issuing a request for proposals, the agency must
917 determine and specify in writing the reasons that procurement by
918 invitation to bid is not practicable.

919 2. All requests for proposals must include:

920 a. A statement describing the commodities or contractual
921 services sought;

922 b. The relative importance of price and other evaluation
923 criteria; and

924 c. If the agency contemplates renewal of the contract, a
925 statement to that effect.

926 3. Criteria that will be used for evaluation of proposals
927 shall include, but are not limited to:

928 a. Price, which must be specified in the proposal;

20102386e1

929 b. If the agency contemplates renewal of the contract, the
930 price for each year for which the contract may be renewed; and

931 c. Consideration of the total cost for each year of the
932 contract, including renewal years, as submitted by the vendor.

933 4. The contract shall be awarded by written notice to the
934 responsible and responsive vendor whose proposal is determined
935 in writing to be the most advantageous to the state, taking into
936 consideration the price and other criteria set forth in the
937 request for proposals. The contract file shall contain
938 documentation supporting the basis on which the award is made.

939 (c) Invitation to negotiate.—The invitation to negotiate is
940 a solicitation used by an agency which is intended to determine
941 the best method for achieving a specific goal or solving a
942 particular problem and identifies one or more responsive vendors
943 with which the agency may negotiate in order to receive the best
944 value.

945 1. Before issuing an invitation to negotiate, the head of
946 an agency must determine and specify in writing the reasons that
947 procurement by an invitation to bid or a request for proposal is
948 not practicable.

949 2. The invitation to negotiate must describe the questions
950 being explored, the facts being sought, and the specific goals
951 or problems that are the subject of the solicitation.

952 3. The criteria that will be used for determining the
953 acceptability of the reply and guiding the selection of the
954 vendors with which the agency will negotiate must be specified.

955 4. The agency shall evaluate replies against all evaluation
956 criteria set forth in the invitation to negotiate in order to
957 establish a competitive range of replies reasonably susceptible

20102386e1

958 of award. The agency may select one or more vendors within the
959 competitive range with which to commence negotiations. After
960 negotiations are conducted, the agency shall award the contract
961 to the responsible and responsive vendor that the agency
962 determines will provide the best value to the state, based on
963 the selection criteria.

964 5. The contract file for a vendor selected through an
965 invitation to negotiate must contain a short plain statement
966 that explains the basis for the selection of the vendor and that
967 sets forth the vendor's deliverables and price, pursuant to the
968 contract, along with an explanation of how these deliverables
969 and price provide the best value to the state.

970 ~~(1)(a) Unless otherwise authorized by law, all contracts~~
971 ~~for the purchase of commodities or contractual services in~~
972 ~~excess of the threshold amount provided in s. 287.017 for~~
973 ~~CATEGORY TWO shall be awarded by competitive sealed bidding. An~~
974 ~~invitation to bid shall be made available simultaneously to all~~
975 ~~vendors and must include a detailed description of the~~
976 ~~commodities or contractual services sought; the time and date~~
977 ~~for the receipt of bids and of the public opening; and all~~
978 ~~contractual terms and conditions applicable to the procurement,~~
979 ~~including the criteria to be used in determining acceptability~~
980 ~~of the bid. If the agency contemplates renewal of the contract,~~
981 ~~that fact must be stated in the invitation to bid. The bid shall~~
982 ~~include the price for each year for which the contract may be~~
983 ~~renewed. Evaluation of bids shall include consideration of the~~
984 ~~total cost for each year as submitted by the vendor. Criteria~~
985 ~~that were not set forth in the invitation to bid may not be used~~
986 ~~in determining acceptability of the bid.~~

20102386e1

987 ~~(b) The contract shall be awarded with reasonable~~
988 ~~promptness by written notice to the responsible and responsive~~
989 ~~vendor that submits the lowest responsive bid. This bid must be~~
990 ~~determined in writing to meet the requirements and criteria set~~
991 ~~forth in the invitation to bid.~~

992 ~~(2) (a) If an agency determines in writing that the use of~~
993 ~~an invitation to bid is not practicable, commodities or~~
994 ~~contractual services shall be procured by competitive sealed~~
995 ~~proposals. A request for proposals shall be made available~~
996 ~~simultaneously to all vendors, and must include a statement of~~
997 ~~the commodities or contractual services sought; the time and~~
998 ~~date for the receipt of proposals and of the public opening; and~~
999 ~~all contractual terms and conditions applicable to the~~
1000 ~~procurement, including the criteria, which shall include, but~~
1001 ~~need not be limited to, price, to be used in determining~~
1002 ~~acceptability of the proposal. The relative importance of price~~
1003 ~~and other evaluation criteria shall be indicated. If the agency~~
1004 ~~contemplates renewal of the commodities or contractual services~~
1005 ~~contract, that fact must be stated in the request for proposals.~~
1006 ~~The proposal shall include the price for each year for which the~~
1007 ~~contract may be renewed. Evaluation of proposals shall include~~
1008 ~~consideration of the total cost for each year as submitted by~~
1009 ~~the vendor.~~

1010 ~~(b) The contract shall be awarded to the responsible and~~
1011 ~~responsive vendor whose proposal is determined in writing to be~~
1012 ~~the most advantageous to the state, taking into consideration~~
1013 ~~the price and the other criteria set forth in the request for~~
1014 ~~proposals. The contract file shall contain documentation~~
1015 ~~supporting the basis on which the award is made.~~

20102386e1

1016 ~~(3)(a) If the agency determines in writing that the use of~~
1017 ~~an invitation to bid or a request for proposals will not result~~
1018 ~~in the best value to the state, the agency may procure~~
1019 ~~commodities and contractual services by competitive sealed~~
1020 ~~replies. The agency's written determination must specify reasons~~
1021 ~~that explain why negotiation may be necessary in order for the~~
1022 ~~state to achieve the best value and must be approved in writing~~
1023 ~~by the agency head or his or her designee prior to the~~
1024 ~~advertisement of an invitation to negotiate. An invitation to~~
1025 ~~negotiate shall be made available to all vendors simultaneously~~
1026 ~~and must include a statement of the commodities or contractual~~
1027 ~~services sought; the time and date for the receipt of replies~~
1028 ~~and of the public opening; and all terms and conditions~~
1029 ~~applicable to the procurement, including the criteria to be used~~
1030 ~~in determining the acceptability of the reply. If the agency~~
1031 ~~contemplates renewal of the contract, that fact must be stated~~
1032 ~~in the invitation to negotiate. The reply shall include the~~
1033 ~~price for each year for which the contract may be renewed.~~

1034 ~~(b) The agency shall evaluate and rank responsive replies~~
1035 ~~against all evaluation criteria set forth in the invitation to~~
1036 ~~negotiate and shall select, based on the ranking, one or more~~
1037 ~~vendors with which to commence negotiations. After negotiations~~
1038 ~~are conducted, the agency shall award the contract to the~~
1039 ~~responsible and responsive vendor that the agency determines~~
1040 ~~will provide the best value to the state. The contract file must~~
1041 ~~contain a short plain statement that explains the basis for~~
1042 ~~vendor selection and that sets forth the vendor's deliverables~~
1043 ~~and price, pursuant to the contract, with an explanation of how~~
1044 ~~these deliverables and price provide the best value to the~~

20102386e1

1045 state.

1046 (2)~~(4)~~ Prior to the time for receipt of bids, proposals, or
1047 replies, an agency may conduct a conference or written question
1048 and answer period for purposes of assuring the vendor's full
1049 understanding of the solicitation requirements. The vendors
1050 shall be accorded fair and equal treatment.

1051 (3)~~(5)~~ When the purchase price of commodities or
1052 contractual services exceeds the threshold amount provided in s.
1053 287.017 for CATEGORY TWO, no purchase of commodities or
1054 contractual services may be made without receiving competitive
1055 sealed bids, competitive sealed proposals, or competitive sealed
1056 replies unless:

1057 (a) The agency head determines in writing that an immediate
1058 danger to the public health, safety, or welfare or other
1059 substantial loss to the state requires emergency action. After
1060 the agency head makes such a written determination, the agency
1061 may proceed with the procurement of commodities or contractual
1062 services necessitated by the immediate danger, without receiving
1063 competitive sealed bids, competitive sealed proposals, or
1064 competitive sealed replies. However, such emergency procurement
1065 shall be made by obtaining pricing information from at least two
1066 prospective vendors, which must be retained in the contract
1067 file, unless the agency determines in writing that the time
1068 required to obtain pricing information will increase the
1069 immediate danger to the public health, safety, or welfare or
1070 other substantial loss to the state. The agency shall furnish
1071 copies of all written determinations certified under oath and
1072 any other documents relating to the emergency action to the
1073 department. A copy of the statement shall be furnished to the

20102386e1

1074 Chief Financial Officer with the voucher authorizing payment.
1075 The individual purchase of personal clothing, shelter, or
1076 supplies which are needed on an emergency basis to avoid
1077 institutionalization or placement in a more restrictive setting
1078 is an emergency for the purposes of this paragraph, and the
1079 filing with the department of such statement is not required in
1080 such circumstances. In the case of the emergency purchase of
1081 insurance, the period of coverage of such insurance shall not
1082 exceed a period of 30 days, and all such emergency purchases
1083 shall be reported to the department.

1084 (b) The purchase is made by an agency from a state term
1085 contract procured, pursuant to this section, by the department
1086 or by an agency, after receiving approval from the department,
1087 from a contract procured, pursuant to subsection (1), ~~subsection~~
1088 ~~(2), or subsection (3),~~ by another agency.

1089 (c) Commodities or contractual services available only from
1090 a single source may be excepted from the competitive-
1091 solicitation requirements. When an agency believes that
1092 commodities or contractual services are available only from a
1093 single source, the agency shall electronically post a
1094 description of the commodities or contractual services sought
1095 for a period of at least 7 business days. The description must
1096 include a request that prospective vendors provide information
1097 regarding their ability to supply the commodities or contractual
1098 services described. If it is determined in writing by the
1099 agency, after reviewing any information received from
1100 prospective vendors, that the commodities or contractual
1101 services are available only from a single source, the agency
1102 shall:

20102386e1

1103 1. Provide notice of its intended decision to enter a
1104 single-source purchase contract in the manner specified in s.
1105 120.57(3), if the amount of the contract does not exceed the
1106 threshold amount provided in s. 287.017 for CATEGORY FOUR.

1107 2. Request approval from the department for the single-
1108 source purchase, if the amount of the contract exceeds the
1109 threshold amount provided in s. 287.017 for CATEGORY FOUR. The
1110 agency shall initiate its request for approval in a form
1111 prescribed by the department, which request may be
1112 electronically transmitted. The failure of the department to
1113 approve or disapprove the agency's request for approval within
1114 21 days after receiving such request shall constitute prior
1115 approval of the department. If the department approves the
1116 agency's request, the agency shall provide notice of its
1117 intended decision to enter a single-source contract in the
1118 manner specified in s. 120.57(3).

1119 (d) When it is in the best interest of the state, the
1120 secretary of the department or his or her designee may authorize
1121 the Support Program to purchase insurance by negotiation, but
1122 such purchase shall be made only under conditions most favorable
1123 to the public interest.

1124 (e) Prescriptive assistive devices for the purpose of
1125 medical, developmental, or vocational rehabilitation of clients
1126 are excepted from competitive-solicitation requirements and
1127 shall be procured pursuant to an established fee schedule or by
1128 any other method which ensures the best price for the state,
1129 taking into consideration the needs of the client. Prescriptive
1130 assistive devices include, but are not limited to, prosthetics,
1131 orthotics, and wheelchairs. For purchases made pursuant to this

20102386e1

1132 paragraph, state agencies shall annually file with the
1133 department a description of the purchases and methods of
1134 procurement.

1135 (f) The following contractual services and commodities are
1136 not subject to the competitive-solicitation requirements of this
1137 section:

1138 1. Artistic services. For the purposes of this subsection,
1139 the term "artistic services" does not include advertising or
1140 typesetting. As used in this subparagraph, the term
1141 "advertising" means the making of a representation in any form
1142 in connection with a trade, business, craft, or profession in
1143 order to promote the supply of commodities or services by the
1144 person promoting the commodities or contractual services.

1145 2. Academic program reviews if the fee for such services
1146 does not exceed \$50,000.

1147 3. Lectures by individuals.

1148 ~~4. Auditing services.~~

1149 ~~4.5.~~ Legal services, including attorney, paralegal, expert
1150 witness, appraisal, or mediator services.

1151 ~~5.a.6.~~ Health services involving examination, diagnosis,
1152 treatment, prevention, medical consultation, or administration.

1153 b. Beginning January 1, 2011, health services, including,
1154 but not limited to, substance abuse and mental health services,
1155 involving examination, diagnosis, treatment, prevention, or
1156 medical consultation, when such services are offered to eligible
1157 individuals participating in a specific program that qualifies
1158 multiple providers and uses a standard payment methodology.
1159 Reimbursement of administrative costs for providers of services
1160 purchased in this manner shall also be exempt. For purposes of

20102386e1

1161 this sub-subparagraph, "providers" means health professionals,
1162 health facilities, or organizations that deliver or arrange for
1163 the delivery of health services.

1164 ~~6.7.~~ Services provided to persons with mental or physical
1165 disabilities by not-for-profit corporations which have obtained
1166 exemptions under the provisions of s. 501(c)(3) of the United
1167 States Internal Revenue Code or when such services are governed
1168 by the provisions of Office of Management and Budget Circular A-
1169 122. However, in acquiring such services, the agency shall
1170 consider the ability of the vendor, past performance,
1171 willingness to meet time requirements, and price.

1172 ~~7.8.~~ Medicaid services delivered to an eligible Medicaid
1173 recipient unless the agency is directed otherwise in law ~~by a~~
1174 ~~health care provider who has not previously applied for and~~
1175 ~~received a Medicaid provider number from the Agency for Health~~
1176 ~~Care Administration. However, this exception shall be valid for~~
1177 ~~a period not to exceed 90 days after the date of delivery to the~~
1178 ~~Medicaid recipient and shall not be renewed by the agency.~~

1179 ~~8.9.~~ Family placement services.

1180 ~~9.10.~~ Prevention services related to mental health,
1181 including drug abuse prevention programs, child abuse prevention
1182 programs, and shelters for runaways, operated by not-for-profit
1183 corporations. However, in acquiring such services, the agency
1184 shall consider the ability of the vendor, past performance,
1185 willingness to meet time requirements, and price.

1186 ~~10.11.~~ Training and education services provided to injured
1187 employees pursuant to s. 440.491(6).

1188 ~~11.12.~~ Contracts entered into pursuant to s. 337.11.

1189 ~~12.13.~~ Services or commodities provided by governmental

20102386e1

1190 agencies.

1191 (g) Continuing education events or programs that are
1192 offered to the general public and for which fees have been
1193 collected that pay all expenses associated with the event or
1194 program are exempt from requirements for competitive
1195 solicitation.

1196 (4) An agency must document its compliance with s. 216.3475
1197 if the purchase of contractual services exceeds the threshold
1198 amount provided in s. 287.017 for CATEGORY TWO and such services
1199 are not competitively procured.

1200 (5)~~(6)~~ If less than two responsive bids, proposals, or
1201 replies for commodity or contractual services purchases are
1202 received, the department or other agency may negotiate on the
1203 best terms and conditions. The department or other agency shall
1204 document the reasons that such action is in the best interest of
1205 the state in lieu of resoliciting competitive sealed bids,
1206 proposals, or replies. Each agency shall report all such actions
1207 to the department on a quarterly basis, in a manner and form
1208 prescribed by the department.

1209 (6)~~(7)~~ Upon issuance of any solicitation, an agency shall,
1210 upon request by the department, forward to the department one
1211 copy of each solicitation for all commodity and contractual
1212 services purchases in excess of the threshold amount provided in
1213 s. 287.017 for CATEGORY TWO. An agency shall also, upon request,
1214 furnish a copy of all competitive-solicitation tabulations. The
1215 Office of Supplier Diversity may also request from the agencies
1216 any information submitted to the department pursuant to this
1217 subsection.

1218 (7)~~(8)~~ (a) In order to strive to meet the minority business

20102386e1

1219 enterprise procurement goals set forth in s. 287.09451, an
1220 agency may reserve any contract for competitive solicitation
1221 only among certified minority business enterprises. Agencies
1222 shall review all their contracts each fiscal year and shall
1223 determine which contracts may be reserved for solicitation only
1224 among certified minority business enterprises. This reservation
1225 may only be used when it is determined, by reasonable and
1226 objective means, before the solicitation that there are capable,
1227 qualified certified minority business enterprises available to
1228 submit a bid, proposal, or reply on a contract to provide for
1229 effective competition. The Office of Supplier Diversity shall
1230 consult with any agency in reaching such determination when
1231 deemed appropriate.

1232 (b) Before a contract may be reserved for solicitation only
1233 among certified minority business enterprises, the agency head
1234 must find that such a reservation is in the best interests of
1235 the state. All determinations shall be subject to s.
1236 287.09451(5). Once a decision has been made to reserve a
1237 contract, but before sealed bids, proposals, or replies are
1238 requested, the agency shall estimate what it expects the amount
1239 of the contract to be, based on the nature of the services or
1240 commodities involved and their value under prevailing market
1241 conditions. If all the sealed bids, proposals, or replies
1242 received are over this estimate, the agency may reject the bids,
1243 proposals, or replies and request new ones from certified
1244 minority business enterprises, or the agency may reject the
1245 bids, proposals, or replies and reopen the bidding to all
1246 eligible vendors.

1247 (c) All agencies shall consider the use of price

20102386e1

1248 preferences of up to 10 percent, weighted preference formulas,
1249 or other preferences for vendors as determined appropriate
1250 pursuant to guidelines established in accordance with s.
1251 287.09451(4) to increase the participation of minority business
1252 enterprises.

1253 (d) All agencies shall avoid any undue concentration of
1254 contracts or purchases in categories of commodities or
1255 contractual services in order to meet the minority business
1256 enterprise purchasing goals in s. 287.09451.

1257 (8)~~(9)~~ An agency may reserve any contract for competitive
1258 solicitation only among vendors who agree to use certified
1259 minority business enterprises as subcontractors or subvendors.
1260 The percentage of funds, in terms of gross contract amount and
1261 revenues, which must be expended with the certified minority
1262 business enterprise subcontractors and subvendors shall be
1263 determined by the agency before such contracts may be reserved.
1264 In order to bid on a contract so reserved, the vendor shall
1265 identify those certified minority business enterprises which
1266 will be utilized as subcontractors or subvendors by sworn
1267 statement. At the time of performance or project completion, the
1268 contractor shall report by sworn statement the payments and
1269 completion of work for all certified minority business
1270 enterprises used in the contract.

1271 (9)~~(10)~~ An agency shall not divide the solicitation
1272 ~~procurement~~ of commodities or contractual services so as to
1273 avoid the requirements of subsections (1)-(3) ~~(1) through (5)~~.

1274 (10)~~(11)~~ A contract for commodities or contractual services
1275 may be awarded without competition if state or federal law
1276 prescribes with whom the agency must contract or if the rate of

20102386e1

1277 payment is established during the appropriations process.

1278 (11)~~(12)~~ If two equal responses to a solicitation or a
1279 request for quote are received and one response is from a
1280 certified minority business enterprise, the agency shall enter
1281 into a contract with the certified minority business enterprise.

1282 (12)~~(13)~~ Extension of a contract for contractual services
1283 shall be in writing for a period not to exceed 6 months and
1284 shall be subject to the same terms and conditions set forth in
1285 the initial contract. There shall be only one extension of a
1286 contract unless the failure to meet the criteria set forth in
1287 the contract for completion of the contract is due to events
1288 beyond the control of the contractor.

1289 (13)~~(14)~~(a) Contracts for commodities or contractual
1290 services may be renewed for a period that may not exceed 3 years
1291 or the term of the original contract, whichever period is
1292 longer. Renewal of a contract for commodities or contractual
1293 services shall be in writing and shall be subject to the same
1294 terms and conditions set forth in the initial contract. If the
1295 commodity or contractual service is purchased as a result of the
1296 solicitation of bids, proposals, or replies, the price of the
1297 commodity or contractual service to be renewed shall be
1298 specified in the bid, proposal, or reply. A renewal contract may
1299 not include any compensation for costs associated with the
1300 renewal. Renewals shall be contingent upon satisfactory
1301 performance evaluations by the agency and subject to the
1302 availability of funds. Exceptional purchase contracts pursuant
1303 to paragraphs (3)~~(5)~~(a) and (c) may not be renewed. With the
1304 exception of subsection (12) ~~(13)~~, if a contract amendment
1305 results in a longer contract term or increased payments, a state

20102386e1

1306 agency may not renew or amend a contract for the outsourcing of
1307 a service or activity that has an original term value exceeding
1308 the sum of \$10 million before submitting a written report
1309 concerning contract performance to the Governor, the President
1310 of the Senate, and the Speaker of the House of Representatives
1311 at least 90 days before execution of the renewal or amendment.

1312 (b) The Department of Health shall enter into an agreement,
1313 not to exceed 20 years, with a private contractor to finance,
1314 design, and construct a hospital, of no more than 50 beds, for
1315 the treatment of patients with active tuberculosis and to
1316 operate all aspects of daily operations within the facility. The
1317 contractor may sponsor the issuance of tax-exempt certificates
1318 of participation or other securities to finance the project, and
1319 the state may enter into a lease-purchase agreement for the
1320 facility. The department shall begin the implementation of this
1321 initiative by July 1, 2008. This paragraph expires July 1, 2009.

1322 (14)~~(15)~~ For each contractual services contract, the agency
1323 shall designate an employee to function as contract manager who
1324 shall be responsible for enforcing performance of the contract
1325 terms and conditions and serve as a liaison with the contractor.
1326 Each contract manager who is responsible for contracts in excess
1327 of the threshold amount for CATEGORY TWO must attend training
1328 conducted by the Chief Financial Officer for accountability in
1329 contracts and grant management. The Chief Financial Officer
1330 agency shall establish and disseminate uniform procedures
1331 pursuant to s. 17.03(3) to ensure that contractual services have
1332 been rendered in accordance with the contract terms before the
1333 agency processes prior to processing the invoice for payment.
1334 The procedures shall include, but need not be limited to,

20102386e1

1335 procedures for monitoring and documenting contractor
1336 performance, reviewing and documenting all deliverables for
1337 which payment is requested by vendors, and providing written
1338 certification by contract managers of the agency's receipt of
1339 goods and services.

1340 (15)~~(16)~~ Each agency shall designate at least one employee
1341 who shall serve as a contract administrator responsible for
1342 maintaining a contract file and financial information on all
1343 contractual services contracts and who shall serve as a liaison
1344 with the contract managers and the department.

1345 (16)~~(17)~~ For a contract in excess of the threshold amount
1346 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
1347 appoint:

1348 (a) At least three persons to evaluate proposals and
1349 replies who collectively have experience and knowledge in the
1350 program areas and service requirements for which commodities or
1351 contractual services are sought.

1352 (b) At least three persons to conduct negotiations during a
1353 competitive sealed reply procurement who collectively have
1354 experience and knowledge in negotiating contracts, contract
1355 procurement, and the program areas and service requirements for
1356 which commodities or contractual services are sought. When the
1357 value of a contract is in excess of \$1 million in any fiscal
1358 year, at least one of the persons conducting negotiations must
1359 be certified as a contract negotiator based upon rules adopted
1360 by the Department of Management Services in order to ensure that
1361 certified contract negotiators are knowledgeable about effective
1362 negotiation strategies, capable of successfully implementing
1363 those strategies, and involved appropriately in the procurement

20102386e1

1364 process. At a minimum, the rules must address the qualifications
1365 required for certification, the method of certification, and the
1366 procedure for involving the certified negotiator. If the value
1367 of a contract is in excess of \$10 million in any fiscal year, at
1368 least one of the persons conducting negotiations must be a
1369 Project Management Professional, as certified by the Project
1370 Management Institute.

1371 (17) (a)1. Each agency must avoid, neutralize, or mitigate
1372 significant potential organizational conflicts of interest
1373 before a contract is awarded. If the agency elects to mitigate
1374 the significant potential organizational conflict or conflicts
1375 of interest, an adequate mitigation plan, including
1376 organizational, physical, and electronic barriers, shall be
1377 developed.

1378 2. If a conflict cannot be avoided or mitigated, an agency
1379 may proceed with the contract award if the agency head certifies
1380 that the award is in the best interests of the state. The agency
1381 head must specify in writing the basis for the certification.

1382 (b)1. An agency head may not proceed with a contract award
1383 under subparagraph (a)2. if a conflict of interest is based upon
1384 the vendor gaining an unfair competitive advantage.

1385 2. An unfair competitive advantage exists when the vendor
1386 competing for the award of a contract obtained:

1387 a. Access to information that is not available to the
1388 public and would assist the vendor in obtaining the contract; or

1389 b. Source selection information that is relevant to the
1390 contract but is not available to all competitors and that would
1391 assist the vendor in obtaining the contract.

1392 (c) ~~(18)~~ A person who receives a contract that has not been

20102386e1

1393 procured pursuant to subsections (1)-(3) ~~(1) through (5)~~ to
1394 perform a feasibility study of the potential implementation of a
1395 subsequent contract, who participates in the drafting of a
1396 solicitation or who develops a program for future
1397 implementation, is not eligible to contract with the agency for
1398 any other contracts dealing with that specific subject matter,
1399 and any firm in which such person has any interest is not
1400 eligible to receive such contract. However, this prohibition
1401 does not prevent a vendor who responds to a request for
1402 information from being eligible to contract with an agency.

1403 (18) ~~(19)~~ Each agency shall establish a review and approval
1404 process for all contractual services contracts costing more than
1405 the threshold amount provided for in s. 287.017 for CATEGORY
1406 THREE which shall include, but not be limited to, program,
1407 financial, and legal review and approval. Such reviews and
1408 approvals shall be obtained before the contract is executed.

1409 (19) ~~(20)~~ In any procurement that costs more than the
1410 threshold amount provided for in s. 287.017 for CATEGORY TWO and
1411 is accomplished without competition, the individuals taking part
1412 in the development or selection of criteria for evaluation, the
1413 evaluation process, and the award process shall attest in
1414 writing that they are independent of, and have no conflict of
1415 interest in, the entities evaluated and selected.

1416 (20) ~~(21)~~ Nothing in this section shall affect the validity
1417 or effect of any contract in existence on October 1, 1990.

1418 (21) ~~(22)~~ An agency may contract for services with any
1419 independent, nonprofit college or university which is located
1420 within the state and is accredited by the Southern Association
1421 of Colleges and Schools, on the same basis as it may contract

20102386e1

1422 with any state university and college.

1423 (22)~~(23)~~ The department, in consultation with the Agency
1424 for Enterprise Information Technology and the Comptroller, shall
1425 develop a program for online procurement of commodities and
1426 contractual services. To enable the state to promote open
1427 competition and to leverage its buying power, agencies shall
1428 participate in the online procurement program, and eligible
1429 users may participate in the program. Only vendors prequalified
1430 as meeting mandatory requirements and qualifications criteria
1431 may participate in online procurement.

1432 (a) The department, in consultation with the agency, may
1433 contract for equipment and services necessary to develop and
1434 implement online procurement.

1435 (b) The department, in consultation with the agency, shall
1436 adopt rules, pursuant to ss. 120.536(1) and 120.54, to
1437 administer the program for online procurement. The rules shall
1438 include, but not be limited to:

1439 1. Determining the requirements and qualification criteria
1440 for prequalifying vendors.

1441 2. Establishing the procedures for conducting online
1442 procurement.

1443 3. Establishing the criteria for eligible commodities and
1444 contractual services.

1445 4. Establishing the procedures for providing access to
1446 online procurement.

1447 5. Determining the criteria warranting any exceptions to
1448 participation in the online procurement program.

1449 (c) The department may impose and shall collect all fees
1450 for the use of the online procurement systems.

20102386e1

1451 1. The fees may be imposed on an individual transaction
1452 basis or as a fixed percentage of the cost savings generated. At
1453 a minimum, the fees must be set in an amount sufficient to cover
1454 the projected costs of the services, including administrative
1455 and project service costs in accordance with the policies of the
1456 department.

1457 2. If the department contracts with a provider for online
1458 procurement, the department, pursuant to appropriation, shall
1459 compensate the provider from the fees after the department has
1460 satisfied all ongoing costs. The provider shall report
1461 transaction data to the department each month so that the
1462 department may determine the amount due and payable to the
1463 department from each vendor.

1464 3. All fees that are due and payable to the state on a
1465 transactional basis or as a fixed percentage of the cost savings
1466 generated are subject to s. 215.31 and must be remitted within
1467 40 days after receipt of payment for which the fees are due. For
1468 fees that are not remitted within 40 days, the vendor shall pay
1469 interest at the rate established under s. 55.03(1) on the unpaid
1470 balance from the expiration of the 40-day period until the fees
1471 are remitted.

1472 4. All fees and surcharges collected under this paragraph
1473 shall be deposited in the Operating Trust Fund as provided by
1474 law.

1475 (23)~~(24)~~ Each solicitation for the procurement of
1476 commodities or contractual services shall include the following
1477 provision: "Respondents to this solicitation or persons acting
1478 on their behalf may not contact, between the release of the
1479 solicitation and the end of the 72-hour period following the

20102386e1

1480 agency posting the notice of intended award, excluding
1481 Saturdays, Sundays, and state holidays, any employee or officer
1482 of the executive or legislative branch concerning any aspect of
1483 this solicitation, except in writing to the procurement officer
1484 or as provided in the solicitation documents. Violation of this
1485 provision may be grounds for rejecting a response."

1486 Section 20. Section 287.0571, Florida Statutes, is amended
1487 to read:

1488 287.0571 Business case to outsource; applicability of ss.
1489 ~~287.0571-287.0574.~~—

1490 ~~(1) Sections 287.0571-287.0574 may be cited as the "Florida~~
1491 ~~Efficient Government Act."~~

1492 (1)~~(2)~~ It is the intent of the Legislature that each state
1493 agency focus on its core mission and deliver services
1494 effectively and efficiently by leveraging resources and
1495 contracting with private sector vendors whenever vendors can
1496 more effectively and efficiently provide services and reduce the
1497 cost of government.

1498 (2)~~(3)~~ It is further the intent of the Legislature that
1499 business cases to outsource be evaluated for feasibility, cost-
1500 effectiveness, and efficiency before a state agency proceeds
1501 with any outsourcing of services.

1502 (3)~~(4)~~ This section does ~~Sections 287.0571-287.0574 do not~~
1503 apply to:

1504 (a) A procurement of commodities and contractual services
1505 listed in s. 287.057(3)~~(5)~~(e), (f), and (g) and (21)~~(22)~~.

1506 (b) A procurement of contractual services subject to s.
1507 287.055.

1508 (c) A contract in support of the planning, development,

20102386e1

1509 implementation, operation, or maintenance of the road, bridge,
1510 and public transportation construction program of the Department
1511 of Transportation.

1512 (d) A procurement of commodities or contractual services
1513 which does not constitute an outsourcing of services or
1514 activities.

1515 (4) An agency shall complete a business case for any
1516 outsourcing project that has an expected cost in excess of \$10
1517 million within a single fiscal year. The business case shall be
1518 submitted pursuant to s. 216.023. The business case shall be
1519 available as part of the solicitation but is not subject to
1520 challenge and shall include the following:

1521 (a) A detailed description of the service or activity for
1522 which the outsourcing is proposed.

1523 (b) A description and analysis of the state agency's
1524 current performance, based on existing performance metrics if
1525 the state agency is currently performing the service or
1526 activity.

1527 (c) The goals desired to be achieved through the proposed
1528 outsourcing and the rationale for such goals.

1529 (d) A citation to the existing or proposed legal authority
1530 for outsourcing the service or activity.

1531 (e) A description of available options for achieving the
1532 goals. If state employees are currently performing the service
1533 or activity, at least one option involving maintaining state
1534 provision of the service or activity shall be included.

1535 (f) An analysis of the advantages and disadvantages of each
1536 option, including, at a minimum, potential performance
1537 improvements and risks.

20102386e1

1538 (g) A description of the current market for the contractual
1539 services that are under consideration for outsourcing.

1540 (h) A cost-benefit analysis documenting the direct and
1541 indirect specific baseline costs, savings, and qualitative and
1542 quantitative benefits involved in or resulting from the
1543 implementation of the recommended option or options. Such
1544 analysis must specify the schedule that, at a minimum, must be
1545 adhered to in order to achieve the estimated savings. All
1546 elements of cost must be clearly identified in the cost-benefit
1547 analysis, described in the business case, and supported by
1548 applicable records and reports. The state agency head shall
1549 attest that, based on the data and information underlying the
1550 business case, to the best of his or her knowledge, all
1551 projected costs, savings, and benefits are valid and achievable.
1552 As used in this section, the term "cost" means the reasonable,
1553 relevant, and verifiable cost, which may include, but is not
1554 limited to, elements such as personnel, materials and supplies,
1555 services, equipment, capital depreciation, rent, maintenance and
1556 repairs, utilities, insurance, personnel travel, overhead, and
1557 interim and final payments. The appropriate elements shall
1558 depend on the nature of the specific initiative. As used in this
1559 paragraph, the term "savings" means the difference between the
1560 direct and indirect actual annual baseline costs compared to the
1561 projected annual cost for the contracted functions or
1562 responsibilities in any succeeding state fiscal year during the
1563 term of the contract.

1564 (i) A description of differences among current state agency
1565 policies and processes and, as appropriate, a discussion of
1566 options for or a plan to standardize, consolidate, or revise

20102386e1

1567 current policies and processes, if any, to reduce the
1568 customization of any proposed solution that would otherwise be
1569 required.

1570 (j) A description of the specific performance standards
1571 that must, at a minimum, be met to ensure adequate performance.

1572 (k) The projected timeframe for key events from the
1573 beginning of the procurement process through the expiration of a
1574 contract.

1575 (l) A plan to ensure compliance with the public-records
1576 law.

1577 (m) A specific and feasible contingency plan addressing
1578 contractor nonperformance and a description of the tasks
1579 involved in and costs required for its implementation.

1580 (n) A state agency's transition plan for addressing changes
1581 in the number of agency personnel, affected business processes,
1582 employee transition issues, and communication with affected
1583 stakeholders, such as agency clients and the public. The
1584 transition plan must contain a reemployment and retraining
1585 assistance plan for employees who are not retained by the state
1586 agency or employed by the contractor.

1587 (o) A plan for ensuring access by persons with disabilities
1588 in compliance with applicable state and federal law.

1589 (5) In addition to the contract requirements provided in s.
1590 287.058, each contract for a proposed outsourcing, pursuant to
1591 this section, must include, but need not be limited to, the
1592 following contractual provisions:

1593 (a) A scope-of-work provision that clearly specifies each
1594 service or deliverable to be provided, including a description
1595 of each deliverable or activity that is quantifiable,

20102386e1

1596 measurable, and verifiable. This provision must include a clause
1597 that states if a particular service or deliverable is
1598 inadvertently omitted or not clearly specified but determined to
1599 be operationally necessary and verified to have been performed
1600 by the agency within the 12 months before the execution of the
1601 contract, such service or deliverable will be provided by the
1602 contractor through the identified contract-amendment process.

1603 (b) A service-level-agreement provision describing all
1604 services to be provided under the terms of the agreement, the
1605 state agency's service requirements and performance objectives,
1606 specific responsibilities of the state agency and the
1607 contractor, and the process for amending any portion of the
1608 service-level agreement. Each service-level agreement must
1609 contain an exclusivity clause that allows the state agency to
1610 retain the right to perform the service or activity, directly or
1611 with another contractor, if service levels are not being
1612 achieved.

1613 (c) A provision that identifies all associated costs,
1614 specific payment terms, and payment schedules, including
1615 provisions governing incentives and financial disincentives and
1616 criteria governing payment.

1617 (d) A provision that identifies a clear and specific
1618 transition plan that will be implemented in order to complete
1619 all required activities needed to transfer the service or
1620 activity from the state agency to the contractor and operate the
1621 service or activity successfully.

1622 (e) A performance-standards provision that identifies all
1623 required performance standards, which must include, at a
1624 minimum:

20102386e1

1625 1. Detailed and measurable acceptance criteria for each
1626 deliverable and service to be provided to the state agency under
1627 the terms of the contract which document the required
1628 performance level.

1629 2. A method for monitoring and reporting progress in
1630 achieving specified performance standards and levels.

1631 3. The sanctions or disincentives that shall be imposed for
1632 nonperformance by the contractor or state agency.

1633 (f) A provision that requires the contractor and its
1634 subcontractors to maintain adequate accounting records that
1635 comply with all applicable federal and state laws and generally
1636 accepted accounting principles.

1637 (g) A provision that authorizes the state agency to have
1638 access to and to audit all records related to the contract and
1639 subcontracts, or any responsibilities or functions under the
1640 contract and subcontracts, for purposes of legislative
1641 oversight, and a requirement for audits by a service
1642 organization in accordance with professional auditing standards,
1643 if appropriate.

1644 (h) A provision that requires the contractor to interview
1645 and consider for employment with the contractor each displaced
1646 state employee who is interested in such employment.

1647 (i) A contingency-plan provision that describes the
1648 mechanism for continuing the operation of the service or
1649 activity, including transferring the service or activity back to
1650 the state agency or successor contractor if the contractor fails
1651 to perform and comply with the performance standards and levels
1652 of the contract and the contract is terminated.

1653 (j) A provision that requires the contractor and its

20102386e1

1654 subcontractors to comply with public-records laws, specifically
1655 to:

1656 1. Keep and maintain the public records that ordinarily and
1657 necessarily would be required by the state agency in order to
1658 perform the service or activity.

1659 2. Provide the public with access to such public records on
1660 the same terms and conditions that the state agency would
1661 provide the records and at a cost that does not exceed that
1662 provided in chapter 119 or as otherwise provided by law.

1663 3. Ensure that records that are exempt or records that are
1664 confidential and exempt are not disclosed except as authorized
1665 by law.

1666 4. Meet all requirements for retaining records and transfer
1667 to the state agency, at no cost, all public records in
1668 possession of the contractor upon termination of the contract
1669 and destroy any duplicate public records that are exempt or
1670 confidential and exempt. All records stored electronically must
1671 be provided to the state agency in a format that is compatible
1672 with the information technology systems of the state agency.

1673 (k)1. A provision that provides that any copyrightable or
1674 patentable intellectual property produced as a result of work or
1675 services performed under the contract, or in any way connected
1676 with the contract, shall be the property of the state, with only
1677 such exceptions as are clearly expressed and reasonably valued
1678 in the contract.

1679 2. A provision that provides that, if the primary purpose
1680 of the contract is the creation of intellectual property, the
1681 state shall retain an unencumbered right to use such property.

1682 (l) If applicable, a provision that allows the agency to

20102386e1

1683 purchase from the contractor, at its depreciated value, assets
1684 used by the contractor in the performance of the contract. If
1685 assets have not depreciated, the agency shall retain the right
1686 to negotiate to purchase at an agreed-upon cost.

1687 Section 21. Section 287.05721, Florida Statutes, is
1688 repealed.

1689 Section 22. Section 287.0573, Florida Statutes, is
1690 repealed.

1691 Section 23. Section 287.0574, Florida Statutes, is
1692 repealed.

1693 Section 24. Section 287.0575, Florida Statutes, is created
1694 to read:

1695 287.0575 Coordination of contracted services.—The following
1696 duties and responsibilities of the Department of Children and
1697 Family Services, the Agency for Persons with Disabilities, the
1698 Department of Health, the Department of Elderly Affairs, and the
1699 Department of Veterans' Affairs, and service providers under
1700 contract to those agencies, are established:

1701 (1) No later than August 1, 2010, or upon entering into any
1702 new contract for health and human services, state agencies
1703 contracting for health and human services must notify their
1704 contract service providers of the requirements of this section.

1705 (2) No later than October 1, 2010, contract service
1706 providers that have more than one contract with one or more
1707 state agencies to provide health and human services must provide
1708 to each of their contract managers a comprehensive list of their
1709 health and human services contracts. The list must include the
1710 following information:

1711 (a) The name of each contracting state agency and the

20102386e1

1712 applicable office or program issuing the contract.

1713 (b) The identifying name and number of each contract.

1714 (c) The starting and ending date of each contract.

1715 (d) The amount of each contract.

1716 (e) A brief description of the purpose of the contract and

1717 the types of services provided under each contract.

1718 (f) The name and contact information of the contract

1719 manager.

1720 (3) With respect to contracts entered into on or after

1721 August 1, 2010, effective November 1, 2010, or 30 days after

1722 receiving the list provided under subsection (2), a single lead

1723 administrative coordinator for each contract service provider

1724 shall be designated as provided in this subsection from among

1725 the agencies having multiple contracts as provided in subsection

1726 (2). On or before the date such responsibilities are assumed,

1727 the designated lead administrative coordinator shall provide

1728 notice of his or her designation to the contract service

1729 provider and to the agency contract managers for each affected

1730 contract. Unless another lead administrative coordinator is

1731 selected by agreement of all affected contract managers, the

1732 designated lead administrative coordinator shall be the agency

1733 contract manager of the contract with the highest dollar value

1734 over the term of the contract, provided the term of the contract

1735 remaining at the time of designation exceeds 24 months. If the

1736 remaining terms of all contracts are 24 months or less, the

1737 designated lead administrative coordinator shall be the contract

1738 manager of the contract with the latest end date. A designated

1739 lead administrative coordinator, or his or her successor as

1740 contract manager, shall continue as lead administrative

20102386e1

1741 coordinator until another lead administrative coordinator is
1742 selected by agreement of all affected contract managers or until
1743 the end date of the contract for which the designated lead
1744 administrative coordinator serves as contract manager, at which
1745 time a new lead administrative coordinator shall be designated
1746 pursuant to this subsection, if applicable.

1747 (4) The designated lead administrative coordinator shall be
1748 responsible for:

1749 (a) Establishing a coordinated schedule for administrative
1750 and fiscal monitoring;

1751 (b) Consulting with other case managers to establish a
1752 single unified set of required administrative and fiscal
1753 documentation;

1754 (c) Consulting with other case managers to establish a
1755 single unified schedule for periodic updates of administrative
1756 and fiscal information; and

1757 (d) Maintaining an accessible electronic file of up-to-date
1758 administrative and fiscal documents, including, but not limited
1759 to, corporate documents, membership records, audits, and
1760 monitoring reports.

1761 (5) Contract managers for agency contracts other than the
1762 designated lead administrative coordinator must conduct
1763 administrative and fiscal monitoring activities in accordance
1764 with the coordinated schedule and must obtain any necessary
1765 administrative and fiscal documents from the designated lead
1766 administrative coordinator's electronic file.

1767 (6) This section does not apply to routine program
1768 performance monitoring or prohibit a contracting agency from
1769 directly and immediately contacting the service provider when

20102386e1

1770 the health or safety of clients is at risk.

1771 (7) Each agency contracting for health and human services
1772 shall annually evaluate the performance of its designated lead
1773 administrative coordinator in establishing coordinated systems,
1774 improving efficiency, and reducing redundant monitoring
1775 activities for state agencies and their service providers. The
1776 annual report shall be submitted to the Governor, the President
1777 of the Senate, and the Speaker of the House of Representatives.

1778 Section 25. Subsections (1) and (5) of section 287.058,
1779 Florida Statutes, are amended to read:

1780 287.058 Contract document.—

1781 (1) Every procurement of contractual services in excess of
1782 the threshold amount provided in s. 287.017 for CATEGORY TWO,
1783 except for the providing of health and mental health services or
1784 drugs in the examination, diagnosis, or treatment of sick or
1785 injured state employees or the providing of other benefits as
1786 required by the provisions of chapter 440, shall be evidenced by
1787 a written agreement embodying all provisions and conditions of
1788 the procurement of such services, which ~~provisions and~~
1789 ~~conditions~~ shall, where applicable, include, but ~~shall~~ not be
1790 limited to, a provision:

1791 (a) ~~A provision~~ That bills for fees or other compensation
1792 for services or expenses be submitted in detail sufficient for a
1793 proper preaudit and postaudit thereof.

1794 (b) ~~A provision~~ That bills for any travel expenses be
1795 submitted in accordance with s. 112.061. A state agency may
1796 establish rates lower than the maximum provided in s. 112.061.

1797 (c) ~~A provision~~ Allowing unilateral cancellation by the
1798 agency for refusal by the contractor to allow public access to

20102386e1

1799 all documents, papers, letters, or other material made or
1800 received by the contractor in conjunction with the contract,
1801 unless the records are exempt from s. 24(a) of Art. I of the
1802 State Constitution and s. 119.07(1).

1803 (d) Specifying a scope of work that clearly establishes all
1804 tasks the contractor is required to perform.

1805 (e) ~~(d) A provision~~ Dividing the contract into quantifiable,
1806 measurable, and verifiable units of deliverables, ~~which shall~~
1807 ~~include, but not be limited to, reports, findings, and drafts,~~
1808 that must be received and accepted in writing by the contract
1809 manager before ~~prior to~~ payment. Each deliverable must be
1810 directly related to the scope of work and specify the required
1811 minimum level of service to be performed and criteria for
1812 evaluating the successful completion of each deliverable.

1813 (f) ~~(e) A provision~~ Specifying the criteria and the final
1814 date by which such criteria must be met for completion of the
1815 contract.

1816 (g) ~~(f) A provision~~ Specifying that the contract may be
1817 renewed for a period that may not exceed 3 years or the term of
1818 the original contract, whichever period is longer, specifying
1819 the renewal price for the contractual service as set forth in
1820 the bid, proposal, or reply, specifying that costs for the
1821 renewal may not be charged, and specifying that renewals shall
1822 be contingent upon satisfactory performance evaluations by the
1823 agency and subject to the availability of funds. Exceptional
1824 purchase contracts pursuant to s. 287.057 (3) ~~(5)~~ (a) and (c) may
1825 not be renewed.

1826 (h) Specifying the financial consequences that the agency
1827 must apply if the contractor fails to perform in accordance with

20102386e1

1828 the contract.

1829 (i) Addressing the property rights of any intellectual
1830 property related to the contract and the specific rights of the
1831 state regarding the intellectual property if the contractor
1832 fails to provide the services or is no longer providing
1833 services.

1834

1835 In lieu of a written agreement, the department may authorize the
1836 use of a purchase order for classes of contractual services, if
1837 the provisions of paragraphs (a)-(i) ~~(a)-(f)~~ are included in the
1838 purchase order or solicitation. The purchase order must include,
1839 but need not be limited to, an adequate description of the
1840 services, the contract period, and the method of payment. In
1841 lieu of printing the provisions of paragraphs (a)-(i) ~~(a)-(f)~~ in
1842 the contract document or purchase order, agencies may
1843 incorporate the requirements of paragraphs (a)-(i) ~~(a)-(f)~~ by
1844 reference.

1845 (5) Unless otherwise provided in the General Appropriations
1846 Act or the substantive bill implementing the General
1847 Appropriations Act, the Chief Financial Officer may waive the
1848 requirements of this section for services which are included in
1849 s. 287.057(3) ~~(5)~~ (f).

1850 Section 26. Subsection (14) of section 287.059, Florida
1851 Statutes, is amended to read:

1852 287.059 Private attorney services.—

1853 (14) The office of the Attorney General is authorized to
1854 competitively bid and contract with one or more court reporting
1855 services, on a circuitwide basis, on behalf of all state
1856 agencies in accordance with s. 287.057 ~~(2)~~. The office of the

20102386e1

1857 Attorney General shall develop requests for proposal for court
1858 reporter services in consultation with the Florida Court
1859 Reporters Association. All agencies shall utilize the contracts
1860 for court reporting services entered into by the office of the
1861 Attorney General where in force, unless otherwise ordered by a
1862 court or unless an agency has a contract for court reporting
1863 services executed prior to May 5, 1993.

1864 Section 27. Section 287.1345, Florida Statutes, is
1865 repealed.

1866 Section 28. Paragraph (b) of subsection (4) of section
1867 295.187, Florida Statutes, is amended to read:

1868 295.187 Florida Service-Disabled Veteran Business
1869 Enterprise Opportunity Act.—

1870 (4) VENDOR PREFERENCE.—

1871 (b) Notwithstanding s. 287.057(11)~~(12)~~, if a service-
1872 disabled veteran business enterprise entitled to the vendor
1873 preference under this section and one or more businesses
1874 entitled to this preference or another vendor preference
1875 provided by law submit bids, proposals, or replies for
1876 procurement of commodities or contractual services that are
1877 equal with respect to all relevant considerations, including
1878 price, quality, and service, then the state agency shall award
1879 the procurement or contract to the business having the smallest
1880 net worth.

1881 Section 29. Subsection (3) of section 394.457, Florida
1882 Statutes, is amended to read:

1883 394.457 Operation and administration.—

1884 (3) POWER TO CONTRACT.—The department may contract to
1885 provide, and be provided with, services and facilities in order

20102386e1

1886 to carry out its responsibilities under this part with the
1887 following agencies: public and private hospitals; receiving and
1888 treatment facilities; clinics; laboratories; departments,
1889 divisions, and other units of state government; the state
1890 colleges and universities; the community colleges; private
1891 colleges and universities; counties, municipalities, and any
1892 other governmental unit, including facilities of the United
1893 States Government; and any other public or private entity which
1894 provides or needs facilities or services. Baker Act funds for
1895 community inpatient, crisis stabilization, short-term
1896 residential treatment, and screening services must be allocated
1897 to each county pursuant to the department's funding allocation
1898 methodology. Notwithstanding the provisions of s.
1899 287.057(3)(5)(f), contracts for community-based Baker Act
1900 services for inpatient, crisis stabilization, short-term
1901 residential treatment, and screening provided under this part,
1902 other than those with other units of government, to be provided
1903 for the department must be awarded using competitive sealed bids
1904 when the county commission of the county receiving the services
1905 makes a request to the department's district office by January
1906 15 of the contracting year. The district shall not enter into a
1907 competitively bid contract under this provision if such action
1908 will result in increases of state or local expenditures for
1909 Baker Act services within the district. Contracts for these
1910 Baker Act services using competitive sealed bids will be
1911 effective for 3 years. The department shall adopt rules
1912 establishing minimum standards for such contracted services and
1913 facilities and shall make periodic audits and inspections to
1914 assure that the contracted services are provided and meet the

20102386e1

1915 standards of the department.

1916 Section 30. Paragraph (a) of subsection (1) of section
1917 394.47865, Florida Statutes, is amended to read:

1918 394.47865 South Florida State Hospital; privatization.—

1919 (1) The Department of Children and Family Services shall,
1920 through a request for proposals, privatize South Florida State
1921 Hospital. The department shall plan to begin implementation of
1922 this privatization initiative by July 1, 1998.

1923 (a) Notwithstanding s. 287.057 (13) ~~(14)~~, the department may
1924 enter into agreements, not to exceed 20 years, with a private
1925 provider, a coalition of providers, or another agency to
1926 finance, design, and construct a treatment facility having up to
1927 350 beds and to operate all aspects of daily operations within
1928 the facility. The department may subcontract any or all
1929 components of this procurement to a statutorily established
1930 state governmental entity that has successfully contracted with
1931 private companies for designing, financing, acquiring, leasing,
1932 constructing, and operating major privatized state facilities.

1933 Section 31. Paragraph (c) of subsection (5) and subsection
1934 (8) of section 402.40, Florida Statutes, are amended to read:

1935 402.40 Child welfare training.—

1936 (5) CORE COMPETENCIES.—

1937 (c) Notwithstanding s. 287.057 (3) ~~(5)~~ and (21) ~~(22)~~, the
1938 department shall competitively solicit and contract for the
1939 development, validation, and periodic evaluation of the training
1940 curricula for the established single integrated curriculum. No
1941 more than one training curriculum may be developed for each
1942 specific subset of the core competencies.

1943 (8) ESTABLISHMENT OF TRAINING ACADEMIES.—The department

20102386e1

1944 shall establish child welfare training academies as part of a
 1945 comprehensive system of child welfare training. In establishing
 1946 a program of training, the department may contract for the
 1947 operation of one or more training academies to perform one or
 1948 more of the following: to offer one or more of the training
 1949 curricula developed under subsection (5); to administer the
 1950 certification process; to develop, validate, and periodically
 1951 evaluate additional training curricula determined to be
 1952 necessary, including advanced training that is specific to a
 1953 region or contractor, or that meets a particular training need;
 1954 or to offer the additional training curricula. The number,
 1955 location, and timeframe for establishment of training academies
 1956 shall be approved by the Secretary of Children and Family
 1957 Services who shall ensure that the goals for the core
 1958 competencies and the single integrated curriculum, the
 1959 certification process, the trainer qualifications, and the
 1960 additional training needs are addressed. Notwithstanding s.
 1961 287.057 (3) ~~(5)~~ and (21) ~~(22)~~, the department shall competitively
 1962 solicit all training academy contracts.

1963 Section 32. Paragraphs (a) and (b) of subsection (2) and
 1964 subsection (3) of section 402.7305, Florida Statutes, are
 1965 amended to read:

1966 402.7305 Department of Children and Family Services;
 1967 procurement of contractual services; contract management.—

1968 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

1969 (a) Notwithstanding s. 287.057(3)(f)12. ~~s.~~

1970 ~~287.057(5)(f)13.~~, whenever the department intends to contract
 1971 with a public postsecondary institution to provide a service,
 1972 the department must allow all public postsecondary institutions

20102386e1

1973 in this state that are accredited by the Southern Association of
1974 Colleges and Schools to bid on the contract. Thereafter,
1975 notwithstanding any other provision to the contrary, if a public
1976 postsecondary institution intends to subcontract for any service
1977 awarded in the contract, the subcontracted service must be
1978 procured by competitive procedures.

1979 (b) When it is in the best interest of a defined segment of
1980 its consumer population, the department may competitively
1981 procure and contract for systems of treatment or service that
1982 involve multiple providers, rather than procuring and
1983 contracting for treatment or services separately from each
1984 participating provider. The department must ensure that all
1985 providers that participate in the treatment or service system
1986 meet all applicable statutory, regulatory, service quality, and
1987 cost control requirements. If other governmental entities or
1988 units of special purpose government contribute matching funds to
1989 the support of a given system of treatment or service, the
1990 department shall formally request information from those funding
1991 entities in the procurement process and may take the information
1992 received into account in the selection process. If a local
1993 government contributes matching funds to support the system of
1994 treatment or contracted service and if the match constitutes at
1995 least 25 percent of the value of the contract, the department
1996 shall afford the governmental match contributor an opportunity
1997 to name an employee as one of the persons required by s.
1998 287.057 (16) ~~(17)~~ to evaluate or negotiate certain contracts,
1999 unless the department sets forth in writing the reason why the
2000 inclusion would be contrary to the best interest of the state.
2001 Any employee so named by the governmental match contributor

20102386e1

2002 shall qualify as one of the persons required by s.
2003 287.057 (16) ~~(17)~~. A governmental entity or unit of special
2004 purpose government may not name an employee as one of the
2005 persons required by s. 287.057 (16) ~~(17)~~ if it, or any of its
2006 political subdivisions, executive agencies, or special
2007 districts, intends to compete for the contract to be awarded.
2008 The governmental funding entity or contributor of matching funds
2009 must comply with all procurement procedures set forth in s.
2010 287.057 when appropriate and required.

2011 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
2012 Department of Children and Family Services shall review the time
2013 period for which the department executes contracts and shall
2014 execute multiyear contracts to make the most efficient use of
2015 the resources devoted to contract processing and execution.
2016 Whenever the department chooses not to use a multiyear contract,
2017 a justification for that decision must be contained in the
2018 contract. Notwithstanding s. 287.057 (14) ~~(15)~~, the department is
2019 responsible for establishing a contract management process that
2020 requires a member of the department's Senior Management or
2021 Selected Exempt Service to assign in writing the responsibility
2022 of a contract to a contract manager. The department shall
2023 maintain a set of procedures describing its contract management
2024 process which must minimally include the following requirements:

2025 (a) The contract manager shall maintain the official
2026 contract file throughout the duration of the contract and for a
2027 period not less than 6 years after the termination of the
2028 contract.

2029 (b) The contract manager shall review all invoices for
2030 compliance with the criteria and payment schedule provided for

20102386e1

2031 in the contract and shall approve payment of all invoices before
2032 their transmission to the Department of Financial Services for
2033 payment.

2034 (c) The contract manager shall maintain a schedule of
2035 payments and total amounts disbursed and shall periodically
2036 reconcile the records with the state's official accounting
2037 records.

2038 (d) For contracts involving the provision of direct client
2039 services, the contract manager shall periodically visit the
2040 physical location where the services are delivered and speak
2041 directly to clients receiving the services and the staff
2042 responsible for delivering the services.

2043 (e) The contract manager shall meet at least once a month
2044 directly with the contractor's representative and maintain
2045 records of such meetings.

2046 (f) The contract manager shall periodically document any
2047 differences between the required performance measures and the
2048 actual performance measures. If a contractor fails to meet and
2049 comply with the performance measures established in the
2050 contract, the department may allow a reasonable period for the
2051 contractor to correct performance deficiencies. If performance
2052 deficiencies are not resolved to the satisfaction of the
2053 department within the prescribed time, and if no extenuating
2054 circumstances can be documented by the contractor to the
2055 department's satisfaction, the department must terminate the
2056 contract. The department may not enter into a new contract with
2057 that same contractor for the services for which the contract was
2058 previously terminated for a period of at least 24 months after
2059 the date of termination. The contract manager shall obtain and

20102386e1

2060 enforce corrective action plans, if appropriate, and maintain
2061 records regarding the completion or failure to complete
2062 corrective action items.

2063 (g) The contract manager shall document any contract
2064 modifications, which shall include recording any contract
2065 amendments as provided for in this section.

2066 (h) The contract manager shall be properly trained before
2067 being assigned responsibility for any contract.

2068 Section 33. Subsection (2) of section 408.045, Florida
2069 Statutes, is amended to read:

2070 408.045 Certificate of need; competitive sealed proposals.-

2071 (2) The agency shall make a decision regarding the issuance
2072 of the certificate of need in accordance with the provisions of
2073 s. 287.057(16)(17), rules adopted by the agency relating to
2074 intermediate care facilities for the developmentally disabled,
2075 and the criteria in s. 408.035, as further defined by rule.

2076 Section 34. Subsection (3) of section 427.0135, Florida
2077 Statutes, is amended to read:

2078 427.0135 Purchasing agencies; duties and responsibilities.-

2079 Each purchasing agency, in carrying out the policies and
2080 procedures of the commission, shall:

2081 (3) Not procure transportation disadvantaged services
2082 without initially negotiating with the commission, as provided
2083 in s. 287.057(3)(f)12. ~~s. 287.057(5)(f)13.~~, or unless otherwise
2084 authorized by statute. If the purchasing agency, after
2085 consultation with the commission, determines that it cannot
2086 reach mutually acceptable contract terms with the commission,
2087 the purchasing agency may contract for the same transportation
2088 services provided in a more cost-effective manner and of

20102386e1

2089 comparable or higher quality and standards. The Medicaid agency
2090 shall implement this subsection in a manner consistent with s.
2091 409.908(18) and as otherwise limited or directed by the General
2092 Appropriations Act.

2093 Section 35. Paragraph (c) of subsection (5) of section
2094 445.024, Florida Statutes, is amended to read:

2095 445.024 Work requirements.—

2096 (5) USE OF CONTRACTS.—Regional workforce boards shall
2097 provide work activities, training, and other services, as
2098 appropriate, through contracts. In contracting for work
2099 activities, training, or services, the following applies:

2100 (c) Notwithstanding the exemption from the competitive
2101 sealed bid requirements provided in s. 287.057 (3) ~~(5)~~ (f) for
2102 certain contractual services, each contract awarded under this
2103 chapter must be awarded on the basis of a competitive sealed
2104 bid, except for a contract with a governmental entity as
2105 determined by the regional workforce board.

2106 Section 36. Paragraph (b) of subsection (3) of section
2107 481.205, Florida Statutes, is amended to read:

2108 481.205 Board of Architecture and Interior Design.—

2109 (3)

2110 (b) The board shall contract with a corporation or other
2111 business entity pursuant to s. 287.057 ~~(3)~~ to provide
2112 investigative, legal, prosecutorial, and other services
2113 necessary to perform its duties.

2114 Section 37. Subsection (41) of section 570.07, Florida
2115 Statutes, is amended to read:

2116 570.07 Department of Agriculture and Consumer Services;
2117 functions, powers, and duties.—The department shall have and

20102386e1

2118 exercise the following functions, powers, and duties:

2119 (41) Notwithstanding the provisions of s. 287.057 (22) ~~(23)~~
2120 that require all agencies to use the online procurement system
2121 developed by the Department of Management Services, the
2122 department may continue to use its own online system. However,
2123 vendors utilizing such system shall be prequalified as meeting
2124 mandatory requirements and qualifications and shall remit fees
2125 pursuant to s. 287.057 (22) ~~(23)~~, and any rules implementing s.
2126 287.057.

2127 Section 38. Paragraph (c) of subsection (5) of section
2128 627.311, Florida Statutes, is amended to read:

2129 627.311 Joint underwriters and joint reinsurers; public
2130 records and public meetings exemptions.—

2131 (5)

2132 (c) The operation of the plan shall be governed by a plan
2133 of operation that is prepared at the direction of the board of
2134 governors and approved by order of the office. The plan is
2135 subject to continuous review by the office. The office may, by
2136 order, withdraw approval of all or part of a plan if the office
2137 determines that conditions have changed since approval was
2138 granted and that the purposes of the plan require changes in the
2139 plan. The plan of operation shall:

2140 1. Authorize the board to engage in the activities
2141 necessary to implement this subsection, including, but not
2142 limited to, borrowing money.

2143 2. Develop criteria for eligibility for coverage by the
2144 plan, including, but not limited to, documented rejection by at
2145 least two insurers which reasonably assures that insureds
2146 covered under the plan are unable to acquire coverage in the

20102386e1

2147 voluntary market.

2148 3. Require notice from the agent to the insured at the time
2149 of the application for coverage that the application is for
2150 coverage with the plan and that coverage may be available
2151 through an insurer, group self-insurers' fund, commercial self-
2152 insurance fund, or assessable mutual insurer through another
2153 agent at a lower cost.

2154 4. Establish programs to encourage insurers to provide
2155 coverage to applicants of the plan in the voluntary market and
2156 to insureds of the plan, including, but not limited to:

2157 a. Establishing procedures for an insurer to use in
2158 notifying the plan of the insurer's desire to provide coverage
2159 to applicants to the plan or existing insureds of the plan and
2160 in describing the types of risks in which the insurer is
2161 interested. The description of the desired risks must be on a
2162 form developed by the plan.

2163 b. Developing forms and procedures that provide an insurer
2164 with the information necessary to determine whether the insurer
2165 wants to write particular applicants to the plan or insureds of
2166 the plan.

2167 c. Developing procedures for notice to the plan and the
2168 applicant to the plan or insured of the plan that an insurer
2169 will insure the applicant or the insured of the plan, and notice
2170 of the cost of the coverage offered; and developing procedures
2171 for the selection of an insuring entity by the applicant or
2172 insured of the plan.

2173 d. Provide for a market-assistance plan to assist in the
2174 placement of employers. All applications for coverage in the
2175 plan received 45 days before the effective date for coverage

20102386e1

2176 shall be processed through the market-assistance plan. A market-
2177 assistance plan specifically designed to serve the needs of
2178 small, good policyholders as defined by the board must be
2179 reviewed and updated periodically.

2180 5. Provide for policy and claims services to the insureds
2181 of the plan of the nature and quality provided for insureds in
2182 the voluntary market.

2183 6. Provide for the review of applications for coverage with
2184 the plan for reasonableness and accuracy, using any available
2185 historic information regarding the insured.

2186 7. Provide for procedures for auditing insureds of the plan
2187 which are based on reasonable business judgment and are designed
2188 to maximize the likelihood that the plan will collect the
2189 appropriate premiums.

2190 8. Authorize the plan to terminate the coverage of and
2191 refuse future coverage for any insured that submits a fraudulent
2192 application to the plan or provides fraudulent or grossly
2193 erroneous records to the plan or to any service provider of the
2194 plan in conjunction with the activities of the plan.

2195 9. Establish service standards for agents who submit
2196 business to the plan.

2197 10. Establish criteria and procedures to prohibit any agent
2198 who does not adhere to the established service standards from
2199 placing business with the plan or receiving, directly or
2200 indirectly, any commissions for business placed with the plan.

2201 11. Provide for the establishment of reasonable safety
2202 programs for all insureds in the plan. All insureds of the plan
2203 must participate in the safety program.

2204 12. Authorize the plan to terminate the coverage of and

20102386e1

2205 refuse future coverage to any insured who fails to pay premiums
2206 or surcharges when due; who, at the time of application, is
2207 delinquent in payments of workers' compensation or employer's
2208 liability insurance premiums or surcharges owed to an insurer,
2209 group self-insurers' fund, commercial self-insurance fund, or
2210 assessable mutual insurer licensed to write such coverage in
2211 this state; or who refuses to substantially comply with any
2212 safety programs recommended by the plan.

2213 13. Authorize the board of governors to provide the goods
2214 and services required by the plan through staff employed by the
2215 plan, through reasonably compensated service providers who
2216 contract with the plan to provide services as specified by the
2217 board of governors, or through a combination of employees and
2218 service providers.

2219 a. Purchases that equal or exceed \$2,500 but are less than
2220 or equal to \$25,000, shall be made by receipt of written quotes,
2221 telephone quotes, or informal bids, whenever practical. The
2222 procurement of goods or services valued over \$25,000 is subject
2223 to competitive solicitation, except in situations in which the
2224 goods or services are provided by a sole source or are deemed an
2225 emergency purchase, or the services are exempted from
2226 competitive-solicitation requirements under s. 287.057 (3) ~~(5)~~ (f).
2227 Justification for the sole-sourcing or emergency procurement
2228 must be documented. Contracts for goods or services valued at or
2229 over \$100,000 are subject to board approval.

2230 b. The board shall determine whether it is more cost-
2231 effective and in the best interests of the plan to use legal
2232 services provided by in-house attorneys employed by the plan
2233 rather than contracting with outside counsel. In making such

20102386e1

2234 determination, the board shall document its findings and shall
2235 consider the expertise needed; whether time commitments exceed
2236 in-house staff resources; whether local representation is
2237 needed; the travel, lodging, and other costs associated with in-
2238 house representation; and such other factors that the board
2239 determines are relevant.

2240 14. Provide for service standards for service providers,
2241 methods of determining adherence to those service standards,
2242 incentives and disincentives for service, and procedures for
2243 terminating contracts for service providers that fail to adhere
2244 to service standards.

2245 15. Provide procedures for selecting service providers and
2246 standards for qualification as a service provider that
2247 reasonably assure that any service provider selected will
2248 continue to operate as an ongoing concern and is capable of
2249 providing the specified services in the manner required.

2250 16. Provide for reasonable accounting and data-reporting
2251 practices.

2252 17. Provide for annual review of costs associated with the
2253 administration and servicing of the policies issued by the plan
2254 to determine alternatives by which costs can be reduced.

2255 18. Authorize the acquisition of such excess insurance or
2256 reinsurance as is consistent with the purposes of the plan.

2257 19. Provide for an annual report to the office on a date
2258 specified by the office and containing such information as the
2259 office reasonably requires.

2260 20. Establish multiple rating plans for various
2261 classifications of risk which reflect risk of loss, hazard
2262 grade, actual losses, size of premium, and compliance with loss

20102386e1

2263 control. At least one of such plans must be a preferred-rating
2264 plan to accommodate small-premium policyholders with good
2265 experience as defined in sub-subparagraph 22.a.

2266 21. Establish agent commission schedules.

2267 22. For employers otherwise eligible for coverage under the
2268 plan, establish three tiers of employers meeting the criteria
2269 and subject to the rate limitations specified in this
2270 subparagraph.

2271 a. Tier One.—

2272 (I) Criteria; rated employers.—An employer that has an
2273 experience modification rating shall be included in Tier One if
2274 the employer meets all of the following:

2275 (A) The experience modification is below 1.00.

2276 (B) The employer had no lost-time claims subsequent to the
2277 applicable experience modification rating period.

2278 (C) The total of the employer's medical-only claims
2279 subsequent to the applicable experience modification rating
2280 period did not exceed 20 percent of premium.

2281 (II) Criteria; non-rated employers.—An employer that does
2282 not have an experience modification rating shall be included in
2283 Tier One if the employer meets all of the following:

2284 (A) The employer had no lost-time claims for the 3-year
2285 period immediately preceding the inception date or renewal date
2286 of the employer's coverage under the plan.

2287 (B) The total of the employer's medical-only claims for the
2288 3-year period immediately preceding the inception date or
2289 renewal date of the employer's coverage under the plan did not
2290 exceed 20 percent of premium.

2291 (C) The employer has secured workers' compensation coverage

20102386e1

2292 for the entire 3-year period immediately preceding the inception
2293 date or renewal date of the employer's coverage under the plan.

2294 (D) The employer is able to provide the plan with a loss
2295 history generated by the employer's prior workers' compensation
2296 insurer, except if the employer is not able to produce a loss
2297 history due to the insolvency of an insurer, the receiver shall
2298 provide to the plan, upon the request of the employer or the
2299 employer's agent, a copy of the employer's loss history from the
2300 records of the insolvent insurer if the loss history is
2301 contained in records of the insurer which are in the possession
2302 of the receiver. If the receiver is unable to produce the loss
2303 history, the employer may, in lieu of the loss history, submit
2304 an affidavit from the employer and the employer's insurance
2305 agent setting forth the loss history.

2306 (E) The employer is not a new business.

2307 (III) Premiums.—The premiums for Tier One insureds shall be
2308 set at a premium level 25 percent above the comparable voluntary
2309 market premiums until the plan has sufficient experience as
2310 determined by the board to establish an actuarially sound rate
2311 for Tier One, at which point the board shall, subject to
2312 paragraph (e), adjust the rates, if necessary, to produce
2313 actuarially sound rates, provided such rate adjustment shall not
2314 take effect prior to January 1, 2007.

2315 b. Tier Two.—

2316 (I) Criteria; rated employers.—An employer that has an
2317 experience modification rating shall be included in Tier Two if
2318 the employer meets all of the following:

2319 (A) The experience modification is equal to or greater than
2320 1.00 but not greater than 1.10.

20102386e1

2321 (B) The employer had no lost-time claims subsequent to the
2322 applicable experience modification rating period.

2323 (C) The total of the employer's medical-only claims
2324 subsequent to the applicable experience modification rating
2325 period did not exceed 20 percent of premium.

2326 (II) Criteria; non-rated employers.—An employer that does
2327 not have any experience modification rating shall be included in
2328 Tier Two if the employer is a new business. An employer shall be
2329 included in Tier Two if the employer has less than 3 years of
2330 loss experience in the 3-year period immediately preceding the
2331 inception date or renewal date of the employer's coverage under
2332 the plan and the employer meets all of the following:

2333 (A) The employer had no lost-time claims for the 3-year
2334 period immediately preceding the inception date or renewal date
2335 of the employer's coverage under the plan.

2336 (B) The total of the employer's medical-only claims for the
2337 3-year period immediately preceding the inception date or
2338 renewal date of the employer's coverage under the plan did not
2339 exceed 20 percent of premium.

2340 (C) The employer is able to provide the plan with a loss
2341 history generated by the workers' compensation insurer that
2342 provided coverage for the portion or portions of such period
2343 during which the employer had secured workers' compensation
2344 coverage, except if the employer is not able to produce a loss
2345 history due to the insolvency of an insurer, the receiver shall
2346 provide to the plan, upon the request of the employer or the
2347 employer's agent, a copy of the employer's loss history from the
2348 records of the insolvent insurer if the loss history is
2349 contained in records of the insurer which are in the possession

20102386e1

2350 of the receiver. If the receiver is unable to produce the loss
2351 history, the employer may, in lieu of the loss history, submit
2352 an affidavit from the employer and the employer's insurance
2353 agent setting forth the loss history.

2354 (III) Premiums.—The premiums for Tier Two insureds shall be
2355 set at a rate level 50 percent above the comparable voluntary
2356 market premiums until the plan has sufficient experience as
2357 determined by the board to establish an actuarially sound rate
2358 for Tier Two, at which point the board shall, subject to
2359 paragraph (e), adjust the rates, if necessary, to produce
2360 actuarially sound rates, provided such rate adjustment shall not
2361 take effect prior to January 1, 2007.

2362 c. Tier Three.—

2363 (I) Eligibility.—An employer shall be included in Tier
2364 Three if the employer does not meet the criteria for Tier One or
2365 Tier Two.

2366 (II) Rates.—The board shall establish, subject to paragraph
2367 (e), and the plan shall charge, actuarially sound rates for Tier
2368 Three insureds.

2369 23. For Tier One or Tier Two employers which employ no
2370 nonexempt employees or which report payroll which is less than
2371 the minimum wage hourly rate for one full-time employee for 1
2372 year at 40 hours per week, the plan shall establish actuarially
2373 sound premiums, provided, however, that the premiums may not
2374 exceed \$2,500. These premiums shall be in addition to the fee
2375 specified in subparagraph 26. When the plan establishes
2376 actuarially sound rates for all employers in Tier One and Tier
2377 Two, the premiums for employers referred to in this paragraph
2378 are no longer subject to the \$2,500 cap.

20102386e1

2379 24. Provide for a depopulation program to reduce the number
2380 of insureds in the plan. If an employer insured through the plan
2381 is offered coverage from a voluntary market carrier:

2382 a. During the first 30 days of coverage under the plan;

2383 b. Before a policy is issued under the plan;

2384 c. By issuance of a policy upon expiration or cancellation
2385 of the policy under the plan; or

2386 d. By assumption of the plan's obligation with respect to
2387 an in-force policy,

2388
2389 that employer is no longer eligible for coverage through the
2390 plan. The premium for risks assumed by the voluntary market
2391 carrier must be no greater than the premium the insured would
2392 have paid under the plan, and shall be adjusted upon renewal to
2393 reflect changes in the plan rates and the tier for which the
2394 insured would qualify as of the time of renewal. The insured may
2395 be charged such premiums only for the first 3 years of coverage
2396 in the voluntary market. A premium under this subparagraph is
2397 deemed approved and is not an excess premium for purposes of s.
2398 627.171.

2399 25. Require that policies issued and applications must
2400 include a notice that the policy could be replaced by a policy
2401 issued from a voluntary market carrier and that, if an offer of
2402 coverage is obtained from a voluntary market carrier, the
2403 policyholder is no longer eligible for coverage through the
2404 plan. The notice must also specify that acceptance of coverage
2405 under the plan creates a conclusive presumption that the
2406 applicant or policyholder is aware of this potential.

2407 26. Require that each application for coverage and each

20102386e1

2408 renewal premium be accompanied by a nonrefundable fee of \$475 to
2409 cover costs of administration and fraud prevention. The board
2410 may, with the prior approval of the office, increase the amount
2411 of the fee pursuant to a rate filing to reflect increased costs
2412 of administration and fraud prevention. The fee is not subject
2413 to commission and is fully earned upon commencement of coverage.

2414 Section 39. Paragraph (e) of subsection (6) of section
2415 627.351, Florida Statutes, is amended to read:

2416 627.351 Insurance risk apportionment plans.—

2417 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2418 (e) Purchases that equal or exceed \$2,500, but are less
2419 than \$25,000, shall be made by receipt of written quotes,
2420 written record of telephone quotes, or informal bids, whenever
2421 practical. The procurement of goods or services valued at or
2422 over \$25,000 shall be subject to competitive solicitation,
2423 except in situations where the goods or services are provided by
2424 a sole source or are deemed an emergency purchase; the services
2425 are exempted from competitive solicitation requirements under s.
2426 287.057 (3) ~~(5)~~ (f); or the procurement of services is subject to
2427 s. 627.3513. Justification for the sole-sourcing or emergency
2428 procurement must be documented. Contracts for goods or services
2429 valued at or over \$100,000 are subject to approval by the board.

2430 Section 40. Subsection (2) of section 765.5155, Florida
2431 Statutes, is amended to read:

2432 765.5155 Donor registry; education program.—

2433 (2) The agency and the department shall jointly contract
2434 for the operation of a donor registry and education program. The
2435 contractor shall be procured by competitive solicitation
2436 pursuant to chapter 287, notwithstanding any exemption in s.

20102386e1

2437 287.057 (3) ~~(5)~~ (f). When awarding the contract, priority shall be
2438 given to existing nonprofit groups that are based within the
2439 state, have expertise working with procurement organizations,
2440 have expertise in conducting statewide organ and tissue donor
2441 public education campaigns, and represent the needs of the organ
2442 and tissue donation community in the state.

2443 Section 41. Subsection (10) of section 893.055, Florida
2444 Statutes, is amended to read:

2445 893.055 Prescription drug monitoring program.—

2446 (10) All costs incurred by the department in administering
2447 the prescription drug monitoring program shall be funded through
2448 federal grants or private funding applied for or received by the
2449 state. The department may not commit funds for the monitoring
2450 program without ensuring funding is available. The prescription
2451 drug monitoring program and the implementation thereof are
2452 contingent upon receipt of the nonstate funding. The department
2453 and state government shall cooperate with the direct-support
2454 organization established pursuant to subsection (11) in seeking
2455 federal grant funds, other nonstate grant funds, gifts,
2456 donations, or other private moneys for the department so long as
2457 the costs of doing so are not considered material. Nonmaterial
2458 costs for this purpose include, but are not limited to, the
2459 costs of mailing and personnel assigned to research or apply for
2460 a grant. Notwithstanding the exemptions to competitive-
2461 solicitation requirements under s. 287.057 (3) ~~(5)~~ (f), the
2462 department shall comply with the competitive-solicitation
2463 requirements under s. 287.057 for the procurement of any goods
2464 or services required by this section.

2465 Section 42. Subsection (3) of section 1013.38, Florida

20102386e1

2466 Statutes, is amended to read:

2467 1013.38 Boards to ensure that facilities comply with
2468 building codes and life safety codes.—

2469 (3) The Department of Management Services may, upon
2470 request, provide facilities services for the Florida School for
2471 the Deaf and the Blind, the Division of Blind Services, and
2472 public broadcasting. As used in this section, the term
2473 “facilities services” means project management, code and design
2474 plan review, and code compliance inspection for projects as
2475 defined in s. 287.017 (5) ~~(1)(e)~~.

2476 Section 43. Section 21 of chapter 2009-55, Laws of Florida,
2477 is amended to read:

2478 Section 21. The Agency for Health Care Administration shall
2479 develop and implement a home health agency monitoring pilot
2480 project in Miami-Dade County by January 1, 2010. The agency
2481 shall contract with a vendor to verify the utilization and the
2482 delivery of home health services and provide an electronic
2483 billing interface for such services. The contract must require
2484 the creation of a program to submit claims for the home health
2485 services electronically. The program must verify visits for the
2486 delivery of home health services telephonically using voice
2487 biometrics. The agency may seek amendments to the Medicaid state
2488 plan and waivers of federal law, as necessary, to implement the
2489 pilot project. Notwithstanding s. 287.057 (3) ~~(5)~~ (f), Florida
2490 Statutes, the agency must award the contract through the
2491 competitive solicitation process. The agency shall submit a
2492 report to the Governor, the President of the Senate, and the
2493 Speaker of the House of Representatives evaluating the pilot
2494 project by February 1, 2011.

20102386e1

2495 Section 44. Section 31 of chapter 2009-223, Laws of
2496 Florida, is amended to read:

2497 Section 31. Pilot project to monitor home health services.—
2498 The Agency for Health Care Administration shall develop and
2499 implement a home health agency monitoring pilot project in
2500 Miami-Dade County by January 1, 2010. The agency shall contract
2501 with a vendor to verify the utilization and delivery of home
2502 health services and provide an electronic billing interface for
2503 home health services. The contract must require the creation of
2504 a program to submit claims electronically for the delivery of
2505 home health services. The program must verify telephonically
2506 visits for the delivery of home health services using voice
2507 biometrics. The agency may seek amendments to the Medicaid state
2508 plan and waivers of federal laws, as necessary, to implement the
2509 pilot project. Notwithstanding s. 287.057(3)~~(5)~~(f), Florida
2510 Statutes, the agency must award the contract through the
2511 competitive solicitation process. The agency shall submit a
2512 report to the Governor, the President of the Senate, and the
2513 Speaker of the House of Representatives evaluating the pilot
2514 project by February 1, 2011.

2515 Section 45. Contracts for academic program reviews,
2516 auditing services, health services, or Medicaid services are
2517 subject to the transaction or user fees imposed under ss.
2518 287.042(1)(h) and 287.057(22), Florida Statutes, only to the
2519 extent that such contracts were not subject to such transaction
2520 or user fees before July 1, 2010.

2521 Section 46. (1) Each state agency, as defined in s.
2522 216.011, Florida Statutes, shall provide the following
2523 information to the Department of Financial Services regarding

20102386e1

2524 the agency's contracted activities:

2525 (a) The nature of the commodities or services purchased.

2526 (b) The term of the contract.

2527 (c) The final obligation made by the agency.

2528 (d) A summary of any time constraints that apply to the
2529 procurement.

2530 (e) The justification for not using the competitive
2531 solicitation, including any statutory exemption or exception.

2532 (f) Other information regarding the contract or the
2533 procurement which may be required by the Department of Financial
2534 Services.

2535 (2) This section applies to any contract executed on or
2536 after July 1, 2010, for the purchase of commodities or
2537 contractual services in excess of the CATEGORY TWO threshold
2538 amount provided in s. 287.017, Florida Statutes, which is not:

2539 (a) Awarded by competitive solicitation pursuant to s.
2540 287.057(1), Florida Statutes; or

2541 (b) Purchased from a purchasing agreement or state term
2542 contract pursuant to s. 287.056, Florida Statutes.

2543 (3) An agency must submit the required information to the
2544 Department of Financial Services within 3 working days after
2545 executing the contract.

2546 Section 47. Each state agency, as defined in s. 216.011,
2547 Florida Statutes, shall review existing contract renewals and
2548 reprocurements with private providers and public-private
2549 providers in an effort to reduce contract payments by at least 3
2550 percent. It is the statewide goal to achieve substantial
2551 savings; however, it is the intent of the Legislature that the
2552 level and quality of services not be affected. Each agency shall

20102386e1

2553 renegotiate and reprocore contracts consistent with this
2554 section. Any savings that accrue through renegotiating the
2555 renewal or reprocorement of an existing contract shall be placed
2556 in reserve by the Executive Office of the Governor.

2557 Section 48. (1) Each state agency, as defined in s.
2558 216.011, Florida Statutes, shall review its contracts and, for
2559 any contract with a preferred-pricing clause, the agency shall
2560 ensure that the contractor complies with such clause.

2561 (2) Each contract executed, renewed, extended, or modified
2562 on or after July 1, 2010, which includes a preferred-pricing
2563 clause, must require an affidavit from an authorized
2564 representative of the contractor attesting that the contract is
2565 in compliance with the preferred-pricing clause. Such affidavit
2566 must be submitted at least annually. A contractor's failure to
2567 comply with a preferred-pricing clause is grounds for
2568 terminating the contract at the state agency's sole discretion.

2569 (3) As used in this section, the term "preferred-pricing
2570 clause" means a contractual provision under which the state is
2571 offered the most favorable price that the contractor offers to
2572 any client.

2573 Section 49. (1) Consistent with the principles of promoting
2574 employment of state residents, ensuring that the expenditure of
2575 state funds benefits state residents, and encouraging economic
2576 development within the state, each entity expending funds
2577 provided in the General Appropriations Act for the 2010-2011
2578 fiscal year for any purchase of goods and services in excess of
2579 \$5 million shall give preference, to the maximum extent possible
2580 under or consistent with applicable state and federal laws, to
2581 vendors or businesses that have a principal place of business in

20102386e1

2582 the State of Florida and that commit contractually to maximize
2583 the use of state residents, state products, and other Florida-
2584 based businesses in fulfilling their contractual duties.

2585 (2) This section does not apply to any contract that was
2586 funded prior to June 1, 2010.

2587 (3) Each state agency shall identify contracts that are
2588 subject to this section and shall report by March 1, 2011, to
2589 the Agency for Workforce Innovation each contractor's compliance
2590 with this section.

2591 Section 50. The sum of \$311,915 from the General Revenue
2592 Fund is appropriated and five full-time equivalent positions and
2593 associated salary rate are authorized to the Department of
2594 Financial Services to implement the provisions of this act.

2595 Section 51. This act shall take effect July 1, 2010.