

## CHAPTER 2010-151

### Committee Substitute for Senate Bill No. 2386

An act relating to state financial matters; amending s. 14.204, F.S.; conforming a cross-reference; amending s. 17.20, F.S.; providing that each agency is responsible for exercising due diligence in securing payment for all accounts receivable and other claims due the state; creating requirements for agencies for purposes of reporting delinquent accounts receivable; requiring agencies to report annually to the Legislature and Chief Financial Officer on accounts receivable and other claims due the state; requiring the Chief Financial Officer to report annually to the Governor and Legislature on claims for collections due the state; amending s. 17.29, F.S.; authorizing the Chief Financial Officer to adopt rules requiring that payments made by the state for goods, services, or anything of value be made by electronic means; requiring that the rules include methods for accommodating persons who may not be able to receive payment by electronic means; authorizing the Chief Financial Officer to make payments by warrant if administratively necessary; amending ss. 43.16, 61.1826 and 112.3215, F.S.; conforming cross-references; amending s. 215.322, F.S.; conforming provisions to changes made by the act to authorize state agencies, local governments, and the judicial branch to accept payments by electronic funds transfers; providing for the adoption of rules to facilitate such payments and to accommodate persons who may not be able to make payments by electronic means; authorizing the Chief Financial Officer to adopt rules establishing uniform security safeguards for cardholder data; creating s. 215.971, F.S.; requiring that agency agreements that provide state or federal financial assistance to a recipient or subrecipient include certain provisions; amending s. 216.3475, F.S.; requiring an agency that is awarded funding on a noncompetitive basis for certain services as specified in the General Appropriations Act to maintain specified documentation supporting a cost analysis; amending s. 255.249, F.S.; conforming a provision to the repeal of s. 287.1345, F.S.; amending s. 255.25, F.S.; conforming a provision to the repeal of s. 287.1345, F.S.; conforming a cross-reference; amending s. 283.32, F.S.; conforming provisions to the repeal of s. 287.045, F.S.; amending s. 286.0113, F.S.; conforming a cross-reference; amending s. 287.012, F.S.; revising, eliminating, and providing definitions; amending s. 287.017, F.S.; revising the threshold amounts for state purchasing categories; eliminating a requirement that the Department of Management Services adopt rules to adjust the threshold amounts; amending s. 287.022, F.S.; conforming a cross-reference; repealing s. 287.045, F.S., relating to procurement of products and materials with recycled content; amending s. 287.056, F.S.; specifying the provisions to be included in state agency purchasing agreements; amending s. 287.057, F.S.; revising and organizing provisions relating to the procurement of commodities and contractual services by the state; specifying authorized uses for competitive solicitation processes; providing procedures and requirements with respect to competitive solicitation;

specifying types of procurements for which invitations to bid, requests for proposals, and invitations to negotiate are to be used and providing procedures and requirements with respect thereto; revising contractual services and commodities that are not subject to competitive-solicitation requirements; prohibiting an agency from dividing the solicitation of commodities or contractual services in order to avoid specified requirements; requiring that an agency avoid, neutralize, or mitigate significant potential organizational conflicts of interests before a contract is awarded; providing procedures and requirements with respect to mitigation of such conflicts of interest; authorizing an agency to proceed with a contract award when such conflict cannot be avoided or mitigated under specified circumstances and providing a restriction on such award; specifying conditions that constitute an unfair competitive advantage for a vendor; amending s. 287.0571, F.S.; revising applicability of ss. 287.0571-287.0574, F.S.; specifying procurements and contracts to which s. 287.0571, F.S., relating to agency business cases for outsourcing of specified projects, does not apply; requiring an agency to complete a business case for any outsourcing project that has an expected cost in excess of a specified amount within a single fiscal year; providing for the submission of the business case in accordance with provisions governing the submission of agency legislative budget requests; providing that a business case is not subject to challenge; providing required components of a business case; specifying required provisions for a contract for a proposed outsourcing; repealing s. 287.05721, F.S., relating to definitions; repealing s. 287.0573, F.S., relating to the Council on Efficient Government and its membership and duties; repealing s. 287.0574, F.S., relating to provisions governing business cases for outsourcing and the review and analysis conducted thereunder, the requirements of which are relocated in other sections of Florida Statutes set forth in the act; creating s. 287.0575, F.S.; establishing duties and responsibilities of the Department of Children and Family Services, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, and the Department of Veterans' Affairs, and service providers under contract to those agencies, with respect to coordination of contracted services; requiring state agencies contracting for health and human services to notify their contract service providers of certain requirements by a specified date or upon entering into any new contract for health and human services; requiring each service provider that has more than one contract with one or more state agencies to provide health and human services to provide to each of its contract managers a comprehensive list of its health and human services contracts by a specified date; specifying information to be contained in the list; providing for assignment, by a specified date, of a single lead administrative coordinator for each service provider from among agencies having multiple health and human services contracts; requiring that the lead administrative coordinator provide notice of his or her designation to the service provider and to the agency contract managers for each affected contract; providing the method of selecting the lead administrative coordinator; providing responsibilities of the designated lead administrative coordinator; providing duties of contract

managers for agency contracts; providing for nonapplicability under certain circumstances; requiring annual performance evaluations of designated lead administrative coordinators by each agency contracting for health and human services; providing for a report to the Governor and Legislature; amending s. 287.058, F.S.; revising provisions regarding contracts for services; specifying provisions to be included in such contracts; amending s. 287.059, F.S.; conforming a cross-reference; repealing s. 287.1345, F.S., relating to surcharge on users of state term contracts; amending ss. 295.187, 394.457, 394.47865, 402.40, 402.7305, 408.045, 427.0135, 445.024, 481.205, 570.07, 627.311, 627.351, 765.5155, 893.055 and 1013.38, F.S., and s. 21 of chapter 2009-55 and s. 31 of chapter 2009-223, Laws of Florida; conforming cross-references; providing that statutorily authorized transaction or user fees do not apply to certain contracts for services if the services were exempt from such fees before a specified date; requiring state agencies to provide specified information to the Department of Financial Services relating to the purchase of commodities or services; requiring state agencies to review and renegotiate contract renewals and procurements in an effort to reduce contract payments; requiring the Executive Office of the Governor to place savings from the renegotiation of contract renewals or procurements in reserve; requiring each state agency to review its contracts to ensure that contractors comply with applicable preferred-pricing clauses; requiring certain contracts containing a preferred-pricing clause to require that the contractor submit an affidavit attesting to the contractor’s compliance with the clause; defining the term “preferred-pricing clause”; requiring that each entity expending funds provided for in the 2010-2011 fiscal year give preference to vendors or businesses that have a principal place of business in Florida and that commit contractually to maximize the use of state residents, products, and businesses; providing an exception; requiring state agencies to report contractor compliance with such requirement to the Agency for Workforce Innovation; providing an appropriation and authorizing additional positions; providing an effective date.

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

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

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

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

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

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

- 2. Establishing and coordinating project-management teams;
- 3. Establishing formal risk-assessment and mitigation processes; and
- 4. Providing for independent monitoring of projects for recommended corrective actions.

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

17.20 Assignment of claims for collection.—

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

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

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

(a) No later than 120 days after the date on which the account or other claim was due and payable, unless another period is approved by the Chief Financial Officer, and after exhausting other lawful measures available to the agency, each agency shall report the delinquent accounts receivable as directed by the Chief Financial Officer to the appropriate collection agent for further action, excluding those agencies that collect delinquent accounts pursuant to independent statutory authority.

(b) An agency that has delinquent accounts receivable, which the agency considers to be of a nature that assignment to a collection agency would be inappropriate, may request in writing for an exemption for those accounts. The request shall fully explain the nature of the delinquent accounts receivable and the reasons the agency believes such accounts would be

precluded from being assigned to a collection agency. The Chief Financial Officer shall disapprove the request in writing unless the agency shows that a demonstrative harm to the state will occur as a result of assignment to a collection agency.

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

(4) Beginning October 1, 2010, and each October 1 thereafter, each agency shall submit a report to the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer which includes:

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

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

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

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

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

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

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

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

(6)(3) Notwithstanding any other provision of law, in any contract providing for the location or collection of unclaimed property, the Chief Financial Officer may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed

property that the contractor has recovered or collected under the contract. The Chief Financial Officer shall annually report to the Governor, President of the Senate, and the Speaker of the House of Representatives the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

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

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

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

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

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

(4) A method that reasonably accommodates persons who, because of technological, financial, or other hardship, may not be able to receive payments by electronic means. The Chief Financial Officer may make payments by state warrant if deemed administratively necessary.

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

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

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

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

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

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the clerks of court play a vital role, as essential participants in the establishment, modification, collection, and enforcement of child support, in securing the

health, safety, and welfare of the children of this state. The Legislature further finds and declares that:

(e) The potential loss of substantial federal funds poses a direct and immediate threat to the health, safety, and welfare of the children and citizens of the state and constitutes an emergency for purposes of s. 287.057(3)(5)(a).

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

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

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(1) For the purposes of this section:

(h) “Lobbyist” means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. “Lobbyist” does not include a person who is:

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

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

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

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

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

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

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

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

(3) The Chief Financial Officer shall adopt rules governing the establishment and acceptance of credit cards, charge cards, ~~or~~ debit cards, or electronic funds transfers by state agencies or the judicial branch, including, but not limited to, the following:

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

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

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

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

(e) A methodology for agencies to use when completing the cost-benefit analysis referred to in subsection (1). The methodology must consider all quantifiable cost reductions, other benefits to the agency, and the potential impact on general revenue. The methodology must also consider nonquantifiable benefits such as the convenience to individuals and businesses that



would benefit from the ability to pay for state goods and services through the use of credit cards, charge cards, ~~and~~ debit cards, or electronic funds transfers.

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

(5) A unit of local government, ~~including which term means~~ a municipality, special district, or board of county commissioners or other governing body of a county, ~~however styled, including that of~~ a consolidated or metropolitan government, and ~~means~~ any clerk of the circuit court, sheriff, property appraiser, tax collector, or supervisor of elections, is authorized to accept payment by use of credit cards, charge cards, ~~and~~ bank debit cards, and electronic funds transfers for financial obligations that are owing to such unit of local government and to surcharge the person who uses a credit card, charge card, ~~or~~ bank debit card, or electronic funds transfer in payment of taxes, license fees, tuition, fines, civil penalties, court-ordered payments, or court costs, or other statutorily prescribed revenues an amount sufficient to pay the service fee charges by the financial institution, vending service company, or credit card company for such services. A unit of local government shall verify both the validity of any credit card, charge card, ~~or~~ bank debit card, or electronic funds transfer used pursuant to this subsection and the existence of appropriate credit with respect to the person using the card ~~or~~ transfer. The unit of local government does not incur any liability as a result of such verification or any subsequent action taken.

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

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

renewed after the effective date of this act unless such renewal and extension conforms to the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3)

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

1. Awarded brokers must maintain an office or presence in the market served. In awarding the contract, preference must be given to brokers that are licensed in this state under chapter 475 and that have 3 or more years of experience in the market served. The contract may be made with up to three tenant brokers in order to serve the marketplace in the north, central, and south areas of the state.

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

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

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

5. Real estate consultants and tenant brokers shall be compensated by the state agency, subject to the provisions of the term contract, and such compensation is subject to appropriation by the Legislature. A real estate

consultant or tenant broker may not receive compensation directly from a lessor for services that are rendered under the term contract. ~~Moneys paid to a real estate consultant or tenant broker are exempt from any charge imposed under s. 287.1345.~~ Moneys paid by a lessor to the state agency under a facility leasing arrangement are not subject to the charges imposed under s. 215.20. All terms relating to the compensation of the real estate consultant or tenant broker shall be specified in the term contract and may not be supplemented or modified by the state agency using the contract.

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

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

a. The number of leases that adhere to the goal of the workspace-management initiative of 180 square feet per FTE.

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

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

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

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

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

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

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

(3) Upon evaluation of bids for each printing contract, the agency shall identify the lowest responsive bid and any other responsive bids in which it has been certified that the materials used in printing contain at least the minimum percentage of recycled content that is set forth by the department. ~~In awarding a contract for printing, the agency may allow up to a 10-percent price preference, as provided in s. 287.045, to a responsible and responsive vendor that has certified that the materials used in printing contain at least the minimum percentage of recycled content established by the department.~~ If no vendors offer materials for printing that contain the minimum

prescribed recycled content, the contract shall be awarded to the responsible vendor that submits the lowest responsive bid.

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

286.0113 General exemptions from public meetings.—

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

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

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

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

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

(3) “Artistic services” “Artist” means the rendering by a contractor of its time and effort to create or perform an artistic work in the fields an individual or group of individuals who profess and practice a demonstrated creative talent and skill in the area of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio, or tape and sound recording or in any other related field.

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

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

commodity when let upon contract pursuant to s. 283.33, whether purchased for resale or not.

(6) ~~“Competitive solicitation sealed bids,” “competitive sealed proposals,” or “competitive sealed replies”~~ means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement and includes bids, proposals, or replies transmitted by electronic means in lieu of or in addition to written bids, proposals, or replies.

(7) ~~“Competitive solicitation” or “solicitation”~~ means an invitation to bid, a request for proposals, or an invitation to negotiate.

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

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

(9)(10) ~~“Department”~~ means the Department of Management Services.

(10)(11) ~~“Electronic posting” or “electronically post”~~ means the noticing posting of solicitations, agency decisions or intended decisions, or other matters relating to procurement on a centralized Internet website designated by the department for this purpose.

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

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

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

~~(14)~~(15) “Information technology” has the meaning ascribed in s. 282.0041.

~~(15)~~(16) “Invitation to bid” means a written or electronically posted solicitation for competitive sealed bids. ~~The invitation to bid is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is electronically posted.~~

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

~~(17)~~(18) “Minority business enterprise” has the meaning ascribed in s. 288.703.

~~(18)~~(19) “Office” means the Office of Supplier Diversity of the Department of Management Services.

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

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

(21) “Request for information” means a written or electronically posted request made by an agency to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the agency to form a binding contract.

(22) “Request for proposals” means a written or electronically posted solicitation for competitive sealed proposals. ~~The request for proposals is used when it is not practicable for the agency to specifically define the scope~~

~~of work for which the commodity, group of commodities, or contractual service is required and when the agency is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is electronically posted.~~

(23) “Request for a quote” means an oral or written request for written pricing or services information from a state term contract vendor for commodities or contractual services available on a state term contract from that vendor.

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

(25) “Responsive bid,” “responsive proposal,” or “responsive reply” means a bid, or proposal, or reply submitted by a responsive and responsible vendor that conforms in all material respects to the solicitation.

(26) “Responsive vendor” means a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.

(27) “State term contract” means a term contract that is competitively procured by the department pursuant to s. 287.057 and that is used by agencies and eligible users pursuant to s. 287.056.

(28) “Term contract” means an indefinite quantity contract to furnish commodities or contractual services during a defined period.

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

~~287.017 Purchasing categories, threshold amounts; procedures for automatic adjustment by department.—~~

(1) The following purchasing categories are hereby created:

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

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

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

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

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

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

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



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

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

Section 16. Subsection (1) of section 287.022, Florida Statutes, is amended to read:

287.022 Purchase of insurance.—

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

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

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

287.056 Purchases from purchasing agreements and state term contracts.—

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

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

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

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

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

287.057 Procurement of commodities or contractual services.—

(1) The competitive solicitation processes authorized in this section shall be used for procurement of commodities or contractual services in excess of

the threshold amount provided for CATEGORY TWO in s. 287.017. Any competitive solicitation shall be made available simultaneously to all vendors, must include the time and date for the receipt of bids, proposals, or replies and of the public opening, and must include all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability and relative merit of the bid, proposal, or reply.

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

1. All invitations to bid must include:

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

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

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

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

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

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

2. All requests for proposals must include:

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

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

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

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

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

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

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

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

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

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

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

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

4. The agency shall evaluate replies against all evaluation criteria set forth in the invitation to negotiate in order to establish a competitive range of replies reasonably susceptible of award. The agency may select one or more vendors within the competitive range with which to commence negotiations. After negotiations are conducted, the agency shall award the contract to the responsible and responsive vendor that the agency determines will provide the best value to the state, based on the selection criteria.

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

~~(1)(a)—Unless otherwise authorized by law, all contracts for the purchase of commodities or contractual services in excess of the threshold amount~~

provided in s. 287.017 for CATEGORY TWO shall be awarded by competitive sealed bidding. An invitation to bid shall be made available simultaneously to all vendors and must include a detailed description of the commodities or contractual services sought; the time and date for the receipt of bids and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability of the bid. If the agency contemplates renewal of the contract, that fact must be stated in the invitation to bid. The bid shall include the price for each year for which the contract may be renewed. Evaluation of bids shall include consideration of the total cost for each year as submitted by the vendor. Criteria that were not set forth in the invitation to bid may not be used in determining acceptability of the bid.

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

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

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

~~(3)(a) If the agency determines in writing that the use of an invitation to bid or a request for proposals will not result in the best value to the state, the agency may procure commodities and contractual services by competitive sealed replies. The agency's written determination must specify reasons that explain why negotiation may be necessary in order for the state to achieve the best value and must be approved in writing by the agency head or his or her designee prior to the advertisement of an invitation to negotiate. An invitation to negotiate shall be made available to all vendors simultaneously and must include a statement of the commodities or contractual services sought; the time and date for the receipt of replies and of the public opening; and all terms and conditions applicable to the procurement, including the~~

criteria to be used in determining the acceptability of the reply. If the agency contemplates renewal of the contract, that fact must be stated in the invitation to negotiate. The reply shall include the price for each year for which the contract may be renewed.

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

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

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

(a) The agency head determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the state requires emergency action. After the agency head makes such a written determination, the agency may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies. However, such emergency procurement shall be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the agency determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the state. The agency shall furnish copies of all written determinations certified under oath and any other documents relating to the emergency action to the department. A copy of the statement shall be furnished to the Chief Financial Officer with the voucher authorizing payment. The individual purchase of personal clothing, shelter, or supplies which are needed on an emergency basis to avoid institutionalization or placement in a more restrictive setting is an emergency for the purposes of this paragraph, and the filing with the department of such statement is not required in such circumstances. In the case of the emergency purchase of insurance, the period of coverage of such insurance shall not exceed a period of 30 days, and all such emergency purchases shall be reported to the department.

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

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

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

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

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

(e) Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are excepted from competitive-solicitation requirements and shall be procured pursuant to an established fee schedule or by any other method which ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs. For purchases made pursuant to this paragraph, state agencies shall annually file with the department a description of the purchases and methods of procurement.

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

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

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

3. Lectures by individuals.

~~4. Auditing services.~~

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

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

b. Beginning January 1, 2011, health services, including, but not limited to, substance abuse and mental health services, involving examination, diagnosis, treatment, prevention, or medical consultation, when such services are offered to eligible individuals participating in a specific program that qualifies multiple providers and uses a standard payment methodology. Reimbursement of administrative costs for providers of services purchased in this manner shall also be exempt. For purposes of this sub-subparagraph, “providers” means health professionals, health facilities, or organizations that deliver or arrange for the delivery of health services.

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

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

~~8.9.~~ Family placement services.

~~9.10.~~ Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring

such services, the agency shall consider the ability of the vendor, past performance, willingness to meet time requirements, and price.

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

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

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

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

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

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

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

~~(7)(8)(a)~~ In order to strive to meet the minority business enterprise procurement goals set forth in s. 287.09451, an agency may reserve any contract for competitive solicitation only among certified minority business enterprises. Agencies shall review all their contracts each fiscal year and shall determine which contracts may be reserved for solicitation only among certified minority business enterprises. This reservation may only be used when it is determined, by reasonable and objective means, before the solicitation that there are capable, qualified certified minority business enterprises available to submit a bid, proposal, or reply on a contract to provide for effective competition. The Office of Supplier Diversity shall consult with any agency in reaching such determination when deemed appropriate.

(b) Before a contract may be reserved for solicitation only among certified minority business enterprises, the agency head must find that such a



reservation is in the best interests of the state. All determinations shall be subject to s. 287.09451(5). Once a decision has been made to reserve a contract, but before sealed bids, proposals, or replies are requested, the agency shall estimate what it expects the amount of the contract to be, based on the nature of the services or commodities involved and their value under prevailing market conditions. If all the sealed bids, proposals, or replies received are over this estimate, the agency may reject the bids, proposals, or replies and request new ones from certified minority business enterprises, or the agency may reject the bids, proposals, or replies and reopen the bidding to all eligible vendors.

(c) All agencies shall consider the use of price preferences of up to 10 percent, weighted preference formulas, or other preferences for vendors as determined appropriate pursuant to guidelines established in accordance with s. 287.09451(4) to increase the participation of minority business enterprises.

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

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

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

~~(10)~~(11) A contract for commodities or contractual services may be awarded without competition if state or federal law prescribes with whom the agency must contract or if the rate of payment is established during the appropriations process.

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

~~(12)~~(13) Extension of a contract for contractual services shall be in writing for a period not to exceed 6 months and shall be subject to the same

terms and conditions set forth in the initial contract. There shall be only one extension of a contract unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the control of the contractor.

~~(13)~~(14)(a) Contracts for commodities or contractual services may be renewed for a period that may not exceed 3 years or the term of the original contract, whichever period is longer. Renewal of a contract for commodities or contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. If the commodity or contractual service is purchased as a result of the solicitation of bids, proposals, or replies, the price of the commodity or contractual service to be renewed shall be specified in the bid, proposal, or reply. A renewal contract may not include any compensation for costs associated with the renewal. Renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. Exceptional purchase contracts pursuant to paragraphs ~~(3)~~(5)(a) and (c) may not be renewed. With the exception of subsection ~~(12)~~ (13), if a contract amendment results in a longer contract term or increased payments, a state agency may not renew or amend a contract for the outsourcing of a service or activity that has an original term value exceeding the sum of \$10 million before submitting a written report concerning contract performance to the Governor, the President of the Senate, and the Speaker of the House of Representatives at least 90 days before execution of the renewal or amendment.

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

~~(14)~~(15) For each contractual services contract, the agency shall designate an employee to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. Each contract manager who is responsible for contracts in excess of the threshold amount for CATEGORY TWO must attend training conducted by the Chief Financial Officer for accountability in contracts and grant management. The Chief Financial Officer agency shall establish and disseminate uniform procedures pursuant to s. 17.03(3) to ensure that contractual services have been rendered in accordance with the contract terms before the agency processes prior to processing the invoice for payment. The procedures shall include, but need not be limited to, procedures for monitoring and documenting contractor performance, reviewing and documenting all deliverables for which payment is requested by vendors, and providing written certification by contract managers of the agency's receipt of goods and services.

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

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

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

(b) At least three persons to conduct negotiations during a competitive sealed reply procurement who collectively have experience and knowledge in negotiating contracts, contract procurement, and the program areas and service requirements for which commodities or contractual services are sought. When the value of a contract is in excess of \$1 million in any fiscal year, at least one of the persons conducting negotiations must be certified as a contract negotiator based upon rules adopted by the Department of Management Services in order to ensure that certified contract negotiators are knowledgeable about effective negotiation strategies, capable of successfully implementing those strategies, and involved appropriately in the procurement process. At a minimum, the rules must address the qualifications required for certification, the method of certification, and the procedure for involving the certified negotiator. If the value of a contract is in excess of \$10 million in any fiscal year, at least one of the persons conducting negotiations must be a Project Management Professional, as certified by the Project Management Institute.

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

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

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

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

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

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

~~(c)(18)~~ A person who receives a contract that has not been procured pursuant to subsections ~~(1)-(3)~~ ~~(1)~~ through ~~(5)~~ to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a solicitation or who develops a program for future implementation, is not eligible to contract with the agency for any other contracts dealing with that specific subject matter, and any firm in which such person has any interest is not eligible to receive such contract. However, this prohibition does not prevent a vendor who responds to a request for information from being eligible to contract with an agency.

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

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

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

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

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

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

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

1. Determining the requirements and qualification criteria for prequalifying vendors.
2. Establishing the procedures for conducting online procurement.
3. Establishing the criteria for eligible commodities and contractual services.
4. Establishing the procedures for providing access to online procurement.
5. Determining the criteria warranting any exceptions to participation in the online procurement program.

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

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

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

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

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

~~(23)~~(24) Each solicitation for the procurement of commodities or contractual services shall include the following provision: “Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the

procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.”

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

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

~~(1) Sections 287.0571-287.0574 may be cited as the “Florida Efficient Government Act.”~~

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

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

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

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

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

(c) A contract in support of the planning, development, implementation, operation, or maintenance of the road, bridge, and public transportation construction program of the Department of Transportation.

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

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

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

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

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

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

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

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

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

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

(i) A description of differences among current state agency policies and processes and, as appropriate, a discussion of options for or a plan to standardize, consolidate, or revise current policies and processes, if any, to reduce the customization of any proposed solution that would otherwise be required.

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

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

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

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

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

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

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

(a) A scope-of-work provision that clearly specifies each service or deliverable to be provided, including a description of each deliverable or activity that is quantifiable, measurable, and verifiable. This provision must include a clause that states if a particular service or deliverable is inadvertently omitted or not clearly specified but determined to be operationally necessary and verified to have been performed by the agency within the 12 months before the execution of the contract, such service or deliverable will be provided by the contractor through the identified contract-amendment process.

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

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

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

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



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

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

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

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

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

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

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

(j) A provision that requires the contractor and its subcontractors to comply with public-records laws, specifically to:

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

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

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

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

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

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

(l) If applicable, a provision that allows the agency to purchase from the contractor, at its depreciated value, assets used by the contractor in the performance of the contract. If assets have not depreciated, the agency shall retain the right to negotiate to purchase at an agreed-upon cost.

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

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

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

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

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

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

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

(a) The name of each contracting state agency and the applicable office or program issuing the contract.

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

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

(d) The amount of each contract.

(e) A brief description of the purpose of the contract and the types of services provided under each contract.

(f) The name and contact information of the contract manager.

(3) With respect to contracts entered into on or after August 1, 2010, effective November 1, 2010, or 30 days after receiving the list provided under subsection (2), a single lead administrative coordinator for each contract service provider shall be designated as provided in this subsection from among the agencies having multiple contracts as provided in subsection (2). On or before the date such responsibilities are assumed, the designated lead administrative coordinator shall provide notice of his or her designation to the contract service provider and to the agency contract managers for each affected contract. Unless another lead administrative coordinator is selected by agreement of all affected contract managers, the designated lead administrative coordinator shall be the agency contract manager of the contract with the highest dollar value over the term of the contract, provided the term of the contract remaining at the time of designation exceeds 24 months. If the remaining terms of all contracts are 24 months or less, the designated lead administrative coordinator shall be the contract manager of the contract with the latest end date. A designated lead administrative coordinator, or his or her successor as contract manager, shall continue as lead administrative coordinator until another lead administrative coordinator is selected by agreement of all affected contract managers or until the end date of the contract for which the designated lead administrative coordinator serves as contract manager, at which time a new lead administrative coordinator shall be designated pursuant to this subsection, if applicable.

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

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

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

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

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

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

(6) This section does not apply to routine program performance monitoring or prohibit a contracting agency from directly and immediately contacting the service provider when the health or safety of clients is at risk.

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

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

287.058 Contract document.—

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

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

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

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

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

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

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

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

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

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

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

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

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

287.059 Private attorney services.—

(14) The office of the Attorney General is authorized to competitively bid and contract with one or more court reporting services, on a circuitwide basis, on behalf of all state agencies in accordance with s. 287.057(2). The office of the Attorney General shall develop requests for proposal for court reporter services in consultation with the Florida Court Reporters Association. All agencies shall utilize the contracts for court reporting services entered into by the office of the Attorney General where in force, unless otherwise ordered by a court or unless an agency has a contract for court reporting services executed prior to May 5, 1993.

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

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

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

(4) **VENDOR PREFERENCE.**—

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

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

394.457 Operation and administration.—

(3) **POWER TO CONTRACT.**—The department may contract to provide, and be provided with, services and facilities in order to carry out its responsibilities under this part with the following agencies: public and private hospitals; receiving and treatment facilities; clinics; laboratories; departments, divisions, and other units of state government; the state colleges and universities; the community colleges; private colleges and universities; counties, municipalities, and any other governmental unit, including facilities of the United States Government; and any other public or private entity which provides or needs facilities or services. Baker Act funds for community inpatient, crisis stabilization, short-term residential treatment, and screening services must be allocated to each county pursuant to the department’s funding allocation methodology. Notwithstanding the provisions of s. 287.057(3)(5)(f), contracts for community-based Baker Act services for inpatient, crisis stabilization, short-term residential treatment, and screening provided under this part, other than those with other units of government, to be provided for the department must be awarded using competitive sealed bids when the county commission of the county receiving the services makes a request to the department’s district office by January 15 of the contracting year. The district shall not enter into a competitively bid contract under this provision if such action will result in increases of state or local expenditures for Baker Act services within the district. Contracts for these Baker Act services using competitive sealed bids will be effective for 3 years. The department shall adopt rules establishing minimum standards for such contracted services and facilities and shall make periodic audits and inspections to assure that the contracted services are provided and meet the standards of the department.

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

394.47865 South Florida State Hospital; privatization.—

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

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

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

402.40 Child welfare training.—

(5) CORE COMPETENCIES.—

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

(8) ESTABLISHMENT OF TRAINING ACADEMIES.—The department shall establish child welfare training academies as part of a comprehensive system of child welfare training. In establishing a program of training, the department may contract for the operation of one or more training academies to perform one or more of the following: to offer one or more of the training curricula developed under subsection (5); to administer the certification process; to develop, validate, and periodically evaluate additional training curricula determined to be necessary, including advanced training that is specific to a region or contractor, or that meets a particular training need; or to offer the additional training curricula. The number, location, and time-frame for establishment of training academies shall be approved by the Secretary of Children and Family Services who shall ensure that the goals for the core competencies and the single integrated curriculum, the certification process, the trainer qualifications, and the additional training needs are addressed. Notwithstanding s. 287.057(3)(5) and (21) (22), the department shall competitively solicit all training academy contracts.

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

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

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

(a) Notwithstanding s. ~~287.057(3)(f)12~~, s. ~~287.057(5)(f)13~~, whenever the department intends to contract with a public postsecondary institution to provide a service, the department must allow all public postsecondary institutions in this state that are accredited by the Southern Association of Colleges and Schools to bid on the contract. Thereafter, notwithstanding any other provision to the contrary, if a public postsecondary institution intends to subcontract for any service awarded in the contract, the subcontracted service must be procured by competitive procedures.

(b) When it is in the best interest of a defined segment of its consumer population, the department may competitively procure and contract for systems of treatment or service that involve multiple providers, rather than procuring and contracting for treatment or services separately from each participating provider. The department must ensure that all providers that participate in the treatment or service system meet all applicable statutory, regulatory, service quality, and cost control requirements. If other governmental entities or units of special purpose government contribute matching funds to the support of a given system of treatment or service, the department shall formally request information from those funding entities in the procurement process and may take the information received into account in the selection process. If a local government contributes matching funds to support the system of treatment or contracted service and if the match constitutes at least 25 percent of the value of the contract, the department shall afford the governmental match contributor an opportunity to name an employee as one of the persons required by s. ~~287.057(16)(17)~~ to evaluate or negotiate certain contracts, unless the department sets forth in writing the reason why the inclusion would be contrary to the best interest of the state. Any employee so named by the governmental match contributor shall qualify as one of the persons required by s. ~~287.057(16)(17)~~. A governmental entity or unit of special purpose government may not name an employee as one of the persons required by s. ~~287.057(16)(17)~~ if it, or any of its political subdivisions, executive agencies, or special districts, intends to compete for the contract to be awarded. The governmental funding entity or contributor of matching funds must comply with all procurement procedures set forth in s. 287.057 when appropriate and required.

**(3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.** The Department of Children and Family Services shall review the time period for which the department executes contracts and shall execute multiyear contracts to make the most efficient use of the resources devoted to contract processing and execution. Whenever the department chooses not



to use a multiyear contract, a justification for that decision must be contained in the contract. Notwithstanding s. 287.057(14)(15), the department is responsible for establishing a contract management process that requires a member of the department's Senior Management or Selected Exempt Service to assign in writing the responsibility of a contract to a contract manager. The department shall maintain a set of procedures describing its contract management process which must minimally include the following requirements:

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

(b) The contract manager shall review all invoices for compliance with the criteria and payment schedule provided for in the contract and shall approve payment of all invoices before their transmission to the Department of Financial Services for payment.

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

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

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

(f) The contract manager shall periodically document any differences between the required performance measures and the actual performance measures. If a contractor fails to meet and comply with the performance measures established in the contract, the department may allow a reasonable period for the contractor to correct performance deficiencies. If performance deficiencies are not resolved to the satisfaction of the department within the prescribed time, and if no extenuating circumstances can be documented by the contractor to the department's satisfaction, the department must terminate the contract. The department may not enter into a new contract with that same contractor for the services for which the contract was previously terminated for a period of at least 24 months after the date of termination. The contract manager shall obtain and enforce corrective action plans, if appropriate, and maintain records regarding the completion or failure to complete corrective action items.

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

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

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

408.045 Certificate of need; competitive sealed proposals.—

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

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

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

(3) Not procure transportation disadvantaged services without initially negotiating with the commission, as provided in s. 287.057(3)(f)12. s. 287.057(5)(f)13., or unless otherwise authorized by statute. If the purchasing agency, after consultation with the commission, determines that it cannot reach mutually acceptable contract terms with the commission, the purchasing agency may contract for the same transportation services provided in a more cost-effective manner and of comparable or higher quality and standards. The Medicaid agency shall implement this subsection in a manner consistent with s. 409.908(18) and as otherwise limited or directed by the General Appropriations Act.

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

445.024 Work requirements.—

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

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

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

481.205 Board of Architecture and Interior Design.—

(3)

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

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

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

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

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

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

(5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Establish agent commission schedules.

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

a. Tier One.—

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

(A) The experience modification is below 1.00.

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

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

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

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

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

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

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

(E) The employer is not a new business.

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

b. Tier Two.—

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

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

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

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

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

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

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

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

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

c. Tier Three.—

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

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

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

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

- a. During the first 30 days of coverage under the plan;
- b. Before a policy is issued under the plan;
- c. By issuance of a policy upon expiration or cancellation of the policy under the plan; or
- d. By assumption of the plan's obligation with respect to an in-force policy,



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

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

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

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

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

765.5155 Donor registry; education program.—

(2) The agency and the department shall jointly contract for the operation of a donor registry and education program. The contractor shall

be procured by competitive solicitation pursuant to chapter 287, notwithstanding any exemption in s. 287.057(3)(5)(f). When awarding the contract, priority shall be given to existing nonprofit groups that are based within the state, have expertise working with procurement organizations, have expertise in conducting statewide organ and tissue donor public education campaigns, and represent the needs of the organ and tissue donation community in the state.

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

893.055 Prescription drug monitoring program.—

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

Section 42. Subsection (3) of section 1013.38, Florida Statutes, is amended to read:

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

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

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

Section 21. The Agency for Health Care Administration shall develop and implement a home health agency monitoring pilot project in Miami-Dade County by January 1, 2010. The agency shall contract with a vendor to verify the utilization and the delivery of home health services and provide an

electronic billing interface for such services. The contract must require the creation of a program to submit claims for the home health services electronically. The program must verify visits for the delivery of home health services telephonically using voice biometrics. The agency may seek amendments to the Medicaid state plan and waivers of federal law, as necessary, to implement the pilot project. Notwithstanding s. 287.057(3)(5)(f), Florida Statutes, the agency must award the contract through the competitive solicitation process. The agency shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the pilot project by February 1, 2011.

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

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

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

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

- (a) The nature of the commodities or services purchased.
- (b) The term of the contract.
- (c) The final obligation made by the agency.
- (d) A summary of any time constraints that apply to the procurement.
- (e) The justification for not using the competitive solicitation, including any statutory exemption or exception.

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

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

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

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

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

Section 47. Each state agency, as defined in s. 216.011, Florida Statutes, shall review existing contract renewals and reprocurements with private providers and public-private providers in an effort to reduce contract payments by at least 3 percent. It is the statewide goal to achieve substantial savings; however, it is the intent of the Legislature that the level and quality of services not be affected. Each agency shall renegotiate and reprocure contracts consistent with this section. Any savings that accrue through renegotiating the renewal or reprocurement of an existing contract shall be placed in reserve by the Executive Office of the Governor.

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

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

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

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

that have a principal place of business in the State of Florida and that commit contractually to maximize the use of state residents, state products, and other Florida-based businesses in fulfilling their contractual duties.

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

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

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

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

Approved by the Governor May 28, 2010.

Filed in Office Secretary of State May 28, 2010.