

## CHAPTER 2013-154

### Committee Substitute for Committee Substitute for House Bill No. 1309

An act relating to governmental accountability; creating s. 119.0701, F.S.; providing definitions; providing that each public agency contract for services must meet specified requirements; requiring the public agency to enforce contract provisions if a contractor does not comply with a public records request; amending s. 215.971, F.S.; requiring agreements funded with state or federal financial assistance to include additional provisions; requiring state agencies to designate a grants manager for each agreement and providing requirements and procedures for managers; requiring the Chief Financial Officer to perform audits of executed agreements and to discuss such audits with agency officials; requiring the agency head to respond to the audit; amending s. 287.012, F.S.; providing and revising definitions; amending s. 287.042, F.S.; revising powers, duties, and functions of the Department of Management Services; eliminating a duty of the department to maintain a vendor list; authorizing the department to lead or enter into joint agreements with governmental entities for the purchase of commodities or contractual services that can be used by multiple agencies; amending s. 287.057, F.S.; providing that contracts awarded pursuant to an invitation to bid shall be awarded to the responsible and responsive vendor that submits the lowest responsive bid; revising exceptions to the requirement that the purchase of specified commodities or contractual services be made only as a result of receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies; revising contractual services and commodities that are not subject to competitive solicitation requirements by virtue of being available only from a single source; providing that a contract for commodities or contractual services may be awarded without competition if the recipient of funds is established during the appropriations process; revising provisions relating to extension of a contract for commodities or contractual services; authorizing an agency to negotiate better pricing upon renewal of a contract; providing training requirements for contract managers responsible for contracts in excess of a specified threshold amount; providing contract manager certification for contract managers responsible for contracts in excess of a specified threshold amount; providing that the department is responsible for establishing and disseminating the requirements for certification of a contract manager; providing that training will be conducted jointly by the Department of Management Services and the Department of Financial Services; providing training guidelines and requirements; requiring the department, in consultation with the Chief Financial Officer to maintain a program for online procurement of commodities and contractual services; amending s. 287.0571, F.S.; revising nonapplicability of a business case to outsource; amending s. 287.058, F.S.; defining the term “performance measure”; revising references within provisions relating to purchase orders used in

lieu of written agreements for classes of contractual services; revising terminology; creating s. 287.136, F.S.; requiring the Chief Financial Officer to perform audits of executed contract documents and to discuss such audits with the agency officials; requiring the agency head to respond to the audit; amending s. 287.076, F.S.; providing that Project Management Professionals training for personnel involved in managing outsourcings and negotiations is subject to annual appropriations; amending ss. 16.0155, 283.33, 394.457, 402.7305, 409.9132, 427.0135, 445.024, 627.311, 627.351, 765.5155, and 893.055, F.S.; conforming cross-references; providing effective dates.

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

Section 1. Section 119.0701, Florida Statutes, is created to read:

119.0701 Contracts; public records.—

(1) For purposes of this section, the term:

(a) “Contractor” means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) “Public agency” means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) In addition to other contract requirements provided by law, each public agency contract for services must include a provision that requires the contractor to comply with public records laws, specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency 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 from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

(3) If a contractor does not comply with a public records request, the public agency shall enforce the contract provisions in accordance with the contract.

Section 2. Section 215.971, Florida Statutes, is amended to read:

215.971 Agreements funded with federal or ~~and~~ state assistance.—

(1) 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, must the agreement shall include all of the following:

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

(b)(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.

(c) A provision specifying the financial consequences that apply if the recipient or subrecipient fails to perform the minimum level of service required by the agreement. The provision can be excluded from the agreement only if financial consequences are prohibited by the federal agency awarding the grant. Funds refunded to a state agency from a recipient or subrecipient for failure to perform as required under the agreement may be expended only in direct support of the program from which the agreement originated.

(d) A provision specifying that a recipient or subrecipient of federal or state financial assistance may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period.

(e) A provision specifying that any balance of unobligated funds which has been advanced or paid must be refunded to the state agency.

(f) A provision specifying that any funds paid in excess of the amount to which the recipient or subrecipient is entitled under the terms and conditions of the agreement must be refunded to the state agency.

(g) Any additional information required pursuant to s. 215.97.

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

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

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

(b) The Chief Financial Officer shall establish and disseminate uniform procedures for grant management pursuant to s. 17.03(3) to ensure that services have been rendered in accordance with agreement terms before the agency processes an invoice for payment. The procedures must include, but need not be limited to, procedures for monitoring and documenting recipient or subrecipient performance, reviewing and documenting all deliverables for which payment is requested by the recipient or subrecipient, and providing written certification by the grant manager of the agency's receipt of goods and services.

(c) The grant manager shall reconcile and verify all funds received against all funds expended during the grant agreement period and produce a final reconciliation report. The final report must identify any funds paid in excess of the expenditures incurred by the recipient or subrecipient.

(3) After execution of a grant agreement, the Chief Financial Officer shall perform audits of the executed state and federal grant agreement documents and grant manager's records in order to ensure that adequate internal controls are in place for complying with the terms and conditions of such agreements and for validation and receipt of goods and services.

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

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

Section 3. Subsections (4) through (28) of section 287.012, Florida Statutes, are amended to read:

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

(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 that has with floor space of less than 5,000 square feet of floor space, purchased, leased, or otherwise contracted for by the state and its agencies. The term “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. Printing of publications shall be considered a commodity if procured when let upon contract pursuant to s. 283.33, whether purchased for resale or not.

(6) “Competitive solicitation” 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.

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

(8) “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. The term “Contractual service” does not include a any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of a 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) “Department” means the Department of Management Services.

(10) “Electronic posting” or “electronically post” means the noticing 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, and in the manner and form required under s. 120.57(3)(a).

(11) “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) “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 by another agency; and purchases made without advertisement in the manner required under by s. 287.042(3)(b).

~~(13) “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) “Governmental entity” means a political subdivision or agency of this state or of any state of the United States, including, but not limited to, state government, county, municipality, school district, nonprofit public university or college, single-purpose or multipurpose special district, single-purpose or multipurpose public authority, metropolitan or consolidated government, separate legal entity or administrative entity, or any agency of the Federal Government.

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

~~(16)~~(15) “Invitation to bid” means a written or electronically posted solicitation for competitive sealed bids.

~~(17)~~(16) “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.

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

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

~~(20)~~(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.

~~(21)~~(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.

~~(22)~~(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.

~~(23)~~(22) “Request for proposals” means a written or electronically posted solicitation for competitive sealed proposals.

~~(24)~~(23) “Request for a quote” means an oral, electronic, 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.

~~(25)~~(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.

~~(26)~~(25) “Responsive bid,” “responsive proposal,” or “responsive reply” means a bid, or proposal, or reply submitted by a responsive and responsible vendor which ~~that~~ conforms in all material respects to the solicitation.

~~(27)~~(26) “Responsive vendor” means a vendor that has submitted a bid, proposal, or reply that conforms in all material respects to the solicitation.

~~(28)~~(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.

~~(29)~~(28) “Term contract” means an indefinite quantity contract to furnish commodities or contractual services during a defined period.

Section 4. Paragraph (a) of subsection (1), paragraph (b) of subsection (2), and subsections (8) and (15) of section 287.042, Florida Statutes, are amended to read:

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

(1)(a) To canvass all sources of supply, ~~establish and maintain a vendor list,~~ and contract for the purchase, lease, or acquisition, including purchase by installment sales or lease-purchase contracts which may provide for the payment of interest on unpaid portions of the purchase price, of all commodities and contractual services required by any agency under this chapter. Any contract providing for deferred payments and the payment of interest is ~~shall be~~ subject to specific rules adopted by the department.

(2)

(b) As an alternative to any provision in s. 120.57(3)(c), the department may proceed with the competitive solicitation or contract award process of a term contract when the Secretary of Management Services ~~the department~~ or his or her designee sets forth in writing particular facts and circumstances that ~~which~~ demonstrate that the delay incident to staying the solicitation or

contract award process would be detrimental to the interests of the state. After the award of a contract resulting from a competitive solicitation in which a timely protest was received and in which the state did not prevail, the contract may be canceled and reawarded.

(8) To provide any commodity and contractual service purchasing rules to the Chief Financial Officer and all agencies electronically or through an electronic medium ~~or other means~~. Agencies may not approve an ~~any~~ account or request any payment of an ~~any~~ account for the purchase of any commodity or the procurement of any contractual service covered by a purchasing or contractual service rule except as authorized therein. The department shall furnish copies of rules adopted by the department to any county, municipality, or other local public agency requesting them.

(15) To lead or enter into joint agreements with governmental entities ~~agencies, as defined in s. 163.3164,~~ for the purpose of pooling funds for the purchase of commodities or contractual services ~~information technology~~ that can be used by multiple agencies.

(a) Each agency that has been appropriated or has existing funds for such purchase, shall, upon contract award by the department, transfer its ~~their~~ portion of the funds into the department's Operating Trust Fund for payment by the department. The funds shall be transferred by the Executive Office of the Governor pursuant to the agency budget amendment request provisions under ~~in~~ chapter 216.

(b) Agencies that sign the joint agreements are financially obligated for their portion of the agreed-upon funds. If an agency becomes more than 90 days delinquent in paying the funds, the department shall certify to the Chief Financial Officer the amount due, and the Chief Financial Officer shall transfer the amount due to the Operating Trust Fund of the department from any of the agency's available funds. The Chief Financial Officer shall report these transfers and the reasons for the transfers to the Executive Office of the Governor and the legislative appropriations committees.

Section 5. Paragraph (a) of subsection (1) and subsections (3), (10), (12), (13), (16), and (22) of section 287.057, Florida Statutes, are 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 must shall include 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 to the responsible and responsive vendor who submits the lowest responsive bid.

(3) ~~If~~ ~~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 not 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 signs 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, the ~~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 written 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 may 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), by another agency.

(c) Commodities or contractual services available only from a single source may be excepted from the competitive-solicitation requirements. ~~If~~ 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.~~

(d)(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 that ~~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.

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

1. Artistic services. ~~As used in~~ 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. Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.

5.a. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration. The term also includes,

~~b. Beginning January 1, 2011, health services, including,~~ but is not limited to, substance abuse and mental health services, involving examination, diagnosis, treatment, prevention, or medical consultation ~~if, 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 are ~~shall~~ also be exempt. For purposes of this ~~subparagraph~~ sub-subparagraph, the term “providers” means health professionals and, health facilities, or organizations that deliver or arrange for the delivery of health services.

6. Services provided to persons with mental or physical disabilities by not-for-profit corporations ~~that~~ 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. Medicaid services delivered to an eligible Medicaid recipient unless the agency is directed otherwise in law.

8. Family placement services.

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

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

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

11. Contracts entered into pursuant to s. 337.11.

12. Services or commodities provided by governmental entities agencies.

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

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

(10) 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 or the recipient of the funds is established during the appropriations process.

(12) Extension of a contract for commodities or contractual services must ~~shall~~ be in writing for a period not to exceed 6 months and is ~~shall~~ be subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties. There may ~~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) 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 must ~~is~~ be in writing and is ~~shall~~ be subject to the same terms and conditions set forth in the initial contract and any written amendments signed by the parties. 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 must ~~shall~~ be specified in the bid, proposal, or reply, except that an agency may negotiate lower pricing. A renewal contract may not include any compensation for costs associated with the renewal. Renewals are ~~shall~~ be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds. Exceptional purchase contracts pursuant to paragraphs (3)(a) and (c) may not be renewed. With the exception of subsection (10) (12), 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.

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

1.(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.

2.(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.

(b) ~~If~~ 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 department 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.

(22) The department, in consultation with the Chief Financial Officer ~~Agency for Enterprise Information Technology and the Comptroller~~, shall maintain ~~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 must ~~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.

Section 6. Effective December 1, 2014, subsection (14) of section 287.057, Florida Statutes, is amended to read:

287.057 Procurement of commodities or contractual services.—

(14) For each contractual services contract, the agency shall designate an employee to function as contract manager who ~~is shall be~~ responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor.

(a) Each contract manager who is responsible for contracts in excess of the threshold amount for CATEGORY TWO must, at a minimum, complete ~~attend~~ training conducted by the Chief Financial Officer for accountability in contracts and grant management. The Chief Financial Officer 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 the invoice for payment. The procedures must 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.

(b) Each contract manager who is responsible for contracts in excess of \$100,000 annually must complete training in contract management and become a certified contract manager. The department is responsible for establishing and disseminating the requirements for certification which include completing the training conducted by the Chief Financial Officer for accountability in contracts and grant management. Training and certification must be coordinated by the department, and the training must be conducted jointly by the department and the Department of Financial Services. Training must promote best practices and procedures related to negotiating, managing, and ensuring accountability in agency contracts and grant agreements, which must include the use of case studies based upon previous audits, contracts, and grant agreements. All agency contract managers must become certified within 24 months after establishment of the training and certification requirements by the department and the Department of Financial Services.

Section 7. Paragraph (a) of subsection (3) of section 287.0571, Florida Statutes, is amended to read:

287.0571 Business case to outsource; applicability.—

(3) This section does not apply to:

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

Section 8. Subsections (1), (2), 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 shall, where applicable, include, but not be limited to, a provision:

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

(b) 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) 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) 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 a performance measure. As used in this paragraph, the term “performance measure” means the required minimum acceptable level of service to be performed and criteria for evaluating the successful completion of each deliverable.

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

(g) 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 are 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)(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 agency department may authorize the use of a purchase order for classes of contractual services, if the provisions of paragraphs (a)-(i) 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)-(c) and (g) (a)-(i) in the contract document or purchase order, agencies may incorporate the requirements of paragraphs (a)-(c) and (g) (a)-(i) by reference.



(2) The written agreement shall be signed by the agency head or designee and the contractor before ~~prior to~~ the rendering of any contractual service the value of which is in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except in the case of a valid emergency as certified by the agency head. The written statement certification of an emergency must shall be prepared within 30 days after the contractor begins rendering the service and must shall state the particular facts and circumstances which precluded the execution of the written agreement before ~~prior to~~ the rendering of the service. If the agency fails to have the contract signed by the agency head or designee and the contractor before ~~prior to~~ rendering the contractual service, and if an emergency does not exist, the agency head shall, within no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the department as well as describe actions taken to prevent recurrence of such noncompliance. The agency head may delegate the written statement certification only to other senior management agency personnel. A copy of the written statement certification shall be furnished to the Chief Financial Officer with the voucher authorizing payment. The department shall report repeated instances of noncompliance by an agency to the Auditor General. ~~Nothing in This subsection does not shall be deemed to authorize additional compensation prohibited under by s. 215.425.~~ The procurement of contractual services may shall not be divided so as to avoid the provisions of this section.

(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)(e)~~ 287.057(3)(f).

Section 9. Section 287.136, Florida Statutes, is created to read:

287.136 Audit of executed contract documents.—After execution of a contract, the Chief Financial Officer shall perform audits of the executed contract document and contract manager's records to ensure that adequate internal controls are in place for complying with the terms and conditions of the contract and for the validation and receipt of goods and services.

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

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

Section 10. Section 287.076, Florida Statutes, is amended to read:

287.076 Project Management Professionals training for personnel involved in managing outsourcings and negotiations; funding.—The department of Management Services may implement a program to train state

agency employees who are involved in managing outsourcings as Project Management Professionals, as certified by the Project Management Institute. Subject to annual appropriations, For the 2006-2007 fiscal year, the sum of \$500,000 in recurring funds from the General Revenue Fund is appropriated to the Department of Management Services to implement this program. the department of Management Services, in consultation with entities subject to this part act, shall identify personnel to participate in this training based on requested need and ensure that each agency is represented. The department of Management Services may remit payment for this training on behalf of all participating personnel.

Section 11. Subsection (3) of section 16.0155, Florida Statutes, is amended to read:

16.0155 Contingency fee agreements.—

(3) Notwithstanding the exemption provided in s. 287.057(3)(e), if the Attorney General makes the determination described in subsection (2), he or she notwithstanding the exemption provided in s. 287.057(3)(f), the Attorney General shall request proposals from private attorneys to represent the department on a contingency-fee basis, unless the Attorney General determines in writing that requesting proposals is not feasible under the circumstances. The written determination does not constitute a final agency action subject to review pursuant to ss. 120.569 and 120.57. For purposes of this subsection only, the department is exempt from ~~the requirements of s. 120.57(3), and neither the request for proposals nor the contract award is~~ subject to challenge pursuant to ss. 120.569 and 120.57.

Section 12. Subsection (1) of section 283.33, Florida Statutes, is amended to read:

283.33 Printing of publications; lowest bidder awards.—

(1) Publications may be printed and prepared in-house, by another agency or the Legislature, or purchased on bid, whichever is more economical and practicable as determined by the agency. An agency may contract for binding separately when more economical or practicable, whether or not the remainder of the printing is done in-house. A vendor may subcontract for binding and still be considered a responsible vendor as defined in s. 287.012; notwithstanding s. 287.012(24).

Section 13. 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 s. 287.057(3)(e) ~~the provisions of s. 287.057(3)(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 ~~if 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 ~~may 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 are ~~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 14. Paragraph (a) of subsection (2) of section 402.7305, Florida Statutes, is 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)(e)12. 287.057(3)(f)12.~~, if 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 ~~of law 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.

Section 15. Section 409.9132, Florida Statutes, is amended to read:

409.9132 Pilot project to monitor home health services.—The Agency for Health Care Administration shall expand the home health agency monitoring pilot project in Miami-Dade County on a statewide basis effective July 1, 2012, except in counties in which the program ~~is~~ will not be cost-effective, as determined by the agency. 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 or expand the pilot project. Notwithstanding s. ~~287.057(3)(e)~~ ~~287.057(3)(f)~~, the agency must award the contract through the competitive solicitation process and may use the current contract to expand the home health agency monitoring pilot project to include additional counties as authorized under this section.

Section 16. 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)(e)~~12, 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 17. 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)(e)~~ ~~287.057(3)(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 18. 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 must 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, if 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)(e)~~ 287.057(3)(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 19. 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, if whenever practical. The procurement of goods or services valued at or over \$25,000 ~~is 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)(e)~~ 287.057(3)(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 20. 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 an any exemption under ~~in~~ s. ~~287.057(3)(e)~~ 287.057(3)(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 21. 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 ~~if 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)(e)~~ 287.057(3)(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. Funds provided, directly or indirectly, by prescription drug manufacturers may not be used to implement the program.

Section 22. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2013.

Approved by the Governor June 7, 2013.

Filed in Office Secretary of State June 7, 2013.