

CHAPTER 2013-54

House Bill No. 5401

An act relating to transparency in government spending; amending s. 215.985, F.S.; adding a definition; requiring the Executive Office of the Governor to establish a single website providing access to other websites; revising provisions relating to the establishment of a website relating to the approved operating budget; requiring the office to establish a website providing information about fiscal planning for the state and specifying the information to be included on the website; requiring the Department of Management Services to maintain a website that provides current information on state employees and officers; revising provisions requiring the Legislative Auditing Committee to provide recommendations to the Legislature about adding other information to a website; requiring website managers to provide information about the cost of creating and maintaining each website; revising provisions relating to access to the state contract management system to require that such information be accessible through a website; requiring the Chief Financial Officer to establish and maintain a secure contract tracking system; requiring that such system be available for viewing and downloading by the public through a secure website; requiring state entities to post certain information on the system and to update that information; requiring that exempt and confidential information be redacted from contracts and procurement documents posted on the system; providing procedures for removing such information from the system; providing applicability of public record requests for information posted on the website; providing an exemption; providing for service of subpoenas for contract or procurement documents; authorizing the Chief Financial Officer to regulate and prohibit the posting of certain information that could facilitate identity theft or cause harm; authorizing the Chief Financial Officer to adopt rules; providing definitions; authorizing certain departments to post specified information on agency-managed websites in lieu of posting through the contract tracking system; creating the User Experience Task Force to develop and recommend a design for consolidating existing state-managed websites; providing for membership; providing for staffing; requiring reports; providing for expiration; providing an effective date.

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

Section 1. Section 215.985, Florida Statutes, is reordered and amended to read:

215.985 Transparency in government spending.—

- (1) This section may be cited as the “Transparency Florida Act.”
- (2) As used in this section, the term:

(a)(e) “Committee” means the Legislative Auditing Committee created in s. 11.40.

(b) “Contract” means a written agreement or purchase order issued for the purchase of goods or services or a written agreement for the receipt of state or federal financial assistance.

(c)(a) “Governmental entity” means a any state, regional, county, municipal, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a any department, division, bureau, commission, authority, district, or agency thereof, or any public school, Florida College System institution, state university, or associated board.

(d)(b) “Website” means a site on the Internet which is easily accessible to the public at no cost and does not require the user to provide any information.

(3) The Executive Office of the Governor, in consultation with the appropriations committees of the Senate and the House of Representatives, shall establish and maintain a single website that provides access to all other websites required by this section. Such single website and other websites must:

(a) Be constructed for usability that, to the extent possible, provides an intuitive user experience.

(b) Provide a consistent visual design, interaction or navigation design, and information or data presentation.

(c) Be deployed in compliance with the Americans with Disabilities Act.

(d) Be compatible with all major web browsers.

(4)(3) The Executive Office of the Governor, in consultation with the appropriations committees of the Senate and the House of Representatives, shall establish and maintain a single website that, directly accessible through the state’s official Internet portal, which provides information relating to the approved operating budget each appropriation in the General Appropriations Act for each branch of state government and state agency.

(a) At a minimum, the information provided must include:

1. Disbursement data for each appropriation by the object code associated with each expenditure established within the Florida Accounting Information Resource Subsystem. Expenditure data must include the name of the payee, the date of the expenditure, the amount of the expenditure, and the statewide document number. Such data must be searchable by the name of the payee, the paying agency, and fiscal year, and must be downloadable in a format that allows offline analysis.

2. For each appropriation, any adjustments, including vetoes, approved supplemental appropriations included in legislation other than the General Appropriations Act, budget amendments, other actions approved pursuant to chapter 216, and ~~any~~ other adjustments authorized by law.

3. Status of spending authority for each appropriation in the approved operating budget, including released, unreleased, reserved, and disbursed balances.

4. Position and rate information for positions provided in the General Appropriations Act or approved through an amendment to the approved operating budget and position information for positions established in the legislative branch.

5. Allotments for planned expenditures of state appropriations established by state agencies in the Florida Accounting Information Resource Subsystem, and the current balances of such allotments.

6. Trust fund balance reports, including cash available, investments, and receipts.

7. General revenue fund balance reports, including revenue received and amounts disbursed.

8. Fixed capital outlay project data, including original appropriation and disbursements throughout the life of the project.

9. A 10-year history of appropriations indicated by agency.

10. Links to state audits or reports related to the expenditure and dispersal of state funds.

11. Links to program or activity descriptions for which funds may be expended.

(b) All data provided through the website must be data currently available in the state’s financial management information system referenced in s. 215.93. The Office of Policy and Budget in the Executive Office of the Governor shall ensure that all data added to the website remains accessible to the public for 10 years.

~~(4) The committee shall propose providing additional state fiscal information, which may include, but is not limited to, the following information for state agencies:~~

~~(a) Details of nonoperating budget authority established pursuant to s. 216.181.~~

~~(b) Trust fund balance reports, including cash available, investments, and receipts.~~

~~(e) General revenue fund balance reports, including revenue received and amounts disbursed.~~

~~(d) Fixed capital outlay project data, including original appropriation and disbursements throughout the life of the project.~~

~~(e) A 10-year history of appropriations indicated by agency.~~

~~(f) Links to state audits or reports related to the expenditure and dispersal of state funds.~~

~~(g) Links to program or activity descriptions for which funds may be expended.~~

(5) The Executive Office of the Governor, in consultation with the appropriations committees of the Senate and the House of Representatives, shall establish and maintain a website that provides information relating to fiscal planning for the state.

(a) At a minimum, the information must include:

1. The long-range financial outlook adopted by the Legislative Budget Commission.

2. The instructions to the agencies relating to legislative budget requests, capital improvement plans, and long-range program plans.

3. The legislative budget requests submitted by each state agency or branch of state government, and any amendments to such requests.

4. The capital improvement plans submitted by each state agency or branch of state government.

5. The long-range program plans submitted by each state agency or branch of state government.

6. The Governor's budget recommendation submitted pursuant to s. 216.163.

(b) The data must be searchable by the fiscal year, agency, appropriation category, and keywords.

(c) The Office of Policy and Budget in the Executive Office of the Governor shall ensure that all data added to the website remains accessible to the public for 10 years.

~~(5) The committee shall recommend a format for collecting and displaying information from state universities, Florida College System institutions, school districts, charter schools, charter technical career centers, local governmental units, and other governmental entities.~~

(6) The Department of Management Services shall establish and maintain a website that provides current information relating to each employee or officer of a state agency, a state university, or the State Board of Administration, regardless of the appropriation category from which the person is paid.

(a) For each employee or officer, the information must include, at a minimum, his or her:

1. Name and salary or hourly rate of pay.
2. Position number, class code, and class title.
3. Employing agency and budget entity.

(b) The information must be searchable by state agency, state university, and the State Board of Administration, and by employee name, salary range, or class code and must be downloadable in a format that allows offline analysis.

(7)(6) By November 1, ~~2013~~ 2012, and annually thereafter, the committee shall recommend to the President of the Senate and the Speaker of the House of Representatives:

(a) Additional information to be added to a website, such as whether to expand the scope of the information provided to include state universities, Florida College System institutions, school districts, charter schools, charter technical career centers, local government units, and other governmental entities.

(b) develop A schedule for adding ~~additional~~ information to the website by type of information and governmental entity, including timeframes and development entity.

(c) A format for collecting and displaying the additional information. The schedule for adding additional information shall be submitted to the President of the Senate and the Speaker of the House of Representatives. Additional information may include:

(a) Disbursements by the governmental entity from funds established within the treasury of the governmental entity, including, for all branches of state government, allotment balances in the Florida Accounting Information Resource Subsystem.

(b) Revenues received by each governmental entity, including receipts or deposits by the governmental entity into funds established within the treasury of the governmental entity.

(c) Information relating to a governmental entity's bonded indebtedness, including, but not limited to, the total amount of obligation stated in terms of principal and interest, an itemization of each obligation, the term of each

~~obligation, the source of funding for repayment of each obligation, the amounts of principal and interest previously paid to reduce each obligation, the balance remaining of each obligation, any refinancing of any obligation, and the cited statutory authority to issue such bonds.~~

~~(d) Links to available governmental entity websites.~~

~~(8)(7) The manager of each website described in subsections (4), (5), and (6) shall submit to the committee information relating to the cost of creating and maintaining such website, and A counter shall be established on the website to show the number of times the website has been accessed.~~

~~(8) By August 31 of each fiscal year, each executive branch agency, the state court system, and the Legislature shall establish allotments in the Florida Accounting Information Resource Subsystem for planned expenditures of state appropriations.~~

(9) The committee shall coordinate with the Financial Management Information Board in developing any recommendations for including information on the website which is necessary to meet the requirements of s. 215.91(8).

(10) Functional owners as described defined in s. 215.94 and other governmental entities shall provide information necessary to accomplish the purposes of this section.

~~(11) A municipality or special district that has total annual revenues of less than \$10 million is exempt from this section.~~

~~(11)(12) By September 1, 2011, Each water management district shall provide a monthly financial statement to its governing board and make such statement available for public access on its website.~~

~~(12)(13) This section does not require or permit the disclosure of information that is considered confidential under by state or federal law.~~

~~(14) The Office of Policy and Budget in the Executive Office of the Governor shall ensure that all data added to the website remains accessible to the public for 10 years.~~

~~(13)(15) The committee shall prepare an annual report detailing progress in establishing the single website and providing recommendations for enhancement of the content and format of the website and related policies and procedures. The first report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2011, and annually by November 1 thereafter.~~

~~(14)(16) The Chief Financial Officer shall establish and maintain a secure contract tracking provide public access to a state contract management system available for viewing and downloading by the public through a secure website. The Chief Financial Officer shall use appropriate Internet~~

security measures to ensure that no person has the ability to alter or modify records available on the website that provides information and documentation relating to contracts procured by governmental entities.

(a) Within 30 calendar days after executing a contract, each state entity shall post the following information relating to the contract on the contract tracking system:

1. The names of the contracting entities.
2. The procurement method.
3. The contract beginning and ending dates.
4. The nature or type of the commodities or services purchased.
5. Applicable contract unit prices and deliverables.
6. Total compensation to be paid or received under the contract.
7. All payments made to the contractor to date.
8. Applicable contract performance measures.

9. If a competitive solicitation was not used to procure the goods or services, the justification of such action, including citation to a statutory exemption or exception from competitive solicitation, if any.

10. Electronic copies of the contract and procurement documents that have been redacted to exclude confidential or exempt information The data collected in the system must include, but need not be limited to, the contracting agency; the procurement method; the contract beginning and ending dates; the type of commodity or service; the purpose of the commodity or service; the compensation to be paid; compliance information, such as performance metrics for the service or commodity; contract violations; the number of extensions or renewals; and the statutory authority for providing the service.

(b) Within 30 calendar days after an amendment a major change to an existing contract, or the execution of a new contract, agency procurement staff of the state entity that is a party to the contract must affected state governmental entity shall update the necessary information described in paragraph (a) in the state contract tracking management system. An amendment A major change to a contract includes, but is not limited to, a renewal, termination, or extension of the contract or a modification of an amendment to the terms of the contract.

(c) By January 1, 2014, each state entity shall post to the contract tracking system the information required in paragraph (a) for each existing contract that was executed before July 1, 2013, with payment from state funds made after June 30, 2013.

(d)1. Records made available on the contract tracking system may not reveal information made confidential or exempt by law.

2. Each state entity that is a party to a contract must redact confidential or exempt information from the contract and procurement documents before posting an electronic copy on the contract tracking system. If a state entity that is a party to the contract becomes aware that an electronic copy of a contract or a procurement document has been posted but has not been properly redacted, the state entity must immediately notify the Chief Financial Officer and must immediately remove the contract or procurement document from the contract tracking system. Within 7 business days, the state entity must post a properly redacted copy of the contract or procurement document on the contract tracking system.

3.a. If a party to a contract, or an authorized representative of a party to a contract, discovers that an electronic copy of a contract or procurement document has been posted to the contract tracking system but has not been properly redacted, the party or representative may request the state entity that is a party to the contract to redact the confidential or exempt information. Upon receipt of the request, the state entity shall redact the confidential or exempt information.

b. A request to redact confidential or exempt information must be made in writing and delivered by mail, facsimile, electronic transmission, or in person to the state entity that is a party to the contract. The request must identify the specific document, the page numbers that include the confidential or exempt information, the information that is confidential or exempt, and the applicable statutory exemption. A fee may not be charged for a redaction made pursuant to the request.

c. A party to a contract may petition the circuit court for an order directing compliance with this paragraph.

4. The contract tracking system shall display a notice of the right of an affected party to request redaction of confidential or exempt information contained on the system.

5.a. The Chief Financial Officer, the Department of Financial Services, or an officer, employee, or contractor thereof, is not responsible for redacting confidential or exempt information from an electronic copy of a contract or procurement document posted by another state entity on the system.

b. The Chief Financial Officer, the Department of Financial Services, or an officer, employee, or contractor thereof, is not liable for the failure of a state entity to redact the confidential or exempt information.

(e)1. The posting of information on the contract tracking system or the provision of contract information on a website for public viewing and downloading does not supersede the duty of a state entity to respond to a public records request or subpoena for the information.

2. A request for a copy of a contract or procurement document or certified copy of a contract or procurement document shall be made to the state entity that is party to the contract. The request may not be made to the Chief Financial Officer, the Department of Financial Services, or an officer, employee, or contractor thereof, unless the Chief Financial Officer or the department is a party to the contract.

3. A subpoena for a copy of a contract or procurement document or certified copy of a contract or procurement document must be served on the state entity that is a party to the contract and that maintains the original documents. The Chief Financial Officer, the Department of Financial Services, or an officer, employee, or contractor thereof, may not be served a subpoena for those records unless the Chief Financial Officer or the department is a party to the contract.

(f) The Chief Financial Officer may regulate and prohibit the posting of records that could facilitate identity theft or fraud, such as signatures; compromise or reveal an agency investigation; reveal the identity of undercover personnel; reveal proprietary business information or trade secrets; reveal an individual's medical information; or reveal another record or information that the Chief Financial Officer believes may jeopardize the health, safety, or welfare of the public. However, such action by the Chief Financial Officer does not supersede the duty of a state entity to provide a copy of a public record upon request.

(g) The Chief Financial Officer may adopt rules to administer this subsection.

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

1. "Procurement document" means any document or material provided to the public or any vendor as part of a formal competitive solicitation of goods or services undertaken by a state entity, and a document or material submitted in response to a formal competitive solicitation by any vendor who is awarded the resulting contract.

2. "State entity" means an official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; a state attorney, public defender, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Justice Administrative Commission; the Public Service Commission; and any part of the judicial branch of state government.

(i) In lieu of posting in the contract tracking system administered by the Chief Financial Officer, the Department of Legal Affairs and the Department of Agriculture and Consumer Services may post the information described in paragraphs (a) through (c) to its own agency-managed website. The data posted on the agency-managed website must be downloadable in a format that allows offline analysis.

(j) The requirement under paragraphs (a) through (c) that each agency post information and documentation relating to contracts on the tracking system does not apply to any record that could reveal attorney work product or strategy.

Section 2. User Experience Task Force.—

(1) The User Experience Task Force is created to develop and recommend a design for consolidating existing state-managed websites that provide public access to state operational and fiscal information into a single website. If necessary, the recommendation may include a complete redesign of data submission and inclusion.

(2) The task force shall be comprised of four members:

(a) One member designated by the Governor.

(b) One member designated by the Chief Financial Officer.

(c) One member designated by the President of the Senate.

(d) One member designated by the Speaker of the House of Representatives.

(3) The task force shall elect a chair from among its members.

(4) The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall assign staff to assist the task force in performing its duties.

(5) By October 1, 2013, the task force shall submit a work plan to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives. The work plan must include, but is not limited to, a review of:

(a) All relevant state-managed websites.

(b) Options for reducing the number of websites without losing detailed data.

(c) Options for linking expenditure data with related invoices and contracts.

(6) By March 1, 2014, the task force shall submit its complete recommendation to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives. The recommended design must provide an intuitive and cohesive user experience that allows users to move easily between varied types of related data. The recommendation must also include a cost estimate for implementation of the design.

(7) This section expires June 30, 2014.

Section 3. This act shall take effect July 1, 2013.

Approved by the Governor May 20, 2013.

Filed in Office Secretary of State May 20, 2013.