

## CHAPTER 2021-225

### Committee Substitute for Committee Substitute for House Bill No. 1079

An act relating to agency contracts for commodities and contractual services; reenacting and amending s. 216.1366, F.S.; abrogating the scheduled expiration of provisions relating to certain public agency contracts for services; amending s. 287.042, F.S.; providing that the Department of Management Services may enter into an agreement authorizing an agency to make purchases under certain contracts if the Secretary of Management Services makes a certain determination; amending s. 287.056, F.S.; providing that an agency must issue a request for quote to certain approved vendors when it issues a request for quote for contractual services; providing for the disqualification of certain firms or individuals from state term contract eligibility; amending s. 287.057, F.S.; revising the period of time during which an agency must electronically post a description of certain services in certain circumstances; requiring an agency to report certain actions to the department in a specified manner and form; requiring the department to annually report certain information to the Governor and the Legislature by a specified date; prohibiting an agency from initiating a competitive solicitation in certain circumstances; requiring an agency to submit a report concerning contract performance before certain contract renewals or amendments are executed; providing that a designated contract manager serves as a liaison between the contractor and the agency; prohibiting certain individuals from serving as a contract manager; providing the responsibilities of a contract manager; requiring the Chief Financial Officer to evaluate certain training at certain intervals; requiring that certain contract managers complete training and certification within a specified timeframe; requiring the department to establish and disseminate certain training and certification requirements; requiring the department to evaluate certain training at certain intervals; requiring certain contract managers to possess certain experience in managing contracts; authorizing a contract administrator to also serve as a contract manager in certain circumstances; providing that evaluations of proposals and replies must be conducted independently; providing for specified teams to conduct certain negotiations; requiring a Project Management Professional to provide guidance based on certain qualifications; providing qualification requirements for contract negotiator certification; requiring supervisors of contract administrators or contract and grant managers meeting certain criteria to complete training within a specified period; providing that the department is responsible for establishing and disseminating supervisor training by a date certain; providing for a continuing oversight team in certain circumstances; providing requirements for continuing oversight team members and meetings; requiring a continuing oversight team to provide notice of certain deficiencies and changes in contract scope to certain entities; amending s. 287.058, F.S.; prohibiting a contract document for certain

contractual services from containing a certain nondisclosure clause; creating s. 287.1351, F.S.; defining the term “vendor”; prohibiting certain vendors from submitting bids, proposals, or replies to, or entering into or renewing any contract with, an agency; prohibiting an agency from accepting a bid, proposal, or reply from, or entering into a contract with, a suspended vendor until certain conditions are met; requiring an agency to notify the department of, and provide certain information regarding, any such vendors; requiring the department to review any vendor reported by an agency; requiring the department to notify a vendor of any intended removal from the vendor list; specifying administrative remedies, and applicable procedures, for an affected vendor; requiring the department to place any such vendor on the suspended vendor list; authorizing the removal of a suspended vendor from the suspended vendor list in accordance with specified procedures; specifying requirements and limitations; amending s. 287.136, F.S.; requiring each agency inspector general to complete certain audits of executed contracts at certain intervals; amending ss. 43.16, 215.971, 287.0571, 295.187, 394.47865, 402.7305, 408.045, 570.07, and 627.351, F.S.; conforming cross-references; providing an effective date.

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

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

216.1366 Contract terms.—

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

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

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

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

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

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

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

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

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

287.056 Purchases from purchasing agreements and state term contracts.—

(2) Agencies and eligible users may use a request for quote to obtain written pricing or services information from a state term contract vendor for commodities or contractual services available on state term contract from that vendor. The purpose of a request for quote is to determine whether a price, term, or condition more favorable to the agency or eligible user than that provided in the state term contract is available. If an agency issues a request for quote for contractual services for any contract with 25 approved vendors or fewer, the agency must issue a request for quote to all vendors approved to provide such contractual services. For any contract with more than 25 approved vendors, the agency must issue a request for quote to at least 25 of the vendors approved to provide such contractual services. Use of a request for quote does not constitute a decision or intended decision that is subject to protest under s. 120.57(3).

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

Section 4. Subsections (4) through (16) and (17) through (23) of section 287.057, Florida Statutes, are renumbered as subsections (5) through (17) and (19) through (25), respectively, paragraph (c) of subsection (3) and present subsections (13) through (16) are amended, and new subsections (4), (18), and (26) are added to that section, to read:

287.057 Procurement of commodities or contractual services.—

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

(c) Commodities or contractual services available only from a single source may be excepted from the competitive-solicitation requirements. If 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 at least 15 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 provide notice of its intended decision to enter a single-source purchase contract in the manner specified in s. 120.57(3). Each agency shall report all such actions to the department on a quarterly basis in a manner and form prescribed by the department and the department shall report such information to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than January 1, 2022, and each January 1 thereafter.

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

1. Require a change in law; or

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

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

(14)(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 is longer. Renewal of a contract for commodities or contractual services must be in writing and is 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 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 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 (11) ~~(10)~~, 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 \$5 ~~\$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.

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

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

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

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

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

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

(b)(a) Each contract manager who is responsible for contracts in excess of the threshold amount for CATEGORY TWO must, at a minimum, complete training conducted by the Chief Financial Officer for accountability in contracts and grant management. The Chief Financial Officer shall evaluate such training every 5 years to assess its effectiveness and update the training curriculum. 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 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.

(c)(b) Each contract manager who is responsible for contracts in excess of \$100,000 annually must, in addition to the accountability in contracts and grant management training required in paragraph (b) and within 6 months after being assigned responsibility for such contracts, complete training in contract management and become a certified contract manager. The department is responsible for establishing and disseminating the training and certification requirements for certified contract managers. 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. A certified contract manager must

~~complete training every 5 years for certification renewal 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. The department shall evaluate such training every 5 years to assess its effectiveness and update the training curriculum. 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.~~

~~(d) Each contract manager who is responsible for contracts in excess of \$10 million annually must, in addition to the training required in paragraph (b) and the training and certification required in paragraph (c), possess at least 5 years of experience managing contracts in excess of \$5 million annually.~~

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

~~(17)(a)(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. At least three persons to independently evaluate proposals and replies who collectively have experience and knowledge in the program areas and service requirements for the commodity ~~which commodities~~ or contractual services are sought.

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

~~(b)1. If 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 certified contract negotiator, based upon department rules 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.~~

2. 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. The Project Management Professional shall provide guidance based on his or her experience, education, and competency to lead and direct complex projects.

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

a. At least 12 months' experience as a purchasing agent, contract manager, or contract administrator for an agency or a local governmental entity where at least 50 percent of the designated duties included procuring commodities or contractual services, participating in contract negotiation, contract management, or contract administration, or working as an agency attorney whose duties included providing legal counsel to the agency's purchasing or contracting staff.

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

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

(26)(a) For each contractual services contract of \$5 million or greater, the agency head shall establish a continuing oversight team after the contract has been awarded. The agency head shall appoint at least four persons, one of whom must be the certified contract manager, to the continuing oversight team. If the value of the contractual services contract is \$10 million or greater, at least one of the persons on the continuing oversight team must possess at least 5 years of experience in managing contracts of a similar

scope or size. If the value of the contractual services contract is \$20 million or greater, the continuing oversight team shall consist of at least five persons, at least one of the persons on the continuing oversight team must be from an agency other than the agency or agencies participating in the contract. Members of the continuing oversight team must be agency employees and must collectively have experience and knowledge in contract management, contract administration, contract enforcement, and the program areas and service requirements for the contractual services purchased.

(b)1. For contracts of \$5 million or greater, each continuing oversight team must meet at least quarterly.

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

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

2. The continuing oversight team must meet to discuss the status of the contract, the pace of deliverables, the quality of deliverables, contractor responsiveness, and contractor performance. The contract administrator must be present at each meeting with the contract file and all applicable financial information. The continuing oversight team may submit written questions to the contractor concerning any items discussed during a continuing oversight team meeting. The contractor must respond to the team's questions within 10 business days after receiving the written questions. The questions and responses must be included in the contract file.

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

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

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



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

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

287.058 Contract document.—

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

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

287.1351 Suspended vendors; state contracts.—

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

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

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

(3) An agency shall notify the department of any vendor that has met the grounds for suspension described in paragraph (2)(a). The agency must provide documentation to the department evidencing the vendor’s default or other grounds for suspension. The department shall review the documentation provided and determine whether good cause exists to remove the vendor from the vendor list and to place it on the suspended vendor list. If good cause exists, the department must notify the vendor in writing of its intent to remove the vendor from the vendor list and of the vendor’s right to an administrative hearing and the applicable procedures and time requirements for any such hearing. If the vendor does not request an administrative hearing, the department must enter a final order removing the vendor from the vendor list. A vendor may not be removed from the vendor list without receiving an individual notice of intent from the department.

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

(5)(a) The department shall place any vendor removed from the vendor list pursuant to this section on the suspended vendor list. One year or more after entry of the final order of its suspension, a suspended vendor may file a petition with the department for removal from the suspended vendor list. The proceeding on the petition must be conducted in accordance with chapter 120. The vendor may be removed from the suspended vendor list if the administrative law judge determines that removal from the list would be in the public interest. In determining whether removal from the list would be in the public interest, the administrative law judge may consider, but is not limited to, whether the suspended vendor has prepared a corrective action plan that addresses the original grounds for default or failure to fulfill the terms and conditions of the contract, reimbursed the agency for any procurement costs, or provided additional evidence that the vendor has taken other remedial action.

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

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

287.136 Audit of executed contract documents.—

(1) 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.

(a)(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.

(b)(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.

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

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

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

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

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

215.971 Agreements funded with federal or state assistance.—

(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(15) ~~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.

Section 10. 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) and ~~(23)~~ (21).

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

295.187 Florida Veteran Business Enterprise Opportunity Act.—

(4) **VENDOR PREFERENCE.**—

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

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

394.47865 South Florida State Hospital; privatization.—

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

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

Section 13. Paragraph (b) of subsection (2) and subsection (3) of section 402.7305, Florida Statutes, are amended to read:

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

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

(b) When it is in the best interest of a defined segment of its consumer population, the department may competitively procure and contract for systems of treatment or service that involve multiple providers, rather than procuring and contracting for treatment or services separately from each

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

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

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

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

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

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

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

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

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

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

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

408.045 Certificate of need; competitive sealed proposals.—

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

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

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

(42) Notwithstanding the provisions of s. 287.057(24) ~~s. 287.057(22)~~ that require all agencies to use the online procurement system developed by the Department of Management Services, the department may continue to use

its own online system. However, vendors utilizing such system shall be prequalified as meeting mandatory requirements and qualifications and shall remit fees pursuant to s. 287.057(24) ~~s. 287.057(22)~~, and any rules implementing s. 287.057.

Section 16. 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) The corporation is subject to s. 287.057 for the purchase of commodities and contractual services except as otherwise provided in this paragraph. Services provided by tradepersons or technical experts to assist a licensed adjuster in the evaluation of individual claims are not subject to the procurement requirements of this section. Additionally, the procurement of financial services providers and underwriters must be made pursuant to s. 627.3513. Contracts for goods or services valued at or more than \$100,000 are subject to approval by the board.

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

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

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

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

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

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

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

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

c. In a protest of an invitation-to-bid or request-for-proposals procurement, submissions made after the bid or proposal opening which amend or supplement the bid or proposal may not be considered. In protesting an invitation-to-negotiate procurement, submissions made after the corporation announces its intent to award a contract, reject all replies, or withdraw the solicitation that amends or supplements the reply may not be considered. Unless otherwise provided by law, the burden of proof rests with the party protesting the corporation's action. In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge must conduct a de novo proceeding to determine whether the corporation's proposed action is contrary to the corporation's governing statutes, the corporation's rules or policies, or the solicitation specifications. The standard of proof for the proceeding is whether the corporation's action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended corporation action to reject all bids, proposals, or replies, the standard of review by the board is whether the corporation's intended action is illegal, arbitrary, dishonest, or fraudulent.

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



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

Section 17. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.