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

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

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

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

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

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

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175 exception; requiring state agencies to report  
176 contractor compliance with such requirement to the  
177 Agency for Workforce Innovation; providing an  
178 appropriation and authorizing additional positions;  
179 providing an effective date.  
180

181 Be It Enacted by the Legislature of the State of Florida:  
182

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

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

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

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

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

195 2. Establishing and coordinating project-management teams;

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

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

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

202 17.20 Assignment of claims for collection.—

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

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

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

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

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



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

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

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

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

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262 the Chief Financial Officer which includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

350

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

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

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

363 (1) For the purposes of this section:

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

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

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

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

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

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378 purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

569 (3)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

648 286.0113 General exemptions from public meetings.—

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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813 to the solicitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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842 Statutes, is amended to read:

843 287.022 Purchase of insurance.—

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

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

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

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

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

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

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

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871 completion of each deliverable.

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

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

879 287.057 Procurement of commodities or contractual  
880 services.-

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

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

896 1. All invitations to bid must include:

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

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

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900 statement to that effect.

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

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

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

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

919 2. All requests for proposals must include:

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1045 ~~state.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1147 3. Lectures by individuals.

1148 ~~4. Auditing services.~~

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

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

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



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

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

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

1179 ~~8.9.~~ Family placement services.

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

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

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

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

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1190 agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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1277 payment is established during the appropriations process.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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1422 with any state university and college.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1712 applicable office or program issuing the contract.  
1713 (b) The identifying name and number of each contract.  
1714 (c) The starting and ending date of each contract.  
1715 (d) The amount of each contract.  
1716 (e) A brief description of the purpose of the contract and  
1717 the types of services provided under each contract.  
1718 (f) The name and contact information of the contract  
1719 manager.  
1720 (3) With respect to contracts entered into on or after  
1721 August 1, 2010, effective November 1, 2010, or 30 days after  
1722 receiving the list provided under subsection (2), a single lead  
1723 administrative coordinator for each contract service provider  
1724 shall be designated as provided in this subsection from among  
1725 the agencies having multiple contracts as provided in subsection  
1726 (2). On or before the date such responsibilities are assumed,  
1727 the designated lead administrative coordinator shall provide  
1728 notice of his or her designation to the contract service  
1729 provider and to the agency contract managers for each affected  
1730 contract. Unless another lead administrative coordinator is  
1731 selected by agreement of all affected contract managers, the  
1732 designated lead administrative coordinator shall be the agency  
1733 contract manager of the contract with the highest dollar value  
1734 over the term of the contract, provided the term of the contract  
1735 remaining at the time of designation exceeds 24 months. If the  
1736 remaining terms of all contracts are 24 months or less, the  
1737 designated lead administrative coordinator shall be the contract  
1738 manager of the contract with the latest end date. A designated  
1739 lead administrative coordinator, or his or her successor as  
1740 contract manager, shall continue as lead administrative

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

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

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

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

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

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

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

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

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1770 the health or safety of clients is at risk.

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

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

1780 287.058 Contract document.—

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

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

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

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

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

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

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

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

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

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

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1828 the contract.

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

1834

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

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

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

1852 287.059 Private attorney services.—

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



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

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

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

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

1870 (4) VENDOR PREFERENCE.—

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

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

1883 394.457 Operation and administration.—

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

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

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1915 standards of the department.

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

1918 394.47865 South Florida State Hospital; privatization.—

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

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

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

1935 402.40 Child welfare training.—

1936 (5) CORE COMPETENCIES.—

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

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

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

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

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

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

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

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

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

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

1998 287.057(16)~~(17)~~ to evaluate or negotiate certain contracts,  
1999 unless the department sets forth in writing the reason why the  
2000 inclusion would be contrary to the best interest of the state.  
2001 Any employee so named by the governmental match contributor

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

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

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

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

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

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

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

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

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

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

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

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

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

2070 408.045 Certificate of need; competitive sealed proposals.-

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

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

2078 427.0135 Purchasing agencies; duties and responsibilities.-  
2079 Each purchasing agency, in carrying out the policies and  
2080 procedures of the commission, shall:

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



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

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

2095 445.024 Work requirements.—

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

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

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

2108 481.205 Board of Architecture and Interior Design.—

2109 (3)

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

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

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

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2118 exercise the following functions, powers, and duties:

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

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

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

2131       (5)

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

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

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

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2147 voluntary market.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2266 21. Establish agent commission schedules.

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

2271 a. Tier One.—

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

2275 (A) The experience modification is below 1.00.

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

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

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

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

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

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

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

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

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

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

2315 b. Tier Two.—

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

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



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

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

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

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

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

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

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

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

2362 c. Tier Three.—

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

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

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

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

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

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

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

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

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

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

2407           26. Require that each application for coverage and each

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

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

2416 627.351 Insurance risk apportionment plans.—

2417 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

2432 765.5155 Donor registry; education program.—

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

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

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

2445 893.055 Prescription drug monitoring program.—

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

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

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2466 Statutes, is amended to read:

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

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

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

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

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

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

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

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

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2524 the agency's contracted activities:  
2525 (a) The nature of the commodities or services purchased.  
2526 (b) The term of the contract.  
2527 (c) The final obligation made by the agency.  
2528 (d) A summary of any time constraints that apply to the  
2529 procurement.  
2530 (e) The justification for not using the competitive  
2531 solicitation, including any statutory exemption or exception.  
2532 (f) Other information regarding the contract or the  
2533 procurement which may be required by the Department of Financial  
2534 Services.  
2535 (2) This section applies to any contract executed on or  
2536 after July 1, 2010, for the purchase of commodities or  
2537 contractual services in excess of the CATEGORY TWO threshold  
2538 amount provided in s. 287.017, Florida Statutes, which is not:  
2539 (a) Awarded by competitive solicitation pursuant to s.  
2540 287.057(1), Florida Statutes; or  
2541 (b) Purchased from a purchasing agreement or state term  
2542 contract pursuant to s. 287.056, Florida Statutes.  
2543 (3) An agency must submit the required information to the  
2544 Department of Financial Services within 3 working days after  
2545 executing the contract.  
2546 Section 47. Each state agency, as defined in s. 216.011,  
2547 Florida Statutes, shall review existing contract renewals and  
2548 reprocurements with private providers and public-private  
2549 providers in an effort to reduce contract payments by at least 3  
2550 percent. It is the statewide goal to achieve substantial  
2551 savings; however, it is the intent of the Legislature that the  
2552 level and quality of services not be affected. Each agency shall



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

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

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

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

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

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

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

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

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

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