

1 A bill to be entitled
2 An act relating to agency contracts for commodities
3 and contractual services; reenacting and amending s.
4 216.1366, F.S.; abrogating the scheduled expiration of
5 provisions relating to certain public agency contracts
6 for services; amending s. 287.042, F.S.; providing
7 that the Department of Management Services may enter
8 into an agreement authorizing an agency to make
9 purchases under certain contracts if the Secretary of
10 Management Services makes a certain determination;
11 amending s. 287.056, F.S.; providing that an agency
12 must issue a request for quote to certain approved
13 vendors when it issues a request for quote for
14 contractual services; providing for the
15 disqualification of certain firms or individuals from
16 state term contract eligibility; amending s. 287.057,
17 F.S.; revising the period of time during which an
18 agency must electronically post a description of
19 certain services in certain circumstances; requiring
20 an agency to report certain actions to the department
21 in a specified manner and form; requiring the
22 department to annually report certain information to
23 the Governor and the Legislature by a specified date;
24 prohibiting an agency from initiating a competitive
25 solicitation in certain circumstances; requiring an

26 | agency to submit a report concerning contract
27 | performance before certain contract renewals or
28 | amendments are executed; providing that a designated
29 | contract manager serves as a liaison between the
30 | contractor and the agency; prohibiting certain
31 | individuals from serving as a contract manager;
32 | providing the responsibilities of a contract manager;
33 | requiring the Chief Financial Officer to evaluate
34 | certain training at certain intervals; requiring that
35 | certain contract managers complete training and
36 | certification within a specified timeframe; requiring
37 | the department to establish and disseminate certain
38 | training and certification requirements; requiring the
39 | department to evaluate certain training at certain
40 | intervals; requiring certain contract managers to
41 | possess certain experience in managing contracts;
42 | authorizing a contract administrator to also serve as
43 | a contract manager in certain circumstances; providing
44 | that evaluations of proposals and replies must be
45 | conducted independently; providing for specified teams
46 | to conduct certain negotiations; requiring a Project
47 | Management Professional to provide guidance based on
48 | certain qualifications; providing qualification
49 | requirements for contract negotiator certification;
50 | requiring supervisors of contract administrators or

51 contract and grant managers meeting certain criteria
52 to complete training within a specified period;
53 providing that the department is responsible for
54 establishing and disseminating supervisor training by
55 a date certain; providing for a continuing oversight
56 team in certain circumstances; providing requirements
57 for continuing oversight team members and meetings;
58 requiring a continuing oversight team to provide
59 notice of certain deficiencies and changes in contract
60 scope to certain entities; amending s. 287.058, F.S.;
61 prohibiting a contract document for certain
62 contractual services from containing a certain
63 nondisclosure clause; creating s. 287.1351, F.S.;
64 defining the term "vendor"; prohibiting certain
65 vendors from submitting bids, proposals, or replies
66 to, or entering into or renewing any contract with, an
67 agency; prohibiting an agency from accepting a bid,
68 proposal, or reply from, or entering into a contract
69 with, a suspended vendor until certain conditions are
70 met; requiring an agency to notify the department of,
71 and provide certain information regarding, any such
72 vendors; requiring the department to review any vendor
73 reported by an agency; requiring the department to
74 notify a vendor of any intended removal from the
75 vendor list; specifying administrative remedies, and

76 applicable procedures, for an affected vendor;
 77 requiring the department to place any such vendor on
 78 the suspended vendor list; authorizing the removal of
 79 a suspended vendor from the suspended vendor list in
 80 accordance with specified procedures; specifying
 81 requirements and limitations; amending s. 287.136,
 82 F.S.; requiring each agency inspector general to
 83 complete certain audits of executed contracts at
 84 certain intervals; amending ss. 43.16, 215.971,
 85 287.0571, 295.187, 394.47865, 402.7305, 408.045,
 86 570.07, and 627.351, F.S.; conforming cross-
 87 references; providing an effective date.

88

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

90

91 Section 1. Notwithstanding the expiration date in section
 92 106 of chapter 2020-114, Laws of Florida, section 216.1366,
 93 Florida Statutes, is reenacted and amended to read:

94 216.1366 Contract terms.—

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

99 (a) Financial records, papers, and documents of the
 100 contractor that are directly related to the performance of the

101 contract or the expenditure of state funds.

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

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

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

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

112 287.042 Powers, duties, and functions.—The department
 113 shall have the following powers, duties, and functions:

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

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

124 287.056 Purchases from purchasing agreements and state
 125 term contracts.—

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

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

146 Section 4. Subsections (4) through (16) and (17) through
147 (23) of section 287.057, Florida Statutes, are renumbered as
148 subsections (5) through (17) and (19) through (25),
149 respectively, paragraph (c) of subsection (3) and present
150 subsections (13) through (16) are amended, and new subsections

151 (4), (18), and (26) are added to that section, to read:

152 287.057 Procurement of commodities or contractual
153 services.—

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

160 (c) Commodities or contractual services available only
161 from a single source may be excepted from the competitive-
162 solicitation requirements. If an agency believes that
163 commodities or contractual services are available only from a
164 single source, the agency shall electronically post a
165 description of the commodities or contractual services sought
166 for at least 15 ~~7~~ business days. The description must include a
167 request that prospective vendors provide information regarding
168 their ability to supply the commodities or contractual services
169 described. If it is determined in writing by the agency, after
170 reviewing any information received from prospective vendors that
171 the commodities or contractual services are available only from
172 a single source, the agency shall provide notice of its intended
173 decision to enter a single-source purchase contract in the
174 manner specified in s. 120.57(3). Each agency shall report all
175 such actions to the department on a quarterly basis in a manner

176 and form prescribed by the department and the department shall
177 report such information to the Governor, the President of the
178 Senate, and the Speaker of the House of Representatives no later
179 than January 1, 2022, and each January 1 thereafter.

180 (4) (a) A state agency may not initiate a competitive
181 solicitation for a product or service if the completion of such
182 competitive solicitation would:

183 1. Require a change in law; or

184 2. Require a change to the agency's budget other than a
185 transfer authorized in s. 216.292(2) or (3), unless the
186 initiation of such competitive solicitation is specifically
187 authorized in law, in the General Appropriations Act, or by the
188 Legislative Budget Commission.

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

192 (14) ~~(13)~~ Contracts for commodities or contractual services
193 may be renewed for a period that may not exceed 3 years or the
194 term of the original contract, whichever is longer. Renewal of a
195 contract for commodities or contractual services must be in
196 writing and is subject to the same terms and conditions set
197 forth in the initial contract and any written amendments signed
198 by the parties. If the commodity or contractual service is
199 purchased as a result of the solicitation of bids, proposals, or
200 replies, the price of the commodity or contractual service to be

201 renewed must be specified in the bid, proposal, or reply, except
 202 that an agency may negotiate lower pricing. A renewal contract
 203 may not include any compensation for costs associated with the
 204 renewal. Renewals are contingent upon satisfactory performance
 205 evaluations by the agency and subject to the availability of
 206 funds. Exceptional purchase contracts pursuant to paragraphs
 207 (3) (a) and (c) may not be renewed. With the exception of
 208 subsection (11) ~~(10)~~, if a contract amendment results in a
 209 longer contract term or increased payments, a state agency may
 210 not renew or amend a contract for the outsourcing of a service
 211 or activity that has an original term value exceeding \$5 ~~\$10~~
 212 million before submitting a written report concerning contract
 213 performance to the Governor, the President of the Senate, and
 214 the Speaker of the House of Representatives at least 90 days
 215 before execution of the renewal or amendment.

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

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

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

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

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

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

236 (b)-(a) Each contract manager who is responsible for
237 contracts in excess of the threshold amount for CATEGORY TWO
238 must, at a minimum, complete training conducted by the Chief
239 Financial Officer for accountability in contracts and grant
240 management. The Chief Financial Officer shall evaluate such
241 training every 5 years to assess its effectiveness and update
242 the training curriculum. The Chief Financial Officer shall
243 establish and disseminate uniform procedures pursuant to s.
244 17.03(3) to ensure that contractual services have been rendered
245 in accordance with the contract terms before the agency
246 processes the invoice for payment. The procedures must include,
247 but need not be limited to, procedures for monitoring and
248 documenting contractor performance, reviewing and documenting
249 all deliverables for which payment is requested by vendors, and
250 providing written certification by contract managers of the

251 agency's receipt of goods and services.

252 (c) ~~(b)~~ Each contract manager who is responsible for
253 contracts in excess of \$100,000 annually must, in addition to
254 the accountability in contracts and grant management training
255 required in paragraph (b) and within 6 months after being
256 assigned responsibility for such contracts, complete training in
257 contract management and become a certified contract manager. The
258 department is responsible for establishing and disseminating the
259 training and certification requirements for certified contract
260 managers. Training must promote best practices and procedures
261 related to negotiating, managing, and ensuring accountability in
262 agency contracts and grant agreements, which must include the
263 use of case studies based upon previous audits, contracts, and
264 grant agreements. A certified contract manager must complete
265 training every 5 years for certification renewal requirements
266 ~~for certification which include completing the training~~
267 ~~conducted by the Chief Financial Officer for accountability in~~
268 ~~contracts and grant management.~~ Training and certification must
269 be coordinated by the department, and the training must be
270 conducted jointly by the department and the Department of
271 Financial Services. The department shall evaluate such training
272 every 5 years to assess its effectiveness and update the
273 training curriculum. ~~Training must promote best practices and~~
274 ~~procedures related to negotiating, managing, and ensuring~~
275 ~~accountability in agency contracts and grant agreements, which~~

276 ~~must include the use of case studies based upon previous audits,~~
277 ~~contracts, and grant agreements. All agency contract managers~~
278 ~~must become certified within 24 months after establishment of~~
279 ~~the training and certification requirements by the department~~
280 ~~and the Department of Financial Services.~~

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

287 ~~(16)-(15)~~ Each agency shall designate at least one employee
288 who shall serve as a contract administrator responsible for
289 maintaining a contract file and financial information on all
290 contractual services contracts and who shall serve as a liaison
291 with the contract managers and the department. For a contract of
292 \$500,000 or less annually, the contract administrator may also
293 serve as the contract manager if he or she has completed the
294 required training. For a contract in excess of \$500,000
295 annually, the contract administrator may not serve as both the
296 contract administrator and the contract manager.

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

300 1. At least three persons to independently evaluate

301 proposals and replies who collectively have experience and
302 knowledge in the program areas and service requirements for the
303 commodity ~~which commodities~~ or contractual services are sought.

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

310 (b)1. If the value of a contract is in excess of \$1
311 million in any fiscal year, at least one of the persons
312 conducting negotiations must be ~~certified as a~~ certified
313 contract negotiator. ~~based upon department rules in order to~~
314 ~~ensure that certified contract negotiators are knowledgeable~~
315 ~~about effective negotiation strategies, capable of successfully~~
316 ~~implementing those strategies, and involved appropriately in the~~
317 ~~procurement process. At a minimum, the rules must address the~~
318 ~~qualifications required for certification, the method of~~
319 ~~certification, and the procedure for involving the certified~~
320 ~~negotiator.~~

321 2. If the value of a contract is in excess of \$10 million
322 in any fiscal year, at least one of the persons conducting
323 negotiations must be a Project Management Professional, as
324 certified by the Project Management Institute. The Project
325 Management Professional shall provide guidance based on his or

326 her experience, education, and competency to lead and direct
327 complex projects.

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

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

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

351 procurements.

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

360 (26) (a) For each contractual services contract of \$5
361 million or greater, the agency head shall establish a continuing
362 oversight team after the contract has been awarded. The agency
363 head shall appoint at least four persons, one of whom must be
364 the certified contract manager, to the continuing oversight
365 team. If the value of the contractual services contract is \$10
366 million or greater, at least one of the persons on the
367 continuing oversight team must possess at least 5 years of
368 experience in managing contracts of a similar scope or size. If
369 the value of the contractual services contract is \$20 million or
370 greater, the continuing oversight team shall consist of at least
371 five persons, at least one of the persons on the continuing
372 oversight team must be from a state agency other than the agency
373 or agencies participating in the contract. Members of the
374 continuing oversight team must be employees of the state and
375 must collectively have experience and knowledge in contract

376 management, contract administration, contract enforcement, and
377 the program areas and service requirements for the contractual
378 services purchased.

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

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

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

396 2. The continuing oversight team must meet to discuss the
397 status of the contract, the pace of deliverables, the quality of
398 deliverables, contractor responsiveness, and contractor
399 performance. The contract administrator must be present at each
400 meeting with the contract file and all applicable financial

401 information. The continuing oversight team may submit written
402 questions to the contractor concerning any items discussed
403 during a continuing oversight team meeting. The contractor must
404 respond to the team's questions within 10 business days after
405 receiving the written questions. The questions and responses
406 must be included in the contract file.

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

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

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

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

425 Section 5. Subsection (7) is added to section 287.058,

426 Florida Statutes, to read:

427 287.058 Contract document.—

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

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

434 287.1351 Suspended vendors; state contracts.—

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

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

447 (b) An agency may not accept a bid, proposal, or reply
448 from, or enter into or renew any contract with, a vendor on the
449 suspended vendor list until such vendor has been removed from
450 the suspended vendor list and returned to the vendor list

451 maintained by the department pursuant to s. 287.042(1)(a) and
452 (b) and the vendor has reimbursed the agency for any
453 reprocurement costs.

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

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

476 and the department's decision to remove the vendor from the
477 vendor list becomes final agency action.

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

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

501 from the suspended vendor list would be in the public interest.

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

504 287.136 Audit of executed contract documents.—

505 (1) After execution of a contract, the Chief Financial
506 Officer shall perform audits of the executed contract document
507 and contract manager's records to ensure that adequate internal
508 controls are in place for complying with the terms and
509 conditions of the contract and for the validation and receipt of
510 goods and services.

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

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

521 (2) Beginning October 1, 2021, and every 3 years
522 thereafter, each agency inspector general shall complete a risk-
523 based compliance audit of all contracts executed by the agency
524 for the preceding 3 fiscal years. The audit must include an
525 evaluation of, and identify any trend in, vendor preference. The

526 audit findings must be submitted to the agency head, the
 527 secretary of the Department of Management Services, and the
 528 Governor.

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

531 43.16 Justice Administrative Commission; membership,
 532 powers and duties.—

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

540 Section 9. Paragraph (a) of subsection (2) of section
 541 215.971, Florida Statutes, is amended to read:

542 215.971 Agreements funded with federal or state
 543 assistance.—

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

550 (a)1. Each grant manager who is responsible for agreements

551 in excess of the threshold amount for CATEGORY TWO under s.
552 287.017 must, at a minimum, complete training conducted by the
553 Chief Financial Officer for accountability in contracts and
554 grant management.

555 2. Effective December 1, 2014, each grant manager
556 responsible for agreements in excess of \$100,000 annually must
557 complete the training and become a certified contract manager as
558 provided under s. 287.057(15) ~~s. 287.057(14)~~. All grant managers
559 must become certified contract managers within 24 months after
560 establishment of the training and certification requirements by
561 the Department of Management Services and the Department of
562 Financial Services.

563 Section 10. Paragraph (a) of subsection (3) of section
564 287.0571, Florida Statutes, is amended to read:

565 287.0571 Business case to outsource; applicability.—

566 (3) This section does not apply to:

567 (a) A procurement of commodities and contractual services
568 listed in s. 287.057(3) (d) and (e) and (23) ~~(21)~~.

569 Section 11. Paragraph (b) of subsection (4) of section
570 295.187, Florida Statutes, is amended to read:

571 295.187 Florida Veteran Business Enterprise Opportunity
572 Act.—

573 (4) VENDOR PREFERENCE.—

574 (b) Notwithstanding s. 287.057(12) ~~s. 287.057(11)~~, if a
575 veteran business enterprise entitled to the vendor preference

576 | under this section and one or more businesses entitled to this
 577 | preference or another vendor preference provided by law submit
 578 | bids, proposals, or replies for procurement of commodities or
 579 | contractual services which are equal with respect to all
 580 | relevant considerations, including price, quality, and service,
 581 | the state agency shall award the procurement or contract to the
 582 | business having the smallest net worth.

583 | Section 12. Paragraph (a) of subsection (1) of section
 584 | 394.47865, Florida Statutes, is amended to read:

585 | 394.47865 South Florida State Hospital; privatization.—

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

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

601 Section 13. Paragraph (b) of subsection (2) and subsection
 602 (3) of section 402.7305, Florida Statutes, are amended to read:
 603 402.7305 Department of Children and Families; procurement
 604 of contractual services; contract management.—

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

606 (b) When it is in the best interest of a defined segment
 607 of its consumer population, the department may competitively
 608 procure and contract for systems of treatment or service that
 609 involve multiple providers, rather than procuring and
 610 contracting for treatment or services separately from each
 611 participating provider. The department must ensure that all
 612 providers that participate in the treatment or service system
 613 meet all applicable statutory, regulatory, service quality, and
 614 cost control requirements. If other governmental entities or
 615 units of special purpose government contribute matching funds to
 616 the support of a given system of treatment or service, the
 617 department shall formally request information from those funding
 618 entities in the procurement process and may take the information
 619 received into account in the selection process. If a local
 620 government contributes matching funds to support the system of
 621 treatment or contracted service and if the match constitutes at
 622 least 25 percent of the value of the contract, the department
 623 shall afford the governmental match contributor an opportunity
 624 to name an employee as one of the persons required by s.
 625 287.057(17) ~~s. 287.057(16)~~ to evaluate or negotiate certain

626 contracts, unless the department sets forth in writing the
627 reason why the inclusion would be contrary to the best interest
628 of the state. Any employee so named by the governmental match
629 contributor shall qualify as one of the persons required by s.
630 287.057(17) ~~s. 287.057(16)~~. A governmental entity or unit of
631 special purpose government may not name an employee as one of
632 the persons required by s. 287.057(17) ~~s. 287.057(16)~~ if it, or
633 any of its political subdivisions, executive agencies, or
634 special districts, intends to compete for the contract to be
635 awarded. The governmental funding entity or contributor of
636 matching funds must comply with all procurement procedures set
637 forth in s. 287.057 when appropriate and required.

638 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
639 Department of Children and Families shall review the time period
640 for which the department executes contracts and shall execute
641 multiyear contracts to make the most efficient use of the
642 resources devoted to contract processing and execution. Whenever
643 the department chooses not to use a multiyear contract, a
644 justification for that decision must be contained in the
645 contract. Notwithstanding s. 287.057(15) ~~s. 287.057(14)~~, the
646 department is responsible for establishing a contract management
647 process that requires a member of the department's Senior
648 Management or Selected Exempt Service to assign in writing the
649 responsibility of a contract to a contract manager. The
650 department shall maintain a set of procedures describing its

651 contract management process which must minimally include the
652 following requirements:

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

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

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

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

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

674 (f) The contract manager shall periodically document any
675 differences between the required performance measures and the

676 actual performance measures. If a contractor fails to meet and
677 comply with the performance measures established in the
678 contract, the department may allow a reasonable period for the
679 contractor to correct performance deficiencies. If performance
680 deficiencies are not resolved to the satisfaction of the
681 department within the prescribed time, and if no extenuating
682 circumstances can be documented by the contractor to the
683 department's satisfaction, the department must terminate the
684 contract. The department may not enter into a new contract with
685 that same contractor for the services for which the contract was
686 previously terminated for a period of at least 24 months after
687 the date of termination. The contract manager shall obtain and
688 enforce corrective action plans, if appropriate, and maintain
689 records regarding the completion or failure to complete
690 corrective action items.

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

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

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

698 408.045 Certificate of need; competitive sealed
699 proposals.—

700 (2) The agency shall make a decision regarding the

701 issuance of the certificate of need in accordance with the
 702 provisions of s. 287.057(17) ~~s. 287.057(16)~~, rules adopted by
 703 the agency relating to intermediate care facilities for the
 704 developmentally disabled, and the criteria in s. 408.035, as
 705 further defined by rule.

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

708 570.07 Department of Agriculture and Consumer Services;
 709 functions, powers, and duties.—The department shall have and
 710 exercise the following functions, powers, and duties:

711 (42) Notwithstanding the provisions of s. 287.057(24) ~~s.~~
 712 ~~287.057(22)~~ that require all agencies to use the online
 713 procurement system developed by the Department of Management
 714 Services, the department may continue to use its own online
 715 system. However, vendors utilizing such system shall be
 716 prequalified as meeting mandatory requirements and
 717 qualifications and shall remit fees pursuant to s. 287.057(24)
 718 ~~s. 287.057(22)~~, and any rules implementing s. 287.057.

719 Section 16. Paragraph (e) of subsection (6) of section
 720 627.351, Florida Statutes, is amended to read:

721 627.351 Insurance risk apportionment plans.—

722 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

723 (e) The corporation is subject to s. 287.057 for the
 724 purchase of commodities and contractual services except as
 725 otherwise provided in this paragraph. Services provided by

726 | tradepersons or technical experts to assist a licensed adjuster
727 | in the evaluation of individual claims are not subject to the
728 | procurement requirements of this section. Additionally, the
729 | procurement of financial services providers and underwriters
730 | must be made pursuant to s. 627.3513. Contracts for goods or
731 | services valued at or more than \$100,000 are subject to approval
732 | by the board.

733 | 1. The corporation is an agency for purposes of s.
734 | 287.057, except that, for purposes of s. 287.057(24) ~~s.~~
735 | ~~287.057(22)~~, the corporation is an eligible user.

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

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

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

748 | a. A person adversely affected by the corporation's
749 | decision or intended decision to award a contract pursuant to s.
750 | 287.057(1) or (3)(c) who elects to challenge the decision must

751 file a written notice of protest with the executive director of
752 the corporation within 72 hours after the corporation posts a
753 notice of its decision or intended decision. For a protest of
754 the terms, conditions, and specifications contained in a
755 solicitation, including provisions governing the methods for
756 ranking bids, proposals, replies, awarding contracts, reserving
757 rights of further negotiation, or modifying or amending any
758 contract, the notice of protest must be filed in writing within
759 72 hours after posting the solicitation. Saturdays, Sundays, and
760 state holidays are excluded in the computation of the 72-hour
761 time period.

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

774 (I) The corporation must provide an opportunity to resolve
775 the protest by mutual agreement between the parties within 7

776 business days after receipt of the formal written protest.

777 (II) If the subject of a protest is not resolved by mutual
778 agreement within 7 business days, the corporation's board must
779 transmit the protest to the Division of Administrative Hearings
780 and contract with the division to conduct a hearing to determine
781 the merits of the protest and to issue a recommended order. The
782 contract must provide for the corporation to reimburse the
783 division for any costs incurred by the division for court
784 reporters, transcript preparation, travel, facility rental, and
785 other customary hearing costs in the manner set forth in s.
786 120.65(9). The division has jurisdiction to determine the facts
787 and law concerning the protest and to issue a recommended order.
788 The division's rules and procedures apply to these proceedings;
789 the division's applicable bond requirements do not apply. The
790 protest must be heard by the division at a publicly noticed
791 meeting in accordance with procedures established by the
792 division.

793 c. In a protest of an invitation-to-bid or request-for-
794 proposals procurement, submissions made after the bid or
795 proposal opening which amend or supplement the bid or proposal
796 may not be considered. In protesting an invitation-to-negotiate
797 procurement, submissions made after the corporation announces
798 its intent to award a contract, reject all replies, or withdraw
799 the solicitation that amends or supplements the reply may not be
800 considered. Unless otherwise provided by law, the burden of

801 proof rests with the party protesting the corporation's action.
802 In a competitive-procurement protest, other than a rejection of
803 all bids, proposals, or replies, the administrative law judge
804 must conduct a de novo proceeding to determine whether the
805 corporation's proposed action is contrary to the corporation's
806 governing statutes, the corporation's rules or policies, or the
807 solicitation specifications. The standard of proof for the
808 proceeding is whether the corporation's action was clearly
809 erroneous, contrary to competition, arbitrary, or capricious. In
810 any bid-protest proceeding contesting an intended corporation
811 action to reject all bids, proposals, or replies, the standard
812 of review by the board is whether the corporation's intended
813 action is illegal, arbitrary, dishonest, or fraudulent.

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

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

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