



Government Operations Subcommittee

Monday, February 6, 2012
2:15 PM
306 HOB

Action Packet

Dean Cannon
Speaker

Jimmy Patronis
Chair

COMMITTEE MEETING REPORT
Government Operations Subcommittee
2/6/2012 2:15:00PM

Location: 306 HOB

Summary:

Government Operations Subcommittee

Monday February 06, 2012 02:15 pm

HB 495	Favorable With Committee Substitute	Yeas: 15	Nays: 0
HB 959	Favorable With Committee Substitute	Yeas: 15	Nays: 0
HB 1409	Favorable With Committee Substitute	Yeas: 15	Nays: 0
PCS for HB 1417	Favorable	Yeas: 11	Nays: 4

Committee meeting was reported out: Monday, February 06, 2012 3:32:06PM

COMMITTEE MEETING REPORT
Government Operations Subcommittee
2/6/2012 2:15:00PM

Location: 306 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Jimmy Patronis (Chair)	X		
Larry Ahern	X		
Douglas Broxson	X		
Jeff Clemens	X		
Janet Cruz	X		
Ana Logan	X		
Debbie Mayfield	X		
George Moraitis, Jr.	X		
Bryan Nelson	X		
H. Marlene O'Toole	X		
Kenneth Roberson	X		
Irving Slosberg	X		
Cynthia Stafford	X		
Barbara Watson	X		
Dana Young	X		
Totals:	15	0	0

Committee meeting was reported out: Monday, February 06, 2012 3:32:06PM

COMMITTEE MEETING REPORT
Government Operations Subcommittee
2/6/2012 2:15:00PM

Location: 306 HOB

HB 495 : State University System Optional Retirement Program

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Douglas Broxson	X				
Jeff Clemens	X				
Janet Cruz	X				
Ana Logan	X				
Debbie Mayfield	X				
George Moraitis, Jr.	X				
Bryan Nelson	X				
H. Marlene O'Toole	X				
Kenneth Roberson	X				
Irving Slosberg	X				
Cynthia Stafford	X				
Barbara Watson	X				
Dana Young	X				
Jimmy Patronis (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

Fraser, Towson (Lobbyist) - Waive In Support
 Fidelity Investments
 123 S. Adams
 Tallahassee FL 32301
 Phone: (850)671-4401

Committee meeting was reported out: Monday, February 06, 2012 3:32:06PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 495 (2012)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative Stafford offered the following:

4
5 **Amendment (with directory and title amendments)**

6 Remove line 28 and insert:

7 (7) PROCUREMENT OF ADDITIONAL PROVIDERS.-If the department
8 chooses to designate an additional provider company from which
9 contracts may be purchased under the program as provided in
10 paragraph (6) (b), the department shall conduct a competitive
11 procurement and the designation of the additional provider is
12 effective from July 1, 2012, until December 31, 2014. All
13 companies seeking a designation that is effective on or after
14 January 1, 2015, shall participate together in a separate
15 competitive procurement conducted by the department for the
16 purpose of selecting the total number of provider companies
17 authorized in paragraph (6) (b) and deemed reasonable and prudent
18 by the department.

19 Section 2. This act shall take effect upon becoming a law.

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COMMITTEE MEETING REPORT
Government Operations Subcommittee
2/6/2012 2:15:00PM

Location: 306 HOB

HB 959 : Scrutinized Companies

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Douglas Broxson	X				
Jeff Clemens	X				
Janet Cruz	X				
Ana Logan	X				
Debbie Mayfield	X				
George Moraitis, Jr.	X				
Bryan Nelson	X				
H. Marlene O'Toole	X				
Kenneth Roberson	X				
Irving Slosberg	X				
Cynthia Stafford	X				
Barbara Watson	X				
Dana Young	X				
Jimmy Patronis (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

Pitts, Brian - Proponent
 Justice-2-Jesus
 1119 Newton Ave. S.
 St. Petersburg FL 33705
 Phone: 727-897-9291

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 959 (2012)

Amendment No.

19 (b)-(2) Any institution or company domiciled outside of the
20 United States if the President of the United States has applied
21 sanctions against the foreign country in which the institution
22 or company is domiciled pursuant to s. 4 of the Cuban Democracy
23 Act of 1992.

24 (2) The State Board of Administration may not be a
25 fiduciary under this section with respect to voting on, and may
26 not have the right to vote in favor of, any proxy resolution
27 advocating expanded United States trade with Cuba or Syria. The
28 board's staff shall report on its activities in its Annual Proxy
29 Voting Report.

30 Section 2. This act shall take effect July 1, 2012.

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33

34

T I T L E A M E N D M E N T

35

Remove the entire title and insert:

36

A bill to be entitled

37

An act relating to divestiture by the State Board of

38

Administration; amending s. 215.471, F.S.; prohibiting the State

39

Board of Administration from being a fiduciary with respect to

40

voting on any proxy resolution advocating expanded United States

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trade with Cuba or Syria; prohibiting the State Board of

42

Administration from being a fiduciary with respect to having the

43

right to vote in favor of any proxy resolution advocating

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expanded United States trade with Cuba or Syria; creating

45

reporting requirements; providing an effective date.

COMMITTEE MEETING REPORT
Government Operations Subcommittee
2/6/2012 2:15:00PM

Location: 306 HOB

HB 1409 : State Contracting

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Douglas Broxson	X				
Jeff Clemens	X				
Janet Cruz	X				
Ana Logan	X				
Debbie Mayfield	X				
George Moraitis, Jr.	X				
Bryan Nelson	X				
H. Marlene O'Toole	X				
Kenneth Roberson	X				
Irving Slosberg	X				
Cynthia Stafford	X				
Barbara Watson	X				
Dana Young	X				
Jimmy Patronis (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

Pitts, Brian - Opponent
 Justice-2-Jesus
 1119 Newton Ave. S.
 St. Petersburg FL 33705
 Phone: 727-897-9291

Conn, Kraig (Lobbyist) - Opponent
 Florida League of Cities
 301 S. Bronough
 Tallahassee FL 32301
 Phone: 850-222-9684

Mayer, Ashley (Lobbyist) (State Employee) - Waive In Support
 Department of Financial Services
 Capitol PL-11
 Tallahassee Florida 32399
 Phone: 413-4938

Committee meeting was reported out: Monday, February 06, 2012 3:32:06PM

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION ✓ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Government Operations
 2 Subcommittee

3 Representative Albritton offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (a) and (i) of subsection (7) of
 8 section 11.45, Florida Statutes, are amended to read:

9 11.45 Definitions; duties; authorities; reports; rules.—

10 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

11 (a) The Auditor General must ~~shall~~ notify the Legislative
 12 Auditing Committee of any local governmental entity, district
 13 school board, charter school, or charter technical career center
 14 that does not comply with the reporting requirements of s.
 15 215.985 or s. 218.39.

16 (i) Beginning in 2012, the Auditor General shall annually
 17 transmit by July 15, to the President of the Senate, the Speaker
 18 of the House of Representatives, and the Department of Financial
 19 Services, a list of all school districts, charter schools,

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Bill No. HB 1409 (2012)

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20 charter technical career centers, Florida College System
21 institutions, state universities, and water management districts
22 that have failed to comply with the transparency requirements of
23 s. 215.985 as identified in the audit reports reviewed pursuant
24 to paragraph (b) and those conducted pursuant to subsection (2).

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

27 215.971 Agreements funded with federal and state
28 assistance.-

29 (1) For an agency agreement that provides state financial
30 assistance to a recipient or subrecipient, as those terms are
31 defined in s. 215.97, or that provides federal financial
32 assistance to a subrecipient, as defined by applicable United
33 States Office of Management and Budget circulars, the agreement
34 must ~~shall~~ include a provision:

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

38 (b)(2) ~~A provision~~ Dividing the agreement into
39 quantifiable units of deliverables which ~~that~~ must be received
40 and accepted in writing by the agency before payment. Each
41 deliverable must be directly related to the scope of work and
42 ~~must~~ specify a performance measure. As used in this paragraph,
43 the term "performance measure" means the required minimum level
44 of service to be performed and the criteria for evaluating the
45 successful completion of each deliverable.

46 (2) Effective October 1, 2012, before execution,
47 agreements to be funded with state or federal financial

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48 assistance must be submitted for review and approval in
49 accordance with rules adopted by the Department of Financial
50 Services. The review must ensure that the agreement document
51 contains a clear statement of work, quantifiable and measureable
52 deliverables, performance measures, and financial consequences
53 for nonperformance. An agreement that does not comply with this
54 subsection may be rejected and returned to the submitting agency
55 for revision.

56 (3) The Chief Financial Officer may establish dollar
57 thresholds and other criteria for sampling the agreements that
58 are to be reviewed prior to execution. The Chief Financial
59 Officer may revise such thresholds and other criteria for an
60 agency or the unit of any agency as he or she deems appropriate.

61 (4) The department has 30 days to make a final
62 determination regarding approval of an agreement. The department
63 and the agency entering into the agreement may agree to a longer
64 review period to ensure the thorough consideration of the
65 procurement process and its results.

66 (5) For each agreement funded with federal or state
67 assistance, the contracting agency shall designate an employee
68 to function as grant manager who shall be responsible for
69 enforcing performance of the agreement terms and conditions and
70 serve as a liaison with the recipient. A grant manager who is
71 responsible for one or more agreements in excess of the
72 threshold amount provided in s. 287.017 for CATEGORY FIVE must
73 be certified under s. 287.1312. The Chief Financial Officer
74 shall establish and disseminate uniform procedures for payment
75 requests pursuant to s. 17.03(3) to ensure that services are

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76 rendered in accordance with the agreement terms before the
77 agency processes an invoice for payment. The procedures must
78 include, but need not be limited to, procedures for monitoring
79 and documenting a recipient's performance, reviewing and
80 documenting all deliverables for which payment is requested by
81 the recipient, and providing written certification by the grant
82 manager of the agency's receipt of goods and services.

83 Section 3. Subsection (16) of section 215.985, Florida
84 Statutes, is amended to read:

85 215.985 Transparency in government spending.—

86 (16) The Chief Financial Officer shall establish and
87 maintain a secure, shared, intergovernmental contract tracking
88 provide public access to a state contract management system.

89 (a) Within 30 calendar days after executing a contract,
90 each state agency as defined in s. 216.011(1), and, effective
91 November 1, 2013, each local governmental entity and independent
92 special district as defined in s. 218.31, each district school
93 board as described in s. 1001.32, the Board of Governors of the
94 State University System as described in s. 1001.70, and each
95 Florida College System institution board of trustees as
96 described in s. 1001.61 must post the following that provides
97 information and documentation relating to that contract on the
98 contract tracking system: ~~contracts procured by governmental~~
99 entities.

100 1. The name of the contracting entities;

101 2. The procurement method;

102 3. The contract beginning and ending dates;

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- 103 4. The nature or type of the commodities or services
104 purchased;
- 105 5. Applicable contract unit prices and deliverables;
106 6. Total compensation to be paid or received under the
107 contract;
- 108 7. All payments made to the contract vendor to date;
109 8. All commodities or services received from the contract
110 vendor to date;
- 111 9. Applicable contract performance measures;
112 10. Contract extensions or renewals, if any;
113 11. The justification for not using competitive
114 solicitation to procure the contract, including citation to any
115 statutory exemption or exception from competitive solicitation,
116 if applicable;
- 117 12. Electronic copies of the contract and procurement
118 documents, including any provision that may have been redacted
119 to conceal exempt or confidential information; and
- 120 13. Any other information regarding the contract or the
121 procurement which may be required by the Department of Financial
122 Services.

123 ~~(a) The data collected in the system must include, but~~
124 ~~need not be limited to, the contracting agency; the procurement~~
125 ~~method; the contract beginning and ending dates; the type of~~
126 ~~commodity or service; the purpose of the commodity or service;~~
127 ~~the compensation to be paid; compliance information, such as~~
128 ~~performance metrics for the service or commodity; contract~~
129 ~~violations; the number of extensions or renewals; and the~~
130 ~~statutory authority for providing the service.~~

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

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131 (b) Within 30 calendar days after a major modification or
132 amendment change to an existing contract, ~~or the execution of a~~
133 ~~new contract, agency procurement staff of the affected state~~
134 ~~governmental~~ entity must ~~shall~~ update the ~~necessary~~ information
135 described in paragraph (a) in the state contract tracking
136 ~~management~~ system. A major modification or amendment change to a
137 contract includes, but is not limited to, a renewal,
138 termination, or extension of the contract, or an amendment to
139 the contract as determined by the Chief Financial Officer.

140 (c) Each entity identified in paragraph (a) must redact,
141 as defined in s. 119.011, any exempt or confidential information
142 from the contract or procurement documents before posting an
143 electronic copy of such documents on the contract tracking
144 system.

145 1. If an entity becomes aware that an electronic copy of a
146 contract or procurement document that it posted has not been
147 properly redacted, the entity must replace the electronic copy
148 of the documents with a redacted copy.

149 2. If a party to a contract, or an authorized
150 representative thereof, discovers that an electronic copy of a
151 contract or procurement document on the system has not been
152 properly redacted, the party or representative may request the
153 entity that posted the document to redact the exempt or
154 confidential information. Upon receipt of a request in
155 compliance with this subparagraph, the entity that posted the
156 document shall redact the exempt or confidential information.

157 a. Such request must be in writing and delivered by mail,
158 facsimile, or electronic transmission, or in person to the

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159 entity that posted the information. The request must identify
160 the specific document, the page numbers that include the exempt
161 or confidential information, the information that is exempt or
162 confidential, and the relevant statutory exemption. A fee may
163 not be charged for a redaction made pursuant to such request.

164 b. If necessary, a party to the contract may petition the
165 circuit court for an order directing compliance with this
166 paragraph.

167 3. The Chief Financial Officer, the Department of
168 Financial Services, or any officer, employee, or contractor
169 thereof, is not responsible for redacting exempt or confidential
170 information from an electronic copy of a contract or procurement
171 document posted by another entity on the system, and is not
172 liable for the failure of the entity to redact the exempt or
173 confidential information. The Department of Financial Services
174 may notify the posting entity if it discovers that a document
175 posted on the tracking system contains exempt or confidential
176 information.

177 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial
178 Officer may make information posted on the contract tracking
179 system available for viewing and downloading by the public
180 through a secure website. Unless otherwise provided by law,
181 information retrieved electronically pursuant to this paragraph
182 is not admissible in court as an authenticated document.

183 1. The Chief Financial Officer may regulate and prohibit
184 the posting of records that could facilitate identity theft or
185 fraud, such as signatures; compromise or reveal an agency
186 investigation; reveal the identity of undercover personnel;

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187 reveal proprietary confidential business information or trade
188 secrets; reveal an individual's medical information; or reveal
189 any other record or information that the Chief Financial Officer
190 believes may jeopardize the health, safety, or welfare of the
191 public. However, such prohibition does not eliminate the duty of
192 an entity to provide a copy of a public record upon request. The
193 Chief Financial Officer shall use appropriate Internet security
194 measures to ensure that no person has the ability to alter or
195 modify records available on the website.

196 2. Records made available on the website, including
197 electronic copies of contracts or procurement documents, may not
198 reveal information made exempt or confidential by law. Notice of
199 the right of an affected party to request redaction of exempt or
200 confidential information pursuant to paragraph (c) must be
201 conspicuously and clearly displayed on the website.

202 (e) The posting of information on the contract tracking
203 system or the provision of contract information on a website for
204 public viewing and downloading does not eliminate the duty of an
205 entity to respond to a public record request for such
206 information or to a subpoena for such information.

207 1. A request for a copy of a contract or procurement
208 document or a certified copy of a contract or procurement
209 document shall be made to the entity that is party to the
210 contract and that maintains the original documents. Such request
211 may not be made to the Chief Financial Officer or the Department
212 of Financial Services or any officer, employee, or contractor
213 thereof unless the Chief Financial Officer or the department is
214 a party to the contract.

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215 2. A subpoena for a copy of a contract or procurement
216 document or certified copy of a contract or procurement document
217 must be served on the entity that is a party to the contract and
218 that maintains the original documents. The Chief Financial
219 Officer or the Department of Financial Services or any officer,
220 employee, or contractor thereof may not be served a subpoena for
221 those records unless the Chief Financial Officer or the
222 department is a party to the contract.

223 (f) The Department of Financial Services may adopt rules
224 to administer this subsection.

225 Section 4. Section 216.0111, Florida Statutes, is
226 repealed.

227 Section 5. Effective October 1, 2013, section 287.032,
228 Florida Statutes, is amended to read:

229 287.032 Departmental responsibility ~~purpose of~~
230 ~~department.~~ Pursuant to the administration of this chapter:

231 (1) It shall be The responsibility ~~purpose~~ of the
232 Department of Management Services is to:

233 (a) (1) To Promote efficiency, economy, and the
234 conservation of energy and coordinate ~~to effect coordination in~~
235 the purchase of commodities and contractual services for the
236 state.

237 ~~(2) To provide uniform commodity and contractual service~~
238 ~~procurement policies, rules, procedures, and forms for use by~~
239 ~~agencies and eligible users.~~

240 (b) (3) To Procure and distribute federal surplus tangible
241 personal property allocated to the state by the Federal
242 Government.

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243 (2) The responsibility of the Department of Financial
244 Services is to:

245 (a) Provide uniform commodity and contractual service
246 procurement policies, rules, procedures, and forms for use by
247 agencies and eligible users.

248 (b) Monitor agencies with respect to compliance with
249 established policies, rules, and procedures.

250 Section 6. Effective October 1, 2013, section 287.042,
251 Florida Statutes, is amended to read:

252 287.042 Powers, duties, and functions of the Department of
253 Management Services.—The department is responsible for the
254 procurement of commodities and contractual services for agencies
255 and has ~~shall have~~ the following powers, duties, and functions:

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

265 (a) ~~(b)~~ The department shall develop a list of interested
266 vendors to be maintained by classes of commodities and
267 contractual services. The list may not be used to prequalify a
268 vendor or to exclude an interested vendor from bidding. However,
269 a vendor barred by the Chief Financial Officer pursuant to s.
270 287.044(7) may not be included on the list. The department may

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

271 remove from the ~~its~~ vendor list any source of supply which fails
272 to fulfill any of its duties specified in a contract with the
273 state. The department ~~It~~ may reinstate ~~any~~ such source of supply
274 if the department ~~when it~~ is satisfied that further instances of
275 default will not occur.

276 ~~(b)-(e)~~ In order to promote the cost-effective procurement
277 of commodities and contractual services, the department or an
278 agency may enter into contracts that limit the liability of a
279 vendor consistent with s. 672.719.

280 ~~(d)~~ ~~The department shall issue commodity numbers for all~~
281 ~~products of the corporation operating the correctional industry~~
282 ~~program which meet or exceed department specifications.~~

283 ~~(c)-(e)~~ The department shall include the products offered
284 by the corporation operating the correctional industry program
285 on any listing prepared by the department which lists state term
286 contracts executed by the department. The products or services
287 shall be placed on such list in a category based upon
288 specification criteria developed through a joint effort of the
289 department and the corporation and approved by the department.

290 ~~1.(f)~~ The corporation may submit products and services to
291 the department for testing, analysis, and review relating to the
292 quality and cost comparability. If, after review and testing,
293 the department approves ~~of~~ the products and services, the
294 department shall give written notice ~~thereof~~ to the corporation.
295 The corporation shall pay a reasonable fee ~~charged~~ for the
296 testing of its products by the Department of Agriculture and
297 Consumer Services.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

298 2. The department shall issue a commodity number for all
299 products of the corporation which meet or exceed department
300 specifications.

301 ~~(d)-(g)~~ The department shall include products and services
302 that are offered by a qualified nonprofit agency for the blind
303 or for the other severely handicapped ~~organized pursuant to~~
304 ~~chapter 413~~ and that have been determined to be suitable for
305 purchase pursuant to s. 413.035 on a any department listing of
306 state term contracts. The products and services shall be placed
307 on such list in a category based upon specification criteria
308 developed by the department in consultation with the ~~qualified~~
309 nonprofit agency.

310 ~~(e)-(h)~~ The department may collect fees for the use of its
311 electronic information services. The fees may be imposed on an
312 individual transaction basis or as a fixed subscription for a
313 designated period of time. At a minimum, the fees shall be
314 determined in an amount sufficient to cover the department's
315 projected costs for ~~of~~ the services, including overhead, in
316 accordance with the policies of the department ~~of Management~~
317 ~~Services~~ for computing its administrative assessment. All fees
318 collected under this paragraph shall be deposited in the
319 Operating Trust Fund for disbursement as provided by law.

320 (2) ~~(a)~~ To establish purchasing agreements and procure
321 state term contracts for commodities and contractual services,
322 pursuant to s. 287.057, under which state agencies shall, and
323 eligible users may, make purchases pursuant to s. 287.056.

324 (a) The department may restrict purchases by ~~from some~~
325 ~~term contracts to~~ state agencies from ~~only for~~ those term

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

326 contracts if ~~where~~ the inclusion of other governmental entities
327 will have an adverse effect on competition or on ~~to these~~
328 federal facilities located in this state. In such planning or
329 purchasing, the office of ~~Supplier Diversity~~ may monitor to
330 ensure that opportunities are afforded for contracting with
331 minority business enterprises. The department, for state term
332 contracts, and all agencies, for multiyear contractual services
333 or term contracts, shall explore reasonable and economical means
334 to use ~~utilize~~ certified minority business enterprises.
335 Purchases by any county, municipality, private nonprofit
336 community transportation coordinator designated pursuant to
337 chapter 427, ~~while~~ conducting business related solely to the
338 Commission for the Transportation Disadvantaged, or other local
339 public agency under the provisions in the state purchasing
340 contracts, and purchases, from the corporation operating the
341 correctional work programs, of products or services that are
342 subject to paragraph (1)(c) ~~(1)(f)~~, are exempt from the
343 competitive solicitation requirements otherwise applying to
344 their purchases.

345 (b) As an alternative to ~~any provision in~~ s. 120.57(3)(c),
346 the department may proceed with the competitive solicitation or
347 contract award process of a term contract if ~~when~~ the secretary
348 of the department or his or her designee sets forth in writing
349 particular facts and circumstances that ~~which~~ demonstrate that
350 the delay incident to staying the solicitation or contract award
351 process would be detrimental to the interests of the state. If,
352 after the award of the ~~a~~ contract resulting from a competitive
353 solicitation in which a timely protest was received and in which

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354 the state did not prevail, the contract may be canceled and
355 reawarded.

356 (c) Any person who files an action protesting a decision
357 or intended decision pertaining to contracts administered by the
358 department, a water management district, or an agency pursuant
359 to s. 120.57(3)(b) shall post with the department, the water
360 management district, or the agency at the time of filing the
361 formal written protest a bond payable to the department, the
362 water management district, or agency in an amount equal to 1
363 percent of the estimated contract amount. For protests of
364 decisions or intended decisions pertaining to exceptional
365 purchases, the bond must ~~shall be in an amount~~ equal to 1
366 percent of the estimated contract amount for the exceptional
367 purchase.

368 1. The estimated contract amount shall be based upon the
369 contract price submitted by the protestor or, if no contract
370 price was submitted, the department, water management district,
371 or agency shall estimate the contract amount based on factors,
372 including, but not limited to, the price of previous or existing
373 contracts for similar commodities or contractual services, the
374 amount appropriated by the Legislature for the contract, or the
375 fair market value of similar commodities or contractual
376 services. The agency shall provide the estimated contract amount
377 to the vendor within 72 hours, excluding Saturdays, Sundays, and
378 state holidays, after the filing of the notice of protest by the
379 vendor. The estimated contract amount is not subject to protest
380 pursuant to s. 120.57(3).

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381 2. The bond shall be conditioned upon the payment of all
382 costs and charges that are adjudged against the protestor in the
383 administrative hearing in which the action is brought and in any
384 subsequent appellate court proceeding.

385 3. In lieu of a bond, the department, ~~the~~ water management
386 district, or agency may, ~~in either case,~~ accept a cashier's
387 check, official bank check, or money order in the amount of the
388 bond.

389 4. If, after completion of the administrative hearing
390 process and any appellate court proceedings, the department,
391 water management district, or agency prevails, it shall recover
392 all costs and charges, which must ~~shall~~ be included in the final
393 order or judgment, excluding attorney ~~attorney's~~ fees. ~~This~~
394 ~~section shall not apply to protests filed by the Office of~~
395 ~~Supplier Diversity.~~ Upon payment of such costs and charges by
396 the protestor, the bond, cashier's check, official bank check,
397 or money order shall be returned to the protestor. If, after the
398 completion of the administrative hearing process and any
399 appellate court proceedings, the protestor prevails, the
400 protestor may ~~shall~~ recover from the department, water
401 management district, or agency all costs and charges that are
402 ~~which shall be~~ included in the final order or judgment,
403 excluding attorney ~~attorney's~~ fees.

404 5. This paragraph does not apply to protests filed by the
405 office.

406 ~~(3) To establish a system of coordinated, uniform~~
407 ~~procurement policies, procedures, and practices to be used by~~

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408 ~~agencies in acquiring commodities and contractual services,~~
409 ~~which shall include, but not be limited to:~~

410 ~~(a) Development of a list of interested vendors to be~~
411 ~~maintained by classes of commodities and contractual services.~~
412 ~~This list shall not be used to prequalify vendors or to exclude~~
413 ~~any interested vendor from bidding.~~

414 ~~(b)1. Development of procedures for advertising~~
415 ~~solicitations. These procedures must provide for electronic~~
416 ~~posting of solicitations for at least 10 days before the date~~
417 ~~set for receipt of bids, proposals, or replies, unless the~~
418 ~~department or other agency determines in writing that a shorter~~
419 ~~period of time is necessary to avoid harming the interests of~~
420 ~~the state. The Office of Supplier Diversity may consult with the~~
421 ~~department regarding the development of solicitation~~
422 ~~distribution procedures to ensure that maximum distribution is~~
423 ~~afforded to certified minority business enterprises as defined~~
424 ~~in s. 288.703.~~

425 ~~2. Development of procedures for electronic posting. The~~
426 ~~department shall designate a centralized website on the Internet~~
427 ~~for the department and other agencies to electronically post~~
428 ~~solicitations, decisions or intended decisions, and other~~
429 ~~matters relating to procurement.~~

430 ~~(c) Development of procedures for the receipt and opening~~
431 ~~of bids, proposals, or replies by an agency. Such procedures~~
432 ~~shall provide the Office of Supplier Diversity an opportunity to~~
433 ~~monitor and ensure that the contract award is consistent with~~
434 ~~the requirements of s. 287.09451.~~

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435 ~~(d) Development of procedures to be used by an agency in~~
436 ~~deciding to contract, including, but not limited to, identifying~~
437 ~~and assessing in writing project needs and requirements,~~
438 ~~availability of agency employees, budgetary constraints or~~
439 ~~availability, facility equipment availability, current and~~
440 ~~projected agency workload capabilities, and the ability of any~~
441 ~~other state agency to perform the services.~~

442 ~~(e) Development of procedures to be used by an agency in~~
443 ~~maintaining a contract file for each contract which shall~~
444 ~~include, but not be limited to, all pertinent information~~
445 ~~relating to the contract during the preparatory stages; a copy~~
446 ~~of the solicitation; documentation relating to the solicitation~~
447 ~~process; opening of bids, proposals, or replies; evaluation and~~
448 ~~tabulation of bids, proposals, or replies; and determination and~~
449 ~~notice of award of contract.~~

450 ~~(f) Development of procedures to be used by an agency for~~
451 ~~issuing solicitations that include requirements to describe~~
452 ~~commodities, services, scope of work, and deliverables in a~~
453 ~~manner that promotes competition.~~

454 ~~(g) Development of procedures to be used by an agency when~~
455 ~~issuing requests for information and requests for quotes.~~

456 ~~(h) Development of procedures to be used by state agencies~~
457 ~~when procuring information technology commodities and~~
458 ~~contractual services that ensure compliance with public records~~
459 ~~requirements and records retention and archiving requirements.~~

460 ~~(4) (a) To prescribe the methods of securing competitive~~
461 ~~sealed bids, proposals, and replies. Such methods may include,~~
462 ~~but are not limited to, procedures for identifying vendors;~~

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463 ~~setting qualifications; conducting conferences or written~~
464 ~~question and answer periods for purposes of responding to vendor~~
465 ~~questions; evaluating bids, proposals, and replies; ranking and~~
466 ~~selecting vendors; and conducting negotiations.~~

467 ~~(b) To prescribe procedures for procuring information~~
468 ~~technology and information technology consultant services that~~
469 ~~provide for public announcement and qualification, competitive~~
470 ~~solicitations, contract award, and prohibition against~~
471 ~~contingent fees. Such procedures are limited to information~~
472 ~~technology consultant contracts for which the total project~~
473 ~~costs, or planning or study activities, are estimated to exceed~~
474 ~~the threshold amount provided in s. 287.017, for CATEGORY TWO.~~

475 ~~(3)(5) To prescribe specific commodities and quantities to~~
476 ~~be purchased locally.~~

477 ~~(6)(a) To govern the purchase by any agency of any~~
478 ~~commodity or contractual service and to establish standards and~~
479 ~~specifications for any commodity.~~

480 ~~(4)(b) Except for the purchase of insurance, to the~~
481 ~~department may delegate to agencies the authority for the~~
482 ~~procurement of and contracting for commodities or contractual~~
483 ~~services.~~

484 ~~(7) To establish definitions and classes of commodities~~
485 ~~and contractual services. Agencies shall follow the definitions~~
486 ~~and classes of commodities and contractual services established~~
487 ~~by the department in acquiring or purchasing commodities or~~
488 ~~contractual services. The authority of the department under this~~
489 ~~section shall not be construed to impair or interfere with the~~

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490 ~~determination by state agencies of their need for, or their use~~
491 ~~of, services including particular specifications.~~

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

501 ~~(5)-(9)~~ To require that every agency furnish information
502 relative to its commodity and contractual services purchases and
503 methods of purchasing commodities and contractual services to
504 the department when so requested.

505 ~~(6)-(10)~~ To prepare statistical data concerning the method
506 of procurement, terms, usage, and disposition of commodities and
507 contractual services by agencies. All agencies shall furnish
508 such information for this purpose to the office and to the
509 department, as the department or office may call for, but at
510 least ~~no less frequently than~~ annually, on such forms or in such
511 manner as the department may prescribe.

512 ~~(11) To establish and maintain programs for the purpose of~~
513 ~~disseminating information to government, industry, educational~~
514 ~~institutions, and the general public concerning policies,~~
515 ~~procedures, rules, and forms for the procurement of commodities~~
516 ~~and contractual services.~~

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517 ~~(7)-(12)~~ Except as otherwise provided in this section
518 ~~herein~~, to adopt rules necessary to carry out the purposes of
519 this section, including the authority to delegate to any agency
520 any and all of the responsibility conferred by this section,
521 retaining to the department any and all authority for
522 supervision thereof. Such purchasing of commodities and
523 procurement of contractual services by state agencies must also
524 ~~shall~~ be in strict accordance with the rules and procedures
525 prescribed by the Department of Financial Services.

526 ~~(8)-(13)~~ If the department determines in writing that it is
527 in the best interest of the state, to award to multiple
528 suppliers contracts for commodities and contractual services
529 established by the department for use by all agencies. Such
530 awards may be on a statewide or regional basis. If regional
531 contracts are established by the department, multiple supplier
532 awards may be based upon multiple awards for regions. Agencies
533 may award contracts to a responsible and responsive vendor on a
534 statewide or regional basis.

535 ~~(9)-(14)~~ To procure and distribute federal surplus tangible
536 personal property allocated to the state by the Federal
537 Government.

538 ~~(10)-(15)~~ To enter into joint agreements with governmental
539 agencies, as defined in s. 163.3164, for the purpose of pooling
540 funds for the purchase of commodities or information technology
541 that can be used by multiple agencies.

542 (a) Each agency that has been appropriated or has existing
543 funds for such purchase, shall, upon contract award by the
544 department, transfer their portion of the funds into the

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545 department's Operating Trust Fund for payment by the department.
546 The funds shall be transferred by the Executive Office of the
547 Governor pursuant to the agency budget amendment request
548 provisions in chapter 216.

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

559 ~~(11)(16)~~ To evaluate contracts let by the Federal
560 Government, another state, or a political subdivision for the
561 provision of commodities and contract services, and, if it is
562 determined in writing to be cost-effective and in the best
563 interest of the state, to enter into a written agreement
564 authorizing an agency to make purchases under such contract.

565 ~~(12)(17)(a)~~ To enter into contracts pursuant to chapter
566 957 for the designing, financing, acquiring, leasing,
567 constructing, or operating of private correctional facilities.
568 The department shall enter into such ~~a contract or~~ contracts
569 with one contractor per facility ~~for the designing, acquiring,~~
570 ~~financing, leasing, constructing, and operating of that facility~~
571 or may, if specifically authorized by the Legislature,
572 separately contract for each of ~~any~~ such services.

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573 (a)-(b) The department shall also ~~To~~ manage and enforce
574 compliance with existing or future contracts entered into
575 pursuant to chapter 957.

576 (b) The department may not delegate the responsibilities
577 conferred by this subsection.

578 Section 7. Effective October 1, 2013, section 287.044,
579 Florida Statutes, is created to read:

580 287.044 Powers, duties, and functions of the Department of
581 Financial Services.—The Department of Financial Services is
582 responsible for establishing and enforcing procurement and
583 contracting policies and procedures for the Department of
584 Management Services and all agencies. The Department of
585 Financial Services has the following powers, duties, and
586 functions:

587 (1) To establish a system of coordinated and uniform
588 procurement policies, procedures, and practices to be used by
589 agencies when acquiring commodities and contractual services,
590 which includes, but is not limited to:

591 (a) The development of procedures to be used by an agency
592 for issuing or advertising solicitations which include
593 requirements for the agency to describe commodities, services,
594 scope of work, and deliverables in a manner that promotes
595 competition.

596 1. Such procedures must provide for electronic posting of
597 solicitations at least 10 days before the date set for receipt
598 of bids, proposals, or replies, unless the agency determines in
599 writing that a shorter period of time is necessary to avoid
600 harming the interests of the state.

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601 2. The office may consult with the department regarding
602 the development of solicitation distribution procedures to
603 ensure that maximum distribution is afforded to certified
604 minority business enterprises as defined in s. 288.703.

605 3. The department shall designate a centralized website on
606 the Internet for the department and other agencies to
607 electronically post solicitations, decisions or intended
608 decisions, and other matters relating to procurement.

609 (b) The development of procedures to be used by an agency
610 when issuing requests for information and requests for quotes.

611 (c) The development of procedures to be used by state
612 agencies when procuring information technology commodities and
613 contractual services which ensure compliance with public records
614 requirements and records retention and archiving requirements.

615 (d) The development of procedures for the receipt and
616 opening of bids, proposals, or replies by an agency. Such
617 procedures must provide the office an opportunity to monitor and
618 to ensure that the contract award is consistent with the
619 requirements of s. 287.09451.

620 (e) The development of procedures to be used by an agency
621 in deciding to contract, including, but not limited to,
622 identifying and assessing in writing project needs and
623 requirements, availability of agency employees, budgetary
624 availability or constraints, availability of facility equipment,
625 current and projected agency workload capabilities, and the
626 ability of another state agency to perform the services.

627 (f) The development of procedures for recording and
628 maintaining support documentation for a cost or price analysis

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629 to be performed before the award of a contract in excess of the
630 threshold amount provided in s. 287.017 for CATEGORY FOUR. The
631 cost or price analysis shall be used to validate the
632 reasonableness of bids, proposals, or replies.

633 (g) The development of procedures to be used by state
634 agencies when entering into contracts which ensure standard
635 formats, quantifiable and measurable deliverables, performance
636 measures, and financial consequences for nonperformance.

637 (h) The development of procedures to be used by an agency
638 in maintaining a contract file for each contract which includes,
639 but is not limited to, all pertinent information relating to the
640 contract during the preparatory stages; the solicitation
641 process, including a copy of the solicitation; the opening of
642 bids, proposals, or replies; the evaluation and tabulation of
643 bids, proposals, or replies; and the determination and notice of
644 contract award.

645 (2) To prescribe the methods of securing competitive
646 sealed bids, proposals, and replies. Such methods may include,
647 but are not limited to, procedures for identifying vendors;
648 setting qualifications; conducting conferences or written
649 question and answer periods for purposes of responding to vendor
650 questions; evaluating bids, proposals, and replies; ranking and
651 selecting vendors; and conducting negotiations.

652 (3) To prescribe procedures for procuring information
653 technology and information technology consultant services which
654 provide for public announcement and qualification, competitive
655 solicitations, the contract award, and a prohibition against
656 contingent fees. Such procedures are limited to information

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657 technology consultant contracts for which the total project
658 costs, or planning or study activities, are estimated to exceed
659 the threshold amount provided in s. 287.017 for CATEGORY TWO.

660 (4) To govern the purchase by an agency of any commodity
661 or contractual service and to establish standards and
662 specifications for a commodity. The Chief Financial Officer
663 shall establish definitions and classes of commodities and
664 contractual services which agencies must adhere to in acquiring
665 or purchasing commodities or contractual services. The
666 department's authority under this section may not impair or
667 interfere with an agency's determination of its need for, or use
668 of, services that include particular specifications.

669 (5) To provide to agencies through an electronic medium or
670 other means rules for purchasing commodities and contractual
671 services. Agencies may not approve any account, or request
672 payment of any account, for the purchase of any commodity or the
673 procurement of any contractual service covered by a purchasing
674 or contractual service rule except as authorized by such rule.
675 The department shall furnish copies of rules adopted by the
676 department to any county, municipality, or other local public
677 agency requesting them.

678 (6) To establish and maintain programs that disseminate
679 information to governmental entities, industry vendors,
680 educational institutions, and the general public concerning
681 policies, procedures, rules, and forms for the procurement of
682 commodities and contractual services.

683 (7) To establish and maintain a list of vendors that are
684 not allowed to do business with the state pursuant to ss.

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685 287.132(4) and 287.133. The department may add to the list
686 vendors that are not compliant with federal or state laws, or
687 that the department determines have uncollected accounts that
688 are owed to the state.

689 Section 8. Paragraph (f) of subsection (3) and subsections
690 (9), (14), and (16) of section 287.057, Florida Statutes, are
691 amended, and subsection (24) is added to that section, to read:

692 287.057 Procurement of commodities or contractual
693 services.—

694 (3) When the purchase price of commodities or contractual
695 services exceeds the threshold amount provided in s. 287.017 for
696 CATEGORY TWO, no purchase of commodities or contractual services
697 may be made without receiving competitive sealed bids,
698 competitive sealed proposals, or competitive sealed replies
699 unless:

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

703 ~~1. Artistic services. For the purposes of this subsection,~~
704 ~~the term "artistic services" does not include advertising or~~
705 ~~typesetting. As used in this subparagraph, the term~~
706 ~~"advertising" means the making of a representation in any form~~
707 ~~in connection with a trade, business, craft, or profession in~~
708 ~~order to promote the supply of commodities or services by the~~
709 ~~person promoting the commodities or contractual services.~~

710 ~~2. Academic program reviews if the fee for such services~~
711 ~~does not exceed \$50,000.~~

712 ~~3. Lectures by individuals.~~

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713 1.4. Legal services, including attorney, paralegal, expert
714 witness, appraisal, or mediator services.

715 2.5.a. Health services involving examination, diagnosis,
716 treatment, prevention, medical consultation, or administration,
717 and,

718 b. beginning January 1, 2011, health services, including,
719 but not limited to, substance abuse and mental health services,
720 involving examination, diagnosis, treatment, prevention, or
721 medical consultation, if ~~when~~ such services are offered to
722 eligible individuals participating in a specific program that
723 qualifies multiple providers and uses a standard payment
724 methodology. Reimbursement of administrative costs for providers
725 of services purchased in this manner are ~~shall~~ also ~~be~~ exempt.
726 For purposes of this subparagraph ~~sub-subparagraph~~, the term
727 "providers" means health professionals, health facilities, or
728 organizations that deliver or arrange for the delivery of health
729 services.

730 3.6. Services provided to persons with mental or physical
731 disabilities by not-for-profit corporations that ~~which~~ have
732 obtained exemptions under ~~the provisions of~~ s. 501(c) (3) of the
733 United States Internal Revenue Code or if ~~when~~ such services are
734 governed by the provisions of Office of Management and Budget
735 Circular A-122. However, in acquiring such services, the agency
736 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
737 performance, willingness to meet time requirements, and price.

738 4.7. Medicaid services delivered to an eligible Medicaid
739 recipient, unless the agency is directed otherwise in law.

740 5.8. Family placement services.

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741 ~~6.9.~~ Prevention services related to mental health,
742 including drug abuse prevention programs, child abuse prevention
743 programs, and shelters for runaways, operated by not-for-profit
744 corporations. However, in acquiring such services, the agency
745 must ~~shall~~ consider the vendor's ability ~~of the vendor~~, past
746 performance, willingness to meet time requirements, and price.

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

749 ~~7.11.~~ Contracts entered into pursuant to s. 337.11.

750 ~~8.12.~~ Services or commodities provided by governmental
751 agencies.

752 (9) An agency may ~~shall~~ not divide the solicitation of
753 commodities or contractual services so as to avoid the
754 requirements of subsections (1)-(3) and reduce the ability of
755 businesses to openly compete.

756 (14) For each contractual services contract, the agency
757 shall designate an employee to function as contract manager who
758 shall be responsible for enforcing performance of the contract
759 terms and conditions and serve as a liaison with the contractor.
760 Each contract manager who is responsible for one or more
761 contracts in excess of the threshold amount provided under s.
762 287.017 for CATEGORY FIVE ~~TWO~~ must be certified pursuant to s.
763 287.1312 ~~attend training conducted by the Chief Financial~~
764 ~~Officer for accountability in contracts and grant management.~~
765 The Chief Financial Officer shall establish and disseminate
766 uniform procedures pursuant to s. 17.03(3) to ensure that
767 contractual services have been rendered in accordance with the
768 contract terms before the agency processes the invoice for

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769 payment. The procedures must ~~shall~~ include, but need not be
770 limited to, procedures for monitoring and documenting contractor
771 performance, reviewing and documenting all deliverables for
772 which payment is requested by vendors, and providing written
773 certification by contract managers of the agency's receipt of
774 goods and services.

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

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

782 (b) At least three persons to conduct negotiations during
783 a competitive sealed reply procurement who collectively have
784 experience and knowledge in negotiating contracts, contract
785 procurement, and the program areas and service requirements for
786 which commodities or contractual services are sought. When the
787 value of a contract is in excess of \$1 million in any fiscal
788 year, at least one of the persons conducting negotiations must
789 be certified as a contract negotiator based upon rules adopted
790 by the Department of Financial Services Management ~~Services~~ in
791 order to ensure that certified contract negotiators are
792 knowledgeable about effective negotiation strategies, capable of
793 successfully implementing those strategies, and involved
794 appropriately in the procurement process. At a minimum, the
795 rules must address the qualifications required for
796 certification, the method of certification, and the procedure

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797 for involving the certified negotiator. If the value of a
798 contract is in excess of \$10 million in any fiscal year, at
799 least one of the persons conducting negotiations must be a
800 Project Management Professional, as certified by the Project
801 Management Institute.

802 (24) An agency or other eligible user may purchase
803 commodities or services through another agency's existing
804 contract rather than through competitive solicitation if the use
805 of such contract is in the best interest of the state.

806 Section 9. Paragraph (e) of subsection (1) of section
807 287.058, Florida Statutes, is amended, and subsections (7)
808 through (11) are added to that section, to read:

809 287.058 Contract document.—

810 (1) Every procurement of contractual services in excess of
811 the threshold amount provided in s. 287.017 for CATEGORY TWO,
812 except for the providing of health and mental health services or
813 drugs in the examination, diagnosis, or treatment of sick or
814 injured state employees or the providing of other benefits as
815 required by the provisions of chapter 440, shall be evidenced by
816 a written agreement embodying all provisions and conditions of
817 the procurement of such services, which shall, where applicable,
818 include, but not be limited to, a provision:

819 (e) Dividing the contract into quantifiable, measurable,
820 and verifiable units of deliverables which ~~that~~ must be received
821 and accepted in writing by the contract manager before payment.
822 Each deliverable must be directly related to the scope of work
823 and specify a performance measure. As used in this paragraph,
824 the term "performance measure" means the required minimum level

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825 of service to be performed and criteria for evaluating the
826 successful completion of each deliverable.

827
828 In lieu of a written agreement, the department may authorize the
829 use of a purchase order for classes of contractual services, if
830 the provisions of paragraphs (a)-(i) are included in the
831 purchase order or solicitation. The purchase order must include,
832 but need not be limited to, an adequate description of the
833 services, the contract period, and the method of payment. In
834 lieu of printing the provisions of paragraphs (a)-(i) in the
835 contract document or purchase order, agencies may incorporate
836 the requirements of paragraphs (a)-(i) by reference.

837 (7) The Chief Financial Officer may review and approve
838 contracts subject to this chapter before the execution of such
839 contracts in accordance with rules adopted by the department.
840 The review must ensure that all contracting laws have been met;
841 that the contract document contains a clear statement of work,
842 quantifiable and measureable deliverables, performance measures,
843 financial consequences for nonperformance, and clear terms and
844 conditions that protect the interests of the state; that
845 documentation is available to support the contract; and that the
846 associated costs of the contract are not unreasonable or
847 inappropriate. A contract that does not comply with this
848 subsection may be rejected and returned to the submitting agency
849 for revision.

850 (8) The Chief Financial Officer may establish dollar
851 thresholds and other criteria for sampling the agreements that
852 are to be reviewed prior to execution. The Chief Financial

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853 Officer may revise such thresholds and other criteria for an
854 agency or the unit of any agency as he or she deems appropriate.

855 (9) The department's review of contract documentation may
856 include, but need not be limited to:

857 (a) Evidence of advertising the procurement opportunity,
858 if applicable;

859 (b) The bid, proposal, or reply itself, whether an
860 invitation to bid, request for proposals, or invitation to
861 negotiate, as applicable;

862 (c) The preprocurement conference questions and answers;

863 (d) Any additional documentation provided to bidders,
864 proposers, or repliers;

865 (e) The list of bidders, proposers, or repliers solicited;

866 (f) The evaluation instrument and process description
867 related to the contract;

868 (g) The bid tabulation or evaluation record;

869 (h) Documentation that supports the agency's determination
870 of vendor responsibility;

871 (i) The successful bid, proposal, or reply in addition to
872 the unsuccessful bids, proposals, or replies;

873 (j) Documentation that supports the selection of the
874 contractor;

875 (k) The reasonableness of the price;

876 (l) Verification that all statutory and regulatory
877 requirements have been met; and

878 (m) The proposed contract.

879 (10) The department shall verify that a competitive
880 process was used, if required by law, and that the contract was

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881 appropriately awarded on the basis of lowest price or best value
882 to a responsive and reasonable bidder, proposer, or replier. For
883 contracts not competitively awarded, the procurement record
884 shall be reviewed for restrictive specifications and the
885 agency's justification for the noncompetitive method used in
886 awarding the contract, including justification for the selection
887 of the vendor and the reasonableness of the terms.

888 (11) The department has 30 days to make a final
889 determination regarding approval of a contract. The department
890 and the agency entering into the contract may agree to a longer
891 review period to ensure the thorough consideration of the
892 procurement process and its results.

893 Section 10. Subsection (3) of section 287.095, Florida
94 Statutes, is repealed.

895 Section 11. Section 287.1312, Florida Statutes, is created
896 to read:

897 287.1312 Contract manager certification.-

898 (1) The Department of Financial Services shall establish a
899 training certification program for contract and grant managers
900 and negotiators of contracts and grants. A state employee may
901 not manage a contract or grant agreement in excess of the
902 threshold amount provided in s. 287.017 for CATEGORY FIVE
903 without obtaining a valid certification from the Department of
904 Financial Services under this section. The program must include
905 training in the following areas:

906 (a) Procurement and the development of contracts.

907 (b) Development and administration of grant agreements
908 involving federal and state financial assistance.

Amendment No.

909 (c) Responsibilities of a contract manager in the
910 management of state contracts and grant agreements.

911 (d) Federal and state audit and reporting requirements.

912 (e) Laws and rules relating to procurement and contract
913 administration.

914 (f) Any other subject matter that the Chief Financial
915 Officer determines will promote accountability in contract and
916 grant management.

917 (2) The program shall provide for periodic
918 recertification, as necessary. The Department of Financial
919 Services shall determine course requirements, maintain
920 information on certifications, and monitor the performance of
921 contract and grant managers. As part of such monitoring, the
922 department shall annually publish the results of agency manager
923 audits and error rates related to contract and grant management
924 on its website.

925 (3) The Department of Financial Services may revoke a
926 manager's certification for incompetence or conduct inconsistent
927 with the responsibilities of contract or grant management.

928 (4) The Department of Financial Services shall adopt rules
929 to administer this section.

930 Section 12. Paragraph (d) of subsection (1) of section
931 287.133, Florida Statutes, is amended to read:

932 287.133 Public entity crime; denial or revocation of the
933 right to transact business with public entities.—

934 (1) As used in this section:

935 (d) "Department" means the Department of Financial
936 Management Services.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

937 Section 13. Paragraph (h) of subsection (3) of section
938 255.25, Florida Statutes, is amended to read:

939 255.25 Approval required prior to construction or lease of
940 buildings.—

941 (3)

942 (h) ~~The Department of Management Services may,~~ Pursuant to
943 s. 287.042(2)(a), the department shall procure a term contract
944 for real estate consulting and brokerage services. A state
945 agency may not purchase services from the contract unless the
946 contract has been procured under s. 287.057(1) after March 1,
947 2007, and contains the following provisions or requirements:

948 1. Awarded brokers ~~must~~ maintain an office or presence in
949 the market served. In awarding the contract, preference must be
50 given to brokers who ~~that~~ are licensed in this state under
951 chapter 475 and who ~~that~~ have 3 or more years of experience in
952 the market served. The contract may be made with up to three
953 tenant brokers in order to serve the marketplace in the north,
954 central, and south areas of the state.

955 2. Each contracted tenant broker works ~~shall work~~ under
956 the direction, supervision, and authority of the state agency,
957 subject to the rules governing lease procurements.

958 3. The department provides ~~shall provide~~ training for the
959 awarded tenant brokers concerning the rules governing the
960 procurement of leases.

961 4. Tenant brokers ~~must~~ comply with all applicable
962 provisions of s. 475.278.

963 5. Real estate consultants and tenant brokers are ~~shall be~~
964 compensated by the state agency, subject to the provisions of

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965 the term contract, and such compensation is subject to
966 appropriation by the Legislature. A real estate consultant or
967 tenant broker may not receive compensation directly from a
968 lessor for services that are rendered under the term contract.
969 Moneys paid by a lessor to the state agency under a facility
970 leasing arrangement are not subject to the charges imposed under
971 s. 215.20. All terms relating to the compensation of the real
972 estate consultant or tenant broker must ~~shall~~ be specified in
973 the term contract and may not be supplemented or modified by the
974 state agency using the contract.

975 6. The department conducts ~~shall conduct~~ periodic
976 customer-satisfaction surveys.

977 7. Each state agency reports ~~shall report~~ the following
978 information to the department:

979 a. The number of leases that adhere to the goal of the
980 workspace-management initiative of 180 square feet per full-time
981 employee FTE.

982 b. The quality of space leased and the adequacy of tenant-
983 improvement funds.

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

986 d. Whether cost-benefit analyses were performed before
987 execution of the lease in order to ensure that the lease is in
988 the best interest of the state.

989 e. The lease costs compared to market rates for similar
990 types and classifications of space according to the official
991 classifications of the Building Owners and Managers Association.

Amendment No.

992 Section 14. Subsection (12) of section 287.012, Florida
993 Statutes, is amended to read:

994 287.012 Definitions.—As used in this part, the term:

995 (12) "Exceptional purchase" means any purchase of
996 commodities or contractual services excepted by law or rule from
997 the requirements for competitive solicitation, including, but
998 not limited to, purchases from a single source; purchases upon
999 receipt of fewer ~~less~~ than two responsive bids, proposals, or
1000 replies; purchases made by an agency, after receiving approval
1001 from the department, from a contract procured, pursuant to s.
1002 287.057(1), or by another agency; and purchases made without
1003 advertisement in the manner required under ~~by~~ s. 287.044(1)(a)
1004 287.042(3)(b).

1005 Section 15. Paragraph (a) of subsection (2) of section
1006 402.7305, Florida Statutes, is amended to read:

1007 402.7305 Department of Children and Family Services;
1008 procurement of contractual services; contract management.—

1009 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

1010 (a) Notwithstanding s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~,
1011 if ~~whenever~~ the department intends to contract with a public
1012 postsecondary institution to provide a service, the department
1013 must allow all public postsecondary institutions in this state
1014 which ~~that~~ are accredited by the Southern Association of
1015 Colleges and Schools to bid on the contract. Thereafter,
1016 notwithstanding any other provision of law ~~to the contrary~~, if a
1017 public postsecondary institution intends to subcontract for any
1018 service awarded in the contract, the subcontracted service must
1019 be procured by competitive procedures.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

1020 Section 16. Subsection (3) of section 427.0135, Florida
1021 Statutes, is amended to read:

1022 427.0135 Purchasing agencies; duties and
1023 responsibilities.—Each purchasing agency, in carrying out the
1024 policies and procedures of the commission, shall:

1025 (3) Not procure transportation disadvantaged services
1026 without initially negotiating with the commission, as provided
1027 in s. 287.057(3)(f)8. ~~287.057(3)(f)12.~~, or unless otherwise
1028 authorized by statute. If the purchasing agency, after
1029 consultation with the commission, determines that it cannot
1030 reach mutually acceptable contract terms with the commission,
1031 the purchasing agency may contract for the same transportation
1032 services provided in a more cost-effective manner and of
1033 comparable or higher quality and standards. The Medicaid agency
1034 shall implement this subsection in a manner consistent with s.
1035 409.908(18) and as otherwise limited or directed by the General
1036 Appropriations Act.

1037 Section 17. Subsection (2) of section 946.515, Florida
1038 Statutes, is amended to read:

1039 946.515 Use of goods and services produced in correctional
1040 work programs.—

1041 (2) A ~~No~~ similar product or service of comparable price
1042 and quality found necessary for use by any state agency may not
1043 be purchased from any source other than the corporation if the
1044 corporation certifies that the product is manufactured by, or
1045 the service is provided by, inmates and the product or service
1046 meets the comparable performance specifications and comparable
1047 price and quality requirements as specified under s.

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Bill No. HB 1409 (2012)

Amendment No.

1048 287.042(1)(c) ~~287.042(1)(f)~~ or as determined by an individual
1049 agency as provided in this section. The purchasing authority of
1050 ~~any~~ such state agency may make reasonable determinations of
1051 need, price, and quality with reference to products or services
1052 available from the corporation. In the event of a dispute
1053 between the corporation and a ~~any~~ purchasing authority based
1054 upon price or quality under this section or s. 287.042(1)(c)
1055 ~~287.042(1)(f)~~, either party may request a hearing with the
1056 Department of Management Services and, if not resolved, ~~either~~
1057 ~~party~~ may request a proceeding pursuant to ss. 120.569 and
1058 120.57, which shall be referred to the Division of
1059 Administrative Hearings within 60 days after such request, to
1060 resolve any dispute under this section. A ~~No~~ party is not
61 entitled to any appeal pursuant to s. 120.68.

1062 Section 18. Procurement review and report.—

1063 (1) The Chief Financial Officer shall review and
1064 investigate:

1065 (a) All current state laws that govern the state
1066 procurement of goods, services, and facilities;

1067 (b) The procurement policies, rules, procedures, and
1068 practices followed by the state agencies, boards, commissions,
1069 offices, and other instrumentalities of the executive branch of
1070 state government;

1071 (c) The organization and management processes involved in
1072 the state procurement of goods, services, and facilities before
1073 the award of a state procurement contract, during the
1074 solicitation of bids, the evaluation, and the negotiation of a
1075 contract, and subsequent to the award of the contract to

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Amendment No.

1076 determine the extent to which these organization and management
1077 processes facilitate the legislative policy set forth in this
1078 act; and

1079 (d) Any other areas that the Chief Financial Officer deems
1080 relevant to the review and investigation.

1081 (2) In order to accomplish the procurement review directed
1082 by this section, the Chief Financial Officer may:

1083 (a) Acquire information directly from the head of any
1084 state department or agency for the purpose of conducting this
1085 review. All departments and agencies shall cooperate with the
1086 Chief Financial Officer and furnish all information requested to
1087 the extent permitted by law.

1088 (b) Procure the services of experts and consultants.

1089 (c) Contract with private organizations and nonprofit
1090 institutions to carry out studies and prepare reports to
1091 facilitate the review.

1092 (3) By December 31, 2012, the Chief Financial Officer
1093 shall submit to the Governor, the President of the Senate, and
1094 the Speaker of the House of Representatives a report of findings
1095 and recommendations for changes in statutes, rules, policies,
1096 procedures, and organization necessary to carry out the policies
1097 set forth in this act.

1098 Section 19. The Legislature recognizes the need to reform
1099 the purchasing cycle, from the development of a purchasing
1100 agreement to the payment for goods or services provided to the
1101 state. Therefore, chapter 287, Florida Statutes, is repealed
1102 effective July 30, 2014.

Amendment No.

1103 Section 20. (1) For the 2012-2013 fiscal year, the sum of
1104 \$400,000 in nonrecurring funds is appropriated from the
1105 Administrative Trust Fund in the Department of Financial
1106 Services to contract for the Chief Financial Officer's review of
1107 the state's procurement process.

1108 (2) For the 2012-2013 fiscal year, the sum of \$375,000 in
1109 nonrecurring funds is appropriated from the Administrative Trust
1110 Fund in the Department of Financial Services to contract for the
1111 Chief Financial Officer's administration of the certified
1112 contract manager and negotiator programs.

1113 (3) For the 2012-2013 fiscal year, the sum of \$4,067,000
1114 in recurring funds from the General Revenue fund and 36 full-
1115 time equivalent positions and associated salary rate of
16 1,902,588 are appropriated to the Chief Financial Officer for
1117 the purpose of implementing the Chief Financial Officer's
1118 expanded contract auditing responsibilities under this act.
1119 Funds remaining unexpended or unencumbered from this
1120 appropriation as of June 30, 2013, shall revert and be
1121 reappropriated for the same purpose in the 2013-2014 fiscal
1122 year.

1123 Section 21. Except as otherwise expressly provided in this
1124 act, this act shall take effect July 1, 2012.

1125

1126

1127

1128

T I T L E A M E N D M E N T

1129

Remove the entire title and insert:

1130

A bill to be entitled

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

1131 An act relating to state contracting; amending s.
1132 11.45, F.S.; conforming provisions to changes made by
1133 the act; amending s. 215.971, F.S.; requiring
1134 agreements funded with state or federal financial
1135 assistance to include a performance measure for each
1136 deliverable, to be reviewed and approved in accordance
1137 with rules adopted by the Department of Financial
1138 Services, and to have the contracting entity assign a
1139 grants manager who is responsible for enforcing
1140 performance of the agreement; amending s. 215.985,
1141 F.S.; revising provisions relating to the Chief
1142 Financial Officer's intergovernmental contract
1143 tracking system under the Transparency Florida Act;
1144 specifying the entities that are included in the
1145 tracking system; requiring that exempt or confidential
1146 information be redacted from contracts and procurement
1147 documents posted on the system; authorizing the Chief
1148 Financial Officer to make available the information
1149 posted on the system to the public through a secure
1150 website; authorizing the Department of Financial
1151 Services to adopt rules; repealing s. 216.0111, F.S.,
1152 relating to a requirement that state agencies report
1153 certain contract information to the Department of
1154 Financial Services and transferring that requirement
1155 to s. 215.985, F.S.; amending s. 287.032, F.S.;
1156 dividing the responsibilities of the Department of
1157 Management Services under ch. 287, F.S., with the
1158 Department of Financial Services; amending s. 287.042,

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

1159 F.S.; limiting the duties of the Department of
1160 Management Services to the procurement of commodities
1161 and contractual services; directing the department to
1162 develop a list of interested vendors; deleting
1163 provisions requiring that the department perform
1164 duties relating to procurement and contracting
1165 policies and procedures; creating s. 287.044, F.S.;
1166 assigning duties relating to procurement and
1167 contracting policies and procedures to the Department
1168 of Financial Services; requiring the department to
1169 develop a list of vendors not allowed to do business
1170 with the state; amending s. 287.057, F.S.; revising
1171 the list of contractual services and commodities that
1172 are exempt from competitive solicitation to delete
1173 certain services from the exemption; revising
1174 provisions prohibiting an agency from dividing a
1175 solicitation; conforming provisions to changes made by
1176 the act; authorizing an agency or other eligible user
1177 to purchase commodities or services through another
1178 agency's contract; amending s. 287.058, F.S.;
1179 requiring contracts to include a performance measure
1180 for each deliverable; authorizing the Chief Financial
1181 Officer to review and approve contracts; providing
1182 requirements for such reviews; authorizing the Chief
1183 Financial Officer to establish dollar thresholds and
1184 another criteria for sampling agreements that are to
1185 be reviewed before execution; providing criteria for
1186 the department's review of contract documentation;

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

1187 requiring that the department verify that a
1188 competitive process was used and that a contract was
1189 appropriately awarded; providing for the review of
1190 procurement record for contracts not competitively
1191 awarded; specifying the number of days that the
1192 department must make its final determination regarding
1193 the approval of a contract; authorizing the department
1194 and the agency to agree to a longer review period;
1195 repealing s. 287.095(3), F.S.; relating to certain
1196 products produced by inmate labor; creating s.
1197 287.1312, F.S.; requiring certification of contract
1198 managers by the Department of Financial Services for
1199 contracts of more than a certain amount; requiring the
1200 training program for the certification to provide
1201 training in certain areas; authorizing the department
1202 to adopt rules to administer the program; amending s.
1203 287.133, F.S.; revising the definition of "department"
1204 to mean the Department of Financial Services rather
1205 than the Department of Management Services with
1206 respect to provisions governing public entity crimes
1207 and placement on the convicted vendor list; amending
1208 ss. 255.25, 287.012, 402.7305, 427.0135, and 946.515,
1209 F.S.; conforming cross-references; requiring the Chief
1210 Financial Officer to conduct a study of current
1211 procurement laws pursuant to such policies; requiring
1212 that the Chief Financial Officer submit a report to
1213 the Legislature and Governor by a certain date on such

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2012)

Amendment No.

1214 study; repealing ch. 287, F.S., on a future date;
1215 providing appropriations; providing effective dates.

COMMITTEE MEETING REPORT
Government Operations Subcommittee
2/6/2012 2:15:00PM

Location: 306 HOB

PCS for HB 1417 : State Investments

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Douglas Broxson	X				
Jeff Clemens	X				
Janet Cruz		X			
Ana Logan	X				
Debbie Mayfield	X				
George Moraitis, Jr.	X				
Bryan Nelson	X				
H. Marlene O'Toole	X				
Kenneth Roberson	X				
Irving Slosberg		X			
Cynthia Stafford		X			
Barbara Watson		X			
Dana Young	X				
Jimmy Patronis (Chair)	X				
Total Yeas: 11		Total Nays: 4			

Appearances:

Williams, Ashbel (Lobbyist) - Proponent
 State Board of Administration
 1801 Hermitage Blvd Ste 100
 Tallahassee FL 32308
 Phone: (850)413-1250

Committee meeting was reported out: Monday, February 06, 2012 3:32:06PM