

HB 5401

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1 A bill to be entitled
2 An act relating to transparency in state contracting;
3 amending s. 215.985, F.S.; requiring the Chief
4 Financial Officer to establish and maintain a secure
5 website for public viewing of information contained in
6 the contract tracking system; requiring state agencies
7 to post certain information to the contract tracking
8 system; requiring that exempt and confidential
9 information be redacted from contracts posted on the
10 system; providing a process for state agencies when a
11 document has not been properly redacted; providing a
12 method for a party to a contract to notify a state
13 agency that a document has not been properly redacted
14 and to request redaction; requiring the display of a
15 notice of the right of an affected party to request
16 redaction; providing that certain persons are not
17 responsible for redacting confidential or exempt
18 information and are not liable for failure of a state
19 agency to redact the information; providing that
20 posting information on the contract tracking system
21 does not supersede the duty of a state agency to
22 respond to a public records request; providing for
23 service of a subpoena; authorizing the Chief Financial
24 Officer to adopt rules; defining the term "state
25 agency"; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Subsection (16) of section 215.985, Florida
30 Statutes, is amended to read:

31 215.985 Transparency in government spending.—

32 (16) The Chief Financial Officer shall establish and
33 maintain a secure contract tracking ~~provide public access to a~~
34 ~~state contract management~~ system available for viewing and
35 downloading by the public through a secure website. The Chief
36 Financial Officer shall use appropriate Internet security
37 measures to ensure that no person has the ability to alter or
38 modify records available on the website ~~that provides~~
39 ~~information and documentation relating to contracts procured by~~
40 ~~governmental entities.~~

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

- 44 1. The names of the contracting entities.
- 45 2. The procurement method.
- 46 3. The contract beginning and ending dates.
- 47 4. The nature or type of the commodities or services
48 purchased.
- 49 5. Applicable contract unit prices and deliverables.
- 50 6. Total compensation to be paid or received under the
51 contract.
- 52 7. All payments made to the contractor to date.
- 53 8. Applicable contract performance measures.
- 54 9. Electronic copies of the contract that have been
55 redacted to exclude confidential or exempt information ~~The data~~
56 ~~collected in the system must include, but need not be limited~~

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57 | ~~to, the contracting agency; the procurement method; the contract~~
58 | ~~beginning and ending dates; the type of commodity or service;~~
59 | ~~the purpose of the commodity or service; the compensation to be~~
60 | ~~paid; compliance information, such as performance metrics for~~
61 | ~~the service or commodity; contract violations; the number of~~
62 | ~~extensions or renewals; and the statutory authority for~~
63 | ~~providing the service.~~

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

73 | (c) By January 1, 2014, each state agency shall post to
74 | the contract tracking system the information required in
75 | paragraph (a) for each existing contract that was executed
76 | before July 1, 2013.

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

80 | 2. Each state agency that is a party to a contract must
81 | redact confidential or exempt information from the contract
82 | before posting an electronic copy on the contract tracking
83 | system. If a state agency that is a party to the contract
84 | becomes aware that an electronic copy of a contract has been

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85 posted but has not been properly redacted, the state agency must
86 immediately notify the Chief Financial Officer and must
87 immediately remove the contract from the contract tracking
88 system. Within 7 business days, the state agency must post a
89 properly redacted copy of the contract on the contract tracking
90 system.

91 3.a. If a party to a contract, or an authorized
92 representative of a party to a contract, discovers that an
93 electronic copy of a contract has been posted to the contract
94 tracking system but has not been properly redacted, the party or
95 representative may request the state agency that is a party to
96 the contract to redact the confidential or exempt information.
97 Upon receipt of the request, the state agency shall redact the
98 confidential or exempt information.

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

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

111 5.a. The Chief Financial Officer, the Department of
112 Financial Services, or an officer, employee, or contractor

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113 thereof, is not responsible for redacting confidential or exempt
114 information from an electronic copy of a contract posted by
115 another state agency on the system.

116 b. The Chief Financial Officer, the Department of
117 Financial Services, or any officer, employee, or contractor
118 thereof, is not liable for the failure of a state agency to
119 redact the confidential or exempt information.

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

125 2. A request for a copy of a contract or certified copy of
126 a contract shall be made to the state agency that is party to
127 the contract. The request may not be made to the Chief Financial
128 Officer, the Department of Financial Services, or any officer,
129 employee, or contractor thereof, unless the Chief Financial
130 Officer or the department is a party to the contract.

131 3. A subpoena for a copy of a contract or certified copy
132 of a contract must be served on the state agency that is a party
133 to the contract and that maintains the original documents. The
134 Chief Financial Officer, the Department of Financial Services,
135 or any officer, employee, or contractor thereof, may not be
136 served a subpoena for those records unless the Chief Financial
137 Officer or the department is a party to the contract.

138 (f) The Chief Financial Officer may adopt rules to
139 administer this subsection.

140 (g) For purposes of this subsection, the term "state

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141 | agency" means a state agency as defined in s. 216.011, excluding
142 | the judicial branch, the Department of Legal Affairs, the
143 | Department of Agriculture and Consumer Services, and the
144 | Department of Financial Services. However, the judicial branch,
145 | the Department of Legal Affairs, the Department of Agriculture
146 | and Consumer Services, and the Department of Financial Services
147 | may elect to comply with the provisions of this subsection in
148 | whole or in part.

149 | Section 2. This act shall take effect July 1, 2013.