

**Introduced by Senator Figueroa**

February 22, 2005

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An act to ~~relating to state government~~ *add Section 12104 to the Public Contract Code, relating to public contracts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 954, as amended, Figueroa. ~~State government operations. Information technology goods and services: procurement.~~

*Existing law sets forth the requirements for the acquisition of information technology goods and services by the state, and requires all contracts for the acquisition of those goods and services to be made by or under the supervision of the Department of General Services, with expenditures in this regard subject to the review and approval of the Department of Finance.*

*This bill makes certain findings and states the intent of the Legislature to reform the manner in which state agencies procure information technology goods and services. This bill would require all state agencies and departments to conform with specified practices and guidelines in the procurement of information technology goods and services.*

~~Existing law establishes and generally sets forth the duties of the Office of the Legislative Analyst and the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy in state government. The California Performance Review was established pursuant to Executive Order 5-5-04 to conduct a focused examination and assessment of state government and to formulate and recommend changes to government agencies, programs, and operations.~~

~~This bill would declare the intent of the Legislature to enact legislation that would modernize and improve state government operations that, in part, utilizes recommendations offered by the Office of the Legislative Analyst, the Milton Marks Commission on California State Government Organization and Economy, and the California Performance Review, among other sources.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*
- 3     (a) *The State of California depends on information technology*  
4 *(IT) goods and services to accomplish its legally mandated core*  
5 *business functions and public services and it is in the best*  
6 *interest of the state to procure these services according to best*  
7 *practices, thereby rationalizing the process and providing a*  
8 *consistent basis for communication and decisionmaking.*
- 9     (b) *IT improves the functioning of government by providing*  
10 *increased public access and enhanced customer service.*
- 11     (c) *Conducting business with technology industry vendors in a*  
12 *professional manner with an attitude of cooperative, direct, and*  
13 *straightforward communication serves the best interests of the*  
14 *State of California and its citizens for the following reasons:*
- 15     (1) *Vendors can better respond to the state if published*  
16 *business and technical requirements are clear.*
- 17     (2) *An efficient and effective procurement process saves the*  
18 *state valuable dollars and time, mitigating overall project risk*  
19 *long-term.*
- 20     (d) *IT goods and services are complex and multidimensional.*  
21 *The implementation of new technology invariably impacts*  
22 *existing technology, dependent and independent IT systems,*  
23 *governmental business processes, operational expectations and*  
24 *outcomes, and future technical and operations choices for the*  
25 *functions of a governmental entity. Purchases, therefore, should*  
26 *be considered in the appropriate context with a total cost of*  
27 *ownership for the state.*
- 28     (e) *IT services are not a commodity and cannot effectively be*  
29 *purchased as a commodity.*

1     (f) *New information systems that require IT goods and*  
2 *services for their implementation should be conceived in terms of*  
3 *a “solution.” Thinking and planning according to an IT*  
4 *“solution” mindset appropriately considers the complete set of*  
5 *IT goods and services required to complete an objective or set of*  
6 *objectives in the context of the actual business needs of the*  
7 *purchasing state agency. This also provides a means with which*  
8 *to consider the overall purchasing decision and weigh the*  
9 *benefits of different IT options according to the total cost of*  
10 *ownership for the state.*

11     *SEC. 2. It is the intent of the Legislature to enact legislation*  
12 *to reform the manner in which state agencies procure*  
13 *information technology goods and services and to pursue these*  
14 *reforms in a manner that is guided by the following values and*  
15 *principles:*

16     (i) *Leadership, with a commitment to reform and prioritize the*  
17 *proposed reforms and to seek public input on proposed reforms.*

18     (ii) *The development and maintenance of trust among*  
19 *participants and the public, within established ground rules and*  
20 *agreements, in the development and implementation of the*  
21 *proposed reforms.*

22     (iii) *Openness in the presentation, evaluation, and*  
23 *identification of all goals and issues, in accordance with*  
24 *established ground rules, that are related to the development and*  
25 *implementation of the proposed reforms.*

26     (iv) *Public involvement in a manner that educates and engages*  
27 *the public in the identification of problems and solutions*  
28 *associated with the development and implementation of the*  
29 *proposed reforms.*

30     (v) *Inclusiveness in the process, which includes the*  
31 *identification and inclusion of all affected stakeholders*  
32 *throughout all stages in the development and implementation of*  
33 *the proposed reforms.*

34     (vi) *Commitment by the participants to obtain the agreement*  
35 *and commitment of the constituents of all participants.*

36     (vii) *Timeliness, by establishing a time line for the development*  
37 *of the reform process and the implementation of the proposed*  
38 *reforms.*

39     (viii) *Uniformity in the administration of reform across all state*  
40 *departments and agencies.*

1 (i) Consistency and regularity in procurement rules, policies,  
2 and guidelines that will apply equally to all state departments  
3 and agencies and create a single state IT market.

4 (j) Public access to the procurement process, by posting the  
5 procurement rules, policies, and guidelines in writing at a single  
6 master location that is easily accessible by the public.

7 SEC. 3. It is the further intent of the Legislature to enact  
8 legislation that will provide a consistent framework in which to  
9 consider and conduct new IT purchases, including the following  
10 IT procurement checklist:

11 (a) What is the legislative mandate or state business or  
12 operational reason for the IT procurement?

13 (b) What are the existing business processes currently used to  
14 accomplish this state function or operation? If this is a new  
15 business requirement, what are the new business processes going  
16 to be? How do these business process requirements impact  
17 technical priorities?

18 (c) Given any constraints, what are the three most important  
19 priorities for the IT project to accomplish? What requirements  
20 can be postponed or eliminated without adversely limiting or  
21 changing the required outcome of the project?

22 (d) What current technology is used and how?

23 (e) Does the state agency or department have an existing  
24 technology platform? If so, how can the new project leverage the  
25 existing technology investment while accomplishing the assigned  
26 business objectives?

27 (f) What current or future business processes and technical  
28 dependencies will affect this proposed technology purchase?

29 (g) What existing state agency or department owns the data  
30 that will be used in this system? If the data comes from multiple  
31 sources, what existing business processes or technical systems  
32 produce and maintain the source data?

33 (h) Does the type of system desired already exist in the state?  
34 If so, what can be learned from the design and implementation of  
35 the similar system? What best practices or lessons can be applied  
36 to the new endeavor?

37 SEC. 4. Section 12104 is added to the Public Contract Code,  
38 to read:

39 12104. In addition to the any other acquisition requirements,  
40 all state agencies and departments must conform with the

1 “Information Technology Procurement Guidelines for Best  
2 Practices.” The guidelines are as follows:

3 (a) All state agencies and departments must communicate in  
4 writing all rules governing a specific information technology  
5 procurement process and all project-related business and  
6 technical requirements impacting the scoring and evaluation of  
7 that specific procurement. The rules and requirements shall be  
8 included in the published request for proposal (RFP). Any  
9 changes shall be communicated to all bidding vendors and shall  
10 be posted in a public location. No requirements outside of the  
11 published RFP and posted addendums shall be used by the state  
12 to justify competitive scoring.

13 (b) Any individual information technology procurement  
14 process, from feasibility study report through contract award,  
15 shall not exceed one state fiscal year.

16 (c) Information technology solutions shall be procured  
17 according to reasonable project phases that shall not exceed four  
18 years in length under one contract.

19 (d) Incumbent implementation vendors shall not be precluded  
20 from delivering future project implementation phases of large  
21 multiphased information technology projects provided that the  
22 vendor has successfully delivered technology to the state on past  
23 project phases, the delivered technology works according to  
24 desired objectives, and the technology was delivered on time and  
25 within the given budget.

26 (e) Each information technology solution phase shall be  
27 developed into realistic project deliverables so that measurable  
28 tasks and accomplishments can be tracked.

29 (f) Each project deliverable phase shall be aligned with  
30 overall business and operation objectives for the information  
31 technology system and receive executive sign-off.

32 (g) Information technology procurements of six million dollars  
33 (\$6,000,000) or less shall be conducted according to  
34 deliverable-based contracts that align vendor payments with  
35 specific project deliverables. Deliverable or payment periods  
36 shall not exceed three months.

37 ~~SECTION 1. It is the intent of the Legislature to enact~~  
38 ~~legislation that would modernize and improve state government~~  
39 ~~operations that in part, utilizes recommendations offered by the~~  
40 ~~Office of the Legislative Analyst, the Milton Marks Commission~~

- 1 ~~on California State Government Organization and Economy, and~~
- 2 ~~the California Performance Review, among other sources.~~

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