

AMENDED IN ASSEMBLY AUGUST 23, 2005

AMENDED IN ASSEMBLY AUGUST 17, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 954**

---

---

**Introduced by Senators Figueroa and Dutton**

February 22, 2005

---

---

An act to add Sections 12103.5, 12104, ~~12104.5, and 12114~~ *and 12104.5* to the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 954, as amended, Figueroa. 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 regarding the manner in which state agencies procure information technology goods and services. This bill would require the Department of General Services, on or before January 1, 2007, to develop policies and guidelines for the

procurement of information technology goods and services, including ~~developing checklists~~ *identifying and documenting information* for requests for proposals, publishing policies regarding obtaining bids for and ~~purchasing~~ *acquiring* information technology, establishing a centralized entity responsible for information technology procurement methods within the Department of General Services, ~~consolidating functions~~, *developing uniform standards, with at least 2 public hearings, for information technology procurement,* and communicating rules and requirements to vendors and the general public.

~~This bill would additionally require the Governor, on or before January 1, 2007, to submit to the Legislature a legislative proposal to establish a Chief Information Officer within the Department of General Services, as described.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: 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 goods and services to accomplish its legally mandated core
- 5 business functions and public services and it is in the best interest
- 6 of the state to procure these services according to best practices,
- 7 thereby rationalizing the process and providing a consistent basis
- 8 for communication and decisionmaking.
- 9 (b) Information technology improves the functioning of
- 10 government by providing increased public access and enhanced
- 11 customer service.
- 12 (c) Conducting business with technology industry vendors in a
- 13 professional manner with an attitude of cooperative, direct, and
- 14 straightforward communication serves the best interests of the
- 15 State of California and its citizens for the following reasons:
- 16 (1) Vendors can better respond to the state if published
- 17 business and technical requirements are clear.

1 (2) An efficient and effective procurement process saves the  
2 state valuable dollars and time, mitigating overall project risk  
3 long term.

4 (d) Information technology goods and services are complex  
5 and multidimensional. The implementation of new technology  
6 invariably impacts existing technology, dependent and  
7 independent information technology systems, governmental  
8 business processes, operational expectations and outcomes, and  
9 future technical and operations choices for the functions of a  
10 governmental entity. Purchases, therefore, should be considered  
11 in the appropriate context with a total cost of ownership for the  
12 state.

13 (e) New information systems that require information  
14 technology goods and services for their implementation should  
15 be conceived in terms of a “solution.” Thinking and planning  
16 according to an information technology “solution” mindset  
17 appropriately considers the complete set of information  
18 technology goods and services required to complete an objective  
19 or set of objectives in the context of the actual business needs of  
20 the purchasing state agency. This also provides a means with  
21 which to consider the overall purchasing decision and weigh the  
22 benefits of different information technology options according to  
23 the total cost of ownership for the state.

24 SEC. 2. Section 12103.5 is added to the Public Contract  
25 Code, to read:

26 12103.5. Beginning January 1, 2007, for those information  
27 technology purchases for which the department determines that a  
28 request for proposal (RFP) is appropriate, the department shall  
29 ~~complete the following information technology procurement~~  
30 ~~checklist~~ *identify and document the following, with respect to*  
31 *information technology procurements, prior to releasing the RFP:*

32 (a) Identify the legislative mandate, state business, or  
33 operational reason for the information technology procurement.

34 (b) Identify the existing business processes currently used to  
35 accomplish the legislative mandate, state business, or operational  
36 reason.

37 (c) Identify the most important priorities for the information  
38 technology project to accomplish.

39 (d) Identify what current technology is being used and how it  
40 is being used.

1 (e) If the data used in a proposed information technology  
2 system comes from multiple sources, identify the existing  
3 business processes or technical systems that produce and  
4 maintain the source data to ensure interoperability.

5 ~~(f) Identify whether the proposed information technology  
6 system is already being used by the state. If so, determine what  
7 can be learned from the design and implementation of the similar  
8 system.~~

9 ~~(g)~~

10 (f) Identify how the new information technology project  
11 leverages existing technology investments while accomplishing  
12 its business objectives.

13 SEC. 3. Section 12104 is added to the Public Contract Code,  
14 to read:

15 12104. (a) (1) ~~The State Administrative Manual shall be the~~  
16 ~~sole policy manual related to the department's purchase of~~  
17 ~~information technology. Contracting Manual shall set forth all~~  
18 ~~policies, procedures, and methods that shall be used by the~~  
19 ~~department when seeking to obtain bids for the acquisition of~~  
20 ~~information technology, including any policies contained in the~~  
21 ~~State Administrative Manual.~~

22 ~~(2) On or before January 1, 2007, all department policies~~  
23 ~~related to the purchase of information technology, including, but~~  
24 ~~not limited to, policies discussed in management memoranda,~~  
25 ~~shall be set forth entirely in the State Administrative Manual.~~

26 ~~(3) Revisions to the manual must be publicly announced,~~  
27 ~~including, but not limited to, postings on the department's~~  
28 ~~Internet homepage.~~

29 ~~(b) (1) The State Contracting Manual shall be the sole manual~~  
30 ~~related to the methods by which the department seeks to obtain~~  
31 ~~bids for the purchase of information technology.~~

32 (2) On or before January 1, 2007, all department *policies,*  
33 *procedures, and* methods related to obtaining bids for the  
34 ~~purchase acquisition~~ of information technology shall be set forth  
35 entirely in the State Contracting Manual.

36 (3) Revisions to the manual must be publicly announced,  
37 including, but not limited to, postings on the department's  
38 ~~Internet home page homepage.~~

39 (e)

1 (b) On or before January 1, 2007, the department shall  
2 designate a single entity within the department that shall be  
3 solely responsible for the development, implementation, and  
4 maintenance of standardized methods for the development of  
5 information technology requests for proposals.

6 ~~(d) On or before January 1, 2007, the department shall~~  
7 ~~consolidate those information technology procurement oversight~~  
8 ~~functions currently performed separately by the Procurement~~  
9 ~~Division and the Office of Legal Services.~~

10 (e)

11 ~~(c) On or before January 1, 2007, the department shall, by~~  
12 ~~regulation, specify the types of all information technology~~  
13 ~~procurements that shall be reviewed by the Office of Legal~~  
14 ~~Services, or its successor, prior to release to the public.~~  
15 ~~Regulations required by this paragraph shall be adopted in~~  
16 ~~accordance with the Administrative Procedure Act (Chapter 3.5~~  
17 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
18 ~~2 of the Government Code). Regulations shall be included in the~~  
19 ~~State Administrative Manual.~~

20 (f)

21 (d) On or before January 1, 2007, the department, in  
22 consultation with *a representative from the Department of*  
23 *Technology Services, shall, by regulation, promulgate the*  
24 *Department of Finance, the Senate, and the Assembly, along with*  
25 *representatives from the information technology industry, shall*  
26 *issue a management memorandum setting forth uniform*  
27 *standards for information technology procurement that*  
28 *procurement. The management memorandum shall prioritize how*  
29 *the technology will advance the public policy purpose of the state*  
30 *program that the information technology will serve over the*  
31 *department's; or client's; preference for a particular information*  
32 *product design. Regulations required by this paragraph shall be*  
33 *adopted in accordance with the Administrative Procedure Act*  
34 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
35 *Division 3 of Title 2 of the Government Code). The regulations*  
36 *shall be included in the State Administrative Manual. Prior to*  
37 *issuing the management memorandum, the department shall hold*  
38 *at least two public hearings on the standards that are proposed*  
39 *to be included in the management memorandum.*

1 SEC. 4. Section 12104.5 is added to the Public Contract  
2 Code, to read:

3 12104.5. (a) All rules and requirements governing a specific  
4 an information technology procurement acquisition, for which  
5 the department determines that a request for proposal (RFP) is  
6 appropriate, shall be communicated in writing to all vendors that  
7 have expressed an intent to bid and shall be posted in a public  
8 location. Any changes to the rules and requirements governing a  
9 specific information technology procurement that RFP shall be  
10 communicated in writing to all vendors that have expressed an  
11 intent to bid and shall be posted in a public location. No  
12 requirements other than those provided by law or outside of the  
13 published request for proposal RFP and posted addendums shall  
14 be used by the department to score bids.

15 (b) The requirements of this section shall be in addition to any  
16 other requirement provided by law.

17 ~~SEC. 5. Section 12114 is added to the Public Contract Code,~~  
18 ~~to read:~~

19 ~~12114. On or before January 1, 2007, the Governor shall~~  
20 ~~submit to the Legislature a legislative proposal to establish a~~  
21 ~~Chief Information Officer (CIO) and to designate an appropriate~~  
22 ~~organizational location within state government for the CIO to~~  
23 ~~exercise his or her authority. The proposal shall include, but not~~  
24 ~~be limited to, provisions that will:~~

25 ~~(a) Allow the CIO to verify that the Department of~~  
26 ~~Technology Services is performing in such a way as to facilitate~~  
27 ~~further data center consolidation.~~

28 ~~(b) Establish an information technology governing board. At a~~  
29 ~~minimum, the board shall have the power to set information~~  
30 ~~technology policy, approve information technology spending,~~  
31 ~~and establish standards for determining how well or poorly state~~  
32 ~~agencies are using information technology to improve their~~  
33 ~~performance.~~

34 ~~(c) Establish standards regarding the information and data~~  
35 ~~collection practices of state agencies to ensure that~~  
36 ~~decisionmakers in those agencies are held accountable for the~~  
37 ~~performance of the agency, make informed decisions based upon~~  
38 ~~reliable, contemporary data, and have at their disposal data and~~  
39 ~~information revealing how the agency is performing, as measured~~

1 against the public policies that led to the creation of the programs  
2 it administers:

3 ~~(d) Ensure the CIO has the authority to exercise~~  
4 ~~enterprise-wide leadership over the procurement and use of~~  
5 ~~information technology.~~

6 ~~SEC. 6.~~

7 *SEC. 5.* This act is an urgency statute necessary for the  
8 immediate preservation of the public peace, health, or safety  
9 within the meaning of Article IV of the Constitution and shall go  
10 into immediate effect. The facts constituting the necessity are:

11 In order to protect the integrity of California's information  
12 technology procurement practices, and to ensure that the state is  
13 not wasting resources on poorly designed technology investments  
14 that may fail to perform in critical state health and safety  
15 programs, it is necessary that this act take effect immediately.