



March 26, 2021

The Honorable Ralph E. Massullo, MD
Chair
State Affairs Committee
209 House Office Building
402 South Monroe Street
Tallahassee, FL 32399

The Honorable Bobby Payne
Vice Chair
State Affairs Committee
209 House Office Building
402 South Monroe Street
Tallahassee, FL 32399

The Honorable Tobin Rogers Overdorf
Committee Whip
State Affairs Committee
209 House Office Building
402 South Monroe Street
Tallahassee, FL 32399

The Honorable Carlos Guillermo Smith
Ranking Member
State Affairs Committee
209 House Office Building
402 South Monroe Street
Tallahassee, FL 32399

Internet Association Supports Giving Florida's IT Projects Oversight And Support Through HB1137

Dear Chair Massullo, Vice Chair Payne, Committee Whip Overdorf, and Ranking Member Smith:

Internet Association (IA) represents the world's leading internet companies and supports policies that promote and enable internet innovation, including commercial cloud solutions. Our member companies are global leaders in the drive to develop lower cost, more secure, innovative, and most importantly, enjoyable, digital government services, with a focus on both the civil servants delivering those services and the residents receiving them.

On behalf of our members, I thank you for your consideration of [House Bill 1137](#) (HB1137), which will provide the Florida Digital Service (FDS) necessary new authorities to provide oversight over information technology (IT) projects while also giving them the support they need to succeed. With five minor changes, the state will be able to ensure projects can scale effectively and that a truly enterprise-wide view of the state's IT infrastructure can be utilized to make investment decisions going forward.

The first change, outlined in section 282.0051(1)(c)6., would be the addition of one more explicitly mentioned standard, requiring that procurement documents associated with IT projects be published in a format that makes them machine-readable. This will permit FDS - and the state as a whole - to begin to treat their procurement documents as data, pulling relevant information that will help build a more cohesive and collaborative approach to contracting. In particular, this standard will allow the state to spot duplicative procurements and find requirements that could be combined, among other efficiencies.

The second change, outlined in section 282.0051(1)(q)1.f., would solidify the requirement of compliance



with the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) and associated standards. With some of our members having taken part in the creation and iteration of the NIST CSF, whether as entities or through individuals currently serving in their staff, we applaud the state's foresight to include language to address current and future cybersecurity concerns. However, the qualifying language "[a]t a minimum" creates a degree of uncertainty that will leave the state subject to exploding costs designed to hedge against the unknowns. It is important for both industry and the state employees themselves to know when and how a procurement will deviate from the baseline requirement of compliance with the NIST CSF, and the additional language that cites the entire body of standards developed by NIST would do just that. This is especially true for cloud-based services that already comply with NIST [SP 800-53](#), the best and most recognized technical standard for public sector cloud technology.

The third change, outlined in section 282.0051(1)(q)1.g., would ensure that the required independent verification and validation (IV&V) focuses on verifying and validating the work being performed will actually work as intended and measures those IT projects using appropriate metrics, rather than becoming an additional required report that sophisticated but unscrupulous vendors can game. As many of the members of this Subcommittee have seen already from the failures of IT projects at the federal¹ and state level², reviews can either end up being money spent on a report that results in nothing being done or ends up looking at the project in the wrong way. IV&V can be implemented successfully on IT projects³ with the appropriate amount of policy in place and the language proposed will hopefully ensure the state has the foundation in place to build this out properly.

The fourth change, outlined in section 282.0051(4)(c), would ensure that projects that require follow-on procurements utilize the wealth of knowledge and information that will be available to the state through the post-award management process managed by FDS. By identifying what worked well, what needed improvement, and what should be continued, follow-on procurements will improve along with the projects themselves.

The fifth and final change, outlined in section 287.0591(5), would mitigate the administrative and logistical burden associated with seeking 100 or more responses - and actually receiving that many - by promoting the use of public postings, whether on the FDS website or elsewhere. As currently written, such a requirement will not only impact overall cost savings associated with an improved IT procurement process, but it will also slow down the speed with which the state itself can react. A great example to show the real, not just theoretical impact, is the development of the Discovery BPA by the

¹ See U.S. Department of Health and Human Services, Office of Inspector General, "HealthCare.gov: Case Study of CMS Management of the Federal Marketplace", <https://oig.hhs.gov/oei/reports/oei-06-14-00350.asp>, which found that even with an independent review, the HealthCare.gov team failed to respond when "a reviewer reported, [...] 'They were breaking, from an industry perspective, every golden rule.'" Page 22 (February 22, 2016)

² See Executive Office of the Governor, Office of Inspector General, "Review of the Department of Economic Opportunity Florida CONNECT System", https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21_2.05pm.pdf, which found that despite the failures present throughout the project, the contractor required to provide IV&V services submitted an "assessment report for October 2013 showed Green for 27 of 27 total factors." Page 57 (March 4, 2021)

³ See, for example, U.S. Department of Health and Human Services, Children's Bureau, "An Overview of Independent Verification and Validation Services for Child Welfare Information Systems Development", which explains the difference between IV&V on waterfall and agile IT projects.



General Services Administration (GSA). Having issued a solicitation on March 12, 2019⁴ and received just over 90 responses, it took until June 4, 2019⁵ - almost 3 months later - just to evaluate and award the contracts. This turnaround time was actually considered fast enough to have the contract nominated for an award.⁶ Giving IT project teams the flexibility to seek industry where they are or to direct interested parties to a singular location that can then be updated universally for all will minimize the burden and still provide the competitive benefits being sought.

Florida is quickly moving in the right direction when it comes to the delivery of modern, digital government services, and this bill is yet another step forward. With your support and inclusion of these suggested changes in the final version of the HB1137, along with some clarity and an opportunity to discuss the amendments since introduction, the Florida Digital Services will continue down the path of becoming the model for other state digital service teams.

We appreciate your time in considering our feedback and look forward to the opportunity to discuss the benefits of the bill and the proposed changes with you in further detail.

Most sincerely,

James Hines
Director, Government Affairs, Southern Region

Omid Ghaffari-Tabrizi,
Director, Cloud Policy

Cc: The Honorable Thad Altman
The Honorable Robin Bartleman
The Honorable James Buchanan
The Honorable Kevin D. Chambliss
The Honorable Linda Chaney
The Honorable Brad Drake
The Honorable Jason Fischer
The Honorable Mike Giallombardo
The Honorable Joy Goff-Marcil
The Honorable Omari Hardy
The Honorable Yvonne Hayes Hinson
The Honorable Dotie Joseph
The Honorable Fiona McFarland
The Honorable James Vernon Mooney, Jr.

⁴ See General Services Administration, "GSA seeking bids for Discovery BPA for Centers of Excellence", <https://www.gsa.gov/about-us/newsroom/news-releases/gsa-seeking-bids-for-discovery-bpa-for-centers-of-excellence> (March 12, 2019)

⁵ See General Services Administration, "GSA Issues Discovery BPA for Centers of Excellence", <https://www.gsa.gov/about-us/newsroom/news-releases/gsa-issues-discovery-bpa-for-centers-of-excellence> (June 4, 2019)

⁶ See FedScoop Top 50 2019, Innovation of the Year, <https://www.fedscoop.com/events/fedscoop50/2019/vote/> (last accessed March 23, 2021)



The Honorable Rick Roth
The Honorable David Smith
The Honorable Cyndi Stevenson
The Honorable Jackie Toledo
The Honorable Marie Paule Woodson
The Honorable Ardian Zika

Enc: Suggested Redlines

A bill to be entitled

An act relating to information technology procurement; Amending s. 282.0051, F.S.; requiring the Department of Management Services, through the Florida Digital Service, to establish certain project management and oversight standards for state agency compliance; requiring the department to perform project oversight on information technology projects that have total project costs of a certain amount or more; requiring the information technology policy for certain state contracts established by the Florida Digital Service to include certain requirements for certain contracts and information technology projects; providing requirements for information technology projects that have a total project cost over a certain amount; amending s. 287.0591, F.S.; removing obsolete language; authorizing the department to execute certain contracts if the Secretary of Management Services and the state chief information officer certify certain information in writing; requiring an agency to issue a request for quote to certain vendors approved to provide certain commodities or services in certain circumstances; requiring the department to prequalify firms and individuals to provide certain services on state term contract by a certain date;

requiring the department to consider certain information in order to prequalify a firm or individual; providing for the disqualification of a firm or individual from state term contract eligibility; authorizing a prequalified firm or individual to respond to certain requests for quotes; providing an effective date.

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

Section 1. Paragraphs (c), (n), and (q) of subsection (1) and subsection (4) of section 282.0051, Florida Statutes, are amended to read:

282.0051 Department of Management Services; Florida Digital Services; powers, duties, and functions.—

(1) The Florida Digital Service has been created within the department to propose innovative solutions that securely modernize state government, including technology and information services, to achieve value through digital transformation and interoperability, and to fully support the cloud-first policy as specified in s. 282.206. The department, through the Florida Digital Service, shall have the following powers, duties, and functions:

(c) Establish project management and oversight standards with which state agencies must comply when implementing

information technology projects. The department, acting through the Florida Digital Service, shall provide training opportunities to state agencies to assist in the adoption of the project management and oversight standards. To support data-driven decisionmaking, the standards must include, but are not limited to:

1. Performance measurements and metrics that objectively reflect the status of an information technology project based on a defined and documented project scope, cost, and schedule.

2. Methodologies for calculating acceptable variances in the projected versus actual scope, schedule, or cost of an information technology project.

3. Reporting requirements, including requirements designed to alert all defined stakeholders that an information technology project has exceeded acceptable variances defined and documented in a project plan.

4. Content, format, and frequency of project updates.

5. Technical standards to ensure an information technology project complies with the enterprise architecture.

~~6. Technical standards to ensure procurement documents associated with an information technology project are published in a machine-readable format.~~

(n)1. Notwithstanding any other law, provide project oversight on any information technology project of the Department of Financial Services, the Department of Legal Affairs, and the Department of Agriculture and Consumer Services

which has a total project cost of \$20 ~~\$25~~ million or more ~~and which impacts one or more other agencies~~. Such information technology projects must also comply with the applicable information technology architecture, project management and oversight, and reporting standards established by the department, acting through the Florida Digital Service.

2. When performing the project oversight function specified in subparagraph 1., report at least quarterly to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives on any information technology project that the department, acting through the Florida Digital Service, identifies as high-risk due to the project exceeding acceptable variance ranges defined and documented in the project plan. The report shall include a risk assessment, including fiscal risks, associated with proceeding to the next stage of the project and a recommendation for corrective actions required, including suspension or termination of the project.

(q)1. Establish an information technology policy for all information technology-related state contracts, including state term contracts for information technology commodities, consultant services, and staff augmentation services. The information technology policy must include:

- a. Identification of the information technology product and service categories to be included in state term contracts.
- b. Requirements to be included in solicitations for state

term contracts.

c. Evaluation criteria for the award of information technology-related state term contract.

d. The term of each information technology-related state term contract.

e. The maximum number of vendors authorized on each state term contract.

f. ~~At a minimum, a~~ requirement that any contract for information technology commodities or services meet the National Institute of Standards and Technology (NIST) Cybersecurity Framework and any applicable standards developed by NIST.

g. For an information technology project wherein project oversight is required pursuant to paragraph (d) or paragraph (n), a requirement that independent verification and validation be employed throughout the project lifecycle with the primary objective of independent verification and validation being to provide an objective assessment of products and processes throughout the project lifecycle. An entity providing independent verification and validation may not have technical, managerial, or financial interest in the project and may not have responsibility for, or participate in, any other aspect of the project and must choose metrics and measurements that are appropriate for the methodology being used and designed to show that the work being performed will actually work as intended.

2. Evaluate vendor responses for information technology-related state term contract solicitations and invitations to

negotiate.

3. Answer vendor questions on information technology-related state term contract solicitations.

4. Ensure that the information technology policy established pursuant to subparagraph 1. is included in all solicitations and contracts that are administratively executed by the department.

(4) For information technology projects that have a total project cost of over \$5 million ~~Upon the adoption of the enterprise architecture standards in rule, the department, acting through the Florida Digital Service, may develop a process to:~~

(a) State agencies must provide the Florida Digital Service with ~~Receive~~ written notice ~~from the entities within the enterprise~~ of any planned procurement of an information technology project ~~that is subject to enterprise architecture standards.~~

(b) The Florida Digital Service must participate in the development of specifications and recommend modifications to any planned procurement of an information technology project by state agencies so that the procurement complies with the enterprise architecture.

(c) The Florida Digital Service must participate in post-award contract monitoring and the development of any follow-on procurements.

Section 2. Section 287.0591, Florida Statutes, is amended

to read:

287.0591 Information technology.—

(1) ~~Beginning July 1, 2014,~~ Any competitive solicitation issued by the department for a state term contract for information technology commodities must include a term that does not exceed 48 months.

(2) ~~Beginning September 1, 2015,~~ Any competitive solicitation issued by the department for a state term contract for information technology consultant services or information technology staff augmentation contractual services must include a term that does not exceed 48 months.

(3) The department may execute a state term contract for information technology commodities, consultant services, or staff augmentation contractual services that exceeds the 48-month requirement if the Secretary of Management Services and the state chief information officer certify in writing to the Executive Office of the Governor that a longer contract term is in the best interest of the state.

(4) If the department issues a competitive solicitation for information technology commodities, consultant services, or staff augmentation contractual services, the Florida Digital Service within the department shall participate in such solicitations.

(5) If an agency issues a request for quotes to purchase information technology commodities, information technology consultant services, or information technology staff

augmentation contractual services from the state term contract, for any contract with less than 100 vendors, the agency must issue a request for quote to all vendors approved to provide such commodities or services. For any contract with more than 100 vendors, the agency must issue a request for quote to at least 100 of the vendors approved to provide such commodity or contractual service or post the request on a publicly accessible forum that those vendors frequent. Use of a request for quote does not constitute a decision or intended decision that is subject to protest under s. 120.57(3).

(6) Beginning October 1, 2021, and each October 1 thereafter, the department shall prequalify firms and individuals to provide information technology staff augmentation contractual services on state term contract. In order to prequalify a firm or individual for participation on the state term contract, the department must consider, at a minimum, the capability, experience, and past performance record of the firm or individual. A firm or individual removed from the source of supply pursuant to s. 2817.042(1)(b) or placed on a disqualified vendor list pursuant to s. 287.133 or s. 287.134 is immediately disqualified from state term contract eligibility. Once a firm or individual has been prequalified to provide information technology staff augmentation contractual services on state term contract, the firm or individual may respond to requests for quotes from an agency to provide such services.

Section 3. This act shall take effect July 1, 2021.