

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1862

By: Blackwell of the House

and

Adelson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance; amending 62 O.S. 2001, Sections 41.5a, 41.5i and 41.5j, which relate to the powers and duties of the Information Services Division; modifying certain threshold amount for written authorization requirement; prohibiting Office of State Finance from requiring certain expenditures by agencies; authorizing agencies to utilize certain forms of telecommunications services; amending Section 2, Chapter 128, O.S.L. 2004 (62 O.S. Supp. 2004, Section 41.5t), which relates to accessibility of information technology; modifying references; prohibiting contracts for certain computer software unless the source code is provided; requiring certain documentation; directing the State Purchasing Director to provide advice and assistance; providing definitions; creating Task Force for the Study of Computer Information Officers; providing for membership of Task Force; providing for selection of officers; providing for meetings of Task Force; specifying quorum requirement; providing for applicability of certain statutory provisions; imposing duties; providing for staff assistance; providing for findings and recommendations; authorizing travel reimbursement; providing for termination of Task Force; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 2001, Section 41.5a, is amended to read as follows:

Section 41.5a A. The Information Services Division shall:

1. Coordinate data processing planning through analysis of each agency's long-term data processing plans;

2. Develop a ~~state-wide~~ statewide data processing plan with annual modifications to include as a minimum:

- a. individual agency plans, and
- ~~b.~~ information systems plans for the ~~state-wide~~ statewide electronic data processing function,
- ~~e.~~ b. major development projects proposed for the current year and the next three (3) years, and
- ~~d.~~ c. an explanation of revisions to previous plans;

3. Establish minimum mandatory standards for:

- a. information systems planning,
- b. systems development methodology,
- c. documentation,
- d. hardware requirements and compatibility,
- e. operating systems compatibility,
- f. software and hardware acquisition,
- g. data security and internal controls,
- h. data base compatibility, and
- i. contingency planning and disaster recovery.

Such standards shall, upon adoption, be the minimum requirements applicable to all agencies. These standards shall be compatible with the standards established for the Oklahoma Government Telecommunications Network created in Section ~~4~~ 41.5m of this ~~act~~ title. Individual agency standards may be more specific than statewide requirements but shall in no case be less than the minimum mandatory standards. Where standards required of an individual agency of the state by agencies of the federal government are more strict than the state minimum standards, such federal requirements shall be applicable;

4. Develop and maintain applications for agencies not having the capacity to do so;

5. Operate a data processing service center to provide operations and hardware support for agencies requiring such services and for ~~state-wide~~ statewide systems;

6. Maintain a directory of application systems, systems software, hardware, internal and external data processing studies and training courses in use by all agencies of the state; and facilitate the utilization of such resources by any agency having requirements which are found to be available within any agency of the state;

7. Assist agencies in the acquisition and utilization of data processing systems and hardware to effectuate the maximum benefit for the provision of services and accomplishment of the duties and responsibilities of agencies of the state;

8. In conjunction with the Office of Personnel Management, establish training guidelines for electronic data processing personnel, assist agencies in placing personnel in appropriate courses offered by other agencies of the state, and sponsor training courses for attendance by data processing personnel of all agencies;

9. Coordinate for the executive branch of state government agency data processing activities, encourage joint projects and common systems, and linking of agency systems through the review of agency plans, development of a ~~state-wide~~ statewide plan and its integration with the budget process to ensure that developments and/or acquisitions are consistent with ~~state-wide~~ statewide objectives and that proposed systems are justified and cost effective;

10. Develop performance reporting guidelines for data processing facilities and conduct an annual review to compare agency plans and budgets with results and expenditures;

11. Establish operations review procedures for data processing installations operated by agencies of the state for independent assessment of productivity, efficiency, and cost effectiveness;

12. Establish service center user charges for billing costs to agencies based on the use of all resources; and

13. Provide system development and consultant support to state agencies on a contractual, cost reimbursement basis.

B. No agency of the executive branch of the state shall use state funds for or enter into any agreement for the acquisition of computer hardware or software exceeding ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Twenty-five Thousand Dollars (\$25,000.00) in value without written authorization of the Director of State Finance. The provisions of this subsection shall not be applicable to any member of The Oklahoma State System of Higher Education, any public elementary or secondary schools of the state, or any technology center school district as defined in Section 14-108 of Title 70 of the Oklahoma Statutes.

C. The provisions of this act shall not require the disclosure, directly or indirectly, of any information of a state agency which is declared to be confidential or privileged by state or federal statute or the disclosure of which is restricted by agreement with the United States or one of its agencies, nor the disclosure of data processing system details that may permit the access to confidential information.

D. The Office of State Finance shall not have the authority to require any agency to expend funds to acquire any hardware, software, computer- or data-processing-related device or property or to require an agency to expend funds for maintenance or upgrade of its computer hardware, software or computer- or data-processing-related devices; provided, however, nothing contained in this section shall be construed to prevent the Office of State Finance or the Department of Central Services from requiring state agencies to purchase from approved vendors or under statewide purchasing contracts and provided, further, nothing contained herein shall prevent the Office of State Finance from requiring state agencies to

meet certain minimum security requirements or requirements for
Statewide Integrated Central Systems.

SECTION 2. AMENDATORY 62 O.S. 2001, Section 41.5i, is amended to read as follows:

Section 41.5i In addition to the powers and duties as defined elsewhere in this title, the Information Services Division of the Office of State Finance shall:

1. Coordinate statewide planning for communication and telecommunications needs of state government, including, but not limited to, voice, data, radio, video and facsimile transmissions through analysis of each agency's long-term communication and telecommunications plans;

2. Develop and integrate a statewide communications plan to address the design requirements and networks necessary to serve agency needs, which will consist of as a minimum:

- a. an inventory of communication or telecommunication equipment owned, leased or rented for use in communication services for state government, including communication services provided as part of any other total system to be used by the state or any of its agencies,
- b. current budget plans, expenditures and resources necessary to operate any and all systems included in the above inventory,
- c. major development projects proposed for the current fiscal year and the next three (3) fiscal years and the anticipated results and benefits to be achieved, and
- d. an explanation of revisions to previous plans;

3. Establish minimum mandatory standards and protocols for:

- a. communication networks and equipment,
- b. wide area and local area systems,

- c. integration of equipment, systems and joint usage,
- d. operating systems or methods to be used to meet communications requirements efficiently and effectively,
- e. rendering of aid between state government and its political subdivisions with respect to organizing of communications systems, and
- f. an economical and cost-effective utilization of communication services.

Such standards and protocols shall be compatible with the standards and protocols established for the Oklahoma Government Telecommunications Network created in Section ~~4~~ 41.5m of this ~~act~~ title;

4. Serve as a focal point for all statewide projects involving current communications vendors where the focus of such authority can substantially enhance the state communications plan or the savings which can be achieved thereunder;

5. Provide, when requested by political subdivisions of the state, for the organizing of communications or telecommunications systems and service between the state and its political subdivisions and enter into agreements to effect the purposes of this section;

6. Cooperate with any federal, state or local emergency management agency in providing for emergency communications and telecommunication services;

7. Apply for, receive, and hold, or assist agencies in applying for, receiving or holding such authorizations, licenses and allocations of channels and frequencies to carry out the purposes of this section;

8. Accomplish such other purposes as may be necessary or incidental to the administration of its authority or functions pursuant to law; and

9. Provide support for telecommunication networks of state agencies through analysis of each agency's telecommunications needs and requirements and promotion of the use of the Oklahoma Government Telecommunications Network created in Section ~~4~~ 41.5m of this ~~act~~ title.

SECTION 3. AMENDATORY 62 O.S. 2001, Section 41.5j, is amended to read as follows:

Section 41.5j A. No agency of the executive branch of the state shall use state funds for or enter into any agreement for the acquisition, development or enhancement of a communication or telecommunication system including voice, data, radio, video and facsimile systems, without written authorization of the Director of State Finance. The Director of State Finance shall verify that any such acquisition, development or enhancement is compatible with the operation of the Oklahoma Government Telecommunications Network created in Section 41.5m of this title. Agencies of the executive branch may pursue alternative forms of telecommunications services supported by the Oklahoma Government Telecommunications Network created in Section 41.5m of this title when such services can demonstrate more efficient, economical or functional delivery of state telecommunications.

B. Not later than September 1 of each year, all agencies of the state presently using or contemplating the use of voice, data, radio, video and facsimile communication or telecommunication systems shall submit to the Information Services Division of the Office of State Finance a long-range plan summarizing the agency's detailed plan, for not less than the current fiscal year and the ensuing three (3) fiscal years. Agencies may submit to the Information Services Division of the Office of State Finance revisions or amendments to its long-range plan as deemed necessary by the agencies. The plan shall include at a minimum:

1. An inventory of communication or telecommunication equipment owned, leased or rented for use in all communication services for state government, including communication services provided as part of any other total system to be used by the state or any of its agencies;

2. Current budget plans, expenditures and resources necessary to operate any and all systems included in the above inventory;

3. Major development projects proposed for the current fiscal year and the next three (3) fiscal years and the anticipated results and benefits to be achieved;

4. An explanation of revisions to previous plans;

5. Key project dates; and

6. Specific segments which will be included in the agency budget request for the ensuing fiscal year.

C. No agency of the executive branch of the state shall enter into any agreement for the acquisition, development or enhancement of a communication or telecommunication system or service including voice, data, radio, video and facsimile systems, unless the cost of such addition, change, improvement or development has been included in the statewide communications plan of the Information Services Division, as said plan may have been amended or revised.

D. State agencies may enter into interagency contracts to share communications and telecommunications resources for mutually beneficial purposes. The contract shall clearly state how its purpose contributes to the development or enhancement or cost reduction of a state network which includes voice, data, radio, video or facsimile systems. The contract shall be approved by the Information Services Division before any payments are made.

E. The provisions of this section shall not apply to the telecommunications network known as OneNet whether said network is governed or operated by the Oklahoma State Regents for Higher

Education or any other state entity assigned responsibility for OneNet.

SECTION 4. AMENDATORY Section 2, Chapter 128, O.S.L. 2004 (62 O.S. Supp. 2004, Section 41.5t), is amended to read as follows:

Section 41.5t A. The Information Services Division of the Office of State Finance shall work in conjunction with the Department of Central Services to assure state compliance regarding accessibility of information technology for individuals with disabilities based on the provisions of Section 508 of the Workforce Investment Act of 1998.

B. When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development, upgrading, or replacement of information technology each state agency shall ensure, unless an undue burden would be imposed on the agency, that the information technology allows employees, program participants, and members of the general public access to use of information and data that is comparable to the access by individuals without disabilities.

C. To assure accessibility, the Information Services Division and the Department of Central Services shall:

1. Adopt accessibility standards that address all technical standard categories of Section 508 of the Workforce Investment Act of 1998 to be used by each state agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, ~~web~~ Web sites, and other emerging information technology systems;

2. Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state agency prior to expenditure of state funds;

3. Review and evaluate accessibility of information technology commonly purchased by state agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;

4. Provide in partnership with Oklahoma Able Tech, the state assistive technology project located at Oklahoma State University, training and technical assistance for state agencies to assure procurement of information technology that meets adopted accessibility standards;

5. Consult with the Oklahoma Department of Rehabilitation Services and individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;

6. Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998, to be used by an individual who alleges that a state agency fails to comply with the provisions of this section;

7. Work with and seek advice from the Electronic and Information Technology Accessibility Advisory Council, created in Section 4 41.5t.2 of this ~~act~~ title in developing accessibility standards and complaint procedures as required in this section; and

8. Require state agencies to submit evidence of assurance of compliance with state standards on accessibility of information technology for individuals with disabilities developed in accordance with this section. For executive branch state agencies that are required to submit an annual long-range plan pursuant to Section 41.5e of Title 62 of the Oklahoma Statutes evidence of compliance shall be included in that report.

D. The Director of State Finance and the Director of the Department of Central Services shall promulgate rules, as necessary, to implement the provisions of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41.5u of Title 62, unless there is created a duplication in numbering, reads as follows:

A. No state agency, as defined by Section 250.3 of Title 75 of the Oklahoma Statutes, nor the Purchasing Division of the Department of Central Services, unless otherwise provided by federal law, shall enter into a contract for the acquisition of computer software developed or modified exclusively for the agency or the state, unless the vendor agrees to provide to the agency or the state the source code for the software and/or modifications.

B. The State Purchasing Director or the procurement officers of the state agencies not subject to the Central Purchasing Act shall not process any state agency request for the custom modernization or development of computer software unless the proposed vendor provides documentation that complies with subsection A of this section.

C. The State Purchasing Director shall provide advice and assistance, as may be required, in order for state agencies to comply with the provisions of this section.

D. As used in this section:

1. "State agency" shall include all state agencies, whether subject to the Central Purchasing Act or not, except the Oklahoma Lottery Commission; and

2. "Source code" means the programming instruction for a computer program in its original form, created by a programmer with a text editor or a visual programming tool and saved in a file.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41.5a-2 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Task Force for the Study of Computer Information Officers".

B. The Task Force shall consist of the following members:

1. Two appointees by the Governor;

2. Two appointees by the Speaker of the Oklahoma House of Representatives;

3. Two appointees by the President Pro Tempore of the State Senate;

4. One Director of Information Technology or Data Processing, or equivalent positions, from each of the following agencies:

- a. the Department of Human Services,
- b. the State Department of Education,
- c. the Oklahoma Tax Commission,
- d. the State Department of Transportation,
- e. the Oklahoma Corporation Commission,
- f. the Oklahoma State Regents for Higher Education,
- g. the Chairman of the Task Force on Electronic Commerce created by Section 8121 of Title 74 of the Oklahoma Statutes serving in such capacity on the effective date of this act, and
- h. the Office of State Finance;

5. A representative of the Office of State Finance; and

6. A representative of the OneNet communication and data transfer network to be selected by the Oklahoma State Regents for Higher Education.

C. The chairman and vice-chairman shall be elected at the first meeting by a majority of those present. A quorum shall be required to hold the election and a quorum shall be a majority of those appointed to the Task Force.

D. The Task Force shall conduct an organizational meeting not later than ninety (90) days after the effective date of this act by the Office of State Finance. A simple majority of those members present at a meeting of the Task Force shall constitute a quorum for the purpose of any action taken by the Task Force, including any action related to the Final Report of the Task Force. The Task

Force shall be authorized to meet as often as required in order to perform the duties imposed upon the Task Force by law.

E. The Task Force shall be subject to the Oklahoma Open Meeting Act. The Task Force shall be subject to the Oklahoma Open Records Act.

F. The Task Force shall analyze the role of information technology within state agencies, boards, commissions, departments and other entities of state government. The Task Force shall examine the need for a chief information officer for the state and a centralized agency for the state's information technology and telecommunications services and infrastructure.

G. Staffing assistance for the Task Force shall be provided by the Oklahoma House of Representatives and the Oklahoma State Senate.

H. The Task Force shall make findings and recommendations in a report which shall be submitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate not later than January 31, 2006. The findings and recommendations may include specific recommendations related to the creation of positions such as computer information officer or director of information technology for state agencies or other governmental entities that do not utilize such positions currently.

I. Travel reimbursement for the members of the Task Force shall be the responsibility of the appointing authority and, if applicable, the reimbursement shall be made pursuant to the State Travel Reimbursement Act. Any legislative member appointed to the Task Force shall be reimbursed pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

J. The authority for the Task Force shall terminate effective January 31, 2006, and the Task Force shall not be authorized to conduct meetings or to take any action after the submission of the Final Report required by this section.

SECTION 7. This act shall become effective July 1, 2005.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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