Innovation, Technology & Economic Development Committee

HB 1844

Brief Description: Requiring modular contracting for information technology procurement by state agencies.

Sponsors: Representatives Chandler, Hudgins, Smith, Tarleton and Lekanoff.

Brief Summary of Bill

- Requires state agencies to use modular contracting for the procurement of IT systems with an estimated cost of more than $1 million.

- Establishes specific requirements for modular contract terms and procurement increments.

Hearing Date: 2/12/19

Staff: Yelena Baker (786-7301).

Background:

The Department of Enterprise Services (DES) provides a variety of support services to state agencies, including managing the procurement of goods and services by state agencies. The DES director is responsible for the development and oversight of procurement policy and is authorized to adopt rules, policies, and guidelines governing the procurement, contracting, and contract management of goods and services procured by state agencies.

State law requires using competitive solicitation for all purchases of or contracts for goods and services. Certain types of contracts are excluded from the competitive solicitation requirements, including emergency contracts, direct buy purchases, and contracts determined by the DES director as not appropriate or cost-effective for competitive solicitation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Consolidated Technology Services (CTS) agency, also known as WaTech, supports state agencies as a centralized provider and procurer of certain information technology (IT) services. Within the CTS, the Office of the Chief Information Officer (OCIO) has certain primary duties related to state government IT, which include establishing statewide enterprise architecture and standards for consistent and efficient operation.

The CTS is exempt from the state procurement laws with regard to certain contracts, including acquisition of proprietary software, equipment, and IT services necessary for or part of the provision of services offered by the CTS.

Summary of Bill:

Modular Contracting Method.

State agencies are required to use the modular contracting method for the procurement of information technology systems with an estimated cost in excess of $1 million. "Modular contracting method" is defined as an acquisition strategy that breaks up large, complex procurements into multiple tightly scoped projects that are procured in increments to implement information technology (IT) systems in successive, interoperable segments.

The modular contracting requirement does not apply to the procurement of commercially available off-the-shelf products such as monitors and tablets, or commercially available off-the-shelf software. The modular contracting requirement does apply to the Consolidated Technology Services (CTS) which continues to be exempt from other procurement provisions.

The Department of Enterprise Services (DES) is required to establish procurement processes consistent with modular contracting requirements set forth in the bill. The Office of the Chief Information Officer (OCIO) must establish policies for the modular contract procurement of IT systems in order to ensure the security of the contracted infrastructure system and the protection of any content processed in the infrastructure system.

Modular Contract Requirements.

Modular contracts must be simplified and easily understood by a reasonable person and contain specific terms, including that the state maintain ownership of all data and application programming interface and any custom developed software be open source code, except in certain circumstances.

Modular contracts must require vendors to include end-user customer involvement in the development of the project and incorporate end-user customer feedback whenever reasonably appropriate.

Procurement Increment Requirements.

Modular contract procurement increments must meet certain requirements, including addressing complex IT objectives incrementally, being easier to manage individually than one

comprehensive procurement, and providing a system or solution that is not dependent on a subsequent increment in order to perform its principal functions.

Procurement increments must comply with the statewide IT security standards established by the Office of the Chief Information Officer (OCIO).

Modular Contract Awards.

State agencies are authorized to establish a pre-qualified vendor pool for each IT project for which the agency is procuring goods and services using modular contracting. The OCIO and the DES must collaborate to establish requirements for the selection process of vendors and may consider a number of factors, including a requirement that vendors build a working prototype of the project and that proposals adhere to coding and design best practices.

Contracts awarded pursuant to a bid made to the pre-qualified vendor pool are exempt from the competitive solicitation requirements.

State agencies should award a contract for an increment within 180 days after the solicitation is issued or else consider cancelling the increment. Once a contract is awarded, the IT provided for in the contract should be delivered within 18 months.

Appropriation: None.

Fiscal Note: Requested on February 7, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.