

A-Engrossed Senate Bill 87

Ordered by the Senate April 17
Including Senate Amendments dated April 17

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits State Chief Information Officer to decide whether state contracting agency or public corporation must obtain quality management services for information technology initiative in specific circumstances.

Requires State Chief Information Officer by December 31 of each year to submit report to Legislative Fiscal Officer that identifies information technology initiatives for which value exceeds \$5 million and State Chief Information Officer determines that quality management services are not necessary.

A BILL FOR AN ACT

1
2 Relating to quality management services for information technology initiatives; creating new pro-
3 visions; and amending ORS 291.035.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 291.035 is amended to read:

6 291.035. (1) As used in this section:

7 (a)(A) "Information technology initiative" means a project to develop or provide, with a state
8 contracting agency's or public corporation's own personnel and resources, or to obtain by means of
9 a procurement or set of related procurements:

10 (i) New hardware, software or services for data processing, office automation or telecommuni-
11 cations;

12 (ii) An overhaul, upgrade or replacement of a substantial portion of the hardware or software
13 in an existing data processing, office automation or telecommunications system; or

14 (iii) A substantial expansion of existing data processing, office automation or telecommuni-
15 cations services.

16 (B) "Information technology initiative" does not include:

17 (i) A procurement for preliminary quality assurance services or quality management services;

18 (ii) A routine update to or purchase of hardware or software within an existing data processing,
19 office automation or telecommunications system;

20 (iii) A renewal of an existing contract for data processing, office automation or telecommuni-
21 cations services under terms and conditions that are substantially the same as in the existing con-
22 tract; or

23 (iv) A replacement of a component of an existing data processing, office automation or tele-
24 communications system that is not essential for the system to function as designed or that occurs

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 at the end of the component's anticipated life cycle.

2 (b) "Preliminary quality assurance services" means a set of services in which a contractor pro-
3 vides an independent and objective review of a state contracting agency's or a public corporation's
4 plans, specifications, estimates, documentation, available resources and overall purpose for an in-
5 formation technology initiative, including services in which the contractor evaluates a proposed in-
6 formation technology initiative against applicable quality standards and best practices from private
7 industry and other sources.

8 (c) "Procurement" has the meaning given that term in ORS 279A.010.

9 (d)(A) "Public corporation" means a corporation:

10 (i) The operations of which are subject to control by this state or by an agency or
11 instrumentality of this state, or by officers of this state or of an agency or instrumentality of this
12 state;

13 (ii) That is organized, at least in part, to serve a public purpose; and

14 (iii) That receives public funds or other support from an entity described in sub-subparagraph
15 (i) of this subparagraph.

16 (B) "Public corporation" does not include:

17 (i) A person or entity described in ORS 174.108 (3);

18 (ii) A city, county, local service district, school district, education service district, community
19 college district or community college service district or a university with a governing board listed
20 in ORS 352.054; or

21 (iii) An administrative subdivision of an entity described in sub-subparagraph (ii) of this sub-
22 paragraph.

23 (e) "Quality management services" means a set of services in which a contractor provides an
24 independent and objective review and evaluation of a state contracting agency's, a public
25 corporation's or another contractor's performance with respect to an information technology initi-
26 ative, such as services in which the contractor:

27 (A) Identifies quality standards that apply or should apply to the information technology initi-
28 ative;

29 (B) Suggests methods and means by which the state contracting agency, the public corporation
30 or the other contractor may meet quality standards identified in subparagraph (A) of this paragraph;

31 (C) Reviews and evaluates the state contracting agency's, the public corporation's or the other
32 contractor's performance regularly as the information technology initiative progresses from start to
33 finish;

34 (D) Identifies omissions or gaps in the state contracting agency's, the public corporation's or the
35 other contractor's planning, execution, control, methodology, communication or reporting as the in-
36 formation technology initiative progresses from start to finish;

37 (E) Identifies risks in the state contracting agency's, the public corporation's or the other
38 contractor's plans or approach to designing, developing or implementing the information technology
39 initiative and suggests methods to reduce, mitigate or eliminate the risks;

40 (F) Assists the state contracting agency or the public corporation in testing or otherwise eval-
41 uating the hardware, software or services that are developed, provided or obtained as part of an
42 information technology initiative to determine whether the hardware, software or services conform
43 with the quality standards identified in subparagraph (A) of this paragraph;

44 (G) Advises the State Chief Information Officer, the state contracting agency or the public cor-
45 poration as to whether the hardware, software or services that are developed, provided or obtained

1 as part of an information technology initiative meet the contracting agency's or the public
2 corporation's needs, specifications or expectations and otherwise enable the state contracting
3 agency or the public corporation to achieve the objectives for the information technology initiative;
4 or

5 (H) Identifies unsatisfactory performance and suggests methods the State Chief Information Of-
6 ficer, the state contracting agency, the public corporation or the other contractor might use to
7 eliminate the causes of unsatisfactory performance.

8 (f) "State contracting agency" has the meaning given that term in ORS 279A.010.

9 (2)(a) A state contracting agency or a public corporation that implements an information tech-
10 nology initiative shall obtain quality management services from a qualified contractor if the value
11 of the information technology initiative exceeds \$5 million, **unless the State Chief Information**
12 **Officer determines that the quality management services are not necessary.** [or] **The State**
13 **Chief Information Officer may require quality management services for an information**
14 **technology initiative the value of which does not exceed \$5 million** if the information technology
15 initiative meets criteria or standards that the State Chief Information Officer specifies [by] in rule
16 or policy. **The State Chief Information Officer not later than December 31 of each year shall**
17 **submit to the Legislative Fiscal Officer a report that identifies information technology initi-**
18 **atives for which:**

19 (A) **The value exceeds \$5 million; and**

20 (B) **The State Chief Information Officer determines that quality management services**
21 **are not necessary.**

22 (b) A state contracting agency or public corporation may, subject to ORS 279B.040, procure
23 preliminary quality assurance services from a contractor if the information technology initiative
24 meets the [standards] **criteria** set forth in paragraph (a) of this subsection or if the state contracting
25 agency or public corporation otherwise believes that the preliminary quality assurance services will
26 enable the contracting agency or public corporation to implement an information technology initi-
27 ative successfully.

28 (3) A state contracting agency or public corporation may not artificially divide or fragment an
29 information technology initiative so as to avoid the application of this section.

30 (4) Notwithstanding any procurement authority that a state contracting agency or a public
31 corporation has that is not subject to the authority of the Director of the Oregon Department of
32 Administrative Services or the State Chief Information Officer under ORS 279A.050 (2) or (7), the
33 state contracting agency or public corporation is subject to the provisions of subsection (2) of this
34 section and shall consult with and follow the rules, policies and procedures of the State Chief In-
35 formation Officer in determining the extent of preliminary quality assurance services or quality
36 management services that the state contracting agency or public corporation will require for an
37 information technology initiative.

38 (5)(a) If a state contracting agency or a public corporation awards a contract for preliminary
39 quality assurance services or quality management services, the contract must provide that at the
40 same time a contractor provides a preliminary or final report to the contract administrator, the
41 contractor shall also provide a copy of the report to:

42 (A) The State Chief Information Officer;

43 (B) The Director of the Oregon Department of Administrative Services;

44 (C) The Legislative Fiscal Officer; and

45 (D) As appropriate for the specific information technology initiative, to:

1 (i) The director of the state contracting agency or, if a board or commission sets policy for the
2 state contracting agency, to the board or commission; or

3 (ii) The governing body of the public corporation.

4 (b) The state contracting agency or public corporation shall provide the contractor with names,
5 addresses and other contact information the contractor needs to comply with paragraph (a) of this
6 subsection.

7 (6) This section does not apply to the Secretary of State or the State Treasurer.

8 **SECTION 2. The amendments to ORS 291.035 by section 1 of this 2017 Act apply to in-**
9 **formation technology initiatives that a state contracting agency or public corporation ad-**
10 **vertises or otherwise solicits or, if the state contracting agency does not advertise or solicit**
11 **the information technology initiative, to information technology initiatives for which the**
12 **state contracting agency or public corporation begins implementation on or after the effec-**
13 **tive date of this 2017 Act.**

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