

SB 625 STAFF MEASURE SUMMARY

Joint Committee On Information Management and Technology

Action Date: 04/19/23

Action: Do pass and refer to Ways and Means by prior reference.

Senate Vote

Yeas: 2 - Taylor, Woods

Exc: 1 - Thatcher

House Vote

Yeas: 3 - Hartman, Mannix, Nathanson

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Sean McSpaden, Committee Coordinator

Meeting Dates: 3/29, 4/19

WHAT THE MEASURE DOES:

Senate Bill 625 directs the Oregon Department of Administrative Services to establish a pilot program for evaluating the use of the challenge-based procurement method to conduct certain information technology procurements.

The measure specifies the features that the pilot program must have and requires contracting agencies that use the challenge-based procurement method to provide sufficient information to the Oregon Department of Administrative Services to allow the department to evaluate and report results of the pilot program to the Governor and to interim committees of the Legislative Assembly related to public procurement not later than December 31, 2025. The measure takes effect on 91st day following adjournment sine die and sunsets on January 2, 2026.

ISSUES DISCUSSED:

- Challenges and barriers associated with current state agency information technology procurement practices. Comparison between traditional and challenge-based procurement practices.
- Desire to improve access to public contracting opportunities for small, diverse, and local companies through the use of challenge-based procurement program.
- Rationale for challenge-based procurement - shorten the procurement timeline, improve access to innovative solutions from a broader group of solution providers, improve chances of IT project success, etc.
- Use of challenge-based procurement practices in California and Minnesota.
- Confirmation that the Department of Administrative Services and Oregon state agencies have the authority to conduct challenge-based procurement pilots under current law and that no statutory changes or additional procurement authority would be required to implement the measure.
- Potential fiscal impacts related to implementation of the measure.
- Department of Justice timelines for review and response.
- Evaluation criteria for selection of best value solutions vs. contract award based solely on lowest cost.
- Concerns regarding software licensing and cloud service agreement restrictions.
- Commitment from Department of Administrative Services to augment the pilot evaluation/award criteria to either eliminate from consideration those proposals that include restrictive software licensing/cloud service subscription agreements OR document the compelling reasons why an award was made in spite of those restrictive agreements.
- Need for sideboards, evaluation and reporting to the legislature. Support for pilot approach outlined within the measure.

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- Support for the measure from Senator Lieber, the Technology Association of Oregon, City Innovate, and the Marquam Group.

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A challenge-based procurement means a procurement process in which a contracting agency: (a) Identifies a problem or need that requires a solution; (b) Solicits proposals from prospective contractors to resolve the problem or meet the need; and (c) Conducts pilots, proofs of concept, or competitive trials and demonstrations to identify feasible and effective approaches to solve the problem or meet the need.

The State of California began to utilize the challenge-based procurement method as directed within California Executive Order N-04-19, signed by Governor Newsom on January 8, 2019. Subsequently, California Senate Bill 109 was passed and signed into law in September 2021 (Chapter 239). California Senate Bill 109 (2021) established the California Office of Wildfire Technology Research and Development to study, test, and advise regarding procurement of emerging technologies and tools in order to more effectively prevent and suppress wildfires within the state.

In 2019, the state of Minnesota Department of Transportation utilized the challenge-based procurement method for the Minnesota Connected and Automated Vehicle Challenge (CAV Challenge).

Oregon's procurement code (ORS 279B Sole-source Procurements; ORS 279B.085 Special Procurements) and associated Oregon Administrative Rules (OAR 125-247-0275 - Sole-Source Procurements; OARs 125-247-0285 thru 125-247-0295 - Special Procurements), provide the Oregon Department of Administrative Services and state agencies with the authority to conduct challenge-based procurements.