

1 **INFORMATION TECHNOLOGY PROCUREMENT**

2 **AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Clark**

6

7 **LONG TITLE**

8 **General Description:**

9 This bill requires the director of the Division of Information Technology Services to
10 review information technology and telecommunications purchases for the division to
11 determine if the purchase is practical, efficient, and economically beneficial to the state.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ clarifies that the director of the Division of Information Technology Services must
15 follow the State Procurement Code when making purchases;
- 16 ▶ requires the director of the Division of Information Technology Services to conduct
17 a business case analysis before purchasing certain information technology services
18 or equipment, and to certify that the business case analysis was conducted;
- 19 ▶ requires the state's chief procurement officer to develop policies to ensure that the
20 director of the Division of Information Technology Services verifies that a business
21 case analysis was conducted; and
- 22 ▶ requires the executive director of the Department of Administrative Services to
23 develop a policy requiring a business case analysis for certain information
24 technology purchases and to report that policy to the Legislature.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected**

30 AMENDS:

31 **63-56-9**, as last amended by Chapter 13, Laws of Utah 1998

32 **63-56-13**, as last amended by Chapter 270, Laws of Utah 1998

33 **63A-1-110**, as renumbered and amended by Chapter 212, Laws of Utah 1993

34 **63A-6-105**, as last amended by Chapters 16 and 209, Laws of Utah 2003



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **63-56-9** is amended to read:

38 **63-56-9. Duties of chief procurement officer.**

39 Except as otherwise specifically provided in this chapter, the chief procurement officer
40 serves as the central procurement officer of the state and shall:

41 (1) adopt office policies governing the internal functions of the Division of Purchasing
42 and General Services;

43 (2) procure or supervise the procurement of all supplies, services, and construction
44 needed by the state;

45 (3) exercise general supervision and control over all inventories or supplies belonging
46 to the state;

47 (4) establish and maintain programs for the inspection, testing, and acceptance of
48 supplies, services, and construction;

49 (5) prepare statistical data concerning the procurement and usage of all supplies,
50 services, and construction;

51 (6) before June 1, 1990, notify all public procurement units of the requirements of
52 Section 63-56-20.7 regarding purchases of recycled paper and recycled paper products,
53 recycling requirements, and provide guidelines on the availability of recycled paper and paper
54 products, including the sources of supply and the potential uses of various grades of recycled
55 paper; [and]

56 (7) before July 1, 1992:

57 (a) establish standards and specifications for determining which supplies are
58 considered recycled, based upon his review of current definitions and standards employed by

59 national procurement, product recycling, and other relevant organizations and the federal
60 Environmental Protection Agency;

61 (b) compile and update as necessary the specifications, a list of recycled supplies
62 available on state contract, and sources where the supplies may be obtained;

63 (c) make the compiled information under Subsection (7)(b) available to:

64 (i) all local government entities under Section 11-37-101;

65 (ii) all local health departments under Section 26A-1-108.7;

66 (iii) all procurement officers or other persons responsible for purchasing supplies
67 within the public school system under Title 53A, State System of Public Education;

68 (iv) all procurement officers or other persons responsible for purchasing supplies
69 within the state system of higher education under Title 53B, State System of Higher Education;
70 and

71 (v) all procurement officers or other persons responsible for purchasing supplies for all
72 public procurement units as defined in Section 63-56-5; and

73 (d) present a written report to the Natural Resources, Agriculture, and Environment
74 Interim Committee annually prior to November 30 regarding the purchases of recycled goods
75 on state contracts during the prior fiscal year[-]; and

76 (8) ensure that:

77 (a) before approving a purchase, lease, or rental not covered by an existing statewide
78 contract for information technology or telecommunications supplies or services under the
79 provisions of Section 63A-6-105, the director of the Division of Information Technology
80 Services has provided in writing to the chief procurement officer that the analysis required by
81 Subsection 63A-6-105(7) was completed; and

82 (b) the oversight authority required by Subsection (8)(a) is not delegated outside the
83 Division of Purchasing and General Services.

84 Section 2. Section **63-56-13** is amended to read:

85 **63-56-13. Specific statutory authority.**

86 (1) The authority to procure certain supplies, services, and construction given the
87 public procurement units governed by the following provisions shall be retained:

88 (a) Title 53B, State System of Higher Education;

89 (b) Title 63A, [~~Chapters 5 and 6~~] Chapter 5, State Building Board - Division of

90 Facilities Construction and Management;

91 [~~(c)~~ Title 64, Chapter 1, General Provisions;]

92 [~~(d)~~] (c) Title 67, Chapter 5, Attorney General;

93 [~~(e)~~] (d) Title 72, Transportation; and

94 [~~(f)~~] (e) Title 78, Chapter 3, District Courts.

95 (2) This authority extends only to supplies, services, and construction to the extent
96 provided in the cited chapters. Except as otherwise provided in Sections 63-56-2 and 63-56-3,
97 the respective purchasing agencies shall procure supplies, services, and construction in
98 accordance with this chapter.

99 (3) (a) The Department of Transportation may make rules governing the procurement
100 of highway construction or improvement.

101 (b) This Subsection (3) supersedes Subsections (1) and (2).

102 (4) The Legislature may procure supplies and services for its own needs.

103 Section 3. Section **63A-1-110** is amended to read:

104 **63A-1-110. Needs assessment -- Policy.**

105 (1) [~~(a)~~] The executive director shall [~~appoint an advisory committee composed of~~
106 ~~representatives of user agencies. (b) The advisory committee shall recommend policies and~~
107 ~~practices for the efficient and effective delivery of administrative services. (2) The executive~~
108 ~~director shall, upon the recommendation of the appropriate division directors and the advisory~~
109 ~~committee, make rules consistent with state and federal law governing: (a) administrative~~
110 ~~services; and (b) the provision and use of administrative services furnished to state agencies~~
111 ~~and institutions.] adopt policies to implement the needs assessment for information technology
112 purchases required by Section 63A-6-105.~~

113 (2) The executive director shall report to the Utah Technology Commission created in
114 Section 63D-1a-201 and to the Capital Facilities and Administrative Services Legislative
115 Appropriations Subcommittee regarding the policy adopted under Subsection (1) and any
116 changes to that policy.

117 Section 4. Section **63A-6-105** is amended to read:

118 **63A-6-105. Duties of director -- Fees -- Rate Committee -- Advisory committee.**

119 (1) The director shall:

120 (a) at the lowest practical cost, manage the delivery of efficient and cost-effective

121 information technology and telecommunication services for:

122 (i) all executive branch agencies; and

123 (ii) entities that subscribe to the services in accordance with Section 63A-6-106; and

124 (b) provide priority service to public safety agencies.

125 (2) The director may negotiate the purchase, lease, or rental of private or public

126 information technology or telecommunication services or facilities in accordance with

127 Subsection (7).

128 (3) Where practical, efficient, and economically beneficial, the director shall use

129 existing private and public information technology or telecommunication resources.

130 (4) (a) In accordance with Section 63D-1a-303, the director shall provide the chief

131 information officer a written analysis of any agency information technology plan provided to

132 the division.

133 (b) In accordance with Section 63D-1a-307, the division shall submit the division's

134 agency information technology plan for approval by the chief information officer.

135 (5) (a) In accordance with this Subsection (5), the director shall prescribe a schedule of

136 fees for all services rendered by the division to:

137 (i) an executive branch entity; or

138 (ii) an entity that subscribes to services rendered by the division in accordance with

139 Section 63A-6-106.

140 (b) Each fee included in the schedule of fees required by Subsection (5)(a) shall be:

141 (i) equitable; and

142 (ii) sufficient to recover all the costs of operation, including the cost of capital

143 equipment and facilities.

144 (c) Before charging a fee to an executive branch agency, the director shall obtain

145 approval of the schedule of fees described in Subsection (5)(a) from the Rate Committee

146 created in Subsection (5)(d).

147 (d) (i) There is created a Rate Committee which shall consist of:

148 (A) the executive director;

149 (B) the director of the Division of Finance;

150 (C) the director of the Governor's Office of Planning and Budget;

151 (D) the chief information officer;

152 (E) a representative of executive branch agencies:
153 (I) appointed by the Rate Committee; and
154 (II) nominated by the governor; and
155 (F) a representative of the executive branch agencies' administrative services managers:
156 (I) appointed by the Rate Committee; and
157 (II) nominated by the agencies' administrative services managers coordination group.
158 (ii) In appointing the agency representatives listed in Subsections (5)(d)(i)(E) and (F),
159 the Rate Committee shall appoint:
160 (A) (I) one representative from a large agency; and
161 (II) one representative from a small agency; and
162 (B) the representatives described in Subsection (5)(d)(ii)(A) to four-year terms of
163 office, except that initially one of the appointments shall be for a two-year term in order to
164 stagger the appointments.
165 (iii) In the event of a vacancy for any reason for a representative described in
166 Subsection (5)(d)(i)(E) or (F), the entity responsible for nominating the person who is vacating
167 the position shall provide new nominations to the Rate Committee to fill the unexpired term.
168 (e) Before charging a fee to a subscriber of services other than an executive branch
169 agency, the director shall provide a copy of the schedule of fees to the commission at least 60
170 days before the day on which the fee is charged.
171 (f) When modifying a fee, the director shall attempt to provide sufficient notice to the
172 entities that will be charged the modified fee so that the entities may reflect those fee changes
173 in the entities' budgets.
174 (6) (a) The director shall create advisory committees composed of representatives of
175 user agencies.
176 (b) Those advisory committees may recommend policies and practices for the efficient
177 and effective operation of the division.
178 (7) Before negotiating a purchase, lease, or rental under Subsection (2) for an amount
179 that exceeds the value established by policy in accordance with Section 63A-1-110, the director
180 shall:
181 (a) conduct an analysis of the needs of executive branch agencies and subscribers of
182 services and the ability of the proposed information technology or telecommunications services

183 or supplies to meet those needs; and
 184 (b) for purchases, leases, or rentals not covered by an existing statewide contract,
 185 provide in writing to the chief procurement officer in the Division of Purchasing and General
 186 Services that:
 187 (i) the analysis required in Subsection (7)(a) was completed; and
 188 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of
 189 services, products, or supplies is practical, efficient, and economically beneficial to the state
 190 and the executive branch agency or subscriber of services.

Legislative Review Note
 as of 11-25-03 12:23 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Mixed Membership Committee Note
 as of 12-10-03 3:28 PM

The Utah Technology Commission recommended this bill.

Membership:	8 legislators	5 non-legislators		
Legislative Vote:	7 voting for	0 voting against	1 absent	

Fiscal Note
Bill Number HB0031

Information Technology Procurement Amendments

17-Jan-04

1:01 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst