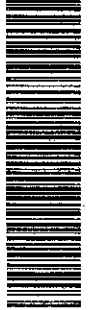


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An act to add Section 12815 to the Government Code, and to amend Section 6611 of the Public Contract Code, relating to state government services, and making an appropriation therefor.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12815 is added to the Government Code, to read:

12815. (a) The Office of Digital Innovation is hereby established on July 1, 2019, within the Government Operations Agency.

(b) There shall be a Director of the Office of Digital Innovation.

(1) The director shall be appointed by, and serve at the pleasure of, the Governor. The director shall report to the Secretary of Government Operations. The director shall be responsible for managing the affairs of the office and shall perform all duties, exercise all powers and jurisdiction, and assume and discharge all responsibilities necessary to carry out the purposes of this section.

(c) For the purposes of this section:

(1) "Director" means the Director of the Office of Digital Innovation.

(2) "Fund" means the Digital Innovation Services Revolving Fund.

(3) "Office" means the Office of Digital Innovation.

(4) "Service delivery" means the provision of a service or services, product or products, by a state entity or state entities to persons, other state entities, constitutional state entities, independent state entities, local government entities, federal entities, private entities, or nonprofit entities.

(5) "State entity" means an entity within the executive branch that is under the direct authority of the Governor, including, but not limited to, all departments, boards, bureaus, commissions, councils, and agencies.

(d) The office's mission shall be to deliver better government services to the people of California through technology and design. The office will fulfill this mission by:

(1) Collaborating with state entities to transform government services. The office will focus on measurably improving services using a deliberate, user-focused approach.

(2) Investing in state capabilities to put users first, build iteratively, and let data drive decisions.

(3) Rethinking and improving how the state buys digital services.

(4) Expanding the use of common platforms, services, and tools.

(e) The director shall hire staff to assist in the fulfillment of the duties and responsibilities of the office.

(f) The director shall establish a program to improve the state's service delivery functions, guided by service delivery best practices.

(1) The director is hereby authorized to engage with state entities for the purpose of improving the service delivery functions of those state entities.

(2) Engagements shall be formalized in writing and shall identify, at minimum, the roles and responsibilities of both the office and the state entity being engaged by the office.

(3) If the office's service delivery improvement efforts require a budget augmentation for either the office or the state entity engaged by the office, the entity whose budget requires an augmentation shall consult the Department of Finance prior to proceeding with the office's service delivery improvement effort.

(g) The director may create, update, or publish, in consultation with the appropriate control agency, policies, standards, and procedures for state entities in the State Administrative Manual or Statewide Information Management Manual regarding:



- (1) Service delivery design, implementation, maintenance, and operations.
- (2) Service delivery assessments.
- (3) Service delivery improvement and problem mitigation.

(h) The director shall train state supervisors, managers, executives, and other staff in leadership positions regarding service delivery best practices. The director is authorized to require state entity staff to attend training deemed necessary by the director. The director may consult or contract with the Department of Human Resources or the Department of Technology for assistance or delivery of training as needed to fulfill the purposes of this section.

(i) Any funds appropriated to the office for the purpose of funding various statewide innovation activities are to be administered by the director for the implementation, support, or assessment of state entities' existing or proposed service delivery functions.

(j) Notwithstanding any other provision of law, while engaged with a state entity, office staff shall, in the performance of their duties related to the improvement of service delivery functions, have access to, and the authority to examine or reproduce, any and all records, data, information technology systems or other functionality, or any other document or component related to the service delivery function being improved by the office.

(k) The adoption, amendment, or repeal of the policies, procedures, guidelines, or other directives consistent with this chapter are exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(l) (1) Effective July 1, 2020, the Digital Innovation Services Revolving Fund is hereby created within the State Treasury. The fund shall be administered by the director to receive all revenues from the sale of services rendered by the office and all other moneys properly credited to the office from any other source. Notwithstanding Section 13340, moneys in the fund are continuously appropriated to the office without regard to fiscal year to pay all costs arising from this section and rendering of services to state entities, including, but not limited to, employment and compensation of necessary personnel and expenses, such as operating and other expenses of the office, and costs associated with approved information technology projects, and to establish reserves. At the discretion of the director, segregated, dedicated accounts within the fund may be established.

(2) The fund shall consist of all of the following:

(A) Moneys appropriated and made available by the Legislature for the purposes of this section.

(B) Donations, endowments, or grants of funds from private or public sources for any purposes of this section. The office and the Controller may establish separate accounts in the fund for the purpose of separating deposits according to their origin or intended purpose.

(C) Any other moneys that may be made available to the office from any other source, including the return from investments of moneys by the Treasurer.

(m) The office may collect payments from state entities for providing services to client entities. The office may require monthly payments by client entities for the services provided. Pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the office, consistent with the annual budget of each department, to



the fund. The office shall notify each affected state entity upon requesting the Controller to make the transfer.

(n) Notwithstanding any other law, the Controller may use the moneys in the fund for cashflow loans to the General Fund, as provided in Sections 16310 and 16381.

SEC. 2. Section 6611 of the Public Contract Code is amended to read:

6611. (a) Notwithstanding any other law, the Department of General Services may, relative to contracts for goods, services, information technology, and telecommunications, use a negotiation process if the department finds that one or more of the following conditions exist:

(1) The business need or purpose of a procurement or contract can be further defined as a result of a negotiation process.

(2) The business need or purpose of a procurement or contract is known by the department, but a negotiation process may identify different types of solutions to fulfill this business need or purpose.

(3) The complexity of the purpose or need suggests a bidder's costs to prepare and develop a solicitation response are extremely high.

(4) The business need or purpose of a procurement or contract is known by the department, but negotiation is necessary to ensure that the department is receiving the best value or the most cost-efficient goods, services, information technology, and telecommunications.

(b) When it is in the best interests of the state, the department may negotiate amendments to the terms and conditions, including scope of work, of existing contracts for goods, services, information technology, and telecommunications, whether or not the original contract was the result of competition, on behalf of itself or another state agency.

(c) (1) The department shall establish the procedures and guidelines for the negotiation process described in subdivision (a). Those procedures and guidelines shall include, but not be limited to, a clear description of the methodology that will be used by the department to evaluate a bid for the procurement of goods, services, information technology, and telecommunications.

(2) The procedures and guidelines described in paragraph (1) may include provisions that authorize the department to receive supplemental bids after the initial bids are opened. If the procedures and guidelines include these provisions, the procedures and guidelines shall specify the conditions under which supplemental bids may be received by the department.

(d) An unsuccessful bidder shall have no right to protest the results of the negotiating process undertaken pursuant to this section. As a remedy, an unsuccessful bidder may file a petition for a writ of mandate in accordance with Section 1085 of the Code of Civil Procedure. The venue for the petition for a writ of mandate shall be Sacramento, California. An action filed pursuant to this subdivision shall be given preference by the court.

(e) (1) The Department of Technology may utilize the negotiation process described in subdivisions (a) and (b) for the purpose of procuring information technology and telecommunications goods and services on behalf of state departments and information technology projects.

(2) Nothing in this section shall be interpreted to supersede the department's existing statutory control over procurement processes as dictated in Section 12100.



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(f) The Office of Digital Innovation, established pursuant to Section 12815 of the Government Code, may utilize the negotiation process described in subdivisions (a) and (b) for the purpose of procuring goods and services, including information technology and telecommunications goods and services, for the purposes of carrying out the responsibilities of the office.

(g) On or before January 1, 2013, and annually thereafter, the Department of Technology shall report to the relevant budget subcommittees of each house of the Legislature on the use of subdivision (e) during budget hearings.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Office of Digital Innovation.

(1) Existing law creates the Office of Technology Services in the Government Operations Agency as a general purpose technology services provider to serve the common technology needs of executive branch entities, as specified.

This bill would establish the Office of Digital Innovation on July 1, 2019, within the Government Operations Agency, to be headed by the Director of the Office of Digital Innovation, who would be appointed by, and serve at the pleasure of, the Governor. The director would be responsible for managing the office and would be required to perform all duties, exercise all powers, and assume and discharge all necessary responsibilities to this end. The mission of the office would be to deliver better government services to the people of California through technology and design, as specified. The bill would require the director to establish a program to improve the state's service delivery functions, guided by best practices for service delivery, and to engage with state entities for this purpose. The director would be authorized to create, update, and publish, in consultation with the appropriate agency, policies, standards, and procedures for state entities in the State Administrative Manual or Statewide Information Management Manual, as specified. The bill would authorize the director to train supervisors and staff in leadership positions regarding best practices for service delivery and to require staff to attend as the director deems necessary. The bill would generally grant staff of the office, when engaged with a state entity and in the performance of their duties, access to the information and systems of the entity related to service delivery. The bill would exempt the adoption, amendment, and repeal of policies, procedures, and guidelines of the office from the Administrative Procedure Act.

The bill would create the Digital Innovation Services Revolving Fund, effective July 1, 2020, within the State Treasury, to be administered by the Director of the Office of Digital Innovation. The fund would receive all revenues from the sale of services rendered by the office and all other moneys properly credited to the office from any other source. Moneys in the fund would be continuously appropriated to the office without regard to fiscal year to pay for rendering of services and the costs of the office. By creating a continuously appropriated fund the bill would make an appropriation.



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The bill would authorize the office to collect payments from state entities for providing services and would prescribe certain duties and authorizations in this regard.

(2) Existing law authorizes the Department of Technology to utilize a specified negotiation process for the purpose of procuring information technology and telecommunications goods and services for state departments and information technology projects if certain findings are made and regardless of whether the original contract was the result of competition.

This bill would authorize the Office of Digital Innovation to utilize the negotiation process described above for the purpose of procuring goods and services, including information technology and telecommunications goods and services, for the purposes of carrying out the responsibilities of the office.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



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