

# SENATE . . . . . No. 1620

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Cynthia S. Creem*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to IT procurement and management in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 1620) of Cynthia S. Creem, Carolyn C. Dykema, James B. Eldridge, Tom Sannicandro and other members of the General Court for legislation relative to IT procurement and management in the Commonwealth. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
\_\_\_\_\_

An Act relative to IT procurement and management in the Commonwealth.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1 of chapter 7D of the General Laws, as appearing in section 22 of  
2 chapter 165 of the acts of 2014 is hereby amended by inserting, after the definition of  
3 “Information technology,” the following definition:-

4           “Massachusetts I.T. clearinghouse,” the electronic depository archive created in  
5 subsection (h).

6           SECTION 2. Section 6 of said chapter 7D, as amended by section 4 of chapter 257 of the  
7 acts of 2014, is hereby further amended by adding the following subsection:-

8           (d) The CIO shall require a state agency conducting an information technology project to  
9 produce and electronically distribute written status reports on the project on a monthly basis, or  
10 more frequently at the CIO’s discretion, to the CIO, the agency director, the project manager and

any other persons designated by the CIO, in a format determined by the CIO that is designed to be easily understood by all persons by whom it is expected to be reviewed.

SECTION 3. Subsection (a) of section 7 of said chapter 7D, as appearing in section 22 of chapter 165 of the acts of 2014, is hereby amended by inserting, after the first sentence, the following sentence:-

The CIO shall require a state agency, before commencing any IT project costing above that minimum financial threshold, to submit to the CIO for approval a detailed written business case, including a return-on-investment analysis and specific goals and metrics for the project that have been developed with the assistance of subject-matter experts from the agency.

SECTION 4. Section 7 of said chapter 7D, as amended by section 5 of chapter 257 of the acts of 2014, is hereby further amended in subsection (d) by deleting paragraphs (viii) and (ix) and inserting the following:-

(viii) gathering and maintaining records, documents, and information related to vendor performance on ongoing and completed IT projects to assist in assessing prospective vendors' past performance, and forwarding such records to the Massachusetts I.T. Clearinghouse established under subsection (h);

(ix) formulating testing protocols that both assess the functionality of a new or reconfigured information technology system and allocate sufficient time and resources for testing of the system;

(x) introducing new or reconfigured information technology systems to the public, including deployment of additional staff and other resources and anticipating the needs of users likely to have difficulty with the systems;

(xi) conducting return-on-investment analyses during the development and implementation of an information technology project, at periodic intervals determined by the CIO; and

(xii) implementing other best practices which may include, but shall not be limited to, those identified in legislative reports and legislatively-required reports.

SECTION 5. Section 7 of said chapter 7D is hereby amended by adding the following subsections:

(e) All state agency contracts for IT shall be based upon a standard IT contract drafted by the office of information technology, and IT contracts shall deviate from the standard IT contract only with the specific agreement of the CIO and the general counsel for the office of information technology. The standard IT contract shall include provisions which address the following:

(i) where a state agency intends to permit a vendor to provide to another client any intellectual property developed for the Commonwealth during an IT project, a statement of the just compensation the Commonwealth will receive, which shall be in the form either of a substantial diminution in the contract price or of royalty payments, as well as an explanation for any deviations from the standard IT contract language related to ownership of intellectual property;

(ii) clear, functionally-oriented deliverable-acceptance criteria, and set time periods for review of deliverables, with flexibility for extensions when necessary;

(iii) specific and comprehensive testing procedures to determine a new system's functionality in responding to reasonably-foreseeable situations;

(iv) monthly or quarterly incremental payments to the vendor, with more substantial amounts to be paid to the vendor upon achievement of business-functionality milestones, as well as sufficient overall progress on the project, as determined by the project manager;

(v) specific and unambiguous requirements for the vendor to provide training for agency users and IT staff, as well as a requirement that the vendor will present additional classes or training, upon the project manager's request, in exchange for specified additional compensation;

(vi) a warranty period of at least nine months, during which the vendor will be required to cure any defects, or failure to perform, of the IT system without any state agency payment to the vendor additional to the compensation, if any, specified for warranty services in the contract;

(vii) financial penalties to the vendor for delays in meeting contract deadlines or performance metrics; and

(viii) specific provisions allowing for termination of the contract by the Commonwealth.

(f) The operational services division, in conjunction with the office of information technology, shall develop guidelines and protocols for all state agency information technology projects and enforce such guidelines and protocols through appropriate incentives, including requiring agencies to withhold payment from information-technology vendors that fail to adhere to the guidelines and protocols.

(g) The operational services division, in conjunction with the office of information technology, shall audit all information technology projects conducted by state agencies that cost in excess of the minimum financial threshold set by the CIO pursuant to subsection (a), in order to determine the return on investment for the projects.

(h) The CIO shall create and maintain, in a secure online location accessible to all information technology project managers and directors of state agencies, an electronic depository archive to be known as the 'Massachusetts I.T. Clearinghouse,' to which state agencies shall electronically forward the information gathered in accordance with subsection (d)(viii) and subsections (i) through (k).

(i) Before execution of an information technology project contract, the state agency planning the project shall gather information about prospective vendors' past performance on information technology projects for other public and private entities, both within and outside of the commonwealth.

(j) Within 60 days after the completion and acceptance by a state agency of an information technology project, the office of information technology shall conduct interviews with representatives of the agency and of the principal IT vendors involved in the project, in order to assess the vendors' performance and any lessons learned from the project by the vendors or the state agency. These interviews shall be summarized by the office of information technology, and those summaries shall be electronically transmitted to and retained by the I.T. Clearinghouse.

(k) The CIO shall retain in the I.T. Clearinghouse in their original format any documents, including but not limited to descriptions of roles and responsibilities, plans, detailed design

documents, functional specifications, and other information-technology artifacts, that were created for one state agency information technology project and are suitable to be used in the same or modified form for a subsequent project.

(l) The project manager assigned by the CIO to a state agency IT project shall:

(i) perform his or her duties in the same physical location as state agency and information technology vendor employees working on the project;

(ii) manage such vendors to protect the Commonwealth's interests;

(iii) assist directors of state agencies to monitor and manage new and ongoing information technology projects;

(iv) facilitate communications between state agency employees, the office of information technology, and information technology vendors working on the project;

(v) ensure that the design-development team for the project has sought input from those state employees expected to work with the new IT system, state IT employees who will be conducting ongoing IT operations and maintaining the new system once it has been accepted by the agency, and members of the public are expected to use the system;

(vi) evaluate the assumptions underlying the design of the project;

(vii) redirect activities of state and vendor employees working the project where the project manager, state agency director, and the CIO jointly determine that progress or results do not comply with the terms of the contract; and

112 (viii) assist the agency director to determine whether termination of a vendor's contract is  
113 in the interests of the agency.

114 SECTION 6. Said section 7D of the general laws is hereby further amended by adding  
115 after section 9 the following new section:

116 Section 10. The office of information technology shall promulgate regulations  
117 concerning the hiring of employees of IT vendors to serve in state agency management positions  
118 in which the employees may be required to directly oversee the work of their former employers.  
119 The office of information technology shall submit such regulations to the house and senate  
120 committees on bonding, capital expenditures and state assets and the house and senate  
121 committees on ways and means by June 30, 2015.