

CHAPTER 2022-153

Senate Bill No. 2518

An act relating to information technology; providing that all functions, records, personnel, contracts, interagency agreements, and assets of the Department of Management Services State Data Center are transferred to the Northwest Regional Data Center; amending s. 282.0041, F.S.; revising the definition of the term “service-level agreement”; amending s. 282.0051, F.S.; deleting the operational management and oversight of the state data center from the powers, duties, and functions of the department, acting through Florida Digital Service; requiring the department, acting through the Florida Digital Service, to create a certain indexed data catalog and develop and publish a certain data dictionary by a specified date; amending s. 282.201, F.S.; requiring the department to assist customer entities transitioning from other cloud-computing services to the Northwest Regional Data Center or a cloud-computing service procured by the state data center; providing responsibilities to the department relating to the operational management and oversight of the state data center; requiring the department to adopt specified rules; requiring the secretary of the department to contract with the Northwest Regional Data Center to carry out the department’s duties and responsibilities by a specified date; providing contract requirements; requiring the department to provide contract oversight for the data center; requiring the department to approve or deny certain requests within a specified timeframe; providing that no action on an invoice is an approval by default; requiring the data center to submit approved invoices directly to state agency customers; amending s. 1004.649, F.S.; designating the Northwest Regional Data Center as the state data center; specifying additional requirements for service-level agreements with state agency customers; specifying required duties of the Northwest Regional Data Center; prohibiting state agencies from engaging in certain activities, unless otherwise authorized; modifying provisions governing the transition of state agency customers to a cloud-based data center; amending s. 282.00515, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. All functions, records, personnel, contracts, interagency agreements, and assets of the current Department of Management Services State Data Center are transferred to the Northwest Regional Data Center.

Section 2. Subsection (30) of section 282.0041, Florida Statutes, is amended to read:

282.0041 Definitions.—As used in this chapter, the term:

(30) “Service-level agreement” means a written contract between the Department of Management Services or a provider of data center services

and a customer entity which specifies the scope of services provided, service level, the duration of the agreement, the responsible parties, and service costs. A service-level agreement is not a rule pursuant to chapter 120.

Section 3. Paragraphs (j) and (q) of subsection (1) and paragraphs (a) and (b) of subsection (3) of section 282.0051, Florida Statutes, are amended to read:

282.0051 Department of Management Services; Florida Digital Service; powers, duties, and functions.—

(1) The Florida Digital Service has been created within the department to propose innovative solutions that securely modernize state government, including technology and information services, to achieve value through digital transformation and interoperability, and to fully support the cloud-first policy as specified in s. 282.206. The department, through the Florida Digital Service, shall have the following powers, duties, and functions:

~~(j) Provide operational management and oversight of the state data center established pursuant to s. 282.201, which includes:~~

~~1. Implementing industry standards and best practices for the state data center's facilities, operations, maintenance, planning, and management processes.~~

~~2. Developing and implementing cost-recovery mechanisms that recover the full direct and indirect cost of services through charges to applicable customer entities. Such cost-recovery mechanisms must comply with applicable state and federal regulations concerning distribution and use of funds and must ensure that, for any fiscal year, no service or customer entity subsidizes another service or customer entity. The Florida Digital Service may recommend other payment mechanisms to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives. Such mechanism may be implemented only if specifically authorized by the Legislature.~~

~~3. Developing and implementing appropriate operating guidelines and procedures necessary for the state data center to perform its duties pursuant to s. 282.201. The guidelines and procedures must comply with applicable state and federal laws, regulations, and policies and conform to generally accepted governmental accounting and auditing standards. The guidelines and procedures must include, but need not be limited to:~~

~~a. Implementing a consolidated administrative support structure responsible for providing financial management, procurement, transactions involving real or personal property, human resources, and operational support.~~

~~b. Implementing an annual reconciliation process to ensure that each customer entity is paying for the full direct and indirect cost of each service as determined by the customer entity's use of each service.~~

~~e.— Providing rebates that may be credited against future billings to customer entities when revenues exceed costs.~~

~~d.— Requiring customer entities to validate that sufficient funds exist in the appropriate data processing appropriation category or will be transferred into the appropriate data processing appropriation category before implementation of a customer entity’s request for a change in the type or level of service provided, if such change results in a net increase to the customer entity’s cost for that fiscal year.~~

~~e.— By November 15 of each year, providing to the Office of Policy and Budget in the Executive Office of the Governor and to the chairs of the legislative appropriations committees the projected costs of providing data center services for the following fiscal year.~~

~~f.— Providing a plan for consideration by the Legislative Budget Commission if the cost of a service is increased for a reason other than a customer entity’s request made pursuant to sub-subparagraph d. Such a plan is required only if the service cost increase results in a net increase to a customer entity for that fiscal year.~~

~~g.— Standardizing and consolidating procurement and contracting practices.~~

~~4.— In collaboration with the Department of Law Enforcement, developing and implementing a process for detecting, reporting, and responding to cybersecurity incidents, breaches, and threats.~~

~~5.— Adopting rules relating to the operation of the state data center, including, but not limited to, budgeting and accounting procedures, cost-recovery methodologies, and operating procedures.~~

(p)1.(q)1. Establish an information technology policy for all information technology-related state contracts, including state term contracts for information technology commodities, consultant services, and staff augmentation services. The information technology policy must include:

a. Identification of the information technology product and service categories to be included in state term contracts.

b. Requirements to be included in solicitations for state term contracts.

c. Evaluation criteria for the award of information technology-related state term contracts.

d. The term of each information technology-related state term contract.

e. The maximum number of vendors authorized on each state term contract.

f. At a minimum, a requirement that any contract for information technology commodities or services meet the National Institute of Standards and Technology Cybersecurity Framework.

g. For an information technology project wherein project oversight is required pursuant to paragraph (d) or paragraph ~~(m)~~ (n), a requirement that independent verification and validation be employed throughout the project life cycle with the primary objective of independent verification and validation being to provide an objective assessment of products and processes throughout the project life cycle. An entity providing independent verification and validation may not have technical, managerial, or financial interest in the project and may not have responsibility for, or participate in, any other aspect of the project.

2. Evaluate vendor responses for information technology-related state term contract solicitations and invitations to negotiate.

3. Answer vendor questions on information technology-related state term contract solicitations.

4. Ensure that the information technology policy established pursuant to subparagraph 1. is included in all solicitations and contracts that are administratively executed by the department.

(3) The department, acting through the Florida Digital Service and from funds appropriated to the Florida Digital Service, shall:

(a) Create, not later than December 1, 2022 ~~October 1, 2021~~, and maintain a comprehensive indexed data catalog in collaboration with the enterprise that lists the data elements housed within the enterprise and the legacy system or application in which these data elements are located. The data catalog must, at a minimum, specifically identify all data that is restricted from public disclosure based on federal or state laws and regulations and require that all such information be protected in accordance with s. 282.318.

(b) Develop and publish, not later than December 1, 2022 ~~October 1, 2021~~, in collaboration with the enterprise, a data dictionary for each agency that reflects the nomenclature in the comprehensive indexed data catalog.

Section 4. Section 282.201, Florida Statutes, is amended to read:

282.201 State data center.—The state data center is established within the department. The provision of data center services must comply with applicable state and federal laws, regulations, and policies, including all applicable security, privacy, and auditing requirements. The department shall appoint a director of the state data center, ~~preferably an individual who~~ has experience in leading data center facilities and has expertise in cloud-computing management.

(1) STATE DATA CENTER DUTIES.—The state data center shall:

(a) Offer, develop, and support the services and applications defined in service-level agreements executed with its customer entities.

(b) Maintain performance of the state data center by ensuring proper data backup, data backup recovery, disaster recovery, and appropriate security, power, cooling, fire suppression, and capacity.

(c) Develop and implement business continuity and disaster recovery plans, and annually conduct a live exercise of each plan.

(d) Enter into a service-level agreement with each customer entity to provide the required type and level of service or services. If a customer entity fails to execute an agreement within 60 days after commencement of a service, the state data center may cease service. A service-level agreement may not have a term exceeding 3 years and at a minimum must:

1. Identify the parties and their roles, duties, and responsibilities under the agreement.

2. State the duration of the contract term and specify the conditions for renewal.

3. Identify the scope of work.

4. Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit.

5. Establish the services to be provided, the business standards that must be met for each service, the cost of each service by agency application, and the metrics and processes by which the business standards for each service are to be objectively measured and reported.

6. Provide a timely billing methodology to recover the costs of services provided to the customer entity pursuant to s. 215.422.

7. Provide a procedure for modifying the service-level agreement based on changes in the type, level, and cost of a service.

8. Include a right-to-audit clause to ensure that the parties to the agreement have access to records for audit purposes during the term of the service-level agreement.

9. Provide that a service-level agreement may be terminated by either party for cause only after giving the other party and the department notice in writing of the cause for termination and an opportunity for the other party to resolve the identified cause within a reasonable period.

10. Provide for mediation of disputes by the Division of Administrative Hearings pursuant to s. 120.573.

(e) For purposes of chapter 273, be the custodian of resources and equipment located in and operated, supported, and managed by the state data center.

(f) Assume administrative access rights to resources and equipment, including servers, network components, and other devices, consolidated into the state data center.

1. Upon consolidation, a state agency shall relinquish administrative rights to consolidated resources and equipment. State agencies required to comply with federal and state criminal justice information security rules and policies shall retain administrative access rights sufficient to comply with the management control provisions of those rules and policies; however, the state data center shall have the appropriate type or level of rights to allow the center to comply with its duties pursuant to this section. The Department of Law Enforcement shall serve as the arbiter of disputes pertaining to the appropriate type and level of administrative access rights pertaining to the provision of management control in accordance with the federal criminal justice information guidelines.

2. The state data center shall provide customer entities with access to applications, servers, network components, and other devices necessary for entities to perform business activities and functions, and as defined and documented in a service-level agreement.

(g) In its procurement process, show preference for cloud-computing solutions that minimize or do not require the purchasing, financing, or leasing of state data center infrastructure, and that meet the needs of customer agencies, that reduce costs, and that meet or exceed the applicable state and federal laws, regulations, and standards for cybersecurity.

(h) Assist customer entities in transitioning from state data center services to the Northwest Regional Data Center or other third-party cloud-computing services procured by a customer entity or by the Northwest Regional Data Center on behalf of a customer entity.

(2) USE OF THE STATE DATA CENTER.—The following are exempt from the use of the state data center: the Department of Law Enforcement, the Department of the Lottery's Gaming System, Systems Design and Development in the Office of Policy and Budget, the regional traffic management centers as described in s. 335.14(2) and the Office of Toll Operations of the Department of Transportation, the State Board of Administration, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, and the Florida Housing Finance Corporation.

(3) AGENCY LIMITATIONS.—Unless exempt from the use of the state data center pursuant to this section or authorized by the Legislature, a state agency may not:

(a) Create a new agency computing facility or data center, or expand the capability to support additional computer equipment in an existing agency computing facility or data center; or

(b) Terminate services with the state data center without giving written notice of intent to terminate services 180 days before such termination.

(4) DEPARTMENT RESPONSIBILITIES.—The department shall provide operational management and oversight of the state data center, which includes:

(a) Implementing industry standards and best practices for the state data center’s facilities, operations, maintenance, planning, and management processes.

(b) Developing and implementing cost-recovery mechanisms that recover the full direct and indirect cost of services through charges to applicable customer entities. Such cost-recovery mechanisms must comply with applicable state and federal regulations concerning distribution and use of funds and must ensure that, for any fiscal year, no service or customer entity subsidizes another service or customer entity. The department may recommend other payment mechanisms to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives. Such mechanism may be implemented only if specifically authorized by the Legislature.

(c) Developing and implementing appropriate operating guidelines and procedures necessary for the state data center to perform its duties pursuant to subsection (1). The guidelines and procedures must comply with applicable state and federal laws, regulations, and policies and conform to generally accepted governmental accounting and auditing standards. The guidelines and procedures must include, but need not be limited to:

1. Implementing a consolidated administrative support structure responsible for providing financial management, procurement, transactions involving real or personal property, human resources, and operational support.

2. Implementing an annual reconciliation process to ensure that each customer entity is paying for the full direct and indirect cost of each service as determined by the customer entity’s use of each service.

3. Providing rebates that may be credited against future billings to customer entities when revenues exceed costs.

4. Requiring customer entities to validate that sufficient funds exist before implementation of a customer entity’s request for a change in the type or level of service provided, if such change results in a net increase to the customer entity’s cost for that fiscal year.

5. By November 15 of each year, providing to the Office of Policy and Budget in the Executive Office of the Governor and to the chairs of the legislative appropriations committees the projected costs of providing data center services for the following fiscal year.

6. Providing a plan for consideration by the Legislative Budget Commission if the cost of a service is increased for a reason other than a customer entity's request made pursuant to subparagraph 4. Such a plan is required only if the service cost increase results in a net increase to a customer entity for that fiscal year.

7. Standardizing and consolidating procurement and contracting practices.

(d) In collaboration with the Department of Law Enforcement and the Florida Digital Service, developing and implementing a process for detecting, reporting, and responding to cybersecurity incidents, breaches, and threats.

(e) Adopting rules relating to the operation of the state data center, including, but not limited to, budgeting and accounting procedures, cost-recovery methodologies, and operating procedures.

(5) NORTHWEST REGIONAL DATA CENTER CONTRACT.—In order for the department to carry out its duties and responsibilities relating to the state data center, the secretary of the department shall contract by July 1, 2022, with the Northwest Regional Data Center pursuant to s. 287.057(11). The contract shall provide that the Northwest Regional Data Center will manage the operations of the state data center and provide data center services to state agencies.

(a) The department shall provide contract oversight, including, but not limited to, reviewing invoices provided by the Northwest Regional Data Center for services provided to state agency customers.

(b) The department shall approve or request updates to invoices within 10 business days after receipt. If the department does not respond to the Northwest Regional Data Center, the invoice will be approved by default. The Northwest Regional Data Center must submit approved invoices directly to state agency customers.

Section 5. Section 1004.649, Florida Statutes, is amended to read:

1004.649 Northwest Regional Data Center.—

(1) For the purpose of providing data center services to its state agency customers, the Northwest Regional Data Center is designated as a state data center for all state agencies and shall:

(a) Operate under a governance structure that represents its customers proportionally.

(b) Maintain an appropriate cost-allocation methodology that accurately bills state agency customers based solely on the actual direct and indirect costs of the services provided to state agency customers, and ensures that for any fiscal year, state agency customers are not subsidizing other customers of the data center. Such cost-allocation methodology must comply with applicable state and federal regulations concerning the distribution and use of state and federal funds.

(c) Enter into a service-level agreement with each state agency customer to provide services as defined and approved by the governing board of the center. At a minimum, such service-level agreements must:

1. Identify the parties and their roles, duties, and responsibilities under the agreement;

2. State the duration of the agreement term, which may not exceed 3 years, and specify the conditions for up to two optional 1-year renewals of the agreement before execution of a new agreement renewal;

3. Identify the scope of work;

4. Establish the services to be provided, the business standards that must be met for each service, the cost of each service, and the process by which the business standards for each service are to be objectively measured and reported;

5. Provide a timely billing methodology for recovering the cost of services provided pursuant to s. 215.422;

6. Provide a procedure for modifying the service-level agreement to address any changes in projected costs of service;

7. Include a right-to-audit clause to ensure that the parties to the agreement have access to records for audit purposes during the term of the service-level agreement ~~Prohibit the transfer of computing services between the Northwest Regional Data Center and the state data center established pursuant to s. 282.201 without at least 180 days' written notification of service cancellation;~~

8. Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit; ~~and~~

9. Provide that the service-level agreement may be terminated by either party for cause only after giving the other party notice in writing of the cause for termination and an opportunity for the other party to resolve the identified cause within a reasonable period; and

10. Provide state agency customer entities with access to applications, servers, network components, and other devices necessary for entities to perform business activities and functions and as defined and documented in a service-level agreement.

(d) In its procurement process, show preference for cloud-computing solutions that minimize or do not require the purchasing or financing of state data center infrastructure, that meet the needs of state agency customer entities, that reduce costs, and that meet or exceed the applicable state and federal laws, regulations, and standards for cybersecurity.

(e) Assist state agency customer entities in transitioning from state data center services to other third-party cloud-computing services procured by a customer entity or by the Northwest Regional Data Center on behalf of the customer entity.

(f) Provide to the Board of Governors the total annual budget by major expenditure category, including, but not limited to, salaries, expenses, operating capital outlay, contracted services, or other personnel services by July 30 each fiscal year.

(g)(e) Provide to each state agency customer its projected annual cost for providing the agreed-upon data center services by September 1 each fiscal year.

(h)(f) Provide a plan for consideration by the Legislative Budget Commission if the governing body of the center approves the use of a billing rate schedule after the start of the fiscal year that increases any state agency customer's costs for that fiscal year.

(i) Provide data center services that comply with applicable state and federal laws, regulations, and policies, including all applicable security, privacy, and auditing requirements.

(j) Maintain performance of the data center facilities by ensuring proper data backup, data backup recovery, disaster recovery, and appropriate security, power, cooling, fire suppression, and capacity.

(k) Prepare and submit state agency customer invoices to the Department of Management Services for approval. Upon approval or by default pursuant to s. 282.201(5), submit invoices to state agency customers.

(1) As funded in the General Appropriations Act, provide data center services to state agencies from multiple facilities.

(2) Unless exempt from the requirement to use the state data center pursuant to s. 282.201(2) or as authorized by the Legislature, a state agency may not do any of the following:

(a) Terminate services with the Northwest Regional Data Center without giving written notice of intent to terminate services 180 days before such termination.

(b) Procure third-party cloud-computing services without evaluating the cloud-computing services provided by the Northwest Regional Data Center.

(c) Exceed 30 days from receipt of approved invoices to remit payment for state data center services provided by the Northwest Regional Data Center.

~~(3)(2)~~ The Northwest Regional Data Center’s authority to provide data center services to its state agency customers may be terminated if:

(a) The center requests such termination to the Board of Governors, the Senate President, and the Speaker of the House of Representatives; or

(b) The center fails to comply with the provisions of this section.

~~(4)(3)~~ If such authority is terminated, the center ~~has~~ shall have 1 year to provide for the transition of its state agency customers to a qualified alternative cloud-based data center that meets the enterprise architecture standards established by the Florida Digital Service ~~the state data center established pursuant to s. 282.201.~~

Section 6. Subsection (1) of section 282.00515, Florida Statutes, is amended to read:

282.00515 Duties of Cabinet agencies.—

(1) The Department of Legal Affairs, the Department of Financial Services, and the Department of Agriculture and Consumer Services shall adopt the standards established in s. 282.0051(1)(b), (c), and (r) ~~(s)~~ and (3)(e) or adopt alternative standards based on best practices and industry standards that allow for open data interoperability.

Section 7. This act shall take effect July 1, 2022.

Approved by the Governor June 2, 2022.

Filed in Office Secretary of State June 2, 2022.