

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Alex Lee, Chair
AB 3193 (Calderon) – As Introduced February 16, 2024

SUBJECT: State acquisitions of goods and services: rehabilitation services

SUMMARY: Permits the Department of Rehabilitation (DOR) to award a contract without competition or advertising if the value of the purchase is less than \$25,000 and meets specified requirements. Specifically, **this bill:**

- 1) Notwithstanding the bidding, advertising, and protesting procedures, permits DOR to award a contract without competition or advertising, in accordance with procedures adopted by DOR, provided that the value of the purchase is less than \$25,000 and involves any of the following:
 - a) Assistive technology (AT) devices or services;
 - b) An item which is not AT, but is to be incorporated into a new or existing integrated system which does include AT;
 - c) An AT device or service that is purchased along with other goods or services and a rehabilitation counselor determines that purchasing the goods or services from an AT vendor is most beneficial for the consumer; and,
 - d) Contracts awarded using the alternative procedures are to be exempt from approval or oversight by any division of the Department of General Services.
- 2) Requires, beginning January 1, 2026, until January 1, 2029, and on or before January 1 of each succeeding year, DOR to submit a report to the Legislature on contracts of \$10,000 or more entered into pursuant to the alternative procedures authorized by this bill.
- 3) Requires the report to include a list of each contract entered into in the previous calendar year, the contract or purchase order number, a brief description of the goods or services, the contractor name, the date of the acquisition, and the amount paid, and requires purchases for the same consumer to be grouped.
- 4) Exempts contracts entered into from requirements of the Prison Industry Authority (PIA) as described Penal Code (PEN) § 2807.
- 5) Specifies this bill only applies to contracts awarded by DOR to provide rehabilitation services to eligible individuals with disabilities
- 6) Defines the following for purposes of this bill:
 - a) “Assistive technology device” means any item, piece of equipment, software, or product system that is designed to increase, maintain, or improve the functional capabilities of individuals with disabilities, including but not limited to:
 - i) Low-tech devices such as a reacher, large grip pen, or independent living aid;

- ii) High-tech equipment such as specialized computer hardware and accessories such as custom switches, keyboards, and mouse alternatives;
 - iii) Specialized computer software such as screen readers, communication software, or tools to help with reading and writing;
 - iv) Inclusive or specialized learning materials and curriculum aids;
 - v) Specialized curricular software; and,
 - vi) Other items such as wheelchairs, height adjustable desks, power lifts, eye-gaze, head trackers and environmental controls.
- b) “Assistive technology service” means a service which directly assists an individual with a disability in the selection, acquisition, or use of an AT device. These services include, but are not limited to, evaluation, training, set up and installation, system configuration and testing, and technical support.
- c) “Integrated system” means a collection of equipment or software which is designed to work together as a system to meet the disability-related needs of a DOR consumer. This includes, but is not limited to, situations where a computer is adapted through use of specialized software and peripherals. Some of the necessary components of the system may be generic equipment or software such as cables, scanners, or printers, so long as the system includes one or more AT devices.

EXISTING LAW:

- 1) Establishes competitive bidding and other acquisition procedures. (Public Contract Code [PCC] §§ 10300 – 10334)
- 2) Requires state agencies to purchase products and services from PIA at the prices fixed by the Authority. (PEN § 2807(a))
- 3) Requires state agencies to make “maximum utilization” of the products provided by PIA and to consult with PIA to develop new products and adapt existing products to meet their needs. (PEN § 2807(b))

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background: *Assistive Technology Services* are a piece of equipment or products that helps children and adults carry out tasks they might not otherwise be able to do well or at all. It can be anything that is used to increase, maintain, or improve the functional capabilities and independence of persons with disabilities, aging populations, and people with non-communicable diseases. AT enables people to live healthy, productive, and dignified lives, and promotes inclusion and participation in education, the labor market, and civic life. More than two billion people around the world are expected to need at least one assistive product by 2030.

The World Health Organization (WHO) organizes AT into six domains of functioning, namely, cognition, communication, hearing, mobility, self-care, and vision. Examples of AT include, but are not limited to:

- High-tech equipment: as specialized, customized computer hardware and accessories; custom switches, keyboards, and mouse alternatives;
- Specialized computer software: screen-readers, communication software, or tools to help with reading or writing;
- Services related to the use of AT: evaluation, training, set-up and installation, system configuration and testing, and technical support;
- Inclusive or specialized learning materials, curriculum aids, and curriculum software;
- Interpreter services for individuals who are deaf or hard of hearing;
- Other items such as wheelchairs, height adjustable desks, power lifts, eye-gaze, head trackers, and environmental controls;
- Low-tech devices such as a reacher, large grip pen, or independent living aid; and,
- Accessible rental vehicles.

The Assistive Technology Act. In 1988, the Technology-Related Assistance Act (Tech Act) was passed by Congress to provide financial assistance to states to help states develop and implement a consumer-responsive system. All states were awarded funding by 1995. In 1994, the Tech Act was amended and shifted priorities to increase access to AT through policy advocacy and technical assistance. Then, in 1998 the Assistive Technology Act was reauthorized and awarded three-year grants to states for state AT programs.

The 2004 reauthorization made additional requirements for states to provide a consistent set of activities. The latest update was made in 2022 and was called the 21st Century Assistive Technology Act. Today, AT Programs are required to serve all people with all disabilities, all ages, all environments including early intervention, K-12, postsecondary, vocational rehabilitation (VR), and community living.

In California, DOR is the responsible entity for carrying out this Act. DOR contracts with the California Foundation for Independent Living Centers to provide AT services, and funds a network of AT advocates.

According to DOR's Vocational Rehabilitation Portion of the Unified State Plan, "DOR's Mobility Evaluation Program (MEP) provides AT evaluations to DOR consumers. DOR VR Counselors initiate the request for this service by contacting MEP and discussing the case. The MEP will determine if the requested evaluation based on the consumer's needs, availability of equipment for trial, expertise with the technology the consumer may need, and distance to the potential evaluation location will be provided to the consumer. Generally, MEP will travel to the consumer's home, work, or school site, or even meet the consumer at the equipment vendor's facilities so the consumer may trial a piece of equipment to assess problems in the environments in which they occur. A written report providing recommendations for AT to solve specific

performance problems, as well as price and availability information for the recommended items is sent to the VR counselor within a month after the consumer was last seen. ...

“Through a statewide contract and AT funds for the Independent Living Network, DOR also provides AT services through the California AT Program, a statewide program federally funded through the AT Act and supplemented with state Social Security Reimbursement funds. The California AT Program provides services including:

- Device Loan Program: Short-term loans can be provided up to one month to qualifying individuals and can be renewed;
- Device Reutilization Program: A web-based program for individuals and organizations to list reused AT devices to their communities at low or no cost; and,
- AT and Transportation Loan Guarantee Program: An individual with a disability, family member, or legal guardian of a child with a disability, and an employer (only for the AT Loan Program) can apply for a loan to purchase a vehicle, modifications for a vehicle, and AT services and devices.”

Procurement in California. Procurement practices and contracts with buyers and suppliers determine what, where, and how much is purchased. Burdensome procurement and delivery processes delay and reduce access and can be overlooked when identifying bottlenecks in the AT system. A procurement study in the WHO Western Pacific region found that procurement for AT is not well integrated into the government's annual budget and planning cycles, and thus receives minimal and inconsistent funding from year-to-year. The provision of AT is limited for all categories, with the least availability for low-vision, communication, self-care, and cognition products.

In January 2019, California transitioned from using the State Price Schedule for Assistive Technology (SPS-AT) to the new California Assistive Technology, Services and Devices (Cal-ATSD) Supplier Directory. The Cal-ATSD is a statewide change (not limited to VR).

Author’s Statement: According to the Author, “Individuals with disabilities receive specifically tailored assistive technology from the Department of Rehabilitation (DOR). These items include computer reading software for the vision impaired, wheelchairs, and easy to grip writing utensils. Unfortunately, the state’s procurement process for these types of devices and technology are often delayed due to there being very few manufacturers of these items. For these individuals, long delays often lead to missed employment opportunities or falling behind in their education. Assembly Bill 3193 remedies this problem by authorizing DOR to award contracts without competition or advertising, provided that the value of the purchase does not exceed \$25,000. This legislation will ensure that those who need the assistive technology will receive it in a timely manner.”

Equity Implications: This bill is aimed to provide AT for individuals who need it for daily living. The devices needed to assist DOR clients are uncommon which complicates the procurement process and causes delays. The AT equipment is not a luxury. Users rely on these devices to live as independently as possible. While the state’s procurement process generally serves to create fairness in contracts, the system is not working for these individuals.

REGISTERED SUPPORT / OPPOSITION:

Support

California Council of the Blind (Sponsor)
Disability Rights California

Opposition

None on file.

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