



**Computer & Communications
Industry Association**
Open Markets. Open Systems. Open Networks.

September 11, 2024

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

**SUBJECT: SB 892 (PADILLA) PUBLIC CONTRACTS: AUTOMATED DECISION SYSTEMS:
PROCUREMENT STANDARDS
REQUEST FOR VETO**

Dear Governor Newsom:

The undersigned organizations respectfully urge you to **VETO SB 892 (Padilla)**, which will significantly restrict the state's ability to procure automated decision systems, a term which continues to be broadly defined in terms of the restrictions introduced in this bill and will capture many projects your Administration has been exploring which are critical to serving Californians throughout the state.

SB 892 Bans All State Procurement of ADS Until Regulations are Completed

After January 1, 2027, SB 892 bans the state from procuring ADS until regulations are completed by the California Department of Technology (CDT) and any contract for ADS must comply with the regulations. We believe this is a significant new responsibility for CDT, who in the past has not been in the position to promulgate regulations. Promulgating regulations to reflect the extensive requirements in the bill will be a significant new workload for CDT. Today, agencies and departments, as well as the private sector, work with Department of General Services (DGS), Government Operations Agency (GovOps), and CDT regulations and guidelines to ensure appropriate contracting. Current procurements for ADS that have been vetted by individual agencies will come to a standstill for an undetermined amount of time, if CDT regulations and subsequent contracting documentation are not finalized by 2027.

The Definition of ADS Remains Overly Broad

Although, the definition of ADS in SB 892 comes from current law, adopted by AB 302 (Ward), AB 302 only required state agencies to inventory **high-risk ADS**. SB 892 does not contain any limitation on the significant regulatory and contract requirements that would now be required for any ADS project. If the Legislature chose to limit the inventory to high-risk ADS, we remain concerned that the SB 892 definition will sweep in low-risk projects such as low-risk data

analytics that assist human decision. This project would now be subject to contract clauses requiring the vendor or state to provide opt-out or appeal rights.

This bill is **NOT** based on a risk-based approach and will limit and increase the cost of many low-risk projects that could be used to deliver efficiencies both internally, as well as improve service delivery for constituents by leveraging technology that utilizes automated decision systems. This bill supposes that any procurement of ADS which is concerning and simply not true.

SB 892 Ties the Hands of the State to Make Necessary Procurement Decisions

SB 892 ties CDT regulations to the California Privacy and Protection Agency (CPPA) by stating that CDT regulations cannot be inconsistent with CPPA regulations and *“similarly comprehensive statewide legislation that establishes a regulatory framework governing the development and deployment of ADS.”* This requirement ties the hands of the state to make procurement decisions and gives power over state procurement to state legislation and CPPA regulations that have not been developed with state services in mind. We are concerned this will restrict the state from procuring technology that today is making government more efficient and is allowing agencies and departments to respond to Californians in a faster, more accurate manner.

As you know, CPPA is an independent consumer privacy organization focused on private businesses’ interaction with consumers. They are not an expert on state procurement and have no authority under Proposition 24 to regulate state procurement of technology or ADS. The Privacy Agency has not yet moved its risk assessment and ADMT regulations to formal rulemaking and even the Privacy Agency Board remains divided over the draft regulations.

SB 892 also tries, we believe unsuccessfully, to exempt current ongoing projects by not applying the procurement ban to projects that are approved through state budget process prior to January 1, 2027. As with all state contracting, state departments and agencies, have specific powers, rules, and requirements depending on project type and scope and not every project is individually “approved” through the annual budget process. This means SB 892 could impact projects the state is already exploring about how AI can be used to protect vulnerable road users; reduce roadway congestion; improve health-care facility inspections; improve language access to state services; combat the state’s housing and homelessness crisis; and enhance customer service.

As the state looks to new technology options to improve efficiency, effectiveness, accessibility, and equity of government operations, we should ensure the state has the flexibility to utilize all services at their disposal. For the above reasons, we request you **VETO** SB 892 (Padilla).

Sincerely,
TechCA
TechNet
Computer and Communications Industry Association
California Chamber of Commerce
Security Industry Association