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AB-880 State government grants and contracts: payment of claims and grantees' indirect costs. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 880

Introduced by Assembly Member Bennett
(Principal coauthors: Senators Limón and Umberg)

February 19, 2025

An act to amend Sections 927.2, 927.6, 927.7, and 927.9 of, and to add Chapter 17.5 (commencing with Section 8900) to Division 1 of Title 2 of, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as introduced, Bennett. State government grants and contracts: payment of claims and grantees' indirect costs.

The California Prompt Payment Act requires a state agency that awards a grant or that acquires property or services pursuant to a contract to make timely payments pursuant to the grant or contract. If a state agency or the Controller fails to take certain timely actions and payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice, the act requires the state agency or the Controller, as applicable, to pay certain penalties. The act provides an exception to certain penalty provisions applicable to services or equipment under the Medi-Cal program if the grant or contract was awarded to a nonprofit organization in an amount less than \$500,000. The act defines the term "grant" to mean a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency or restoration activities performed by a resource conservation district. The act also defines "nonprofit service organization" to mean a nonprofit entity that is organized to provide services to the public, but the act does not use that term in its provisions.

This bill would revise the definition of "grant" to also mean a signed final agreement between a state agency and a nonprofit organization and would delete the \$500,000 exception described above. The bill would remove the definition of "nonprofit service organization," and instead would define "nonprofit organization" to mean an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

The act authorizes a state agency to dispute for reasonable cause an invoice, refund request, or claim for Medi-Cal reimbursement, as specified, and defines "reasonable cause" to mean a determination by a state agency that any of certain conditions exist, including that there is a discrepancy between the invoice or claimed amount and either the claimant's actual delivery of property or services to the state or the state's acceptance of those deliveries.

This bill would revise the condition described above to require the discrepancy to be of an amount greater than \$250 or 5% of the invoice or claimed amount, whichever is less, in order to qualify as a reasonable cause for the state agency to dispute it.

Existing law establishes the Department of General Services in the Government Operations Agency for purposes of providing centralized services of state government. Existing law establishes various state grant programs. Existing federal law provides uniform administrative requirements, cost principles, and audit requirements for federal grant awards to nonfederal entities and provides guidelines for determining direct and indirect costs, as defined, charged to federal awards.

This bill would require a state agency administering a grant program to reimburse a grantee's indirect costs, as defined, at one of specified rates as requested by the grantee in their grant program application, unless prohibited by any other state or federal law. The bill would authorize the establishment of indirect cost pools, as specified. The bill would make these provisions applicable to a grant program administered by a state agency, regardless of whether the funding source is state funds, federal funds, or a combination thereof.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. It is the intent of the Legislature in enacting this act to ensure that nonprofit organizations and other eligible entities are fairly compensated by the state for the full cost of providing services funded by grants. For grant programs using state funds, the Legislature finds and declares that California state agencies should allow for reimbursement of administrative expenses for nonprofit organizations and other eligible entities that are consistent with each organization's federally approved negotiated indirect cost rate agreement and cost allocation policy.

SEC. 2. Section 927.2 of the Government Code is amended to read:

927.2. The following definitions apply to this chapter:

(a) "Claim" means payment requests prepared and submitted by a state agency to the Controller for payment to the named claimant.

(b) (1) (A) "Grant" means a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency, or restoration activities performed by a resource conservation district.

(B) "Grant" also means a signed final agreement between any state agency and a nonprofit organization.

(2) A grant defined by this subdivision is a contract and subject to this chapter.

(c) "Invoice" means a bill or claim that requests payment on a contract under which a state agency acquires property or services or pursuant to a signed final grant agreement.

(d) "Medi-Cal program" means the program established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) "Nonprofit public benefit corporation" means a corporation, as defined by subdivision (b) of Section 5046 of the Corporations Code, that has registered with the Department of General Services as a small business.

(f) ~~"Nonprofit service-Except as provided in subdivision (o), "nonprofit organization" means a nonprofit entity that is organized to provide services to the public.~~ *an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.*

(g) "Notice of refund or other payment due" means a state agency provides notice to the person that a refund or payment is owed to that person or the state agency receives notice from the person that a refund or undisputed payment is due.

(h) "Payment" means any form of the act of paying, including, but not limited to, the issuance of a warrant or a registered warrant by the Controller, or the issuance of a revolving fund check by a state agency, to a claimant in the amount of an undisputed invoice.

(i) "Reasonable cause" means a determination by a state agency that any of the following conditions are present:

(1) There is a discrepancy between the invoice or claimed amount and the provisions of the contract or grant.

(2) There is a discrepancy *of an amount greater than two hundred fifty dollars (\$250) or 5 percent of the invoice or claimed amount, whichever is less,* between the invoice or claimed amount and either the claimant's actual delivery of property or

services to the state or the state's acceptance of those deliveries.

(3) Additional evidence supporting the validity of the invoice or claimed amount is required to be provided to the state agency by the claimant.

(4) The invoice has been improperly executed or needs to be corrected by the claimant.

(5) There is a discrepancy between the refund or other payment due as calculated by the person to whom the money is owed and by the state agency.

(j) "Received by a state agency" means the date an invoice is delivered to the state location or party specified in the contract or grant or, if a state location or party is not specified in the contract or grant, wherever otherwise specified by the state agency.

(k) "Required payment approval date" means the date on which payment is due as specified in a contract or grant or, if a specific date is not established by the contract or grant, 30 calendar days following the date upon which an undisputed invoice is received by a state agency.

(l) "Resource conservation district" means a resource conservation district established pursuant to Division 9 (commencing with Section 9001) of the Public Resources Code.

(m) "Revolving fund" means a fund established pursuant to Article 5 (commencing with Section 16400) of Chapter 2 of Part 2 of Division 4 of Title 2.

(n) "Small business" means a business certified as a "small business" in accordance with subdivision (d) of Section 14837, including certified small businesses engaged in the development, design, and construction of California's high-speed rail system pursuant to the California High-Speed Rail Act (Division 19.5 (commencing with Section 185000) of the Public Utilities Code).

(o) "Small business" and "nonprofit organization" mean, in reference to providers under the Medi-Cal program, a business or organization that meets all of the following criteria:

(1) The principal office is located in California.

(2) The officers, if any, are domiciled in California.

(3) If a small business, it is independently owned and operated.

(4) The business or organization is not dominant in its field of operation.

(5) Together with any affiliates, the business or organization has gross receipts from business operations that do not exceed three million dollars (\$3,000,000) per year, except that the Director of Health Services may increase this amount if the director deems that this action would be in furtherance of the intent of this chapter.

(p) "Department of FISCal" means the organization responsible for operating and maintaining the Financial Information System for California integrating statewide accounting, budgeting, cash management, and procurement pursuant to subdivision (b) of Section 11890.

SEC. 3. Section 927.6 of the Government Code is amended to read:

927.6. (a) State agencies shall pay applicable penalties, without requiring that the claimant submit an additional invoice for these amounts, whenever the state agency fails to submit a correct claim to the Controller by the required payment approval date and payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice. The penalty shall cease to accrue on the date the state agency submits the claim to the Controller for payment or pays the claimant directly, and shall be paid for out of the state agency's support appropriation. ~~¶~~

~~(b) If~~ the claimant is a resource conservation district, certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the state agency shall pay to the claimant a penalty at a rate of 10 percent above the United States Prime Rate on June 30 of the prior fiscal year. ~~However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000).~~ If the amount of the penalty is ten dollars (\$10) or less, the penalty shall be waived and not paid by the state agency.

~~(b)~~

~~(c)~~ For all other businesses, the state agency shall pay a penalty at a rate of 1 percent above the Pooled Money Investment Account daily rate on June 30 of the prior fiscal year, not to exceed a rate of 15 percent. If the amount of the penalty is one hundred dollars (\$100) or less, the penalty shall be waived and not paid by the state agency. On an exception basis, state

agencies may avoid payment of penalties for failure to submit a correct claim to the Controller by the required payment approval date by paying the claimant directly from the state agency's revolving fund within 45 calendar days following the date upon which an undisputed invoice is received by the state agency.

SEC. 4. Section 927.7 of the Government Code is amended to read:

927.7. (a) The Controller shall pay claimants within 15 calendar days of receipt of a correct claim from the state agency. If the Controller fails to make payment within 15 calendar days of receipt of the claim from a state agency, and payment is not issued within 45 calendar days from state agency receipt of an undisputed invoice, the Controller shall pay applicable penalties to the claimant without requiring that the claimant submit an invoice for these amounts. Penalties shall cease to accrue on the date full payment is made, and shall be paid for out of the Controller's funds. ~~if~~

(b) If the claimant is a resource conservation district, a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the Controller shall pay to the claimant a penalty at a rate of 10 percent above the United States Prime Rate on June 30 of the prior fiscal year, from the 16th calendar day following receipt of the claim from the state agency. ~~However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000).~~ If the amount of the penalty is ten dollars (\$10) or less, the penalty shall be waived and not paid by the Controller. For all other businesses, the Controller shall pay penalties at a rate of 1 percent above the Pooled Money Investment Account daily rate on June 30 of the prior fiscal year, not to exceed a rate of 15 percent. If the amount of the penalty is one hundred dollars (\$100) or less, the penalty shall be waived and not paid by the Controller.

~~(b)~~

(c) The Department of FISCAL shall be responsible for applicable penalties if the Financial Information System for California delays the delivery of a correct claim from the state agency to the Controller, preventing the Controller from making payment within 15 calendar days and payment is not issued within 45 calendar days from state agency receipt of an undisputed invoice.

SEC. 5. Section 927.9 of the Government Code is amended to read:

927.9. (a) Except as provided in subdivision (c), on an annual basis, within 90 calendar days following the end of each fiscal year, state agencies shall provide the Director of General Services with a report on late payment penalties that were paid by the state agency in accordance with this chapter during the preceding fiscal year.

(b) The report *required by subdivision (a)* shall separately identify the total number and dollar amount of late payment penalties paid to small businesses, other businesses, *nonprofit organizations*, and refunds or other payments to individuals. State agencies may, at their own initiative, provide the director with other relevant performance measures. The director shall prepare a report separately listing the number and total dollar amount of all late payment penalties paid to small businesses, other businesses, *nonprofit organizations*, and refunds and other payments to individuals by each state agency during the preceding fiscal year, together with other relevant performance measures, and shall make the information available to the public.

(c) The reporting requirements of subdivisions (a) and (b) are not applicable to the Department of Forestry and Fire Protection.

SEC. 6. Chapter 17.5 (commencing with Section 8900) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 17.5. Uniform Cost Agreement for State Grants

8900. (a) For purposes of this section, the following definitions apply:

(1) "Existing state rate" means a rate utilized by the grantee with a state agency within the last five years.

(2) "Grantee" means an applicant for a grant program that is administered by a state agency that is selected by the state agency to be awarded a grant under that program.

(3) "Indirect costs" means those costs incurred for a common or joint purpose benefiting more than one objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

(4) "Negotiated indirect cost rate agreement" means an agreement pursuant to Part 200 (commencing with Section 200.0) of Title 2 of the Code of Federal Regulations that is approved by the federal government.

(b) (1) Unless prohibited by any other state or federal law, a state agency administering a grant program shall, when awarding a grant, reimburse the grantee's indirect costs at one of the following rates, as requested by the grantee, subject to paragraph (2):

(A) The grantee's negotiated indirect cost rate, pursuant to its negotiated indirect cost rate agreement.

(B) The de minimis indirect cost rate specified in Part 200 (commencing with Section 200.0) of Title 2 of the Code of Federal Regulations.

(C) An existing state rate.

(D) If the grantee does not have an existing state rate, a rate proposed by the grantee.

(2) A state agency shall not reimburse the grantee's cost unless the grantee disclosed the requested rate amount in their grant program application.

(c) For purposes of calculating indirect costs and facilitating equitable distribution of indirect expenses to the cost objectives served, one or more pools of indirect costs may be established. An indirect cost pool established pursuant to this subdivision shall be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

(d) This section applies to any grant program administered by a state agency, regardless of whether the funding source of the grant is state funds, federal funds, or a combination thereof.