

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL DRS15441-LUa-126A

Short Title: Contract Reform/DHHS.

(Public)

Sponsors: Senator Burgin (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT PROCEDURES FOR CONTRACT REFORM WITHIN THE
3 DEPARTMENT OF HEALTH AND HUMAN SERVICES AND TO APPROPRIATE
4 FUNDS FOR A POSITION TO SUPPORT CONTRACTORS AND GRANTEES WITH
5 REPORTING AND COMPLIANCE REQUIREMENTS UNDER CERTAIN STATE
6 CONTRACTS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Contract Continuity. – The Department of Health and Human
9 Services (Department) shall allow nonprofit grantees and contractors, including, but not limited
10 to, addiction and mental health nonprofit service providers, to automatically activate limited-time
11 extensions of up to six months for continuity of services when a formal extension or renewal
12 process has not been completed within 10 business days of the subsequent contract start date.
13 Additionally, to aid in continuity of services, the Department shall utilize multi-year contracts
14 when allowable by the originating federally-funded grant.

15 **SECTION 1.(b)** Procurement Timeframe/Contract Performance Indicators. – To
16 ensure efficacy in the contract process, the Department shall set a standard 60-day timeframe to
17 conduct contract negotiation, oversight, and monitoring duties. The Department shall ensure key
18 performance indicators and contract deliverables are included in the contract and used as the
19 basis for contract performance monitoring.

20 **SECTION 1.(c)** Training and Continuing Education. – The Department shall
21 establish and administer a system of training, continuing education, and certification for agency
22 purchasing and contract monitoring personnel, which training and education shall include ethics
23 training. The Department shall establish and offer appropriate training to vendors on applicable
24 laws, rules, regulations, and contract performance monitoring. The Department may adopt rules
25 to administer this section, including rules relating to monitoring a vendor's compliance with the
26 continuing education requirements of this section.

27 All Department purchasing and monitoring personnel shall receive training and
28 continuing education from the Department of Administration, Division of Purchase and Contract,
29 on procurement rules. Training and continuing education shall include an ethics component
30 provided by the State Ethics Commission. Department employees who are required to receive
31 the training shall participate in purchase or contract monitoring by the Department unless the
32 employee has received the required training pursuant to this section.

33 However, the Department shall only require nonprofit contractors or grantees to
34 attend trainings or meetings to the extent those trainings and meetings are directly related to the
35 services provided under the grant or contract or necessary for the purposes of administration of
36 the contract.



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1 **SECTION 1.(d)** Vendor Payments. – The Department shall pay reimbursement
2 requests and invoices within 30 days of receipt and shall request feedback on those requests or
3 invoices, when applicable. If the Department does not send any feedback regarding the
4 reimbursement request or invoice within 10 business days, the invoice is deemed valid. If the
5 contractor or grantee does not address the Department's requested feedback items, those charges
6 may be disallowed until resolved. Requests for additional information on any disputed charges
7 shall not interrupt the 30-day contractual payment requirement. The Department shall make
8 payments based on actual expenditures in accordance with the approved budget on file. For
9 purposes of this section, expenditures include contractor or grantee payments or the incurrence
10 of a liability in exchange for goods or services with the evidence of the transaction occurring,
11 either by sales receipts or invoices.

12 **SECTION 1.(e)** Penalties for Late Payments. – The Department shall pay interest at
13 the rate of three percent (3%) per month on any payment that is late or wrongfully withheld to
14 any nonprofit contractors or recipients. The Department shall pay incurred interest within 10
15 business days of any interest accrued.

16 **SECTION 1.(f)** Negotiated Overhead Rates. – The negotiation, determination, or
17 settlement of the reimbursable amount of overhead under cost-reimbursement type contracts is
18 accomplished on an individual contract basis and is based upon the federally approved indirect
19 cost rate. For vendors who do not have a federally approved indirect cost rate, in accordance with
20 2 CFR 200.414(f), the de minimis rate of ten percent (10%) of modified total direct costs shall
21 apply.

22 **SECTION 1.(g)** Contract Amendments. – The Department shall not make material
23 amendments to contracts with nonprofit service providers after the execution of the contract
24 unless the amendments are required to comply with changes to federal or State laws.

25 **SECTION 2.(a)** Advisory Committee on State Contracting with Human Service
26 Provider Nonprofits/Meetings. – There is established an Advisory Committee on State
27 Contracting with Human Service Provider Nonprofits (Committee). The Committee shall consist
28 of the following members:

- 29 (1) Four members of the Senate, appointed by the President Pro Tempore of the
30 Senate.
- 31 (2) Four members of the House of Representatives, appointed by the Speaker of
32 the House of Representatives.

33 Annually, the Committee shall elect a chairperson from among its members. The first-named
34 Senate member shall call the first meeting of the Committee and the first meeting held within 45
35 days from the effective date of this section. Five members of the Committee shall constitute a
36 quorum. The Committee shall meet at least annually and on an as-needed basis to address
37 procurement issues identified by the Committee.

38 **SECTION 2.(b)** Duties of the Committee. – The Committee shall work with the
39 Department of Administration and the Department of Public Safety to update State procurement
40 and contracting procedures and regulations for contracts and grants with human service provider
41 nonprofits. The Committee shall consider issues related to all nonprofit human service providers
42 contracting with the Department of Health and Human Services, including, but not limited to,
43 the following:

- 44 (1) Organizations providing services related to substance use disorder prevention,
45 treatment, recovery, and harm reduction and mental health promotion,
46 treatment, and recovery.
- 47 (2) Late contract delivery, late payments, underpayment for indirect costs,
48 mid-stream changes to contracts, overly complex or redundant grant and
49 contract application requirements, overly complex or redundant grant and
50 contract reporting requirements, and unduly burdensome and unnecessary
51 training or meeting requirements for contractors or grantees.

1 **SECTION 2.(c)** Report. – Beginning July 1, 2023, and annually thereafter, the
2 Committee shall report its findings and any recommendations for proposed legislation to the
3 Secretary of Administration, the Speaker of the House of Representatives, the President Pro
4 Tempore of the Senate, the Principal Clerk of the House of Representatives, the Principal Clerk
5 of the Senate, and the Governor.

6 **SECTION 3.** Appropriation. – There is appropriated from the General Fund to the
7 Department of Health and Human Services the sum of one hundred ten thousand dollars
8 (\$110,000) in recurring funds for the 2022-2023 fiscal year to fund a position to support
9 contractors and grantees with reporting and compliance requirements for directed grants and
10 contracts awarded pursuant to contract procedures developed and implemented in accordance
11 with this act.

12 **SECTION 4.** This act becomes effective July 1, 2022.