

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Susan Talamantes Eggman, Chair

AB 547 (Chávez) – As Introduced February 14, 2017

SUBJECT: California Prompt Payment Act: disabled veteran business enterprises

SUMMARY: Requires state agencies to pay properly submitted, undisputed invoices from certified disabled veteran business enterprises (DVBEs) within 15 calendar days of receiving the invoice.

EXISTING LAW:

- 1) Establishes the Prompt Payment Act, which requires state agencies to pay properly submitted, undisputed invoices within 45 calendar days of initial receipt. If this requirement is not met, state departments must automatically calculate and pay the appropriate late payment penalties, as specified, including higher payment penalties provided to small businesses and nonprofit organizations.
- 2) Permits a state agency to dispute an invoice for reasonable cause within 15 working days of receipt.
- 3) Requires a state agency to issue a payment request for an undisputed invoice to the State Controller's Office (SCO) within 30 days of receipt.
- 4) Establishes a DVBE certification program administered by the Department of General Services (DGS). Defines a certified DVBE as a business that is at least 51% controlled by a person or persons who have been certified by the federal government as having a service-related disability of at least 10%, and is domiciled in California.

FISCAL EFFECT: Unknown

COMMENTS: Current law generally requires state agencies to pay undisputed invoices within 45 calendar days. This bill shortens this payment timeline to 15 calendar days if the undisputed invoice is from a DVBE.

The author states that "timely payment of services rendered is good business. Simply shortening the prompt payment terms to 15 days for invoices from DVBEs means they will not have to finance most, if not all, of their business with the state up front."

According to DGS, the current 45 day period can be divided into two main phases: a 30-day period for the invoiced state agency and a 15-day period for the SCO.

Within 30 days of receipt of an undisputed invoice, the invoiced state agency must issue a payment request to the SCO. The invoice can only be disputed within 15 days of receipt. DGS reports that this 15-day window allows the invoiced state agency to inspect and review the goods or services provided to ensure they conform to the contract requirements.

DGS indicates that reducing the entire payment process to 15 days will greatly reduce the amount of time the invoiced state agency has to review and inspect goods and services, for the

invoiced agency's accounting staff to process the invoice and request payment, and for the SCO to issue payment.

DGS adds that there is currently no statewide policy that requires agencies to accelerate or expedite payments to particular types of contractors. In the event that timely payment does not occur, the invoiced state agency must pay the appropriate late payment penalties.

The Prompt Payment Act requires small businesses and nonprofits to be paid a higher late payment penalty than other businesses. DGS reports there were 2,043 certified DVBEs in fiscal year (FY) 2015-16, about 90% of which are also certified small businesses. This means that when an undisputed invoice is paid late, most DVBEs already receive the higher penalty rate, which, in FY 2016-17 is 13.50% annually, compared to 1.31% annually for all other businesses.

PRIOR LEGISLATION: SB 983 (Correa) of 2008 and SB 159 (Wyland) of 2007 would have revised the definition of small business, for purposes of the Prompt Payment Act, to include a DVBE in order to make DVBEs eligible for the higher late payment penalties granted to small businesses. Both measures were held on the Assembly Appropriations Committee's Suspense File.

COMMITTEE STAFF RECOMMENDATION: The federal prompt payment rule requires federal agencies to pay properly submitted invoices within 30 calendar days after receipt. The author may wish to consider an amendment that changes the payment processing timeline proposed in this bill from 15 calendar days to 30 calendar days instead to mirror the federal rule.

DOUBLE REFERRAL. This bill is double referred. Should it pass this committee, it will be re-referred to the Assembly Jobs, Economic Development and the Economy Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

2020 Vet Intelligent Logistics Solutions
Arktos Incorporated
CommTech Systems, Inc.
Global Blue DVBE, Inc.
KKO Labs Construction
Northwestern Fire Support LLC
The Sandberg Group, Inc.
Veteran Enhanced Technology Solutions

Opposition

None on file.

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