

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Cottie Petrie-Norris, Chair

AB 696 (Lowenthal) – As Amended March 20, 2023

SUBJECT: State agency grants and contracts: nonprofit agencies

SUMMARY: Requires state agencies that administer grants and contracts to provide for electronic signature and other electronic processes for grant and contract applicants that are nonprofit organizations, requires the California State Library to establish an electronic document vault for nonprofit organizations, and requires the Department of General Services to establish a website for digital procurement. Specifically, **this bill would:**

- 1) Require any state agency that administers a grant to, or enters into a contract with, a nonprofit organization, commencing July 1, ____, to provide for and accept electronic signatures, electronic transmission, and the option of payment by electronic funds transfer or automated clearinghouse transfer.
- 2) Prohibit any state agency that administers a grant to, or enters into a contract with, a nonprofit organization, commencing July 1, ____, from requiring an original or wet signature on any document associated with the contract or require a facsimile, United States mail, or in-person delivery of any documents associated with the contract.
- 3) Define “electronic signature” as an electronic sound, symbol or process associated with an electronic record adopted by a person with an intent to sign the record and with the same legal effect as a wet signature.
- 4) Define “electronic transmission” as delivery of information by electronic mail, by posting to a web site or by other means of electronic communication to a state agency that consents to the electronic form of transmission, and creates a record that can be retained and retrieved.
- 5) Require the California State Library, by an unspecified date, to create and make available an internet website, that all state agencies administering grants or contracts with nonprofit organizations can access, which allows nonprofit organizations to submit any documents associated with a grant or contract, including, but not limited to, incorporation documents, proof of insurance, audited financials, tax returns, standard provision attestations, banking information, and signing authorizations.
- 6) Require the Department of General Services, by an unspecified date, to create and make available an internet website for the purpose of end-to-end digital procurement that stores executed contract documents, tracks amendments and approvals, and allows nonprofit organizations to submit invoices and supporting documents, including, but not limited to, progress reports, work plan updates, and budget modifications.

EXISTING LAW:

- 1) Authorizes, generally, under the Uniform Electronic Transactions Act, the transaction of business, commerce, and contracts by electronic means and establishes standards for conducting electronic transactions in this state. (Civil Code Sec. 16631.1 to 16633.17)
- 2) Authorizes, but does not require, government agencies to use an electronic signature in transactions with other parties. (Civil Code Sec. 1633.5)
- 3) Provides that an electronic signature, when its use is authorized and agreed to by the parties, be given the same legal effect as a wet signature. (Civil Code Sec. 1633.7)
- 4) Requires each state agency, on or before July 1, 2020, to provide for “acceptance of electronic proposals” for any grant administered by the state agency, “as appropriate.” (Gov. Code Sec. 8334(b))
- 5) Requires, through numerous statutory provisions, state agencies to follow specified procedures in award of contracts and identifies specific requirements for individual contract and grant programs.
- 6) Requires the California State Library to create a web portal that provides a centralized location for grant seekers to find state grant opportunities, and requires each state agency to provide information about every grant it administers to the California State Library for inclusion in the portal. (Gov. Code Sec. 8333.1)

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

COMMENTS:

- 1) Author’s Purpose and Intent. According to the author: “Nonprofits deliver crucial services to our constituents and we must do everything in our power to facilitate access to funding and grant dollars awarded to nonprofits by the state. AB 696 is a key component in the effort to modernize contracting and will require the state to provide for and accept electronic signatures, electronic transmission of documents, and electronic funds transfers. State public health, housing and homelessness, and corrections programs payments in the tens of millions of dollars are still issued via paper checks sent through the U.S. mail. Earlier this year, a Los Angeles nonprofit housing provider was mailed a paper check for \$20 million. When the occasional check is inevitably lost in the mail, it can take more than two months to have it reissued. Giving nonprofits like disability centers and preschools access to fast, secure, and trackable payments saves everyone time and money. The modernizations we are seeking are well within the state’s reach. The technologies to facilitate this transition are widely available and it’s time to utilize them at the state level in order to streamline contracting and grant administration with nonprofits.”
- 2) Electronic Transactions for All. This bill would require every state agency, in administering all contracts and grants, to provide the advantages of electronic transactions *only* to nonprofit organizations, even if other types of entities are eligible applicants. The author’s stated purpose is to ensure that nonprofits have these advantages so that California benefits from nonprofits participating in state programs. However,

providing this advantage to only some eligible applicants may create an unlevel playing field and may be inconsistent with particular contract or grant program requirements. Moreover, if a state agency modernizes its technology and systems to enable electronic transactions for one type of applicant, it would seem reasonable and practical to make it available to all eligible applicants. This also would likely increase each agency's overall efficiency in administering all contracts and grants. Thus, ***the committee may wish to consider amending the bill to require state agencies to adopt electronic processes for all eligible applicants for contracts and grants, not just nonprofit organizations.***

- 3) Static Document Vault for All. This bill would require the California State Library to establish a web site that functions as an electronic vault for nonprofit organizations to submit static documents frequently required in state contract and grant applications, such as incorporation documents, proof of insurance, and tax returns, among others. Any state agency would be able to access these documents as needed in its administration of any particular contract or grant, thereby creating efficiencies for nonprofit applicants and the agencies. However, for the same reasons discussed in Comment 2, if an electronic document vault is required for one type of contract and grant applicant, it should be available for all applicants. Thus, ***the committee may wish to consider amending the bill to require that the California State Library establish an electronic document vault that allows any entity eligible for a state contract or grant to submit specified documents, not just nonprofit organizations.***
- 4) Is the State Library the Right State Body? The author and sponsor state that the California State Library was identified for the document vault requirement in this bill because, as required by current law, it already maintains an internet web portal with state grant information. However, that California State Library web portal is a clearinghouse of information on grant opportunities as submitted by state agencies and is not a repository of information from potential grant applicants. Moreover, the authority and duties of the California State Library are generally not related to procurement nor similar to those of a control agency that establishes processes for all other agencies to follow. The author has acknowledged these concerns and stated an intent to consider whether another state entity would be more appropriate to maintain the electronic document vault required by this bill.
- 5) Unspecified Compliance Dates. This bill has unspecified dates for when state agencies must provide electronic processes for grants and contracts and for when the California State Library must establish an electronic document vault. The author proposes that 2025 should be the compliance date, which would give agencies a year after the bill takes effect to update their systems and would provide grant and contract applicants time to plan for the new processes. Thus, ***the committee may wish to consider amending the bill to require state agencies to provide the electronic processes by July 1, 2025, and require the California State Library to establish an electronic document vault by July 1, 2025.***
- 6) Remove DGS Requirement. This bill would require the Department of General Services to establish an internet web site for the purpose of "end-to-end digital procurement." The author has stated an intent to remove this requirement from the bill. Thus, ***the committee may wish to consider amending the bill to strike subdivision (b) from Government Code Section 8338 in this bill.***

Arguments in Support

According to the Los Angeles Chamber of Commerce: “As shown during the COVID-19 pandemic, many administrative processes are overly burdensome and inflexible for rapidly changing circumstances and for the modern way of doing business. State agencies that administer grants and contracts for nonprofits should have the flexibility to accept modern, digital signatures during an emergency and during normal times as a best-practice for expediting bureaucratic processes. Digital signatures have numerous forms of encryption and security to verify their validity. Further, a fully digital procurement system and central database of grants and contracts would reflect a long standing practice of fully digital procedures in the business world. AB 696 takes the necessary steps to modernize grant and contract management for nonprofits while establishing a path towards fully digital procurement. Such a result would greatly benefit the nonprofit sector in California and keep engagement with state agencies a viable form of business for nonprofits.”

Opposition

None received.

RELATED LEGISLATION:

AB 860 (Valencia) would, among other provisions, require any state agency administering a grant in an amount not greater than \$20,000 for a duration not greater than one year to provide eligible recipients with the ability to complete a grant application online.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Family Resource Association
Child Abuse Prevention Center
Los Angeles Area Chamber of Commerce

Opposition

None received

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