

2020 -- H 8132

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PROMPT PAYMENT BY
DEPARTMENT OF ADMINISTRATION--SUBCONTRACTOR PAYMENTS

Introduced By: Representative Anastasia P. Williams

Date Introduced: September 24, 2020

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-11.1-3 of the General Laws in Chapter 42-11.1 entitled "Prompt
2 Payment by Department of Administration" is hereby amended to read as follows:

3 **42-11.1-3. Time period for payment.**

4 (a) All bills shall be paid within thirty (30) ~~working~~ calendar days of receipt of a proper
5 invoice or other contractual dates for periodic payments, except when a contractor has failed to
6 submit a bill in accordance with contractually imposed time frames.

7 (b) Each contractor shall make payment to subcontractors within ten (10) calendar days of
8 receipt of payment by the state; provided, however, that the contractor may setoff a payment due
9 to a subcontractor by an amount equal to the amount of an unpaid legally enforceable debt owed
10 by the subcontractor to the contractor or any amount which the contractor is entitled to withhold
11 under the terms of the contract entered into by the contractor and subcontractor, or any amount
12 owed by the subcontractor to the contractor by way of a statutory obligation, or enforceable lien,
13 of which the contractor or subcontractor had previous knowledge or notice, or has reason to believe
14 exists.

15 (c) Each subcontractor shall make payments to its lower tier subcontractors within five (5)
16 calendar days of receipt of payment by the prime contractor.

17 ~~(d)~~ This section shall not apply to contractors or subcontractors performing work
18 pursuant to a contract awarded by the department of transportation ~~unless the subcontractor~~

1 ~~provides a payment and performance bond in an amount equal to the contract between the~~
2 ~~contractor and subcontractor.~~

3 (e) The state shall pay a deposit to prime contractors in a sufficient period prior to the
4 commencement of the scope of work of a minority business enterprise (MBE), as defined in § 37-
5 14.1-3, subcontractors solely for the purpose of the prime contractor making prearranged scheduled
6 payments, pursuant to a written contract between the prime contractor and MBE subcontractors, to
7 MBE subcontractors for the scope of the MBE subcontractors' work. Upon receipt of the deposit,
8 the prime contractor shall pay the MBE subcontractors within five (5) calendar days, pursuant to
9 the prearranged scheduled payments based upon percentage of work completed. Upon failure of
10 the prime contractor to timely pay the MBE subcontractors, the state shall pay the MBE
11 subcontractors directly and seek reimbursement from the prime contractor with any administrative
12 costs incurred by the state. This payment schedule shall be attached as an exhibit to the prime
13 contractor contract and approved by the state.

14 (f) The director of the department of administration shall adopt regulations in accordance
15 with chapter 35 of title 42, the ("administrative procedures act") which are consistent with this
16 chapter and chapter 2 of title 37, ("the state purchases act") governing the prompt payment by
17 contractors to subcontractors and in the instance of payments to MBE subcontractors, deposits to
18 contractors to allow weekly payments to MBE subcontractors.

19 SECTION 2. Chapter 42-11.1 of the General Laws entitled "Prompt Payment by
20 Department of Administration" is hereby amended by adding thereto the following section:

21 **42-11.1-17. Disqualification from contract award.**

22 (a) No contract as defined in § 42-11.1-2, shall be awarded to any contractor currently in
23 violation of the provisions of this chapter.

24 (b) Prior to the awarding of any contract as defined in § 42-11.1-2, the contractor shall
25 certify under oath, that the contractor has fully satisfied and paid all subcontractors for all work
26 previously provided by the subcontractors pursuant to any subcontract with the contractor, and
27 additionally shall, if requested, provide evidence satisfactory to the director of the department of
28 administration that the contractor has fully satisfied and paid all subcontractors for all work
29 previously provided by the subcontractors pursuant to any subcontract with the contractor.

30 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would help expedite the payments made to subcontractors for work they perform
2 on state contracts. It would also establish a new process to help minority business enterprises collect
3 for their work on state contracts from their prime contractors. This act would further require that
4 contractors certify, and if requested provide evidence that all subcontractors have been paid for
5 previous subcontracting work prior to the award of a state contract.

6 This act would take effect upon passage.

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