SENATE, No. 2451

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Provides for waivers of contract penalties and modification of contract terms on public contracts between non-profit organizations and State agencies for failure to perform due to COVID-19 pandemic.

CURRENT VERSION OF TEXT

As introduced.

AN ACT providing for waivers of contract penalties and modification of contract terms on public contracts between non-profit organizations and State agencies for failure to perform due to the COVID-19 Public Health Emergency and State of Emergency.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Notwithstanding the provisions of any law, rule, or regulation to the contrary, a State agency that has awarded a contract to or entered into an agreement with a non-profit organization may provide a waiver of any penalty provided in the contract or agreement for the failure of the non-profit organization to fulfill the terms and conditions in the contract or agreement if the failure is due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020 and the failure occurred during the period of the emergencies or during the six-month period immediately following the end of the emergencies. The waiver shall be provided to the extent the State agency or agencies deem it feasible and appropriate under the circumstances.

A non-profit organization shall be permitted to request a modification of the terms and conditions of a contract awarded by, or of an agreement entered into with, a State agency and the State agency shall consider such a request to modify the terms and conditions in the contract or agreement, when compliance by the non-profit organization with the terms and conditions was impacted due to the emergencies and the impact occurred during the period of the emergencies or during the six-month period immediately following the end of the emergencies.

Non-profit organizations shall submit to the appropriate State agency supportive documentation as proof that the failure to fulfill the terms and conditions of a contract or agreement was due to, or that the compliance was impacted by, the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020, in order to receive a waiver of a penalty or to have a medication of the terms and conditions considered by a State agency.

As used in this section, "State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission, or other instrumentality within or created by such department, the Legislature of the State, and any office, board, bureau, or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality, or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

2. This act shall take effect immediately and shall expire on the first day of the ninth month following the end of the Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020.

STATEMENT

This bill provides that a State agency that has awarded a contract to or entered into an agreement with a non-profit organization may provide a waiver of any penalty provided in the contract or agreement for the failure of the non-profit organization to fulfill the terms and conditions in the contract or agreement if the failure is due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020 and the failure occurred during the period of the emergencies or during the six-month period immediately following the end of the emergencies. The waiver will be provided to the extent the State agency or agencies deem it feasible and appropriate under the circumstances.

The bill also permits a non-profit organization to request a modification of the terms and conditions of a contract awarded by or of an agreement entered into with, a State agency and the State agency must consider such a request, when compliance by the non-profit organization with the terms and conditions was impacted due to the emergencies and the impact occurred during the period of the emergencies or during the six-month period immediately following the end of the emergencies.

The COVID-19 pandemic has caused non-profit organizations to drastically reduce staffing and shift priorities. These changes have made it difficult for non-profit organizations to deliver on State contracts. The purpose of this bill is to provide greater flexibility and to ensure that non-profit organizations are not further negatively impacted by the COVID-19 pandemic.