

RCW 43.20A.465 Contracted service providers—Disruption or delay by economic or industrial actions. (1) Any contract entered into or renewed by the department with a private contractor for adult care, mental health, addiction, disability support, or youth services must contain an assurance that the contracted services will not be disrupted or delayed by economic or industrial action. The assurance may be provided through the execution of an agreement between the contractor and any labor organization that represents or seeks to represent the employees of the private contractor that perform or will perform the essential services contracted for by the department.

(2) The assurance required under subsection (1) of this section must be a condition of contracting with the department and may be satisfied through one or more of the following contractual commitments made on the part of the contractor through the life of the contract as a condition of receiving or renewing a contract:

(a) An agreement between the contractor and any exclusive representative labor organization representing the employees performing the contracted services that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for the resolution of disputes between them;

(b) An agreement between the contractor and any labor organization seeking to represent the employees performing the contracted services that includes a provision prohibiting the parties from causing, promoting, or encouraging economic, industrial, or other disruptive activity on the part of the contractor or employees performing services under the contract, and includes a process for resolution of disputes between parties; or

(c) Any other agreement or binding obligation providing assurances equivalent to those specified in (a) and (b) of this subsection that are to be maintained through the life of the contract.

(3) The assurance made to the department must be a binding provision of any contract subject to this section and constitutes a warranty to the department on the part of the contractor.

(4) Failure to maintain the assurance, such that the services contracted by the department are interrupted, shall entitle the department to terminate, suspend, or revoke the contract and make arrangements for the provision of services by other means.

(5) In awarding any contract subject to this section, the department must take into consideration any prior disruptions in the provision of services by the contractor and whether the assurance provided by the contractor pursuant to this section has mitigated the risk of a reoccurrence of the disruptions, if any.

(6) Any contract subject to this section that is awarded or renewed must include a provision providing for reimbursement to the department of the actual costs to the department arising from the inadequacy of the assurance provided by the contractor. [2020 c 201 s 2.]

Intent—Findings—2020 c 201: "The legislature intends to provide the uninterrupted delivery of essential services to its most vulnerable citizens and to provide efficiency and quality in the delivery of such services purchased by the state. The legislature finds that the state's proprietary interest in procuring the services authorized by chapter 43.20A RCW includes providing continuity in the delivery of such services without interruption by its vendors and contractors. The legislature finds that this interest is served by

making sure private sector providers contracted by the state have averted or meaningfully mitigated the possibility of service disruptions resulting from labor management disputes and employee unrest.

The legislature finds that the contracts and services subject to chapter 43.20A RCW are essential and, if disrupted, could harm vulnerable members of the community, compromise the efficient delivery of essential state services, and burden taxpayers with additional costs. Thus, the legislature designates the continuity of operations as a vital procurement goal with respect to services that the state funds to provide these services to the public.

The legislature further finds that by contracting for the provisions of the services rather than providing them directly, the state may negotiate contracts with vendors that are conditioned on meeting this procurement goal insofar as private entities continue to find it commercially advantageous to offer such services to the state on the terms sought by the state." [2020 c 201 s 1.]