STATE OF NEW YORK

7190

2017-2018 Regular Sessions

IN ASSEMBLY

April 12, 2017

Introduced by M. of A. WOERNER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to disclosure of employer payments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The state finance law is amended by adding a new section 139-l to read as follows:

§ 139-l. Disclosure of employer payments. 1. For purposes of this section, the following terms shall have the following meanings unless specified otherwise:

a. "Employer payments" shall mean payments for any and all programs or benefits for employees, their families and dependents and retirees, paid by an employer, which are (1) medical and hospital care, prescription drugs, dental care, vision care, diagnostic services, and other health and welfare benefits; (2) retirement plan benefits; (3) vacation and holidays with pay or cash payments in lieu thereof; (4) compensation for injuries or illnesses resulting from occupational activity; (5) life, accidental death and dismemberment and disability or sickness and accident insurance; (6) supplemental unemployment benefits; (7) thrift, security savings, supplemental trust, and beneficial trust funds otherwise designated, provided all of the money except that used for reasonable administrative expenses is returned to the employees; (8) occupational health and safety research, safety training, monitoring job hazards, and the like, as specified in the applicable collective bargaining agreement.

b. "Procurement contract" shall mean any contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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as it was finally awarded or approved by the comptroller, as applicable), for an article of procurement.

c. "Article of procurement" shall mean a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property that is the subject of a procurement contract.

2. Each governmental entity shall ensure that solicitation of proposals or bid documents or specifications, or contract documents, as applicable, for procurement contracts shall require offerers, its subsidiaries, and any related or successor entity to disclose whether they make employer payments to their workforce and if so, such offerer shall provide an itemized list of such employer payments.

3. The failure of an offerer to disclose accurate or complete information to a governmental entity pursuant to subdivision two of this section shall be considered by such governmental entity in its determination of the responsibility of such offerer. No procurement contract shall be awarded to any such offerer, it subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this subdivision, "offerer"), unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding.

4. Any procurement contract award subject to the provisions of this section shall contain a certification by the offerer that all information provided to the procuring governmental entity with respect to this section is complete, true and accurate, and each such procurement contract shall contain a provision authorizing the governmental entity to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete. The governmental entity shall include in the procurement record a statement describing the basis for any action taken pursuant to such termination provision.

§ 2. This act shall take effect immediately; provided that procurement contracts for which bid solicitations have been issued prior to the effective date of this act shall be subject to the provisions of law in effect at the time of issuance. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such effective date.