

STATE OF NEW YORK

6380--B

2017-2018 Regular Sessions

IN ASSEMBLY

March 6, 2017

Introduced by M. of A. TITONE, COOK, GOTTFRIED, STIRPE, SIMON, McDO-
NOUGH, COLTON, FAHY, SEAWRIGHT, GALEF, MOSLEY, DiPIETRO, PAULIN,
WILLIAMS, HUNTER, DINOWITZ, SEPULVEDA, ROSENTHAL, MOYA, D'URSO,
ABBATE, BLAKE, GJONAJ, DICKENS, ORTIZ, GIGLIO, LAWRENCE, HARRIS --
Multi-Sponsored by -- M. of A. ARROYO, DE LA ROSA, ERRIGO, HYNDMAN,
STECK, THIELE, WRIGHT -- read once and referred to the Committee on
Governmental Operations -- committee discharged, bill amended, ordered
reprinted as amended and recommitted to said committee -- again
reported from said committee with amendments, ordered reprinted as
amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to requiring state
contractors submit a statement on human trafficking

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

1 Section 1. The state finance law is amended by adding a new section
2 139-d-1 to read as follows:

3 § 139-d-1. Statement on human trafficking in bids to the state. 1.
4 (a) Every bid hereafter made to the state or any public department,
5 agency or official thereof, where competitive bidding is required by
6 statute, rule or regulation, for work or services performed or to be
7 performed or goods sold or to be sold, shall contain the following
8 statement subscribed by the bidder and affirmed by such bidder as true
9 under the penalties of perjury:

10 "By submission of this bid, each bidder and each person signing on
11 behalf of any bidder certifies, and in the case of a joint bid each
12 party thereto certifies as to its own organization, under penalty of
13 perjury, that to the best of his or her knowledge and belief, the goods,
14 work or services to be supplied or performed will be supplied or
15 performed without doing business with any organization, person, or enti-
16 ty that is or has engaged in human trafficking."

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

LBD09168-04-7

1 (b) In addition to the statement required by paragraph (a) of this
2 subdivision, any bidder that maintains a written policy for preventing
3 human trafficking within its operations, business dealings, and supply
4 chain shall submit to the state or any public department, agency or
5 official thereof soliciting such bid such current written policy when
6 submitting such statement.

7 2. Notwithstanding the foregoing, the statement on human trafficking
8 or written policy for preventing human trafficking required pursuant to
9 subdivision one of this section may be submitted electronically in
10 accordance with the provisions of subdivision seven of section one
11 hundred sixty-three of this chapter.

12 3. A bid shall not be considered for award nor shall any award be made
13 where subdivision one of this section has not been complied with;
14 provided however, that if in any case the bidder cannot make the forego-
15 ing certification, the bidder shall so state and shall furnish with the
16 bid a signed statement which sets forth in detail the reasons therefor.

17 4. Any bid hereafter made to the state or any public department, agen-
18 cy or official thereof by a corporate bidder for work or services
19 performed or to be performed or goods sold or to be sold, where compet-
20 itive bidding is required by statute, rule or regulation, and where such
21 bid contains the certification or written policy referred to in subdivi-
22 sion one of this section, shall be deemed to have been authorized by the
23 board of directors of the bidder, and such authorization shall be deemed
24 to include the signing and submission of the bid and the inclusion ther-
25 ein of the certificate on human trafficking and written policy for
26 preventing human trafficking as the act and deed of the corporation.

27 5. For the purposes of this section, the term "engaged in human traf-
28 ficking" shall not be construed to include an individual who is or was a
29 victim of human trafficking.

30 § 2. Subdivision 7 of section 163 of the state finance law, as amended
31 by section 10 of part L of chapter 55 of the laws of 2012, is amended to
32 read as follows:

33 7. Method of procurement. Consistent with the requirements of subdivi-
34 sions three and four of this section, state agencies shall select among
35 permissible methods of procurement including, but not limited to, an
36 invitation for bid, request for proposals or other means of solicitation
37 pursuant to guidelines issued by the state procurement council. State
38 agencies may accept bids electronically including submission of the
39 statement of non-collusion required by section one hundred thirty-nine-d
40 of this chapter, and the statement on human trafficking and written
41 policy for preventing human trafficking required by section one hundred
42 thirty-nine-d-1 of this chapter, and, starting April first, two thousand
43 twelve, and ending March thirty-first, two thousand fifteen, may, for
44 commodity, service and technology contracts require electronic
45 submission as the sole method for the submission of bids for the solic-
46 itation. State agencies shall undertake no more than eighty-five such
47 electronic bid solicitations, none of which shall be reverse auctions,
48 prior to April first, two thousand fifteen. In addition, state agencies
49 may conduct up to twenty reverse auctions through electronic means,
50 prior to April first, two thousand fifteen. Prior to requiring the elec-
51 tronic submission of bids, the agency shall make a determination, which
52 shall be documented in the procurement record, that electronic
53 submission affords a fair and equal opportunity for offerers to submit
54 responsive offers. Within thirty days of the completion of the eighty-
55 fifth electronic bid solicitation, or by April first, two thousand
56 fifteen, whichever is earlier, the commissioner shall prepare a report

1 assessing the use of electronic submissions and make recommendations
2 regarding future use of this procurement method. In addition, within
3 thirty days of the completion of the twentieth reverse auction through
4 electronic means, or by April first, two thousand fifteen, whichever is
5 earlier, the commissioner shall prepare a report assessing the use of
6 reverse auctions through electronic means and make recommendations
7 regarding future use of this procurement method. Such reports shall be
8 published on the website of the office of general services. Except where
9 otherwise provided by law, procurements shall be competitive, and state
10 agencies shall conduct formal competitive procurements to the maximum
11 extent practicable. State agencies shall document the determination of
12 the method of procurement and the basis of award in the procurement
13 record. Where the basis for award is the best value offer, the state
14 agency shall document, in the procurement record and in advance of the
15 initial receipt of offers, the determination of the evaluation criteria,
16 which whenever possible, shall be quantifiable, and the process to be
17 used in the determination of best value and the manner in which the
18 evaluation process and selection shall be conducted.

19 § 3. This act shall take effect on the ninetieth day after it shall
20 have become a law and shall only apply to contracts entered into on or
21 after such effective date; provided however, that the amendments to
22 subdivision 7 of section 163 of the state finance law made by section
23 two of this act shall not affect the repeal of such section and shall be
24 deemed repealed therewith.