STATE OF NEW YORK

9924

IN ASSEMBLY

February 23, 2018

Introduced by M. of A. BUCHWALD -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to government vendor contributions

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

Section 1. The election law is amended by adding a new section 14-131 to read as follows:

§ 14-131. Government vendor contributions. 1. (a) It shall be unlawful during the restricted vendor contribution period for any person, organization, group of persons, or business entity that submits a bid, quotation, offer or response to a state governmental entity posting or solicitation for procurement to make a contribution to any officeholder of or with authority over the state governmental entity or entities responsible for issuing such procurement posting or solicitation, evaluating responses to the procurement posting or solicitation for purposes of determining an award, or approving the selection of an awardee, or awarding the final contract, or to any candidate for an office of such governmental entity, including to such officeholder's or candidate's authorized political committees or political committees the officeholder or candidate exerts operational control over. It shall further be unlawful, pursuant to section 14-120 of this article, to make contributions to political committees not authorized or operationally controlled by the officeholder or candidate for the purpose of transferring a contribution to the officeholder's or candidate's authorized political committees or political committees they exert operational control over.

(b) For purposes of this section the assembly and senate shall be separate and distinct governmental entities when a particular posting or solicitation for procurement is issued by only one respective house.

(c) The state governmental entity directly responsible for issuing such posting or solicitation for procurement shall include a notice of the prohibition established by this section and the state governmental entity responsible for evaluating responses to such posting or solicitation shall provide to any person, organization, group of persons, or

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

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business entity that submits a proposal in response to such posting or solicitation a notice of the prohibition established by this section and the restricted vendor contribution period commencement date.

2. As used in this section "business entity" means a business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this state or any other state or foreign jurisdiction, including any subsidiary directly or indirectly controlled by the business entity, and any political organization, including but not limited to any political organization organized under section 527 of the Internal Revenue Code, that is directly or indirectly controlled by the business entity.

3. The restricted vendor contribution period described in this section shall commence, with respect to a specific person, organization, group of persons, or business entity when it files a statement of registration pursuant to section one-e of the legislative law, or engages lobbying, as defined by subdivision (c) of section one-c of the legislative law, to generate a procurement opportunity or pilot program or submits a bid, quotation, offer or response to the state governmental entity posting or solicitation, at the earliest posting, on a state governmental entity's website, in a newspaper of general circulation or in the procurement opportunities newsletter in accordance with article four-C of the economic development law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitations of proposals, or any other method provided for by law or regulation for soliciting a response from offerers intending to result in a procurement contract with a state governmental entity. The restricted vendor contribution period does not apply to a person, organization, group of persons or business entity that is responding to a state governmental entity's request for information or other informational exchanges occurring prior to such governmental entity's posting or solicitation for procurement provided it has not filed a statement of registration pursuant to section one-e of the legislative law or engaged in lobbying, as defined by subdivision (c) of section one-c of the legislative law, to generate a procurement opportunity or pilot program.

4. The restricted vendor contribution period described in this section shall end with respect to a specific person, organization, group of persons, or business entity if:

(a) the person, organization, group of persons, or business entity is the recipient of the final contract award, the restricted vendor contribution period shall end six months after the final contract award and approval by the state governmental entity and, where applicable, the state comptroller and if the person, organization, group of persons or business entity does not lobby on the execution of the contract after its award; or

(b) the person, organization, group of persons, or business entity is not the recipient of the final contract award, the restricted vendor contribution period shall end with the final contract award and approval by the state governmental entity and, where applicable, the state comptroller.

5. The restricted vendor contribution period shall recommence if a person, organization, group of persons or business entity engages in activity pursuant to subdivision three of this section.

§ 2. Section 14-126 of the election law is amended by adding a new subdivision 7 to read as follows:

7. (a) Any person, organization, group of persons, or business entity as that term is used in section 14-131 of this article, who, under circumstances evincing an intent to violate such law, makes a contribution in contravention of section 14-131 of this article shall be subject to a civil penalty not to exceed the greater of ten thousand dollars or an amount equal to two hundred percent of the contribution, to be recoverable in a special proceeding or civil action to be brought by the state board of elections chief enforcement counsel.

(b) Any person who, acting as or on behalf of an officeholder, candidate, or political committee, accepts a contribution or receives a transfer in contravention of section 14-131 of this article shall be required to refund such contribution.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.