STATE OF NEW YORK

6362--A

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to equal pay reporting by certain contractors

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

Section 1. Section 313-a of the executive law, as added by chapter 175 of the laws of 2010, is amended to read as follows:

§ 313-a. Diversity practices of state contractors. **1. Assessment of diversity practices.** The director shall promulgate rules and regulations setting forth measures and procedures to require all contracting agencies, where practicable, feasible and appropriate, to assess the diversity practices of contractors submitting bids or proposals in connection with the award of a state contract. Such rules and regulations shall take into account: the nature of the labor, services, supplies, equipment or materials being procured by the state agency; the method of procurement required to be used by a state agency to award the contract and minority and women-owned business utilization plans required to be submitted pursuant to sections three hundred twelve and three hundred thirteen of this article; and such other factors as the director deems appropriate or necessary to promote the award of state contracts to contractors having sound diversity practices. Such assessment shall not in any way permit the automatic rejection of a bid or procurement contract proposal based on lack of adherence to diversity practices. Each bid or proposal shall be analyzed on an individual per bid or per proposal basis with the contractor's diversity practices considered as only a part of a wider consideration of several factors when deciding to award or decline to award a bid or proposal. The director shall develop the rules and regulations required hereunder only after consultation

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

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with the state procurement council established by section one hundred sixty-one of the state finance law.

2. Equal pay reporting. Notwithstanding any other provision of law or the provisions of executive order one hundred sixty-two of two thousand seventeen, the director may promulgate rules requiring that, for any contract valued at more than two hundred fifty thousand dollars, any contractor required to submit work force employment utilization reports shall also submit an annual report that illustrates the contractor's distribution of employees by ethnic background, gender, federal occupational category and pay range. This report may be based on either the contractor's total workforce or that portion of their workforce that is utilized in the performance of the state contract. Any contractor may satisfy the requirement of this subdivision by submitting to the director any report required pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et. seq., as amended. Any information submitted to the director pursuant to this subdivision is exempt from disclosure under article six of the public officers law or any other provision of state law.

§ 2. This act shall take effect April 1, 2018; provided, however, that the amendments to section 313-a of the executive law made by section one of this act shall not affect the expiration of such article and shall be deemed to expire therewith.