

STATE OF NEW YORK

4412

2019-2020 Regular Sessions

IN SENATE

March 11, 2019

Introduced by Sen. ANTONACCI -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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:

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

3 § 313-a. Diversity practices of state contractors. 1. Assessment of
4 diversity practices. The director shall promulgate rules and regulations
5 setting forth measures and procedures to require all contracting agen-
6 cies, where practicable, feasible and appropriate, to assess the diver-
7 sity practices of contractors submitting bids or proposals in connection
8 with the award of a state contract. Such rules and regulations shall
9 take into account: the nature of the labor, services, supplies, equip-
10 ment or materials being procured by the state agency; the method of
11 procurement required to be used by a state agency to award the contract
12 and minority and women-owned business utilization plans required to be
13 submitted pursuant to sections three hundred twelve and three hundred
14 thirteen of this article; and such other factors as the director deems
15 appropriate or necessary to promote the award of state contracts to
16 contractors having sound diversity practices. Such assessment shall not
17 in any way permit the automatic rejection of a bid or procurement
18 contract proposal based on lack of adherence to diversity practices.
19 Each bid or proposal shall be analyzed on an individual per bid or per
20 proposal basis with the contractor's diversity practices considered as
21 only a part of a wider consideration of several factors when deciding to
22 award or decline to award a bid or proposal. The director shall develop
23 the rules and regulations required hereunder only after consultation
24 with the state procurement council established by section one hundred
25 sixty-one of the state finance law.

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

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1 2. Equal pay reporting. Notwithstanding any other provision of law or
2 the provisions of executive order one hundred sixty-two of two thousand
3 seventeen, the director may promulgate rules requiring that, for any
4 contract valued at more than two hundred fifty thousand dollars, any
5 contractor required to submit work force employment utilization reports
6 shall also submit an annual report that illustrates the contractor's
7 distribution of employees by ethnic background, gender, federal occupa-
8 tional category and pay range. This report may be based on either the
9 contractor's total workforce or that portion of their workforce that is
10 utilized in the performance of the state contract. Any contractor may
11 satisfy the requirement of this subdivision by submitting to the direc-
12 tor any report required pursuant to Title VII of the Civil Rights Act of
13 1964, 42 U.S.C. 2000e et. seq., as amended. Any information submitted to
14 the director pursuant to this subdivision is exempt from disclosure
15 under article six of the public officers law or any other provision of
16 state law.

17 § 2. This act shall take effect April 1, 2020; provided, however, that
18 the amendments to section 313-a of the executive law made by section one
19 of this act shall not affect the expiration of such article and shall be
20 deemed to expire therewith.