STATE OF NEW YORK

5398

2019-2020 Regular Sessions

IN SENATE

April 29, 2019

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the state finance law, in relation to utilizing software to verify hours worked on computers and billed to the government for certain contracts

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

Section 1. The legislature recognizes that an increasing amount of government contracts require the use of computers, a virtual office or online activity. The legislature further recognizes the difficulty in verifying hours worked on computers and billed to the government for government contracts. Therefore, the legislature intends to establish a secure and transparent process to verify hours worked on computers and billed to the government for certain contracts to prevent abuse and overbilling.

§ 2. The state finance law is amended by adding a new section 136-d to read as follows:

§ 136-d. Contracts for professional or technical services to be performed with the use of a computer. 1. For the purposes of this section, "software" shall mean software which tracks computer usage in order to verify work hours performed.

2. A contract between a state agency and a contractor for more than two hundred fifty thousand dollars which includes professional or technical services to be performed with the use of a computer and billed to the state at an hourly rate shall require such contractor to use software which verifies the hours billed for the work performed on a computer pursuant to such contract. This section shall not apply to any hours billed that are not performed with the use of a computer. This section also shall not apply to the following entities:

(a) state employees;

(b) state agencies contracting with other state agencies;

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

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(c) law enforcement agencies; and

(d) any individual who works for a contractor using a state-owned device.

3. A contract subject to this section shall require the contractor to use software which verifies that hours billed for work under such contract and performed on a computer are legitimate. Such contract shall specify that the contracting agency shall not pay for hours worked on a computer unless those hours are verifiable by the software or by data collected by the software. Such software shall:

(a) allow the contracting agency or an auditor of such agency to access any data collected or provided by the software;

(b) automatically gather verification data of state-funded activity by recording keystroke and mouse event frequency, but shall not record actual keystrokes or mouse events, and by taking a screenshot at least once every three minutes; and

(c) protect all private or confidential data as otherwise required by federal or state law.

4. Data collected by the software shall be considered financial records belonging to the contractor. Such contractor shall store, or arrange for the storage of, data collected by the software and provide access by the contracting agency or state auditors upon their request. Such contractor may not sell or use data generated by the software for any other purposes than to manage and verify hours worked on a computer and billed to the state.

5. The contractor shall not charge the agency or an auditor of the agency for access to or use of the work verification software, or for access to or retrievals of data collected by the software.

6. Software used under this section shall be procured by the contractor from an independent entity. Such independent entity shall not have access to any screenshots generated by the software used to comply with this section.

§ 3. This act shall take effect one hundred eighty days after it shall have become a law. 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 and completed on or before such effective date.