

# STATE OF NEW YORK

8205

## IN SENATE

April 15, 2020

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

AN ACT to amend the state finance law, in relation to sexual harassment disclosure with respect to state contracts

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

1 Section 1. Section 139-1 of the state finance law, as added by section  
2 1 of subpart A of part KK of chapter 57 of the laws of 2018, is amended  
3 to read as follows:

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

11 "By submission of this bid, each bidder and each person signing on  
12 behalf of any bidder certifies, and in the case of a joint bid each  
13 party thereto certifies as to its own organization, under penalty of  
14 perjury, that the bidder has and has implemented a written policy  
15 addressing sexual harassment prevention in the workplace and provides  
16 annual sexual harassment prevention training to all of its employees.  
17 Such policy shall, at a minimum, meet the requirements of section two  
18 hundred one-g of the labor law."

19 (b) Every bid hereafter made to the state or any public department or  
20 agency thereof, where competitive bidding is not required by statute,  
21 rule or regulation, for work or services performed or to be performed or  
22 goods sold or to be sold, may contain, at the discretion of the depart-  
23 ment, agency or official, the certification required pursuant to para-  
24 graph (a) of this subdivision.

25 2. (a) Every bid hereafter made to the state or any public department  
26 or agency thereof, where competitive bidding is required by statute,  
27 rule or regulation, for work or services performed or to be performed or  
28 goods sold or to be sold, shall include a report listing (i) the name of  
29 the bidder; (ii) the total number of adverse judgments or administrative  
30 rulings arising from allegations of sexual harassment during the preced-  
31 ing year; (iii) total number of employees; (iv) whether any equitable

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

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1 relief was ordered against the bidder in any adverse judgment or admin-  
2 istrative ruling; (v) the total number of settlements, defined as any  
3 written commitment or written agreement, including any agreed judgment,  
4 stipulation, decree, agreement to settle, assurance of discontinuance,  
5 or otherwise between an employee or a nonemployee and a bidder, under  
6 which the bidder directly or indirectly provides to an individual  
7 compensation or other consideration due to an allegation that the indi-  
8 vidual has been a victim of sexual harassment, that has been entered  
9 into during the preceding year that relate to any alleged act of sexual  
10 harassment that occurred in the workplace of the bidder; and (vi) the  
11 total number of settlements entered into during the previous year that  
12 relate to any alleged act of sexual harassment committed by a corporate  
13 executive without regard to whether that behavior occurred in the work-  
14 place of the bidder. The information required by this subdivision shall  
15 be provided in electronic format in such form as prescribed by the divi-  
16 sion of human rights.

17 (b) On or before the fifteenth of February of each year, copies of the  
18 reports required by paragraph (a) of this subdivision received in the  
19 previous calendar year shall be transmitted from the contracting agency  
20 to the division of human rights and the office of the state comptroller.  
21 The office of the state comptroller shall prepare an annual report  
22 summarizing such data, which shall be submitted to the governor, the  
23 temporary president of the senate, the speaker of the assembly and the  
24 chairpersons of the senate finance, the assembly ways and means commit-  
25 tees, the attorney general, the commissioner of labor, and the commis-  
26 sioner of the division of human rights by the thirty-first of July each  
27 year following the effective date of this section. Such report shall  
28 include the name of the bidder; the total number of adverse judgments or  
29 administrative rulings during the preceding year; the total number of  
30 employees; whether any equitable relief was ordered against the bidder  
31 in any adverse judgment or administrative ruling; and the total number  
32 of settlements, as defined in subparagraph (v) of paragraph (a) of this  
33 subdivision, entered into during the preceding year.

34 3. Notwithstanding the foregoing, the statement required by paragraph  
35 (a) of subdivision one of this section and the report required by para-  
36 graph (a) of subdivision two of this section may be submitted electron-  
37 ically in accordance with the provisions of subdivision seven of section  
38 one hundred sixty-three of this chapter.

39 ~~[3-]~~ 4. A bid shall not be considered for award nor shall any award be  
40 made to a bidder who has not complied with [subdivision] subdivisions  
41 one and two of this section; provided, however, that if the bidder  
42 cannot make the foregoing certification, such bidder shall so state and  
43 shall furnish with the bid a signed statement which sets forth in detail  
44 the reasons therefor.

45 ~~[4-]~~ 5. Any bid hereafter made to the state or any public department,  
46 agency or official thereof, by a corporate bidder for work or services  
47 performed or to be performed or goods sold or to be sold, where such bid  
48 contains the statement required by subdivision one of this section and  
49 the report required by subdivision two of this section, shall be deemed  
50 to have been authorized by the board of directors of such bidder, and  
51 such authorization shall be deemed to include the signing and submission  
52 of such bid and the inclusion therein of such statement and such report  
53 as the act and deed of the corporation.

54 § 2. This act shall take effect on the first of July next succeeding  
55 the date upon which it shall have become a law and shall apply to all  
56 contracts with the state entered into on and after such effective date.