

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.

LBD16018-01-0

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.