

# STATE OF NEW YORK

6534

2021-2022 Regular Sessions

## IN ASSEMBLY

March 19, 2021

Introduced by M. of A. SIMON -- read once and referred to the Committee on Governmental Operations

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.

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

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1     2. (a) Every bid hereafter made to the state or any public department  
2 or agency thereof, where competitive bidding is required by statute,  
3 rule or regulation, for work or services performed or to be performed or  
4 goods sold or to be sold, shall include a report listing (i) the name of  
5 the bidder; (ii) the total number of adverse judgments or administrative  
6 rulings arising from allegations of sexual harassment during the preced-  
7 ing year; (iii) total number of employees; (iv) whether any equitable  
8 relief was ordered against the bidder in any adverse judgment or admin-  
9 istrative ruling; (v) the total number of settlements, defined as any  
10 written commitment or written agreement, including any agreed judgment,  
11 stipulation, decree, agreement to settle, assurance of discontinuance,  
12 or otherwise between an employee or a nonemployee and a bidder, under  
13 which the bidder directly or indirectly provides to an individual  
14 compensation or other consideration due to an allegation that the indi-  
15 vidual has been a victim of sexual harassment, that has been entered  
16 into during the preceding year that relate to any alleged act of sexual  
17 harassment that occurred in the workplace of the bidder; and (vi) the  
18 total number of settlements entered into during the previous year that  
19 relate to any alleged act of sexual harassment committed by a corporate  
20 executive without regard to whether that behavior occurred in the work-  
21 place of the bidder. The information required by this subdivision shall  
22 be provided in electronic format in such form as prescribed by the divi-  
23 sion of human rights.

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

41     **3.** Notwithstanding the foregoing, the statement required by paragraph  
42 (a) of subdivision one of this section and the report required by para-  
43 graph (a) of subdivision two of this section may be submitted electron-  
44 ically in accordance with the provisions of subdivision seven of section  
45 one hundred sixty-three of this chapter.

46     ~~[3-]~~ **4.** A bid shall not be considered for award nor shall any award be  
47 made to a bidder who has not complied with ~~[subdivision]~~ subdivisions  
48 one and two of this section; provided, however, that if the bidder  
49 cannot make the foregoing certification, such bidder shall so state and  
50 shall furnish with the bid a signed statement which sets forth in detail  
51 the reasons therefor.

52     ~~[4-]~~ **5.** Any bid hereafter made to the state or any public department,  
53 agency or official thereof, by a corporate bidder for work or services  
54 performed or to be performed or goods sold or to be sold, where such bid  
55 contains the statement required by subdivision one of this section and  
56 the report required by subdivision two of this section, shall be deemed

1 to have been authorized by the board of directors of such bidder, and  
2 such authorization shall be deemed to include the signing and submission  
3 of such bid and the inclusion therein of such statement and such report  
4 as the act and deed of the corporation.

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