

STATE OF NEW YORK

4370

2023-2024 Regular Sessions

IN SENATE

February 7, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

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

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

3. Notwithstanding the foregoing, the statement required by paragraph (a) of subdivision one of this section and the report required by paragraph (a) of subdivision two of this section may be submitted electronically in accordance with the provisions of subdivision seven of section one hundred sixty-three of this chapter.

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

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