STATE OF NEW YORK

4877--A

Cal. No. 1387

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sens. MAYER, BAILEY, COONEY, FERNANDEZ, HARCKHAM, HOYLMAN-SIGAL, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- recommitted to the Committee on Procurement and Contracts in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the state finance law, in relation to state agency contracts with not-for-profit corporations

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

Section 1. Section 179-q of the state finance law is amended by adding a new subdivision 15 to read as follows:

15. "Noncompliant state agency" means a state agency that has failed to execute certain contracts within required time frames.

§ 2. Section 179-t of the state finance law is amended by adding a new subdivision 4-a to read as follows:

4-a. A state agency shall be deemed to be noncompliant if, for six of the last twelve preceding months, it has (a) failed to submit any renewal contracts to the attorney general within the time frame required by subdivision four of this section when not-for-profit organizations are parties to such contracts and a written directive has been issued, (b) failed to submit any renewal contracts to the attorney general prior to commencement when not-for-profit organizations are parties to such contracts, and/or (c) in any other manner failed to fully execute a contract before its start date.

§ 3. Section 179-bb of the state finance law is amended by adding a new subdivision 4 to read as follows:

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

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4. (a) A noncompliant state agency shall prepare and transmit to the office of the state comptroller, by the end of every month for which it is noncompliant, a report addressing those renewal contracts which have not been submitted to the attorney general within the time frame required by subdivision four of section one hundred seventy-nine-t of this article. In addition, such agency shall provide notification regarding the submission of such report to the not-for-profit organization it is contracting with. Such report shall (i) describe the contracts that have not been submitted, (ii) detail the reasons the contract has not been submitted, (iii) detail the steps the agency is taking to submit and fully execute the contract, and (iv) provide an estimate of when it shall submit and fully execute the contract. The agency shall also make such reports publicly accessible on its website.

(b) Within six months of becoming a noncompliant state agency, such agency shall prepare and transmit to the office of the state comptroller, the temporary president of the senate, and the speaker of the assembly, a report describing its efforts to become compliant with the requirements of section one hundred seventy-nine-t of this article. Such report shall describe in detail efforts to revise internal policies and procedures, identify bottlenecks and other barriers to efficient contracting, retrain staff and management, incorporate improved management practices, reform procurement processes, and any other factor which will enable the agency to meet the requirements of section one hundred seventy-nine-t of this article as related to not-for-profit organizations. The agency shall also prepare and deliver updated reports every six months after the delivery of the first report describing the progress it has made. Such reports shall also be posted on the agency's website.

§ 4. Subdivision 14 of section 179-q of the state finance law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

14. "Written directive" means a written request by a state agency to a not-for-profit organization authorizing such organization either to begin providing services during the negotiation of a contract or to continue providing services during the negotiation of a renewal contract. All written directives shall state that payment for the services provided is subject to the availability of appropriations[~~, execution of either the contract or renewal contract, and approval of the contract or renewal contract by the comptroller and the attorney general~~]. All written directives shall also include the state's payment schedule, which will remain in effect until a contract is approved. Any late payments from the state based on the schedule will be subject to interest.

§ 5. This act shall take effect immediately.