

Political Law Alert

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New York Requires Contractors to Disclose Employee Salary Data

In January 2017, New York Gov. Andrew Cuomo issued Executive Order 162 (the order) requiring state contractors to disclose the salary paid to employees who work on the contract. The order attempts to address disparity in pay for women and minorities by imposing the new disclosure requirements on state contractors. In particular, for state contracts, agreements and procurements issued on or after June 1, 2017, the order instructs state agencies and authorities to include a provision requiring the contractor/bidder to disclose, among other things, the job title and salary of each employee of a contractor performing work on that contract, or of each employee in the contractor's entire workforce if the contractor cannot identify the individuals working directly on a state contract. This provision also will require the contractor to obtain the same information from subcontractors.

The salary disclosures will be required on a quarterly basis for prime contracts worth more than \$25,000 and on a monthly basis for prime construction contracts worth more than \$100,000. The New York State Department of Economic Development is required to promulgate forms used for this purpose.

A covered contract includes (1) a contract for the expenditure of public funds in excess of \$25,000 for labor, services (including but not limited to financial, legal and other professional services), supplies, equipment or materials; or (2) a contract in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon.

The order applies to contracts with state agencies and authorities, including state departments; any division, board, commission or bureau of any state department; SUNY and CUNY, and their constituent units; boards made up of a majority of members that are appointed by the governor or who serve *ex officio*; and certain other state authorities.

The potential disclosure of sensitive employee salary information raises serious concerns. This also raises concerns from a human resources perspective and may have implications under applicable privacy laws.

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