



Legislation Text

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Int. No. 2285

By Council Members Rosenthal and Kallos

A Local Law to amend the administrative code of the city of New York, in relation to requiring the establishment of standards and procedures to determine the existence of conflicts of interest and other misconduct concerning city contracts

Be it enacted by the Council as follows:

Section 1. Title 6 of the administrative code of the city of New York is amended by adding a new section 6-145 to read as follows:

§ 6-145 Conflicts of interest and misconduct concerning city contracts. a. As used in this section, the following terms have the following meanings:

City chief procurement officer. The term “city chief procurement officer” means the individual to whom the mayor has delegated authority to coordinate and oversee the procurement activity of mayoral agency staff, including the agency chief contracting officers and any offices that have oversight responsibility for procurement, and who is the head of the mayor’s office of contract services.

Contract. The term “contract” means any written agreement, purchase order or instrument by which the city is committed to expend or does expend funds in return for an interest in real property, work, labor, services, supplies, equipment, materials, construction, construction-related service or any combination of the foregoing, and includes a subcontract between a contractor and a subcontractor. Such term does not include a contract or subcontract resulting from an emergency procurement or that is a government-to-government procurement.

Contractor. The term “contractor” means a person, including but not limited to any natural person, sole proprietorship, partnership, joint venture or corporation, that enters into a contract with an agency or the

council.

Covered contract. The term “covered contract” means a contract entered into on or after the effective date of the local law that added this section by a contractor and an agency or the council, that by itself or when aggregated with all contracts awarded to such contractor by any agency or the council during the immediately preceding 12 months has a value in excess of \$100,000.

Mayor’s office of contract services. The term “mayor’s office of contract services” means the office of contracts established within the office of the mayor by mayoral executive order number 114, dated April 13, 1988, as continued, amended or succeeded by executive order thereafter.

Subcontractor. The term “subcontractor” means a person, including but not limited to any natural person, sole proprietorship, partnership, joint venture or corporation, that is a party or a proposed party to a contract with a contractor.

b. 1. In consultation with the conflicts of interest board and the department of investigation, the city chief procurement officer shall establish standards and procedures to be used by a contractor that is a party to a covered contract for determining the existence of any conflict of interest:

(a) As set forth in chapter 68 of the charter, that may exist between a city employee and any officer or employee of such contractor that concerns such covered contract;

(b) As set forth in chapter 68 of the charter, that may exist between a city employee and any officer or employee of a subcontractor of such contractor that concerns such covered contract;

(c) That may exist otherwise for any officer or employee of such contractor that concerns such covered contract; and

(d) That may exist otherwise for any officer or employee of a subcontractor of such contractor that concerns such covered contract.

2. In consultation with the department of investigation, the city chief procurement officer shall also establish standards and procedures to be used by a contractor that is a party to a covered contract for

determining the existence of any conduct involving corruption, criminal activity, gross mismanagement or abuse of authority that concerns such covered contract by any officer or employee of such contractor or by any officer or employee of a subcontractor of such contractor.

3. Within 7 days after the establishment of the standards and procedures pursuant to paragraphs 1 and 2 of this subdivision, the city chief procurement officer shall submit copies of such standards and procedures to the mayor and the speaker of the council.

c. The mayor's office of contract services shall require an agency that is a party to a covered contract, or the council as a party to a covered contract, to include the standards and procedures established by the city chief procurement officer pursuant to paragraphs 1 and 2 of subdivision b of this section in such covered contract.

d. A contractor shall submit a certification to the mayor's office of contract services when entering into a covered contract that such contractor has complied with the standards and procedures established by the city chief procurement officer pursuant to paragraphs 1 and 2 of subdivision b of this section and included in such contract pursuant to subdivision c of this section, and that no conflict of interest, corruption, criminal activity, gross mismanagement or abuse of authority that concerns such covered contract exists with respect to its officers and employees and to officers and employees of its subcontractors.

e. Not later than July 1, 2022, and by July 1 annually thereafter, the city chief procurement officer shall post publicly online and submit to the mayor and the speaker of the council a report on certifications submitted by contractors pursuant to subdivision d of this section during the past 12 months, including but not limited to (i) a summary of all such certifications submitted during such period, including but not limited to the parties to and subject matter of the covered contracts for which such certifications were submitted; (ii) the number of such certifications submitted during such period as compared to the total number of covered contracts that took effect during such period and (iii) a description of any conflict of interest or conduct involving corruption, criminal activity, gross mismanagement or abuse of authority discovered by the mayor's office of contract services during such period in connection with a covered contract for which a contractor submitted such a

certification.

§ 2. This local law takes effect 120 days after it becomes law, provided that it only applies to contract solicitations that occur on and after its effective date, and except that the procurement policy board shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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