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STATE OF NEW YORK
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MEMORANDUM
RE

OSC No. 3

An act to amend the Election Law and the State Finance Law, in relation to campaign contributions by vendors.

PURPOSE: This bill prohibits vendors from directly or indirectly contributing to a statewide elected official, a candidate for a statewide elected office, or their authorized political committee, during an active government procurement.

SUMMARY OF PROVISIONS:

Section 1 of this bill adds a new section to the Election Law, section 14-131, to define “procuring entity,” “vendor,” “restricted period,” and “procurement contract.” The bill clarifies that the term vendor shall not include an entity designated by the Legislature to receive grant funding for a specific program purpose. Election Law section 14-131 prohibits vendors from contributing to a statewide elected official, a candidate for a statewide elected office, or their authorized political committee, during the restricted period.

Section 2 of this bill adds a new section to the State Finance Law, section 139-m, to require every procurement contract entered into between the State or any procuring entity and a vendor, to contain a statement subscribed and affirmed by the vendor, certifying that the vendor has not made any contributions to, or solicited any contributions on behalf of, any statewide elected official, any candidate to statewide elected office, or candidates authorized political committee or any political committee the officeholder or candidate exerts operational control over, during the restricted period and as of the date of submission of this statement.

Section 3 of this bill amends the State Finance Law section 163(9) as it relates to determinations of responsibility of proposed contractors.

Section 4 of this bill provides the effective date.

JUSTIFICATION:

In New York, it is legal for a vendor to make a campaign contribution to a Statewide elected official, or a candidate for Statewide elected office during an active procurement.

Several states and localities prohibit or limit campaign contributions from individuals or corporations contracting with the State, commonly referred to as “pay-to-play” restrictions. Pay-to-play restrictions are intended to strengthen the integrity of the contracting process and preserve public trust by preventing both the appearance of corruption and actual instances of corruption.

When government vendors make contributions to elected officials who have the authority to influence the award of the contract, the public’s perception is that the vendor is attempting to unduly influence the outcome of the procurement, regardless of whether this is true, the integrity of the contracting process is tarnished. The need to restrict vendors from making campaign contributions during State procurements is clear, and this bill intends to make it unlawful for a vendor to make a contribution to any Statewide elected official, or candidate for Statewide elected office from the time they engage in a procurement opportunity until the final contract award, or for a period after the contract award for the contract recipient.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE: This act shall take effect immediately; provided, however, that procurement contracts for which bid solicitations have been issued prior to the effective date of this act shall not be subject to the provisions of this act.