

HAVE A NEW YORK STATE CONTRACT? YOU WILL LIKELY BE REQUIRED TO SUBMIT AN EQUAL PAY DISCLOSURE REPORT

Insights
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With more and more states and localities requiring pay transparency laws, including [New York City](#), it was no surprise that before the end of the legislative session, New York state lawmakers [passed a bill](#) requiring contractors with agreements in excess of \$50,000 with a state agency to submit equal pay reports. The bill is awaiting delivery to Governor Kathy Hochul's desk for signature and will become effective once it is signed. A veto is highly unlikely. (The Senate also passed a bill requiring pay transparency for private employers that is en route to Governor Hochul, which you can learn more about [here](#).) If you contract with New York state, here's what you need to know.

What's in the Bill?

The law will require businesses that contract with New York state or its agencies to report on employee compensation by gender, race, ethnicity, specified job categories, and "other relevant data," if the contract is for more than \$50,000. Whether an entity is a "contractor" is defined broadly to include individuals, partnerships, and corporations. The definition explicitly excludes "small business," which is defined as a "business independently owned and operated, not dominant in its field, and employing not more than 100 individuals." Any employer who willfully and intentionally fails to comply with these reporting requirements will be liable to the contracting agency for liquidated or other appropriate damages.

The state comptroller will summarize the data in an annual report to the Governor, the Attorney General, the

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Commissioner of the Office of General Services, the Commissioner of the Department of Labor, the Commissioner of the Division of Human Rights, the Speaker of the Assembly, the Temporary President of the Senate, and the legislative fiscal committees. Of significance, the comptroller's reports will be available for public inspection.

The statute also directs the state comptroller to issue regulations requiring state agencies to assess equal pay practices of contractors submitting bids or proposals, to help promote the award of contracts to those businesses with sound equal pay practices.

What Should Your Business Do?

Governor Hocu is expected to sign this bill into law. If your business contracts with New York state, you should take steps now to ensure compliance with the law once it is signed. First, you should review your contracts and confirm whether they fall within the scope of the pay disclosure bill. Next, you should consider gathering the data for the reports and conducting a pay equity audit to ensure equal pay among employees who perform "substantially similar" work and address any pay discrepancies that are uncovered. We recommend that an audit be conducted by an attorney or with the advice of counsel. Accordingly, you should begin to prepare for the submission of these reports.

We will continue to monitor developments impacting New York employers, so make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. If you have questions whether your policies comply with workplace and other applicable laws, contact your Fisher Phillips attorney, the authors of this Insight, the [Pay Equity Practice Group](#), or any attorney in our [New York City office](#).

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