

**19
89** | **OVER
TWENTY
FIVE
YEARS**



Sexual harassment training and policies required for construction companies - by Andrew Lieb

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Construction companies bidding on New York State jobs must provide sexual harassment training to all employees (both in-state and out-of-state) before October 9th, 2019. Section 139-1 of the state finance law requires that a bid, on a competitive bidding job, “shall contain the following statement... [sworn] under the penalty of perjury:

‘By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.’”

Section two hundred one-g of the labor law requires a written policy to be given to employees and:

(i) Prohibit sexual harassment consistent with guidance issued by the department in consultation with the division of human rights and provide examples of prohibited conduct that would constitute unlawful sexual harassment; (ii) include but not be limited to information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment and a statement that there may be applicable local laws; (iii) include a standard complaint form; (iv) include a procedure for the timely and confidential investigation of complaints and ensure due process for all parties; (v) inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially; (vi) clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and (vii) clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any proceeding under the law is unlawful.

Construction companies must immediately implement compliance protocols if they seek state jobs. Beyond losing the bid, non-compliance is chargeable as a misdemeanor pursuant to Section 213 of the labor law. The good news is that compliance vendors already have interactive training and policies available online and on-demand. Online vendors are advantageous over in-person vendors because they can offer a digital date and timestamp record of compliance. Further, such vendors can offer click-wrap where employees can affirmatively agree to the written harassment policy. Finally, employers can tailor online trainings to include the identification of an internal investigator, offer an internal complaint

form and brand the training to the business.

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