

New York Governor Issues Executive Orders to Address Wage Gap

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On January 9, 2017, in connection with his annual state-of-the-state address, New York Governor Andrew M. Cuomo (D) issued two executive orders intended to address gender, race, and ethnicity based “wage gaps”—one applicable to New York state agencies and one applicable to private companies who contract (or subcontract) with the state of New York. [Executive Order 161](#) bars state agencies and other state entities from asking job applicants for their wage history or considering previous salaries in hiring decisions. [Executive Order 162](#) requires state contractors and subcontractors to disclose job title and salary data on the gender, race, and ethnicity of employees on all state contracts, agreements, and procurements issued and executed on or after June 1, 2017.

Executive Order No. 162 provides that all state contracts, agreements, and procurements issued on or after June 1, 2017, must require contractors (including subcontractors) to provide job title and salary information for each employee of a contractor performing work on a state contract. This information is in addition to the equal employment opportunity information already required on workforce utilization reports that contractors must submit. If the contractor cannot distinguish between employees working directly on a state contract and those who do not, the contractor must provide the foregoing information for each employee in the contractor’s entire workforce.

This information will be reported to state agencies and authorities on a quarterly basis for all prime contracts having a value in excess of \$25,000. Prime construction contracts having a value in excess of \$100,000 are required to report on a monthly basis. The New York State Department of Economic Development will set forth the form and manner in which the information will be reported by June 1, 2017.

Governor Cuomo’s executive orders follow recent related New York legislation, the Women’s Equality Act, see our client briefing, [New York Legislative Update: New Employment Protections for Women](#), as well as recent increases to both the state minimum wage and minimum salary basis for executive and administrative employees relating to exemptions from overtime pay, see [NYDOL Issues New Wage Regulations](#). New York employers should ensure compliance with all federal, state, and local legislation, paying especially close attention to areas where state and local requirements differ from federal requirements.

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