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New Requirements for New York Employers

New York City and the State of New York have been busy imposing additional restrictions on employers and state contractors. The following are two of the most recent developments.

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Freelance Isn't Free

The New York City Council has enacted and the Mayor has signed a new law applicable to employers who hire contractors for work in New York City. The "Freelance Isn't Free Act", which goes into effect on May 15, 2017, will formalize the relationship between the freelance worker and the hiring party, and require the parties to sign a written agreement. Freelancers are considered to be those individuals or one person corporations who offer their services to the public. Under the new law, if the arrangement with the freelancer involves payment that is \$800 or more in a 120 day period, there must be a written contract.

A sample contract is being posted on the City's Office of Labor Standards' website. The contract must have 1) the name and mailing address of both parties; 2) an itemization of the services being provided; 3) the value of the services; 4) the rate and method of compensation; and 5) the date payment is to be made. If no date of payment is specified then payment must be made no later than 30 days from the completion of the services. After the price is agreed upon, the hiring party is prohibited from requiring as a condition of timely payment that the freelancer accept anything less than the contracted amount. Each party must retain a copy of the contract. The City has also established a complaint procedure to resolve disputes, while giving the freelancer the right to bring a lawsuit for damages, costs and attorneys' fees. There are statutory damages of \$250 if the freelancer only prevails on a claim that no written contract was executed. However, the freelancer can recover additional damages in certain circumstances equal to the value of the contract, plus the value of the services, attorneys' fees and costs. In addition, civil penalties of up to \$25,000 can be imposed on any hiring party who is found to have engaged in a "pattern or practice" of violating the law.

Because this law applies equally to both individual employers and companies, care must be taken by anyone hiring a freelancer to ensure that a contract is in place if the fees at issue are \$800 or more.

Ensuring Pay Equity

On January 9, 2017, Gov. Cuomo signed Executive Order No. 162, which is an Order for "Ensuring Pay Equity by State Contractors." This is an effort to ensure that there is no pay



discrimination based on gender, race and ethnicity. The Order requires state contractors (and their subcontractors) to specifically set forth the job title and salary of all the employees who are working directly on a State contract or, if they cannot be separately identified, then all the contractor's employees. This information is in addition to existing equal opportunity information already required to be submitted.

All State contracts, agreements and procurements executed on or after June 1, 2017 will contain this requirement.

Questions or Assistance:

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