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New Year, New Notice Requirements for Contracting Out Services Under the MMBA (AB 339)

With the start of the new year underway, public agencies must navigate recently enacted laws that impact public sector labor relations. Assembly Bill 339 (“AB 339”) was recently signed into law by Governor Newsom, adding Section 3504.1 to the Meyers-Milias-Brown Act (“MMBA”), requiring that public agency employers provide *specific written notice and disclosures* to recognized employee organizations no less than 45-days before issuing Requests for Proposals (“RFPs”), Requests for Quotes (“RFQs”), or renewing/extending contracts involving work that falls within the scope of work of represented job classifications.

By way of background, the MMBA governs labor-management relationships between California local public agencies, employees, and employee organizations. The MMBA requires public agency employers and representatives of recognized employee organizations to “meet and confer in good faith regarding wages, hours, and other terms and conditions of employment.”

As part of the mutual obligation to meet and confer in good faith, existing law generally requires a public agency to provide each affected employee organization “reasonable written notice” of and an “opportunity to meet” regarding any proposed change relating to matters within the scope of representation.

Aside from these general obligations, prior to the enactment of AB 339, the MMBA did not provide specific timelines or notice requirements before a public agency outsourced services performed by represented employees.

The new law essentially transforms what was once a flexible “reasonable notice” obligation, into a more structured, deadline-driven process, which will likely impact anticipated completion timelines for the services.

Key Changes under AB 339:

Under AB 339, public agencies are now required to:

- Provide at least **45-days’ written notice** to a recognized

employee organization ***before***:

- issuing RFPs or RFQs to perform services that are within the scope of work of represented job classifications
- renewing/extending an existing contract to perform services that are within the scope of work of represented job classifications
- Provide all of the following within the written notice:
 - The *anticipated duration* of the contract;
 - The *scope of work* under the contract;
 - The *anticipated cost* of the contract;
 - A *draft solicitation* (if available), or if not yet drafted, *any information that would normally be included in a solicitation*; and
 - The *reason* the public agency believes the contract is necessary.

If an emergency or other exigent circumstance prevents the public agency from providing the minimum 45-day notice, then the public agency must give as much advance notice as practicable under the circumstances.

Exceptions to AB 339:

The new law *does not* apply to contracts that involve:

- Construction, alteration, demolition, installation, repair, or maintenance work subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code (i.e., public works), or a contract for highly specialized data, software, or services related to that construction, alteration, demolition, installation, repair, or maintenance work; or
- Services described in Section 4525 or 4529.10 or that are related to the planning, design, administration, oversight, review, or delivery of public works, residential, commercial, industrial buildings, or other infrastructure projects subject to adopted uniform codes or standards.

Public agencies should consult with legal counsel on whether a proposed contract qualifies for these exemptions before considering its next steps on whether to contract services out.

Notably, Section 3504.1 does not exempt contracts from the notice, meet and confer, or other requirements of applicable laws, nor does it modify any other bargaining rights and obligations under the MMBA. The new law also does not diminish any rights of an employee or recognized employee organization provided by a memorandum of understanding, nor does it invalidate any provision within an existing

memoranda of understanding already in effect on the operative date of Section 3504.1.

A look at the legislative analysis reveals that AB 339 is designed to address historical issues of public agencies contracting out bargaining unit work without timely notice to an employee organization or any opportunity to bargain. The proponents of AB 339 emphasize transparency and an opportunity to allow unions to exercise their right to bargain over the decision or impacts union involvement in decisions to contract out bargaining work to private entities, while opponents warn of potential delays in service delivery, increased costs, interference with public works projects, and challenges for emergency contracting.

Why This Matters To Your Public Agency?

AB 339 represents a small, but significant shift in employer obligations under the MMBA:

- *Heightened procedural obligations:* Section 3504.1 obligates a public agency to comply with the *specific written notice and disclosure requirements* before issuing RFPs, RFQs, or extending/renewing contracts for services. Failure to meet the specific notice or disclosure requirements may lead to risk of unfair practice charges under the MMBA.
- *Operational impact:* Public agencies will now have to account for at least 45-days of advance notice prior to outsourcing services, plus potential time to meet with recognized employee organizations should they have concerns.

Next Steps

1. Review existing MOUs to determine existing obligations and consider updated language for the next round of bargaining to comply with the new law
2. Review and audit upcoming RFPs/RFQs, contract renewals or extensions scheduled in 2026 that might involve work/services within represented classifications
3. Account for and adjust any agency timelines/deadlines to include at least 45-days of advance notice and additional time for potential meetings with recognized employee organizations
4. Consult with legal counsel on preparing requisite written notice with required content under Section 3504.1
5. Coordinate with Human Resources, legal counsel, and/or labor relations staff regarding potentially affected services and job classifications and to ensure timely compliance and communication with recognized employee organizations
6. Consult with legal counsel on applicable exceptions and strategies to minimize the risk of an unfair practice charge

under the MMBA

For further guidance on compliance with AB 339/Government Code Section 3504.1, rights and obligations under the MMBA and or other labor relations statutes, contact our firm's Labor & Employment Practice Group.