

STATE OF NEW YORK

8369

IN SENATE

January 23, 2024

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to requiring that renewable energy systems projects use materials produced in the United States

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 4 of section 66-r of the public service law, as added by section 2-a of part AA of chapter 56 of the laws of 2021, is amended to read as follows:

4.(a) Any public entity, in each contract for construction, reconstruction, alteration, repair, improvement or maintenance of a covered renewable energy system which involves the procurement of a renewable energy credits agreement by a public entity, or a third party acting on behalf and for the benefit of a public entity, the "public work" for the purposes of this subdivision, shall ensure that such contract shall contain a provision that ~~[the iron and structural steel]~~ all materials, including raw materials, used or supplied in the performance of the contract or any subcontract thereto ~~[and that is permanently incorporated into the public work,]~~ shall be produced or made in whole or substantial part in the United States, its territories or possessions. In the case of a structural iron or structural steel product used or supplied in the performance of the contract or any subcontract thereto, all manufacturing must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives. ~~[For the purposes of this subdivision, "permanently incorporated" shall mean an iron or steel product that is required to remain in place at the end of the project contract, in a fixed location, affixed to the public work to which it was incorporated. Iron and steel products that are capable of being moved from one location to another are not permanently incorporated into a public work.]~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) The provisions of paragraph (a) of this subdivision shall not apply if the head of the department or agency constructing the public works, in his or her sole discretion, determines that the provisions would not be in the public interest, would result in unreasonable costs, or that obtaining such ~~[steel or iron]~~ necessary materials in the United States would increase the cost of the contract by an unreasonable amount, or such ~~[iron or steel, including without limitation structural iron and structural steel]~~ necessary materials cannot be produced or made in the United States in sufficient and reasonably available quantities and of satisfactory quality. The head of the department or agency constructing the public works shall include this determination in an advertisement or solicitation of a request for proposal, invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a contract pursuant to this subdivision. The provisions of paragraph (a) of this subdivision shall not apply for equipment or materials purchased by a covered renewable energy system prior to the effective date of this ~~[chapter]~~ section.

(c) The head of the department or agency constructing the public works may, at his or her sole discretion, provide for a solicitation of a request for proposal, invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a contract pursuant to this paragraph involving a competitive process in which the evaluation of competing bids gives significant consideration in the evaluation process to the procurement of equipment and supplies from businesses located in New York state.

§ 2. This act shall take effect immediately.