

7369

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 31, 2009

---

Introduced by M. of A. TOWNS, BACALLES, KOON, WALKER, ROBINSON, CASTRO, JAFFEE, COOK -- Multi-Sponsored by -- M. of A. THIELE, TOWNSEND -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to authorizing political subdivisions to award public competitively bid contracts to businesses that participate in a program designed to foster participation by local businesses in public procurement at a cost premium not to exceed ten percent of the lowest bid

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 104-a of the general municipal law, as amended by  
2 chapter 468 of the laws of 1994, is amended to read as follows:  
3     S 104-a. Purchasing [of products] for public use. 1. Notwithstanding  
4 the provisions of section one hundred three of this chapter, when  
5 purchasing products the officer, board or agency of any political subdi-  
6 vision or of any district therein charged with the awarding of public  
7 contracts may, wherever recycled products meet contract specifications  
8 and the price of such products is reasonably competitive, purchase such  
9 products. For the purpose of this [section] SUBDIVISION and until July  
10 first, nineteen hundred ninety-six, "recycled product" shall mean any  
11 product which has been manufactured from secondary materials, as defined  
12 in subdivision one of section two hundred sixty-one of the economic  
13 development law, and meets secondary material content requirements  
14 adopted by the office of general services under subdivision [one of  
15 section one hundred seventy-seven] THREE OF SECTION ONE HUNDRED  
16 SIXTY-FIVE of the state finance law for products available to the poli-  
17 tical subdivision or district under state contract or, if no such  
18 contract for such product is available, any product which meets the  
19 secondary material content requirements adopted by the political subdi-  
20 vision or district thereof with respect to a specific commodity procure-  
21 ment by such entity. On and after July first, nineteen hundred ninety-

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

LBD10396-01-9

1 six, "recycled product" shall mean, for the purposes of this [section]  
2 SUBDIVISION, any product which is manufactured from secondary materials,  
3 as defined in subdivision one of section two hundred sixty-one of the  
4 economic development law, and which meets the requirements of subdivi-  
5 sion two of section 27-0717 of the environmental conservation law and  
6 regulations promulgated pursuant thereto. For the purpose of this  
7 [section] SUBDIVISION, "reasonably competitive" shall mean that the cost  
8 of the recycled product does not exceed a cost premium of ten percent  
9 above the cost of a comparable product that is not a recycled product  
10 or, if at least fifty percent of the secondary materials utilized in the  
11 manufacture of that product are generated from the waste stream in New  
12 York state, the cost of the recycled product does not exceed a cost  
13 premium of fifteen percent above the cost of a comparable product that  
14 is not a recycled product.

15 Whenever such officer, board or agency shall purchase or cause the  
16 purchase of printing on recycled paper pursuant to this section, he or  
17 she shall require the printed material to contain the official state  
18 recycling emblem established pursuant to subdivision two of section  
19 27-0717 of the environmental conservation law and regulations promulgat-  
20 ed pursuant thereto if such paper has been approved by the department of  
21 environmental conservation as satisfying the requirements of such stat-  
22 ute and regulations, or, if such paper has not been so approved, require  
23 the printed material to include a printed statement which indicates the  
24 percentages of pre-consumer and post-consumer recycled material content  
25 of such paper.

26 2. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED THREE OF  
27 THIS ARTICLE, WHEN PURCHASING GOODS, SERVICES OR CONSTRUCTION FOR PUBLIC  
28 USE THROUGH COMPETITIVE SEALED BIDDING, THE OFFICER, BOARD OR AGENCY OF  
29 ANY POLITICAL SUBDIVISION OR OF ANY DISTRICT THEREIN CHARGED WITH THE  
30 AWARDING OF PUBLIC CONTRACTS THAT EMPLOYS A PROGRAM TO FOSTER THE  
31 PARTICIPATION OF LOCAL BUSINESSES IN PUBLIC PROCUREMENT, MAY AWARD ANY  
32 CONTRACT VALUED AT UNDER ONE MILLION DOLLARS TO A PARTICIPANT OF SUCH  
33 PROGRAM EVEN IF SUCH PARTICIPANT IS NOT THE LOWEST BIDDER FOR SUCH  
34 CONTRACT, PROVIDED, HOWEVER THAT SUCH AWARD MAY ONLY BE MADE TO THE  
35 LOWEST BID SUBMITTED BY THE PARTICIPANT THAT IS REASONABLY COMPETITIVE.  
36 FOR THE PURPOSE OF THIS SUBDIVISION, "REASONABLY COMPETITIVE" SHALL MEAN  
37 THAT THE LOCALLY BASED BUSINESS'S BID DOES NOT EXCEED THE LOWEST BID BY  
38 MORE THAN TEN PERCENT.

39 S 2. This act shall take effect on the thirtieth day after it shall  
40 have become a law.