S T A T E O F N E W Y O R K

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:

Section 1. Section 104-a of the general municipal law, as amended by chapter 468 of the laws of 1994, is amended to read as follows:

S 104-a. Purchasing [of products] for public use. 1. Notwithstanding the provisions of section one hundred three of this chapter, when purchasing products the officer, board or agency of any political subdivision or of any district therein charged with the awarding of public contracts may, wherever recycled products meet contract specifications and the price of such products is reasonably competitive, purchase such products. For the purpose of this [section] SUBDIVISION and until July first, nineteen hundred ninety-six, "recycled product" shall mean any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and meets secondary material content requirements adopted by the office of general services under subdivision [one of section one hundred seventy-seven] THREE OF SECTION ONE HUNDRED SIXTY-FIVE of the state finance law for products available to the political subdivision or district under state contract or, if no such contract for such product is available, any product which meets the secondary material content requirements adopted by the political subdivision or district thereof with respect to a specific commodity procurement 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

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

Whenever such officer, board or agency shall purchase or cause the purchase of printing on recycled paper pursuant to this section, he or she shall require the printed material to contain the official state recycling emblem established pursuant to subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto if such paper has been approved by the department of environmental conservation as satisfying the requirements of such statute and regulations, or, if such paper has not been so approved, require the printed material to include a printed statement which indicates the percentages of pre-consumer and post-consumer recycled material content of such paper.

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

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