

10206

I N A S S E M B L Y

May 11, 2012

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to solicitation of
available New York food products

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

- 1 Section 1. Paragraphs a, d, f and g of subdivision 4 of section 165 of
2 the state finance law, as amended by chapter 137 of the laws of 2008,
3 are amended to read as follows:
4 a. Except as otherwise provided in this subdivision, when letting
5 contracts for the purchase of food products on behalf of facilities and
6 institutions of the state, solicitation specifications of the office of
7 general services and any other agency, department, office, board or
8 commission may require provisions that mandate that all or some of the
9 required food products are grown, produced or harvested in New York
10 state, or that any processing of such food products take place in facilities located within New York state.
11 (I) ALL SUCH SOLICITATIONS FOR THE PURCHASE OF FOOD PRODUCTS SHALL
12 INCLUDE THE LIST OF FOOD PRODUCTS DEVELOPED BY THE COMMISSIONER OF AGRICULTURE AND MARKETS PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION; AND
13 (II) NOTICE THAT SUCH FOOD PRODUCTS ARE AVAILABLE IN SUFFICIENT QUANTITIES FOR COMPETITIVE PURCHASING AND THAT THE LIST WAS DEVELOPED TO
14 ASSIST THE STATE IN INCREASING PURCHASES OF NEW YORK STATE FOOD
15 PRODUCTS.
16 d. The commissioner, and the commissioner of agriculture and markets,
17 [may] SHALL issue [such] regulations [as they deem necessary and proper]
18 for the implementation of this subdivision, INCLUDING BUT NOT LIMITED
19 TO:
20 (I) ESTABLISHING GUIDELINES THAT WILL ASSIST AGENCIES IN INCREASING
21 THEIR USE AND PURCHASE OF NEW YORK STATE FOOD PRODUCTS;
22 (II) PUBLISHING SUCH PURCHASING GUIDELINES ON THE OFFICE OF GENERAL
23 SERVICES WEBSITE, DISSEMINATING SUCH GUIDELINES TO AGENCIES AND TRAINING
24 CONTRACTING PERSONNEL ON IMPLEMENTING SUCH GUIDELINES; AND
25 (III) PROVIDING FOR MONITORING OF IMPLEMENTATION.
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 f. (i) With each offer, the offerer shall certify that the food
2 products provided pursuant to that solicitation will be in conformity
3 with the provisions of the percentage required to meet or exceed the
4 requirements in the solicitation specifying that all or some of the food
5 products be grown, produced, or harvested within New York state or that
6 any processing of such food products take place in facilities located
7 within New York state.

8 (ii) Any successful offerer who fails to comply with the provisions of
9 this subdivision, at the discretion of such agency, board, office or
10 commission, shall forfeit the right to bid on contracts let under the
11 provisions of this subdivision for a period of time to be determined by
12 the commissioner and the commissioner of agriculture and markets.

13 (III) EVERY SUCCESSFUL OFFERER SHALL:

14 (1) REVIEW THE LIST OF NEW YORK STATE FOOD PRODUCTS DEVELOPED PURSUANT
15 TO PARAGRAPH B OF THIS SUBDIVISION TO DETERMINE WHETHER ANY SUCH
16 PRODUCTS ARE BEING PROVIDED UNDER THEIR CONTRACTS;

17 (2) REPORT TO THE PROCURING AGENCY ALL OF THE FOOD PRODUCTS AND PROC-
18 ESSED FOOD PROCURED UNDER SUCH CONTRACTS, CATEGORIZED BY SPECIFIC TYPE,
19 TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH
20 CONTRACT, TO THE EXTENT PRACTICABLE AND KNOWN TO SUCH VENDOR; AND

21 (3) FOR EACH SUCH TYPE OF FOOD PRODUCT OR PROCESSED FOOD INCLUDED ON
22 THE LIST OF NEW YORK STATE FOOD PRODUCTS, REPORT TO THE PROCURING AGEN-
23 CY, TO THE EXTENT PRACTICABLE AND KNOWN TO SUCH VENDOR:

24 (A) ANY SUCH NEW YORK STATE FOOD PRODUCT PROCURED UNDER SUCH CONTRACT,
25 TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH
26 CONTRACT;

27 (B) ANY SUCH FOOD PRODUCT FROM OUTSIDE OF NEW YORK STATE PROCURED
28 UNDER SUCH CONTRACT DURING ITS LISTED NEW YORK STATE AVAILABILITY PERI-
29 OD, TOGETHER WITH THE DOLLAR VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH
30 CONTRACT; AND

31 (C) ANY OTHER SUCH FOOD PRODUCT FROM OUTSIDE OF NEW YORK STATE OR
32 PROCESSED FOOD FROM FACILITIES OUTSIDE OF NEW YORK STATE PROCURED UNDER
33 SUCH CONTRACT FROM OUTSIDE NEW YORK STATE, TOGETHER WITH THE DOLLAR
34 VALUE OF EACH SUCH TYPE PROCURED UNDER SUCH CONTRACT.

35 g. NO LATER THAN DECEMBER FIRST OF EACH YEAR THE COMMISSIONER SHALL
36 ANNUALLY REPORT TO THE GOVERNOR AND LEGISLATURE ON THE IMPLEMENTATION OF
37 THIS SUBDIVISION. SUCH REPORT SHALL INCLUDE, AT MINIMUM:

38 (I) A DESCRIPTION OF THE OFFICE'S EFFORTS TO IMPROVE AND INCREASE THE
39 TRACKING OF INFORMATION RELATING TO NEW YORK STATE FOOD PROCURED BY
40 AGENCIES; AND

41 (II) THE INFORMATION COLLECTED PURSUANT TO PARAGRAPH F OF THIS SUBDI-
42 VISION, COMPILED TO PROVIDE THE FOLLOWING, DISAGGREGATED BY FOOD PRODUCT
43 AND PROCESSED FOOD:

44 (A) THE TOTAL DOLLAR VALUE OF NEW YORK STATE FOOD PRODUCTS PROCURED BY
45 AGENCIES;

46 (B) THE TOTAL DOLLAR VALUE OF FOOD PRODUCTS FROM OUTSIDE OF NEW YORK
47 STATE PROCURED BY AGENCIES DURING THEIR LISTED NEW YORK STATE AVAILABIL-
48 ITY PERIODS; AND

49 (C) THE TOTAL DOLLAR VALUE OF ALL OTHER FOOD PRODUCTS FROM OUTSIDE OF
50 NEW YORK STATE AND PROCESSED FOOD FROM FACILITIES OUTSIDE OF NEW YORK
51 STATE.

52 H. The commissioner and the commissioner of agriculture and markets,
53 shall advise and assist the chancellor of the state university of New
54 York in extending the benefits of the provisions of this subdivision to
55 the university and shall modify any regulations or procedures heretofore

1 established pursuant to this subdivision, in order to facilitate such
2 participation.

3 S 2. This act shall take effect on the ninetieth day after it shall
4 have become a law; provided, however, that effective immediately, the
5 addition, amendment and/or repeal of any rule or regulation necessary
6 for the implementation of this act on its effective date is authorized
7 and directed to be made and completed on or before such effective date.