

STATE OF NEW YORK

3103--B

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Procurement and Contracts in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to establishing state procurement goals for New York state products throughout state agencies and private entities performing state contracts

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

1 Section 1. The state finance law is amended by adding a new section
2 163-c to read as follows:

3 § 163-c. Procurement goals for New York state products in state agen-
4 cies. 1. For the purposes of this section, the following terms shall
5 have the following meanings:

6 (a) "State agency" shall mean any department, agency, board, public
7 benefit corporation, public authority or commission.

8 (b) "New York state product" shall mean an item that is at least
9 fifty-one percent manufactured or produced in any way in this state.

10 2. (a) In order to create, strengthen, and expand local economies
11 throughout New York, it shall be the goal of this state that in the
12 first and second full year after the effective date of this
13 section, at least fifteen percent of all products purchased by a state
14 agency shall be New York state products; in the third full year after
15 the effective date of this section, at least twenty percent of all
16 products purchased by a state agency shall be New York state products;
17 and in the fourth full year after the effective date of this section and
18 thereafter, at least twenty-five percent of all products purchased by a
19 state agency shall be New York state products.

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

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1 (b) To meet the goals set forth in this section, when a state agency
2 contract for the purchase of products is to be awarded to the lowest
3 responsible bidder, an otherwise qualified bidder who will fulfill the
4 contract through the use of New York state products may be given prefer-
5 ence over other bidders, provided that the cost included in the bid of
6 New York state products is not more than ten percent greater than the
7 cost included in a bid that is not for New York state products.

8 3. (a) The provisions of this section shall not apply if the head of
9 the contracting state agency purchasing products, in his or her sole
10 discretion, determines that:

11 (i) purchasing New York state products pursuant to the provisions of
12 this section would be against the public interest;

13 (ii) purchasing New York state products would increase the cost of the
14 contract by an unreasonable amount;

15 (iii) New York state products cannot be obtained in sufficient and
16 reasonable available quantities and of satisfactory quality to meet the
17 contracting state agency's requirements; or

18 (iv) purchasing products manufactured or produced outside of the
19 state, or in facilities inside or outside of the state comprising less
20 than fifty-one percent of materials produced in the state, is necessary
21 to avoid a delay in the delivery of products.

22 (b) For private entities performing state contracts, the state agency
23 overseeing the performance of such contract shall promulgate rules and
24 regulations to allow for private entities to be granted a waiver from
25 the requirements of this section if a private entity can prove that is
26 not able to meet the thresholds set forth in this section.

27 4. Any product procured in accordance with this section shall be for
28 the sole use of the state of New York.

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