# STATE OF NEW YORK

542--A

Cal. No. 775

2021-2022 Regular Sessions

# IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAMINSKY, BENJAMIN, BIAGGI, GOUNARDES, HOYLMAN, KAVANAGH, KRUEGER, MYRIE, RAMOS, REICHLIN-MELNICK, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Procurement and Contracts -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the state finance law, in relation to provisions in state procurement contracts involving the use of low embodied carbon concrete

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

Section 1. The state finance law is amended by adding a new section 136-d to read as follows:

**§ 136-d. Contracts involving low embodied carbon concrete. 1. Any state agency contract for low embodied carbon concrete shall include provisions regarding contractor, subcontractor and worker product certification as follows:**

**(a) Contractors and subcontractors doing work involving low embodied carbon concrete shall certify that all work completed meets the minimum standards established under this section by the office of general services.**

**(b) Contractors and subcontractors doing work involving low embodied concrete shall certify that all procured low embodied carbon concrete utilized on projects meets the minimum standards established under this section by the office of general services.**

**2. Any certifications required by this section shall be kept current for the duration of all contracts.**

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

LBD01244-19-1

3. (a) The office of general services shall establish guidelines requiring the procurement of low embodied carbon concrete on projects deemed appropriate by such office. Such guidelines shall implement a process with minimum standards for contractors and subcontractors to file with the contracting agency upon completion of a project. When establishing guidelines related to low embodied carbon concrete, the office of general services shall consider industry standards and shall consult with a stakeholder advisory group selected by the commissioner of general services consisting of:

(i) two licensed professional engineers;

(ii) two licensed registered architects;

(iii) two representatives of the construction industry;

(iv) two representatives of the concrete testing and validation industry;

(v) two representatives of an accredited school of civil engineering;

(vi) one representative from the New York State Energy Research and Development Authority; and

(vii) one representative each from the department of transportation, the department of state, and the department of environmental conservation.

(b) The office of general services shall consult with any relevant associations that set industry standards for the procurement of low embodied carbon concrete and shall consult with affected contractors and subcontractors to consider environmental impact as well as the impact on public health and safety.

4. The office of general services shall also examine the use of incentives, including bid credits, related to bids within five percent of the lowest price, to encourage the usage and innovation of low embodied carbon concrete on state agency projects.

5. In addition, the office of general services shall also examine the use of implementing standards for performance based specification, including but not limited to requirements that a structural material achieve specified performance based outcomes from the use of the structural material, including but not limited to, outcomes related to strength, durability, permeability or other attributes related to the function of the building material for applied uses, as opposed to requiring that a structural material be produced using a specified manufacturer process, design features, technologies, or proportion of materials. The office of general services shall examine the use of methods of compliance, including, but not limited to, maximum cement content specifications and specifications based on maximum potential for global warming.

6. The commissioner of general services, in consultation with the department of transportation and the stakeholder advisory group established in subdivision three of this section, shall examine the use of an expedited product evaluation protocol for low embodied carbon concrete products.

7. As used in this section, the term "state agency" shall mean the same as defined in section one hundred sixty of this chapter.

8. The guidelines established pursuant to this section as well as any recommendations for subsequent legislative action resulting from examining the use of incentives related to bid credits shall be submitted to the governor, the temporary president of the senate and the speaker of the assembly within thirty days of the issuance of such guidelines or within one year from the effective date of this section, whichever may come sooner.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to any state contracting opportunities advertised on or after such date and shall exclude contracts for which an invitation for bid, request for proposal, or similar solicitation has been issued prior to the effective date of this act.