

# STATE OF NEW YORK

8369

## IN SENATE

January 23, 2024

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to requiring that renewable energy systems projects use materials produced in the United States

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

1 Section 1. Subdivision 4 of section 66-r of the public service law, as  
2 added by section 2-a of part AA of chapter 56 of the laws of 2021, is  
3 amended to read as follows:

4 4.(a) Any public entity, in each contract for construction, recon-  
5 struction, alteration, repair, improvement or maintenance of a covered  
6 renewable energy system which involves the procurement of a renewable  
7 energy credits agreement by a public entity, or a third party acting on  
8 behalf and for the benefit of a public entity, the "public work" for the  
9 purposes of this subdivision, shall ensure that such contract shall  
10 contain a provision that [~~the iron and structural steel~~] all materials,  
11 including raw materials, used or supplied in the performance of the  
12 contract or any subcontract thereto [~~and that is permanently incorpo-~~  
13 ~~rated into the public work,~~] shall be produced or made in whole or  
14 substantial part in the United States, its territories or possessions.  
15 In the case of a structural iron or structural steel product used or  
16 supplied in the performance of the contract or any subcontract thereto,  
17 all manufacturing must take place in the United States, from the initial  
18 melting stage through the application of coatings, except metallurgical  
19 processes involving the refinement of steel additives. [~~For the purposes~~  
20 ~~of this subdivision, "permanently incorporated" shall mean an iron or~~  
21 ~~steel product that is required to remain in place at the end of the~~  
22 ~~project contract, in a fixed location, affixed to the public work to~~  
23 ~~which it was incorporated. Iron and steel products that are capable of~~  
24 ~~being moved from one location to another are not permanently incorpo-~~  
25 ~~rated into a public work.~~]

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

LBD14082-01-4

1 (b) The provisions of paragraph (a) of this subdivision shall not  
2 apply if the head of the department or agency constructing the public  
3 works, in his or her sole discretion, determines that the provisions  
4 would not be in the public interest, would result in unreasonable costs,  
5 or that obtaining such [~~steel or iron~~] necessary materials in the United  
6 States would increase the cost of the contract by an unreasonable  
7 amount, or such [~~iron or steel, including without limitation structural~~  
8 ~~iron and structural steel~~] necessary materials cannot be produced or  
9 made in the United States in sufficient and reasonably available quanti-  
10 ties and of satisfactory quality. The head of the department or agency  
11 constructing the public works shall include this determination in an  
12 advertisement or solicitation of a request for proposal, invitation for  
13 bid, or solicitation of proposal, or any other method provided for by  
14 law or regulation for soliciting a response from offerors intending to  
15 result in a contract pursuant to this subdivision. The provisions of  
16 paragraph (a) of this subdivision shall not apply for equipment or mate-  
17 rials purchased by a covered renewable energy system prior to the effec-  
18 tive date of this [~~chapter~~] section.

19 (c) The head of the department or agency constructing the public works  
20 may, at his or her sole discretion, provide for a solicitation of a  
21 request for proposal, invitation for bid, or solicitation of proposal,  
22 or any other method provided for by law or regulation for soliciting a  
23 response from offerors intending to result in a contract pursuant to  
24 this paragraph involving a competitive process in which the evaluation  
25 of competing bids gives significant consideration in the evaluation  
26 process to the procurement of equipment and supplies from businesses  
27 located in New York state.

28 § 2. This act shall take effect immediately.