

STATE OF NEW YORK

7638

2025-2026 Regular Sessions

IN SENATE

April 24, 2025

Introduced by Sens. HINCHEY, BAILEY, COONEY, HARCKHAM, HOYLMAN-SIGAL, KRUEGER, MARTINS, MAY, MYRIE, PALUMBO, PARKER, ROLISON, S. RYAN, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the general municipal law, in relation to the awarding of certain purchase contracts to purchase food

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

1 Section 1. Subdivision 1 of section 103 of the general municipal law,
2 as amended by chapter 668 of the laws of 2023, is amended to read as
3 follows:
4 1. (a) Except as otherwise expressly provided by an act of the legis-
5 lature or by a local law adopted prior to September first, nineteen
6 hundred fifty-three, all contracts for public work involving an expendi-
7 ture of more than thirty-five thousand dollars and all purchase
8 contracts involving an expenditure of more than twenty thousand dollars,
9 shall be awarded by the appropriate officer, board or agency of a poli-
10 tical subdivision or of any district therein including but not limited
11 to a soil conservation district to the lowest responsible bidder
12 furnishing the required security after advertisement for sealed bids in
13 the manner provided by this section~~[-]~~; provided, however, that purchase
14 contracts (including contracts for service work, but excluding any
15 purchase contracts necessary for the completion of a public works
16 contract pursuant to article eight of the labor law) may be awarded on
17 the basis of best value, as defined in section one hundred sixty-three
18 of the state finance law, to a responsive and responsible bidder or
19 offerer in the manner provided by this section except that in a poli-
20 tical subdivision other than a city with a population of one million
21 inhabitants or more or any district, board or agency with jurisdiction
22 exclusively therein the use of best value for awarding a purchase
23 contract or purchase contracts must be authorized by local law or, in

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

LBD11802-01-5

1 the case of a district corporation, school district or board of cooper-
2 ative educational services, by rule, regulation or resolution adopted at
3 a public meeting; and provided, further, that food purchase contracts
4 (including contracts for food service work, but excluding any purchase
5 contract necessary for the completion of a public works contract pursu-
6 ant to article eight of the labor law) may be awarded to an otherwise
7 qualified bidder who complies with one or more of the values based
8 procurement standards pursuant to paragraph (c) of this subdivision and
9 may be given preference over other bidders, provided, however, that the
10 cost included in the bid is not more than ten percent greater than the
11 cost included in a bid by the lowest responsible bidder. Provided
12 further that pursuant to paragraph (b) of this subdivision, all bidders
13 on food purchase contracts shall provide relevant supply chain data in
14 its bid to the appropriate officer, board or agency. The appropriate
15 officer, board or agency shall make such data publicly available on the
16 entities' respective websites, excepting data not subject to disclosure
17 pursuant to article six of the public officers law. In any case where a
18 responsible bidder's or responsible offerer's gross price is reducible
19 by an allowance for the value of used machinery, equipment, apparatus or
20 tools to be traded in by a political subdivision, the gross price shall
21 be reduced by the amount of such allowance, for the purpose of determin-
22 ing the best value. In cases where two or more responsible bidders
23 furnishing the required security submit identical bids as to price, such
24 officer, board or agency may award the contract to any of such bidders.
25 Such officer, board or agency may, in [~~his or her or its~~] their
26 discretion, reject all bids or offers and readvertise for new bids or
27 offers in the manner provided by this section. In determining whether a
28 purchase is an expenditure within the discretionary threshold amounts
29 established by this subdivision, the officer, board or agency of a poli-
30 tical subdivision or of any district therein shall consider the reason-
31 ably expected aggregate amount of all purchases of the same commodities,
32 services or technology to be made within the twelve-month period
33 commencing on the date of purchase. Purchases of commodities, services
34 or technology shall not be artificially divided for the purpose of
35 satisfying the discretionary buying thresholds established by this
36 subdivision. A change to or a renewal of a discretionary purchase shall
37 not be permitted if the change or renewal would bring the reasonably
38 expected aggregate amount of all purchases of the same commodities,
39 services or technology from the same provider within the twelve-month
40 period commencing on the date of the first purchase to an amount greater
41 than the discretionary buying threshold amount. For purposes of this
42 section, "sealed bids" and "sealed offers", as that term applies to
43 purchase contracts, (including contracts for service work, but excluding
44 any purchase contracts necessary for the completion of a public works
45 contract pursuant to article eight of the labor law) shall include bids
46 and offers submitted in an electronic format including submission of the
47 statement of non-collusion required by section one hundred three-d of
48 this article, provided that the governing board of the political subdivi-
49 sion or district, by resolution, has authorized the receipt of bids
50 and offers in such format. Submission in electronic format may, for
51 technology contracts only, be required as the sole method for the
52 submission of bids and offers. Provided however, the appropriate offi-
53 cer, board or agency of a city with a population of one million inhabit-
54 ants or more, or any district, board or agency with jurisdiction exclu-
55 sively within such city, may authorize or require bids and offers for
56 any contract to be submitted in an electronic format. Bids and offers

1 submitted in an electronic format shall be transmitted by bidders and
2 offerers to the receiving device designated by the political subdivision
3 or district. Any method used to receive electronic bids and offers
4 shall comply with article three of the state technology law, and any
5 rules and regulations promulgated and guidelines developed thereunder
6 and, at a minimum, must ~~[(a)]~~ (i) document the time and date of receipt
7 of each bid and offer received electronically; ~~[(b)]~~ (ii) authenticate
8 the identity of the sender; ~~[(c)]~~ (iii) ensure the security of the
9 information transmitted; and ~~[(d)]~~ (iv) ensure the confidentiality of
10 the bid or offer until the time and date established for the opening of
11 bids or offers. The timely submission of an electronic bid or offer in
12 compliance with instructions provided for such submission in the adver-
13 tisement for bids or offers and/or the specifications shall be the
14 responsibility solely of each bidder or offerer or prospective bidder or
15 offerer. No political subdivision or district therein shall incur any
16 liability from delays of or interruptions in the receiving device desig-
17 nated for the submission and receipt of electronic bids and offers.

18 (b) (i) All supplier data, including supplier data from subcontractors, shall be submitted to the entity issuing the request for proposals at the time of bid, to the best of the bidder's ability, and updated by the winning bidder at the point of contract execution. Such data shall also be updated annually by the winning bidder and upon any changes to supplier information related to the contract. Such data required pursuant to this paragraph shall include the name and facility address of each supplier, distributor, processor, and producer involved in the provision of the products that the bidder will supply.

19 (ii) The provisions of this paragraph shall apply to all bidders' food purchase contracts and bid proposals.

20 (c) For the purposes of this subdivision, "values based procurement standards" shall mean procurement criteria that is based on:

21 (i) local economies. New York state or regional suppliers that are sourcing food products in which fifty-one percent or more of the raw agricultural materials have been grown, harvested, processed and manufactured within the state or region (within one hundred miles for produce and two hundred miles for animal products); and

22 (ii) environmental sustainability. Producers that adopt one or more practices that contribute to improved soil health and increased carbon sequestration and storage, and that achieve net short-term and long-term greenhouse gas benefits. Such practices shall:

23 (A) achieve the reduction or elimination of synthetic pesticides and fertilizers through the use of precision agriculture, integrated pest management, and/or advanced nutrient management;

24 (B) avoid the use of hormones or antibiotics except for treatment of a sick animal or for disease control, where disease control is defined as use where it can be shown that a particular disease or infection is present on the premises where the animal is kept;

25 (C) preserve and rebuild soil quality through use of soil health practices, including but not limited to planting cover crops, adopting no-till and reduced tillage, increasing crop rotations and intercropping, and planting perennial crops, to improve the function and resilience of soils;

26 (D) protect and enhance wildlife habitats and biodiversity;

27 (E) avoid contributing to water quality impairment and deterioration of local air quality;

1 (F) reduce greenhouse gas emissions attributable to livestock through
 2 use of feed management, prescribed grazing, amendments for treatment of
 3 agricultural waste, and manure management; or

4 (G) reduce on-farm energy and water consumption, food waste and green-
 5 house gas emissions; or

6 (iii) racial equity. Minority and women-owned business enterprises, as
 7 defined by article fifteen-A of the executive law, or socially disadvan-
 8 tagged farms. For the purposes of this subparagraph, "socially disadvan-
 9 tagged" shall mean individuals who have been subject to discrimination by
 10 virtue of their membership of a particular group which may include, but
 11 is not limited to, Black or African American, American Indian or Alaska
 12 Native, Hispanic or Latino, and Asian or Pacific Islander; or

13 (iv) valued workforce. Suppliers who respect and protect workers'
 14 rights, regardless of immigration status, to organize a union, to affil-
 15 iate with worker centers and alternative forms of worker representation
 16 and to bargain collectively free from retaliation and interference; as
 17 evidenced by agreeing to enter into a labor peace agreement with a bona
 18 fide labor union; having worker-led workplace health and safety commit-
 19 tees; or being a worker-owned cooperative; or

20 (v) valued agricultural sector. Suppliers who pay farmers a fair
 21 price, using United States department of agriculture pricing standards,
 22 for the products they supply that covers their actual cost of
 23 production; and to suppliers who pay fair remuneration to farmers for
 24 their management and labor; or

25 (vi) animal welfare. Producers who provide more humane care for farmed
 26 animals by providing enough space and environmental enrichments to allow
 27 animals to carry out their natural behaviors, using pain control as
 28 needed when carrying out physical alterations, utilizing responsible,
 29 therapeutic antibiotic use, and requiring humane handling and slaughter,
 30 as demonstrated by enrollment in an independent animal welfare certif-
 31 ication program with regular, third-party on-farm audits assessing a
 32 producer's compliance with one hundred percent of the program's welfare
 33 standards; or

34 (vii) nutrition. Foods that promote health and well being, comprised
 35 of namely whole grains, fresh and minimally-processed fruits and vegeta-
 36 bles, essential fats (including nuts, seeds and fish), and whole plant-
 37 -based and lean proteins so as to decrease sodium, added sugars, artifi-
 38 -cial additives, and saturated, hydrogenated, and trans fats.

39 § 2. Subdivision 1 of section 103 of the general municipal law, as
 40 amended by section 2 of chapter 2 of the laws of 2012, is amended to
 41 read as follows:

42 1. (a) Except as otherwise expressly provided by an act of the legis-
 43 lature or by a local law adopted prior to September first, nineteen
 44 hundred fifty-three, all contracts for public work involving an expendi-
 45 ture of more than thirty-five thousand dollars and all purchase
 46 contracts involving an expenditure of more than twenty thousand dollars,
 47 shall be awarded by the appropriate officer, board or agency of a poli-
 48 tical subdivision or of any district therein including but not limited
 49 to a soil conservation district to the lowest responsible bidder
 50 furnishing the required security after advertisement for sealed bids in
 51 the manner provided by this section[7]; provided, however, that purchase
 52 contracts (including contracts for service work, but excluding any
 53 purchase contracts necessary for the completion of a public works
 54 contract pursuant to article eight of the labor law) may be awarded on
 55 the basis of best value, as defined in section one hundred sixty-three
 56 of the state finance law, to a responsive and responsible bidder or

1 offerer in the manner provided by this section except that in a poli-
2 tical subdivision other than a city with a population of one million
3 inhabitants or more or any district, board or agency with jurisdiction
4 exclusively therein the use of best value of awarding a purchase
5 contract or purchase contracts must be authorized by local law or, in
6 the case of a district corporation, school district or board of cooper-
7 ative educational services, by rule, regulation or resolution adopted at
8 a public meeting; and provided, further, that food purchase contracts
9 (including contracts for service work, but excluding any purchase
10 contract necessary for the completion of a public works contract pursu-
11 ant to article eight of the labor law) may be awarded to an otherwise
12 qualified bidder who complies with one or more of the values based
13 procurement standards pursuant to paragraph (c) of this subdivision and
14 may be given preference over other bidders, provided, however, that the
15 cost included in the bid is not more than ten percent greater than the
16 cost included in a bid by the lowest responsible bidder. Provided
17 further that pursuant to paragraph (b) of this subdivision, all bidders
18 shall provide relevant supply chain data in its bid to the appropriate
19 officer, board or agency. The appropriate officer, board or agency shall
20 make such data publicly available on the entities' respective websites,
21 excepting data not subject to disclosure pursuant to article six of the
22 public officers law. In determining whether a purchase is an expendi-
23 ture within the discretionary threshold amounts established by this
24 subdivision, the officer, board or agency of a political subdivision or
25 of any district therein shall consider the reasonably expected aggregate
26 amount of all purchases of the same commodities, services or technology
27 to be made within the twelve-month period commencing on the date of
28 purchase. Purchases of commodities, services or technology shall not be
29 artificially divided for the purpose of satisfying the discretionary
30 buying thresholds established by this subdivision. A change to or a
31 renewal of a discretionary purchase shall not be permitted if the change
32 or renewal would bring the reasonably expected aggregate amount of all
33 purchases of the same commodities, services or technology from the same
34 provider within the twelve-month period commencing on the date of the
35 first purchase to an amount greater than the discretionary buying thresh-
36 hold amount. In any case where a responsible bidder's or responsible
37 offerer's gross price is reducible by an allowance for the value of used
38 machinery, equipment, apparatus or tools to be traded in by a political
39 subdivision, the gross price shall be reduced by the amount of such
40 allowance, for the purpose of determining the low bid or best value. In
41 cases where two or more responsible bidders furnishing the required
42 security submit identical bids as to price, such officer, board or agen-
43 cy may award the contract to any of such bidders. Such officer, board or
44 agency may, in [~~his, her or its~~] their discretion, reject all bids or
45 offers and readvertise for new bids or offers in the manner provided by
46 this section.

47 (b) (i) All supplier data, including supplier data from subcontrac-
48 tors, shall be submitted to the entity issuing the request for proposals
49 at the time of bid, to the best of the bidder's ability, and updated by
50 the winning bidder at the point of contract execution. Such data shall
51 also be updated annually by the winning bidder and upon any changes to
52 supplier information related to the contract. Such data required pursu-
53 ant to this paragraph shall include the name and facility address of
54 each supplier, distributor, processor, and producer involved in the
55 provision of the products that the bidder will supply.

1 (ii) The provisions of this paragraph shall apply to all bidders' food
2 purchase contracts and bid proposals.

3 (c) For the purposes of this subdivision, "values based procurement
4 standards" shall mean procurement criteria that is based on:

5 (i) local economies. New York state or regional suppliers that are
6 sourcing food products in which fifty-one percent or more of the raw
7 agricultural materials have been grown, harvested, processed and manu-
8 factured within the state or region (within one hundred miles for
9 produce and two hundred miles for animal products); and

10 (ii) environmental sustainability. Producers that adopt one or more
11 practices that contribute to improved soil health and increased carbon
12 sequestration and storage, and that achieve net short-term and long-term
13 greenhouse gas benefits. Such practices shall:

14 (A) achieve the reduction or elimination of synthetic pesticides and
15 fertilizers through the use of precision agriculture, integrated pest
16 management, and/or advanced nutrient management;

17 (B) avoid the use of hormones or antibiotics except for treatment of a
18 sick animal or for disease control, where disease control is defined as
19 use where it can be shown that a particular disease or infection is
20 present on the premises where the animal is kept;

21 (C) preserve and rebuild soil quality through use of soil health prac-
22 tices, including but not limited to planting cover crops, adopting
23 no-till and reduced tillage, increasing crop rotations and intercrop-
24 ping, and planting perennial crops, to improve the function and resili-
25 ence of soils;

26 (D) protect and enhance wildlife habitats and biodiversity;

27 (E) avoid contributing to water quality impairment and deterioration
28 of local air quality;

29 (F) reduce greenhouse gas emissions attributable to livestock through
30 use of feed management, prescribed grazing, amendments for treatment of
31 agricultural waste, and manure management; or

32 (G) reduce on-farm energy and water consumption, food waste and green-
33 house gas emissions; or

34 (iii) racial equity. Minority and women-owned business enterprises, as
35 defined by article fifteen-A of the executive law, or socially disadvan-
36 tagged farms. For the purposes of this subparagraph, "socially disadvan-
37 tagged" shall mean individuals who have been subject to discrimination by
38 virtue of their membership of a particular group which may include, but
39 is not limited to, Black or African American, American Indian or Alaska
40 Native, Hispanic or Latino, and Asian or Pacific Islander; or

41 (iv) valued workforce. Suppliers who respect and protect workers'
42 rights, regardless of immigration status, to organize a union, to affil-
43 iate with worker centers and alternative forms of worker representation
44 and to bargain collectively free from retaliation and interference; as
45 evidenced by agreeing to enter into a labor peace agreement with a bona
46 fide labor union; having worker-led workplace health and safety commit-
47 tees; or being a worker-owned cooperative; or

48 (v) valued agricultural sector. Suppliers who pay farmers a fair
49 price, using United States department of agriculture pricing standards,
50 for the products they supply that covers their actual cost of
51 production; and to suppliers who pay fair remuneration to farmers for
52 their management and labor; or

53 (vi) animal welfare. Producers who provide more humane care for farmed
54 animals by providing enough space and environmental enrichments to allow
55 animals to carry out their natural behaviors, using pain control as
56 needed when carrying out physical alterations, utilizing responsible,

1 therapeutic antibiotic use, and requiring humane handling and slaughter,
2 as demonstrated by enrollment in an independent animal welfare certifi-
3 cation program with regular, third-party on-farm audits assessing a
4 producer's compliance with one hundred percent of the program's welfare
5 standards; or

6 (vii) nutrition. Foods that promote health and well being, comprised
7 of namely whole grains, fresh and minimally-processed fruits and vegeta-
8 bles, essential fats (including nuts, seeds and fish), and whole plant-
9 based and lean proteins so as to decrease sodium, added sugars, artifi-
10 cial additives, and saturated, hydrogenated, and trans fats.

11 § 3. This act shall take effect immediately; provided, however that
12 the amendments to subdivision 1 of section 103 of the general municipal
13 law made by section one of this act shall be subject to the expiration
14 and reversion of such subdivision pursuant to subdivision (a) of section
15 41 of part X of chapter 62 of the laws of 2003, when upon such date the
16 provisions of section two of this act shall take effect.