

STATE OF NEW YORK

7638--A

2025-2026 Regular Sessions

IN SENATE

April 24, 2025

Introduced by Sens. HINCHEY, BAILEY, COONEY, FAHY, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

statement of non-collusion required by section one hundred three-d of this article, provided that the governing board of the political subdivision or district, by resolution, has authorized the receipt of bids and offers in such format. Submission in electronic format may, for technology contracts only, be required as the sole method for the submission of bids and offers. Provided however, the appropriate officer, board or agency of a city with a population of one million inhabitants or more, or any district, board or agency with jurisdiction exclusively within such city, may authorize or require bids and offers for any contract to be submitted in an electronic format. Bids and offers submitted in an electronic format shall be transmitted by bidders and offerers to the receiving device designated by the political subdivision or district. Any method used to receive electronic bids and offers shall comply with article three of the state technology law, and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must ~~[(a)]~~ (i) document the time and date of receipt of each bid and offer received electronically; ~~[(b)]~~ (ii) authenticate the identity of the sender; ~~[(c)]~~ (iii) ensure the security of the information transmitted; and ~~[(d)]~~ (iv) ensure the confidentiality of the bid or offer until the time and date established for the opening of bids or offers. The timely submission of an electronic bid or offer in compliance with instructions provided for such submission in the advertisement for bids or offers and/or the specifications shall be the responsibility solely of each bidder or offerer or prospective bidder or offerer. No political subdivision or district therein shall incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic bids and offers.

(b) (i) All relevant supplier data, including supplier data from subcontractors, shall be submitted to the entity advertising the bid or offer at the time of bid or offer, to the best of the bidder's or offerer's ability, and updated by the winning bidder or offerer at the point of contract execution. Such data shall also be updated annually by the winning bidder or offerer 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 or offerer will supply.

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

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

(i) local economies. Food products in which fifty-one percent or more of the raw agricultural materials have been grown, harvested, processed and manufactured within one hundred miles of the location of the purchaser, or in which the bidder or offerer of such food products participates in the department of agriculture and markets' grown and certified program pursuant to section one hundred fifty-six-h of the agriculture and markets law; or

(ii) environmental resilience. Preference shall be given to the 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. Building on progress made by the department of agriculture and markets' climate resilient farming program pursuant to section one hundred fifty-one-n of the agriculture and markets law, participation in such program shall

1 qualify businesses for this preference, or usage of specific practices.
2 Such practices shall:
3 (A) preserve and rebuild soil quality through use of soil health prac-
4 tices, including but not limited to planting cover crops, adopting
5 no-till and reduced tillage, increasing crop rotations and intercrop-
6 ping, and planting perennial crops, to improve the function and resili-
7 ence of soils;
8 (B) achieve the reduction or elimination of synthetic pesticides and
9 fertilizers;
10 (C) avoid the use of hormones or antibiotics except for treatment of a
11 sick animal or for disease control, where disease control is defined as
12 use where it can be shown that a particular disease or infection is
13 present on the premises where the animal is kept;
14 (D) protect and enhance wildlife habitats and biodiversity;
15 (E) avoid contributing to water quality impairment and deterioration
16 of local air quality;
17 (F) reduce greenhouse gas emissions attributable to livestock through
18 use of feed management, prescribed grazing, amendments for treatment of
19 agricultural waste, and manure management; or
20 (G) reduce on-farm energy and water consumption, food waste and green-
21 house gas emissions; or
22 (iii) racial equity. Minority and women-owned business enterprises, as
23 defined by article fifteen-A of the executive law, or socially disadvan-
24 tagged farms. For the purposes of this subparagraph, "socially disadvan-
25 tagged" shall mean individuals who have been subject to discrimination by
26 virtue of their membership of a particular group which may include, but
27 is not limited to, Black or African American, American Indian or Alaska
28 Native, Hispanic or Latino, and Asian or Pacific Islander; or
29 (iv) valued workforce. Suppliers who respect and protect workers'
30 rights, regardless of immigration status, to organize a union, to affil-
31 iate with worker centers and alternative forms of worker representation
32 and to bargain collectively free from retaliation and interference; as
33 evidenced by agreeing to enter into a labor peace agreement with a bona
34 fide labor union; having worker-led workplace health and safety commit-
35 tees; or being a worker-owned cooperative; or
36 (v) valued agricultural sector. Suppliers who pay farmers a fair
37 price, using United States department of agriculture pricing standards,
38 for the products they supply that covers their actual cost of
39 production; and to suppliers who pay fair remuneration to farmers for
40 their management and labor; or
41 (vi) animal welfare. Producers who provide more humane care for farmed
42 animals by providing enough space and environmental enrichments to allow
43 animals to carry out their natural behaviors, using pain control as
44 needed when carrying out physical alterations, utilizing responsible,
45 therapeutic antibiotic use, and requiring humane handling and slaughter,
46 as demonstrated by enrollment in an independent animal welfare certif-
47 ication program with regular, third-party on-farm audits assessing a
48 producer's compliance with one hundred percent of the program's welfare
49 standards; or
50 (vii) nutrition. Foods that promote health and well being, comprised
51 of namely whole grains, fresh and minimally-processed fruits and vegeta-
52 bles, essential fats (including nuts, seeds and fish), and whole plant-
53 -based and lean proteins so as to decrease sodium, added sugars, artifi-
54 cial additives, and saturated, hydrogenated, and trans fats.

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

1. (a) Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than thirty-five thousand dollars and all purchase contracts involving an expenditure of more than twenty thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein including but not limited to a soil conservation district to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section[7]; provided, however, that purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the labor law) may be awarded on the basis of best value, as defined in section one hundred sixty-three of the state finance law, to a responsive and responsible bidder or offerer in the manner provided by this section except that in a political subdivision other than a city with a population of one million inhabitants or more or any district, board or agency with jurisdiction exclusively therein the use of best value of awarding a purchase contract or purchase contracts must be authorized by local law or, in the case of a district corporation, school district or board of cooperative educational services, by rule, regulation or resolution adopted at a public meeting; and provided, further, that food purchase contracts (including contracts for service work, but excluding any purchase contract necessary for the completion of a public works contract pursuant to article eight of the labor law) may be awarded: (i) to an otherwise qualified bidder based in New York state who complies with one or more of the values based procurement standards pursuant to subparagraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (c) of this subdivision and may be given preference over other bidders, provided, however, that the cost included in the bid is not more than ten percent greater than the cost included in a bid by the lowest responsible bidder; or (ii) awarded to a responsive and responsible bidder or offerer based in New York state on the basis of best value, as defined in section one hundred sixty-three of the state finance law, and in the manner provided by this section, and which complies with one or more of the values based procurement standards pursuant to subparagraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) of paragraph (c) of this subdivision. Provided further that pursuant to paragraph (b) of this subdivision, all bidders or offerers on food purchase contracts shall provide relevant supply chain data in their bids or offers to the appropriate officer, board or agency. The appropriate officer, board or agency shall make such data publicly available on the entities' respective websites, excepting data not subject to disclosure pursuant to article six of the public officers law. In determining whether a purchase is an expenditure within the discretionary threshold amounts established by this subdivision, the officer, board or agency of a political subdivision or of any district therein shall consider the reasonably expected aggregate amount of all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of purchase. Purchases of commodities, services or technology shall not be artificially divided for the purpose of satisfying the discretionary buying thresholds established by this subdivision. A change to or a

1 renewal of a discretionary purchase shall not be permitted if the change
2 or renewal would bring the reasonably expected aggregate amount of all
3 purchases of the same commodities, services or technology from the same
4 provider within the twelve-month period commencing on the date of the
5 first purchase to an amount greater than the discretionary buying thresh-
6 hold amount. In any case where a responsible bidder's or responsible
7 offerer's gross price is reducible by an allowance for the value of used
8 machinery, equipment, apparatus or tools to be traded in by a political
9 subdivision, the gross price shall be reduced by the amount of such
10 allowance, for the purpose of determining the low bid or best value. In
11 cases where two or more responsible bidders or offerers furnishing the
12 required security submit identical bids or offers as to price, such
13 officer, board or agency may award the contract to any of such bidders
14 or offerers. Such officer, board or agency may, in [~~his, her or its~~]
15 their discretion, reject all bids or offers and readvertise for new bids
16 or offers in the manner provided by this section.

17 (b) (i) All relevant supplier data, including supplier data from
18 subcontractors, shall be submitted to the entity advertising the bid or
19 offer at the time of bid, to the best of the bidder's or offerer's abil-
20 ity, and updated by the winning bidder or offerer at the point of
21 contract execution. Such data shall also be updated annually by the
22 winning bidder or offerer and upon any changes to supplier information
23 related to the contract. Such data required pursuant to this paragraph
24 shall include the name and facility address of each supplier, distribu-
25 tor, processor, and producer involved in the provision of the products
26 that the bidder or offerer will supply.

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

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

31 (i) local economies. Food products in which fifty-one percent or more
32 of the raw agricultural materials have been grown, harvested, processed
33 and manufactured within one hundred miles of the location of the
34 purchaser, or in which the bidder or offerer of such food products
35 participates in the department of agriculture and markets' grown and
36 certified program pursuant to section one hundred fifty-six-h of the
37 agriculture and markets law; or

38 (ii) environmental resilience. Preference shall be given to producers
39 that adopt one or more practices that contribute to improved soil health
40 and increased carbon sequestration and storage, and that achieve net
41 short-term and long-term greenhouse gas benefits. Building on progress
42 made by the department of agriculture and markets' climate resilient
43 farming program pursuant to section one hundred fifty-one-n of the agri-
44 culture and markets law, participation in such program shall qualify
45 businesses for this preference, or usage of specific practices. Such
46 practices shall:

47 (A) preserve and rebuild soil quality through use of soil health prac-
48 tices, including but not limited to planting cover crops, adopting
49 no-till and reduced tillage, increasing crop rotations and intercrop-
50 ping, and planting perennial crops, to improve the function and resili-
51 ence of soils;

52 (B) achieve the reduction or elimination of synthetic pesticides and
53 fertilizers;

54 (C) avoid the use of hormones or antibiotics except for treatment of a
55 sick animal or for disease control, where disease control is defined as

1 use where it can be shown that a particular disease or infection is
2 present on the premises where the animal is kept;

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

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

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

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

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

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

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

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

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

44 § 3. This act shall take effect immediately; provided, however that
45 the amendments to subdivision 1 of section 103 of the general municipal
46 law made by section one of this act shall be subject to the expiration
47 and reversion of such subdivision pursuant to subdivision (a) of section
48 41 of part X of chapter 62 of the laws of 2003, when upon such date the
49 provisions of section two of this act shall take effect.