

NEW YORK PROCUREMENT CODE

Fiscal Year End: March 30

1. **Prequalifications:** List available but not required.
 - a. **NY State Finance Law §163.3.b.iii** → [The commissioner shall] maintain lists of firms, which produce or manufacture or offer for sale commodities in the form, function and utility required by state agencies. The commissioner shall ensure such lists are updated regularly. With the assistance of the department of economic development and other state agencies, beginning on July first, two thousand one, ensure the availability to all authorized purchasers of a centralized list which identifies commodities offered by New York state's small businesses and a centralized list which identifies commodities and services offered by businesses certified pursuant to article fifteen-A of the executive law. Such lists shall be updated semiannually and designed to enable effective identification of New York state's small businesses and businesses certified pursuant to article fifteen-A of the executive law
2. **Auto-drop:** None.
3. **Life Cycle Costing (LCC):** Except in the case of multiple awards, all purchasing contracts for commodities are based on lowest price.
 - a. **NY State Finance Law §163.3.a.ii** → Commodities contracts shall be awarded on the basis of lowest price to a responsive and responsible offerer; or, in the case of multiple awards, in accordance with paragraph c of subdivision ten of this section
4. **Piggybacking:** Allowed.
 - a. **NY State Finance Law §163-10.e** → The commissioner may authorize purchases required by state agencies or other authorized purchasers by letting a contract pursuant to a written agreement, or by approving the use of a contract let by any department, agency or instrumentality of the United States government and/or any department, agency, office, political subdivision or instrumentality of any state or states...
5. **Recycle Preferences:** 10% price preference to recycled materials, 15% to recycled materials generated from at least 50% waste from NY state.
 - a. **NY State Finance Law §165.3.b** → Consistent with determinations of need required by subdivision five of section one hundred sixty-three of this article, the commissioner and state agencies shall purchase recycled, remanufactured or recyclable commodities when such commodities meet their form, function and utility and shall consider the cost of the commodity over its lifecycle. The commissioner and a state agency shall also have the authority to determine that for reasons of public health or safety, a recycled, remanufactured or recyclable commodity should not be purchased. Such determinations shall be documented in the procurement record.
 - i. A state agency shall purchase recycled commodities at a cost premium only if (A) the cost premium associated with a commodity which has recycled content does not exceed ten percent above the cost of a commodity made without recycled content or, (B) the cost of a recycled commodity that contains at least fifty percent secondary materials generated from the waste stream in New York state, does not exceed a cost premium of fifteen percent above the cost of a comparable commodity.
 - ii. A state agency shall not be required to purchase recyclable or remanufactured commodities at a cost premium unless such commodity also constitutes a

"recycled commodity" as defined in this subdivision and that as such a recycled commodity, it has been offered for sale in conformance with the standards for application of a cost premium for recycled commodities as set forth in clauses (A) and (B) of subparagraph (i) of this paragraph.

<http://www.ogs.state.ny.us/purchase/snt/sflxi.asp>

6. **Minority/Small/Disadvantaged Business Enterprise preferences:** May purchase commodities less than \$100,000 from small businesses without going to bid.

- a. **NY State Finance Law §163.6** → Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities in an amount not exceeding eighty-five thousand dollars without a formal competitive process; state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; and state agencies may purchase commodities or services from small business concerns or those certified pursuant to article fifteen-A of the executive law, or commodities or technology that are recycled or remanufactured, in an amount not exceeding one hundred thousand dollars without a formal competitive process.

7. **Cooperative Purchasing**

National IPA

The City of Tucson, AZ has awarded a national cooperative purchasing agreement available to agencies through National Intergovernmental Purchasing Alliance (National IPA). Visit the National IPA website for state specific information

<http://www.nationalipa.org/statutes.html>

National Joint Powers Alliance (NJPA)

NJPA currently supports over 100 national contracts for products and services that are available to local governmental agencies and other not for profit entities. Additional information can be found by visiting NJPA's State Procurement Resources web site.

<http://www.njpacoop.org/national-cooperative-contract-solutions/legal-authority/>

***** NY State Financing Code (select “STF” and then article 11, “State Financing”):**

<http://www.ogs.state.ny.us/purchase/snt/sflxi.asp>