



Mayor's Office of
Contract Services

New York State Food Purchasing Guidelines

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The City of New York strives to provide clients with healthy, fresh and delicious food that is sustainably produced and transported. Accordingly, where practicable, City agencies should afford a preference to New York State food products¹ in their purchasing decisions.

Information and resources concerning sourcing products from New York State, and from the larger region, may be viewed at:

http://www.nyc.gov/html/mocs/html/vendors/food_purchasing_guidelines.shtml.

Required Solicitation Language

Pursuant to Local Law 50 of 2011, these guidelines shall apply to any solicitation valued at more than \$100,000 for food or food-related services (e.g., catering), and to any solicitation for social services through which more than \$100,000 of food would be purchased annually in fulfillment of the contract.²

Any such solicitation must include a copy of these guidelines, along with the list of New York State food products promulgated by the NYS Department of Agriculture and Markets (hereinafter "NYSDA list", available at:

http://www.nyc.gov/html/mocs/html/vendors/food_purchasing_guidelines.shtml.

Crafting Solicitations

Under New York State General Municipal Law (GML) §103, City agencies have a number procurement tools to increase their options for purchasing New York State food products. For any direct purchase of food products covered by this option, pursuant to City Charter §329(b), the Department of Citywide Administrative Services (DCAS) would be the purchaser. For food-related services, such as catering or meal delivery services, other City agencies could be the purchasers. These tools include the following:

- a) Under Subsection (8)(a) of GML §103, City agencies may grant a "price preference" for New York State food, e.g., agencies may determine that it is appropriate to award a particular contract to a bidder offering New York State food products whose price falls within 10% of the lowest responsive, responsible bidder's price, where that low bidder does not offer New York State food products. Model solicitation language is available at:

http://www.nyc.gov/html/mocs/html/vendors/food_purchasing_guidelines.shtml

¹ For the purposes of these guidelines, "New York State food products" shall mean food products whose essential components are grown, produced or harvested in New York State, or food products where any processing of such food products took place in facilities located within New York State, and which are included in the list of such products promulgated by the NYS Department of Agriculture and Markets.

² This requirement does not apply to emergency procurements.

b) Under Subsection (8)(a) of GML §103, the purchasing agency may also mandate that a particular product, e.g., apples, come from New York State, thereby limiting competition to bidders that can supply such products, rather than similar products sourced from other locations.

c) Under Subsection (8)(a) of GML §103, the purchasing agency may purchase the types of products included on the NYSDA list, using solicitations that seek bidders for multiple “classes” of goods. Using this procedure, bidders can be invited to submit offers to provide either a bundle of goods that includes New York State food products (e.g., with a requirement for 30% of the class as such New York State food products) and/or a bundle of goods with no sourcing restrictions. Upon reviewing the bids received, DCAS may then decide to award a contract to either the low bidder in the first “class,” or the low bidder in the second “class.”

d) In addition to the above-described bid solicitation terms that specifically prefer New York State food products, purchasing agencies may use the new “best value” provisions of GML §103 to craft solicitations that consider the freshness and perishability of the food being purchased, such as the number of days from harvest to delivery.

e) For City agencies that procure human services contracts that include (as part of their scopes of work) the provision of food products, the solicitations for those programs may incorporate requirements applicable to such provision of food products, along the lines described above in a) through d). Service providers responding to such solicitations may be evaluated with regard to their experience, organizational capability and/or approach to ensuring the appropriate use of New York State food products in their programs.

Where a New York State food product sourcing requirement is a material term of the contract, agencies may require vendors to submit reports detailing the source of the food provided and/or require vendors to ensure that all cases of New York State food products are labeled as such.

Considerations for Purchasing

In furtherance of the above policy to encourage New York State food product purchasing, agencies are encouraged to review their current “menu” to identify areas where a currently procured product might be replaced with an alternative product available from New York State. New York State is a leading producer of many products including dairy, beef, apples, cabbage, onions, grapes, cherries and peaches. For instance, City agencies may consider replacing oranges (which are not available from New York State producers) with apples.

In some instances, where current marketplace offerings have failed to meet existing needs, the City has successfully used its market leverage to work with providers to develop new products, such as low- sodium canned beets and pre-sliced apples. Agencies are encouraged to contact the Mayor’s Office of Contract Services for assistance.

Consumer food preference is a rapidly changing area. City agencies are encouraged to communicate regularly with their clients about client food preferences, including preferences regarding food sourcing.

Finally, to help its nonprofit human service partners leverage their purchasing power and reduce administrative costs, the City has established a group purchasing partnership with Essensa, and worked with Essensa to ensure the availability of New York State food products. Nonprofit vendors are encouraged to visit <http://www.essensa.org/nyc/> for more information on purchasing food and other items.

Requesting Sourcing Information

For any contract covered by these guidelines, agencies must request from their vendors sourcing information for the food products provided under the contract. In particular, agencies must request that vendors:

- 1) Review the NYSDA list and the various products' respective periods of availability.
- 2) Submit to the contracting agency a report detailing
 - a. Whether any of the types of items on the NYSDA list were provided under the contract
 - b. The dollar value of any such items that were produced or processed in New York State
 - c. The dollar value of any such items that were **not** produced or processed in New York State, and that **were** provided during the relevant New York State availability periods
 - d. The dollar value of any such items that were **not** produced or processed in New York State availability period

To facilitate this process, MOCS will distribute to agencies detailed instructions, including a data template and sample instructions for vendors. The information collected will be used to compile a report, submitted to the Mayor and the Speaker of the City Council, that will include sourcing information on the food purchased by City agencies and a list of vendors who provided such information to the City.

Vendors providing social services may not initially have the information as to where the food served to their clients was produced or processed. Agencies will need to work with those service providers to ensure that they ask their distributors or other food suppliers to provide such information, so that the social services providers may report this information to their contracting agencies.