Legislation Details (With Text)

File #:	Int 0784-2000 **Version:** *	**Name:**	Contracts, purchase of wood products
Type:	Introduction	**Status:**	Filed
		In control:	Committee on Contracts
On agenda:	7/27/2000		
Enactment date:		**Enactment #:**	
Title:	A Local Law to amend the administrative code of the city of New York, in relation to city contracts involving the purchase of wood products and materials.		
Sponsors:	Peter F. Vallone, Gifford Miller, Kathryn E. Freed, Herbert E. Berman, Adolfo Carrion, Helen M. Marshall, Michael C. Nelson, Christine C. Quinn, June M. Eisland, Stephen J. Fiala, Wendell Foster, Julia Harrison, Karen Koslowitz, Guillermo Linares, Jerome X. O'Donovan, Jose Rivera, John D. Sabini, Kenneth K. Fisher, Stephen DiBrienza, Pedro G. Espada, Ronnie M. Eldridge, Margarita Lopez, Tracy L. Boyland, Martin Malave-Dilan, Eva S. Moskowitz, Bill Perkins		
Indexes:			
Attachments:	1. Committee Report 5/7, 2. Hearing Transcript 5/7, 3. Committee Report 8/7, 4. Hearing Transcript 8/7		

Date	Ver.	Action By	Action	Result
7/27/2000	*	City Council	Introduced by Council	
7/27/2000	*	City Council	Referred to Comm by Council	
7/27/2000	*	Legislative Documents Unit	Printed Item Laid on Desk	
5/7/2001	*	Committee on Contracts	Hearing Held by Committee	
5/7/2001	*	Committee on Contracts	Laid Over by Committee	
8/7/2001	*	Committee on Contracts	Hearing Held by Committee	
8/7/2001	*	Committee on Contracts	Laid Over by Committee	
12/31/2001	*	City Council	Filed (End of Session)	

Int. No. 784

By: The Speaker (Council Member Vallone) and Council Members Miller, Freed, Berman, Carrion, Marshall, Nelson, Quinn, Eisland and Fiala; also Council Members Foster, Harrison, Koslowitz, Linares, O'Donovan, Rivera, Sabini, Fisher, DiBrienza, Espada, Eldridge, Lopez, Boyland, Malave-Dilan, Moslowitz and Perkins.

A Local Law to amend the administrative code of the city of New York, in relation to city contracts involving the purchase of wood products and materials.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council finds and declares that forests play a vital role in regulating the global climate, purifying the air and protecting watersheds. Forests contain at least half of the world's animal and plant species, many of which contribute to the production of medicines and food, and many more species that have not yet been discovered or evaluated for their beneficial uses. Throughout the world, communities depend on healthy forests for their economic value, including their role

in sustaining fisheries and providing recreational opportunities. Regrettably, the practice of deforestation continues to displace indigenous people who live in forest areas resulting in the destruction of their cultures. In addition, poorly managed logging operations degrade and destroy forests, increase the threat of forest fires and enable development to spread in forest lands, some which are of such ecological significance that they should never be subject to commercial logging.

Recognizing the role that forests play in the global environment, the New York State Finance Law requires purchasing restrictions by both the state and local governments in relation to the procurement of tropical hardwoods and tropical hardwood products. The Council, however, finds that newly marketed building materials such as reclaimed wood, particle board from agricultural residue and recycled plastic lumber are environmental alternatives in the procurement of wood purchases. Pursuant to this legislation, the City, abiding by the principles of the Forest Stewardship Council and similar organizations dedicated to improving forest management and conservation, will use an independent third-party forest certification procedure, with a separate chain-of-custody certification linking forest products to their forest of origin. This procedure will thereby enable the City to know whether its procurement of wood product is originating from responsibly managed forests. Accordingly, the City of New York using its power as a market participant shall engage in a policy to support ecological forestry practices in its procurement of wood products.

Section 2. Title 6 of the administrative code of the city of New York is hereby amended by adding a new section 6-124, to read as follows:

Section 6-124. a. For purposes of this section only, the following terms shall have the following meanings:

(1) "Biobased Material" means material derived from agricultural residue, including, but not limited to, wheat straw, corn stover, rice straw and biagasse from fiber crops that are harvested at least annually.

(2) "Chain of custody" means a process that provides documentary evidence verifying that a given wood product is derived from a certified forest of origin.

(3) "Chain of custody certifier" means an independent third party organization that certifies chain of custody.

(4) "Contract" means any written agreement, purchase order or instrument whereby the city is committed to expend or does expend funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing.

(5) "Contracting agency" means any office, department, administration, authority, division, bureau, board, commission, corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(6) "Environmentally preferable building material" means one or more of the following:

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(i) reclaimed wood products;

(ii) biobased materials; or

(iii) recycled plastic and other recycled materials.

(7) "Forest Certifier" means an independent, third-party organization that conducts comprehensive assessments of forest management practices and environmental performance.

(8) "Reclaimed wood products" means wood certified by an independent third party certifier and legally salvaged from the following sources: buildings that are not historically significant; dead, fallen, diseased or nuisance trees from urban, private and government properties; usable wood safely reclaimed or diverted from landfills; wood by-products from secondary manufacturers; and discarded pallets.

(9) "Reclaimed wood certifier" means an independent third-party organization that certifies that a given wood product is a reclaimed wood product.

(9) "Recycled material" means material that meets the minimum post-consumer material content requirements specified in title fifty-five, chapter eight, section three of the city of New York's rules and regulations.

(11) "Responsibly managed forest" means forests that have been certified by a forest certifier.

(12) "Third-party" means not having an equity interest in the land or the management of the forests being evaluated, and independent from any timber trade association.

(13) "Tropical rain forests" means any and all forests classified by the scientific term "tropical moist forests,"the classification determined by the equatorial region of the forest and average rainfall.

(14) "Tropical wood products" means any wood products, wholesale or retail, in any form, including but not limited to veneer, furniture, cabinets, paneling, moldings, doorskins, joinery, or sawnwood, which are composed of tropical hardwood except plywood.

(15) "Wood product" means any wood products, wholesale or retail, in any form, including but not limited to veneer, furniture, cabinets, paneling, moldings, doorskins, joinery, or sawnwood.

b. Contracting agencies shall for the purposes of the procurement of wood products seek to maximize the use of environmentally preferable building materials by whatever means practicable and authorized by law.

c. (1) No contracting agency shall purchase or enter into a contract that requires the use of a wood product unless a forest certifier represents by certification that the wood purchase originates from a responsibly managed forest.

(2) The requirements of subdivision c shall not apply to:

(i) reclaimed wood products; or

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(i) when the Landmarks Preservation Commission determines that the use of a particular species is necessary for historical restoration; or

(i) where the contracting agency finds that no person or entity doing business with the city is capable of providing acceptable wood products sufficient to meet the particular contract requirements; or

(i) where the inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract in any agency of the United States or the instructions of an authorized representative of any agency with respect to any such subvention or contract; or

(v) plywood made from tropical wood products.

d. The requirements of subdivision c, paragraph 1 shall apply to the procurement of tropical wood products originating from tropical rain forests. This subdivision shall not apply to the procurement of tropical wood products subject to subdivision c, paragraph 2 of this section.

d. (1) The mayor shall direct the appropriate department or agency that he or she so designates to create a list of eligible forest certifiers, reclaimed wood certifiers, and chain of custody certifiers.

(2) The designated department or agency shall promulgate rules and regulations in accordance with the administrative procedure act of the charter of the city of New York, specifying the information that forest certifiers, reclaimed wood certifiers and chain of custody certifiers provide in order to be deemed eligible for the purposes of fulfilling the eligibility requirements of this subdivision. Such eligibility requirements shall include, but not be limited to:

(i) adherence to the principles and criteria of the Forest Stewardship Council as amended January 1999, or the equivalent requirements of other similar organizations;

(i) conducting annual on-the-ground audits, using an interdisciplinary team of experts to evaluate the ecological, social and economic impact of forest management practices; and

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(i) separate chain-of-custody certification, linking each certified forest product to its certified forest of origin.

(2) Once the designated department or agency has determined that a certifier has met the eligibility requirements specified in this subdivision, the certifier shall be deemed to be an approved and eligible certifier for purposes of this section.

(2) The designated department or agency shall annually review and issue a report regarding the certification program of eligible certifiers to ensure that forest certifiers are conducting comprehensive assessments of forest management practices. The department or agency shall annually submit a report to the mayor, the council and the comptroller on the information collected pursuant to this subdivision.

d. In every bid proposal, solicitation, request for bid or proposal and contract for the procurement of wood products the contracting agency shall state the policy created by this section and shall provide a list of eligible certifiers pursuant to subdivision e for the purposes of fulfilling the requirements of a contract. This subdivision shall not apply to the procurement of wood products subject to subdivision c, paragraph 2 of this section.

d. The agency or department designated by the mayor shall promulgate rules specifying the documents and information that contractors must provide to the contracting agency for the purposes of satisfying subdivision c, paragraph 1 of this section.

d. A contractor shall also be liable for a civil penalty of not less than $5,000 upon a determination that a contractor has been found, through litigation or arbitration, to have made a false claim under the provisions of this section with the contracting agency.

d. Upon a determination that a contractor is in violation of this section, the contracting agency shall review such information and offer the contractor an opportunity to respond. If the contracting agency finds that a violation has occurred, it shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the contractor in default and/or seeking debarment or suspension of the contractor.

d. Within one year of the effective date of this section, the comptroller shall commence an audit to determine where wood used to fulfill city contracts originates. Interested third parties shall be permitted an opportunity to submit information relating to the city's procurement policies regarding wood products and relating to the identification and mapping

of endangered forests and such submissions shall be reviewed and considered as they become available. Such audit shall be submitted to the mayor and the council on the information collected pursuant to this subdivision, including, but not limited to recommendations for how the city can strengthen its procurement policies pursuant to this section in order to reduce environmental damage on forest lands.

d. Nothing in this section shall be construed as limiting or increasing the purchasing requirements articulated in section 165 of the New York State finance law.

d. This section shall not apply to any contract with a contracting agency entered into prior to the effective date of this local law.

d. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§4. This local law shall take effect 90 days after its enactment.

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