



Office of
General Services

GOVBUY PROCUREMENT CONFERENCE

November 21-22, 2024

Empire State Plaza Convention Center, Albany, NY



NEW
YORK
STATE

Office of
General Services

Food Procurement Requirements and Strategies for NY State Agencies

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CONFERENCE





Food Procurement Requirements and Strategies for NY State Agencies

Meeting Room 3 | 4:30 PM – 5:15 PM

PANELISTS

Bradley Allen, Deputy Commissioner & Counsel, OGS

Wendy Reitzel, Director, OGS Procurement Services

Henry Talmage, Senior Advisor on Food Policy and
Procurement, NYS Agriculture & Markets

General Procurement Law and EO 32

Introduction

State Finance Law (“SFL”) § 163 generally requires that contracts for commodities such as food be awarded on the basis of lowest price. While there is a provision in SFL § 163 that allows agencies to purchase up to \$200K in NY food and milk products without a formal competitive process, most agency food purchases have focused on price.

In August 2023, Governor Kathy Hochul issued Executive Order No. 32 (“EO 32”) directing State agencies and public authorities under her control to increase their procurement of New York food products. The goal for 2023 was 5% of food purchases, for 2024 it is 15%, and for 2025 it is 20%.

Each March 31, agencies must report their food purchases for the prior calendar year to OGS so that it can be included in the Food Metrics Report issued each December. This year’s report will show that approximately 14% of food purchases by State agencies in 2023 was NYS food (about \$78M).



General Procurement Law

Continued

Prior to the issuance of EO 32, there have been other tools put in place to give State agencies the ability to prioritize NYS food. In 1995, a new subdivision 4 was added to SFL § 165 that gives State agencies the authority, when purchasing food, to mandate that some or all of the required food products be grown, produced, or harvested in NYS or that any processing of such food products takes place in facilities located in NYS. The law also sets out detailed procedures that agencies must follow if they choose to mandate that some or all of the required food products come from New York.

The law was amended in 2013 to require OGS and the NYS Department of Agriculture and Markets (“AGM”) to (i) establish guidelines that will assist State agencies in increasing their use and purchase of NYS Food Products; (ii) publish such guidelines on the OGS website, disseminate such guidelines to agencies, and train contracting personnel on implementing such guidelines; and (iii) provide for monitoring of implementation.

Those materials and prior annual reports on NYS food purchasing are available on the OGS website at <https://ogs.ny.gov/procurement/buyny-guidelines>



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General Procurement Law

Continued

Historically, the ability to specify NYS food authorized by SFL § 165(4) has been used primarily by DOCCS and OMH.

As noted earlier, the discretionary thresholds set forth in SFL § 163(6) authorize State agencies to purchase up to \$200K in NYS food and milk products without a formal competitive process. These so-called “discretionary” purchases must still be approved by OSC if they exceed the \$50K/\$85K threshold in SFL § 112(2)(a).

Local governments operate under a different set of rules. General Municipal Law § 103(1) allows a political subdivision to award purchase contracts on the basis of best value *if* the political subdivision has adopted a local law for that purpose at a public meeting. Otherwise, contracts for commodities such as food must be awarded to the lowest bidder.



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EO 32 FAQ Guidance

OGS and Ag & Markets have prepared an FAQ document to assist, which will soon be available on the OGS website.

“New York State Food Products” is defined in EO 32 to mean “agricultural products and food items that are grown, harvested, produced, or processed in the State of New York. Processed food items that are composed of raw materials from both inside and outside the State may be deemed New York State Food Products when (i) their predominant value or quantity is derived from food grown, harvested, or produced in New York State and (ii) the processing of such food products takes place in facilities that are located in New York State.”

NYS Food: An unprocessed food item that is composed of 100% raw materials that were grown, harvested, or produced in New York State.

NYS Processed Food: A processed food item that is composed of over 51% (by weight or volume) of raw materials that were grown, harvested, or produced in New York State, and the processing of such food products took place in a facility that is located in New York State.



EO 32 FAQ Guidance

Continued

Packaging: Preparation of a food item for transportation, distribution, storage, retailing, handling and end-use (e.g., wrapping, bottling, and bagging).

Processing: Any alteration of a food item from its raw or original state to enhance its value or render it suitable for consumption. Examples of processing include, but are not limited to, butchering of meat or poultry, cooking, and pasteurizing. Packaging a food item is not considered processing.

Produced: Make or manufacture a food item from components or raw materials that were grown upon and/or harvested from the farm or waters through agricultural, horticultural, aquacultural, or dairying processes.



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EO 32 FAQ Guidance

Continued

12.Q: Are agencies REQUIRED to purchase off the OGS centralized contracts for food, bread, and milk (after determining that such products are not available from preferred sources)?

A: Yes, for State agencies, if the centralized contracts meet their form, function, and utility (FFU). Other government entities are not required to use centralized contracts but may do so.

13.Q: Can agencies and authorities declare that food that does not meet the EO 32 definition of “New York State Food Products” does not meet their FFU requirement?

A: Yes, EO 32 may be used to prioritize the purchase of New York food products, and, if an agency’s FFU is not met by a centralized contract, the agency may proceed with another purchasing method. The New York State Procurement Guidelines that were recently updated by the State Procurement Council note that agencies “shall consider compliance with [an] executive order as part of their form, function and utility requirements.”

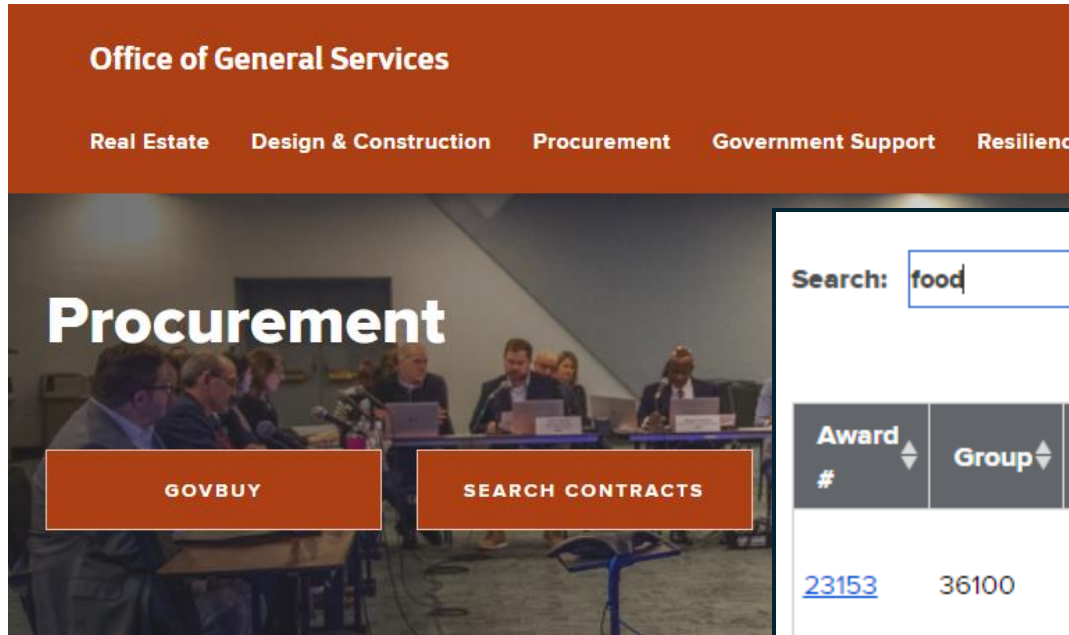
In other words, NYS food can be a specification in your bid.



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OGS Centralized Contracts for Food



- Use keywords, “Milk,” “Bread,” or “Food” to search for contracts

Search:

Search by Award Number, Group Number, Title, or Keyword.

Award #	Group	Award Title	Type	Keywords
23153	36100	Kitchen and Laundry Equipment (Statewide)	Commodity	Commercial Kitchen Equipment, Residential Kitchen Accessories, Refrigerators, Dishwashers, Cooking machines, Fryer, Sneeze guard, Slicer, Display Cas
23199	02450	Food (Commercial and Retail) (Statewide)	Commodity	Commercial (Bulk) Food, Retail (Grocery) Food, An Frozen Food, Meat, Poultry, Fish, Produce, Fruits, Alternative, Food Containers



Award 23239: Milk, Fluid

- Term: September 21, 2021 to September 20, 2026
- **3 contractors, awarded by region (18 regions)**
 - Cream-O-Land Dairies LLC
 - Hudson Valley Fresh Dairy, LLC
 - Upstate Niagara Cooperative Inc
- **No coverage for Region 11** (Clinton, Franklin, Essex, Hamilton and Tompkins Counties) **and Region 14** (Broome, Chenango, Cortland, Delaware Counties)
- **\$100 minimum** order for delivery to a single location



Award 23239: Milk, Fluid

- **Variety of milk types and container sizes**
 - Homogenized, low fat and fat free
 - White, chocolate and strawberry milk
 - ¼ pint, ½ pint, 1 quart, ½ gallon, 1 gallon, 5 gallon
- **All products are NYS Processed Food, except for:**
 - Cream-O-Land (all products)



Award 23319: Fresh Bread

- Term: October 31, 2024 to October 30, 2027
- **Does not include NYS Food Products**
- **One contractor**, Bimbo Bakeries USA, Inc.
(No coverage in NYC, Nassau, Suffolk, Rockland and Westchester Counties)
- **Scope limited to fresh baked bread products only** (e.g., bread loaves, individual bread slices, hamburger, hotdog and dinner rolls)
- **Excludes dessert products** (e.g., donuts, pastries, cinnamon buns, cakes)
- **\$50 minimum** order for delivery to a single location



Award 23199: Food (Commercial & Retail)

- Term: June 19, 2020 to June 18, 2025
- **Lot 1 – Commercial** is for bulk purchasing
 - 6 contractors, awarded by region (4 regions)
 - \$1,500 minimum order for delivery to a single location
- **Lot 2 – Retail** is for grocery size purchasing
 - One contractor for Downstate Region only (NYC, Nassau, Suffolk, Rockland and Westchester counties)
 - \$200 minimum order for delivery to a single location
- Contract users **must** purchase from the contractor for their region



Award 23199: Food (Commercial & Retail)

- **Food:** Products that are edible, including:
 - Ambient, canned and dry
 - Baked goods
 - Dairy
 - Frozen (includes prepared foods and entrees; frozen eggs, frozen vegetables and fruits, frozen meats, and frozen juices)
 - Meat, poultry and fish (fresh, including breaded products)
 - Produce
- **Non-Food:** Related to the handling, preparing or dispersing of food items (paper and disposable products, smallware and equipment, etc.)



Award 23199: Food (Commercial & Retail)

Filter on “Y” on the pricelist for NYS Food, NYS Processed Food, and Processed in NYS

*Produced: Make or manufacture a food item from components or raw materials that were grown upon and/or harvested from the farm or waters through agricultural, horticultural, aquacultural, or dairying processes.
 **Processing: Any alteration of a food item from its raw or original state to enhance its value or render it suitable for consumption. Examples of processing include, but are not limited to, butchering of meat or poultry, cooking, and pasteurizing. Packaging a food item is not considered processing.

NYS Food - An unprocessed food item that is composed of 100% raw materials that were grown, harvested, or Produced* in New York State. Y=YES N=NO	NYS Processed Food - A food item that is composed of over 51% (by weight or volume) of raw materials that were grown, harvested, or Produced in New York State Y=YES N=NO	Processed in NYS Facility - The processing** of such food products takes place in facilities that are located in New York State. Y=YES N=NO	Product Description	Unit of Measure	Pack/ QTY	Size	Markup %	NYS Net Delivered Price (Includes Markup)
N	Y	Y	COTTAGE CHEESE 1% SMALLCURD	CS	4	5 LB	7.50%	\$ 27.79
N	Y	Y	COTTAGE CHEESE 1% SMALLCURD	TUB	1	5 LB	7.50%	\$ 6.94
N	Y	Y	COTTAGE CHEESE 4% SMALLCURD	CS	2	5 LB	7.50%	\$ 27.95
N	Y	Y	CREAM CHEESE CUP LITE	CS	100	1 OZ	7.50%	\$ 41.45



Who cares about New York Food?

- New York farmers
- Food system leaders
- Health care providers
- Educators, students, parents
- Economic development advocates
- Community development leaders
- Consumers
- **Nearly everyone!**



How can my agency find New York Food?

- Check OGS Centralized Contracts
- Specify NY Foods in bids when possible
- NY Food Products Database
- Talk to vendors about your EO32 needs
- Reach out to NY State Department of Agriculture and Markets





TABLE OF CONTENTS

THERE ARE MANY AMAZING NEW YORK PRODUCTS AVAILABLE DIRECTLY FROM FARMS, THROUGH FOOD HUBS, AGGREGATORS, AND BROADLINE DISTRIBUTORS. THIS GUIDE WILL HELP YOU GET STARTED!

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WHERE TO FIND NEW YORK FOOD PRODUCTS

[New York Food Products Database](#)

[Cornell Cooperative Extension Offices](#)

[New York State Grown & Certified Products](#)

[New York State Minority and Women Owned Business Enterprise Directory of Certified Farms](#)

[USDA Local Food Directory](#)

OVERVIEW OF PROGRAMS

Executive Order 32

New York State agencies that purchase food are now required to spend a percentage of their food budgets on New York State food products. Steady goals have been set with the goal to have state agencies spending 30% of their budget on New York State agricultural food products by 2027.

- Processed products must contain 51% or more raw agricultural materials (by weight or volume) that are grown harvested or produced in New York.
- Manufacturing and processing of products must occur in a facility in New York State to be eligible for funding.

Nourish New York

Nourish New York (Nourish) funding allows emergency food and nutrition services to purchase New York food directly from New York farmers, distributors, processors, and food hubs then distribute it to New York families in need across the state. Nourish is jointly administered by the New York State Department of Agriculture and Markets (AGM) and the New York State Department of Health (DOH).

- Processed products must contain 51% or more raw agricultural materials (by weight or volume) that are grown harvested or produced in New York.
- No requirements for in-state processing.

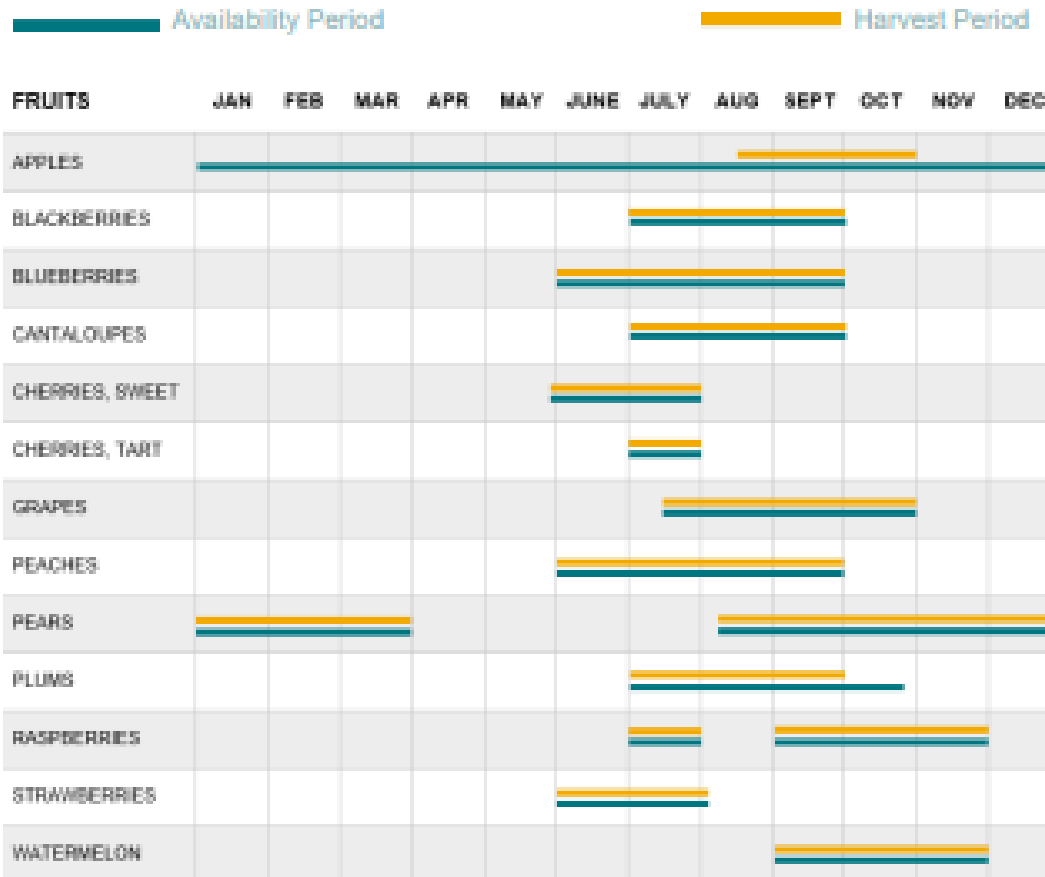
The 30% New York State Initiative

The 30% New York State Initiative is intended to provide healthy New York sourced food products, such as farm fresh products, to children as part of their lunch meal in school. The additional reimbursement through this initiative is available only to School Food Authorities (SFAs) that spend at least thirty percent of total food costs for the school lunch program on New York State (NYS) food products in the preceding school year. SFAs applying to the initiative should, to the best extent possible, reach the required threshold with healthy, farm fresh items served with the reimbursable lunch meal and should limit the inclusion of a la carte snack foods.

- Processed products must contain 51% or more raw agricultural materials (by weight or volume) that are grown harvested or produced in New York.
- No requirements for in-state processing.

HARVEST CHARTS

The New York produce availability periods below are approximate. Harvest periods may also begin a week to ten days earlier during a warmer than usual year or with season extension strategies, while a cool spring will delay crop maturity. We recommend that you call local producers for exact dates of harvest and produce availability near you!



APPLES

NEW YORK TYPICALLY RANKS IN THE TOP 5 STATES FOR APPLE PRODUCTION

COMMON NEW YORK APPLE VARIETIES

Cortland, Empire, Golden Delicious, Fuji, Honeycrisp, McIntosh, Macoun, Gala, RubyFrost, Sweetango, Zestar!

Harvested: July - November

Available: All Year

PREPARATION IDEAS

Certain apples are best for certain uses!

Bake in a pie: Cortland, Empire, Golden Delicious

Applesauce: Cortland, Empire, Fuji, Honeycrisp, McIntosh

Make a jelly: Cortland, Empire



Dip it: Dip apple slices in peanut or almond butter.

Pair it: Pair apple slices with NY State cheddar.

Bake it: Bake apple slices in the oven with cinnamon sugar for 15-20 minutes at 350 degrees F. Bake cored apples and pears halves in the oven stuffed with a yummy filling like raisins, honey, or chopped nuts!

Add to a salad: Fruit like apples are great when sliced added to a green salad!

Make a dessert: Not only are apples fantastic desserts when eaten raw, but they're also great when baked into a pie or cake!



Cornell Cooperative Extension

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NY Food Products Database

Explore the database



Submit a product



NY Food Products - Approved

Vendor Contact List

NY Grown & Certified

Extensions

Views | Grid View | 10 hidden fields | Filter | Grouped by 2 fields | Sorted by 1 field

Find a view

Grid View
If you like Excel, you might want to use this...

View by Product Category
Like online shopping, browse products ava...

Product					
CATEGORY					
Protein					
SUB-CATEGORY					
Meat					
1			Protein	Meat	
2		Hotdog, beef, 7:1, fully cooked	Protein	Meat	2.3 oz. 30lb
3		Hotdog, beef with jalapeno and cheese, 7:1, fully cooked	Protein	Meat	2.3 oz. 30lb
4		Bologna, all beef	Protein	Meat	2.3 oz. 5 pc
5		Knockwurst, beef, 7:1	Protein	Meat	65 g. 30lb
6		Bratwurst, beef, 7:1	Protein	Meat	65 g. 30lb
7		Polish sausage links, beef	Protein	Meat	65 g. 30lb
8		Italian beef sausage, 7:1, fully cooked	Protein	Meat	2.3 oz. 30lb
9		Beef, Ground	Protein	Meat	5 lbs. 6/5lb

Sort within groups by

EO32 Eligible | First → Last

+ Add another sort

Special considerations for catering of meetings

- **Talk to your Caterer(s)**
 - Communicate well before your event
 - Explain to them what your charge is with Executive Order 32
 - Ask them to develop menu options that are EO32 compliant
 - Direct staff to utilize catering options that meet EO32
 - “Tell the story” at your meeting
 - Good outcome for everyone





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Questions?