PUBLIC NOTICE OF WAIVER

Waiver of State Finance Law § 163-c Buy America Requirements for Zero Emission Vehicles and Electric Vehicle Chargers

PLEASE TAKE NOTICE that the Commissioner of the New York State Office of General Services ("OGS") hereby issues a waiver of the Buy America contracting requirements for State agency purchases or leases of zero-emission vehicles ("ZEV") and electric vehicle supply equipment ("EVSE") for calendar year 2026. The Commissioner has determined that this waiver is in the public interest pursuant to State Finance Law § 163-c(1)(b). This waiver is based on current market conditions, the availability of compliant vehicles and charging equipment, and the statutory obligations of State agencies to transition fleet vehicles to zero-emission technologies. This waiver also reflects OGS's assessment that ZEVs and EVSE or fueling infrastructure components and parts meeting the domestic-content and final-assembly standards of § 163-c cannot currently be produced, made, or assembled in the United States, its territories, or possessions, in sufficient and reasonably available quantities for State agency procurement needs in 2026.
The waiver will be effective during the calendar year 2026.

Summary

New York State has set ambitious climate goals, and agencies are making significant progress on the mandate to convert their fleets to ZEVs. Environmental Conservation Law ("ECL") § 19-0306-b states that "[i]t shall be a goal of the State that one hundred percent of new passenger cars and trucks offered for sale or lease, or sold, or leased, for registration in the state shall be zero-emissions by [2035]," and that 100% of medium- and heavy-duty vehicles sold or leased in New York shall be zero-emissions by 2045. State Finance Law ("SFL") § 163-d requires that all State agency light-duty non-emergency vehicles shall be ZEVs by 2035 and all State agency medium- and heavy-duty vehicles shall be ZEVs by 2040, unless a ZEV is not feasible for a particular application.

To support these goals, SFL § 163-c establishes domestic-content and final-assembly requirements for ZEVs and EVSE procured by State agencies. Each year, the Commissioner of OGS must evaluate – in consultation with the New York State Energy Research and Development Authority ("NYSERDA") – whether compliant vehicles and equipment are available in sufficient and reasonably accessible quantities to allow State agencies to meet their procurement needs. If, after this review, it is determined the relevant statutory conditions in SFL § 163-c(1)(b) are met, the Commissioner of OGS may waive these requirements for the following calendar year.

For the 2026 procurement year, OGS, in consultation with NYSERDA, reviewed current ZEV and EVSE availability, domestic sourcing trends, final-assembly locations, and market readiness relative to the State's fleet-conversion requirements.

Based on this review, the Commissioner has made a determination that a waiver of the SFL § 163-c requirements for calendar year 2026 would be in the public interest, and that compliant ZEVs and EVSE are not currently produced, made,

or assembled in the United States, its territories, or possessions, in sufficient and reasonably available quantities to meet State agency procurement needs.

Legal requirements of SFL § 163-c

SFL § 163-c(1)(a) provides that

> [e]ach State agency shall include requirements in any procurement for the purchase or lease of zero-emission vehicles and charging or fueling infrastructure that the components and parts used or supplied in the performance of the contract or any subcontract thereto shall be produced or made in whole or substantial part in the United States, its territories or possessions, and that final assembly of the zero-emission vehicles and charging or fueling infrastructure shall occur in the United States, its territories or possessions.

SFL § 163-c(1)(b) provides that the Commissioner of General Services (the "Commissioner"), in consultation with the New York State Energy Research and Development Authority ("NYSERDA"), may waive the contracting requirements if the Commissioner determines that:

(i) the requirements would not be in the public interest;

(ii) the requirements would result in unreasonable costs; or,

(iii) obtaining such ZEVs and charging or fueling infrastructure components and parts in the United States, its territories, or possessions (the "US"), would increase the cost of a contract for ZEVs and charging or fueling infrastructure by an unreasonable amount; or,

(iv) ZEVs and charging or fueling infrastructure components and parts cannot be produced, made, or assembled in the US "in sufficient and reasonably available quantities or of satisfactory quality."

Other State agency and authority directives

In September 2022, Governor Hochul issued Executive Order No. 22: *Leading by Example: Directing State Agencies to Adopt a Sustainability and Decarbonization Program* ("EO #22"). There are 75 Affected Entities subject to EO #22, many of which are State agencies. The EO sets forth the target that the light-duty and medium- and heavy-duty State fleet vehicles will be comprised entirely of ZEVs by 2035 and 2040, respectively.

Evaluation of ZEV availability for NYS agencies – Parts and Components

The Buy America requirements of SFL § 163-c pertaining to parts and components are similar to, although not completely aligned with, the eligibility requirements for tax credits for ZEVs under the Inflation Reduction Act ("IRA"). Until September 30, 2025, the IRA offered up to $7,500 in tax credits for light- and medium-duty ZEVs assembled in North America that meet two requirements, with each of these requirements accounting for half, or $3,750, of the total possible tax credit. These requirements establish minimum percentages

of battery components that must be manufactured in North America and critical minerals that must be sourced in the US or a country with which the US has a free trade agreement or recycled in North America. For the purposes of this waiver and to align with industry standards, this analysis will use the IRA definition as a proxy for SFL's definition of the minimum thresholds for parts and components.

Since most vehicle manufacturers were tracking their battery and critical minerals sources to align with the IRA, this analysis leverages the IRA's vetted list of eligible vehicles for delivery in calendar year 2025.[1] It is noteworthy that the vehicles that were eligible for the tax credit with respect to their battery components were required to have 70% of their batteries' critical minerals and components manufactured in North America. By contrast, SFL § 163-c requires that components and parts be sourced or made in whole or substantial part in the US, which is more restrictive in terms of sourcing than by the IRA standard. The IRA's list of tax credit eligible ZEVs, despite being less restrictive than the SFL § 163-c standard, would nonetheless severely limit the ZEV options available to State agencies.

Appendix A lists ZEVs eligible for the IRA tax credit as of September 29, 2025, consisting of 29 models, 15 fewer than last year. Only one of the eligible vehicles is a plug-in hybrid electric vehicle ("PHEV"); the remainder are battery electric vehicles ("BEV"). Many agencies rely on PHEVs to electrify fleets because these vehicles offer the needed flexibility for various use cases.

Beyond the severely limited PHEV offerings, the list of IRA-eligible ZEVs in Appendix A remains insufficient to meet agencies' electrification needs. Only 16 of the remaining 28 BEVs can be readily procured by NYS agencies because they are offered on the NYS centralized contract. The remaining 12 BEVs are made by manufacturers – including Tesla and Genesis – that are not on the NYS centralized contract. Among the manufacturers under contract, notable changes are observed in those on the IRA list compared to last year: Nissan, Volkswagen, and Audi are no longer offering models on the IRA list, whereas Kia and Hyundai are now included.

Appendix B shows 59 light-duty and medium-duty ZEV options anticipated for purchase on the NYS centralized contract in 2026.[2] The table in Appendix B indicates that, without a waiver for the requirements of SFL § 163-c, the list of eligible ZEVs would be diminished by roughly half of the options agencies would otherwise have. That level of restricted availability would seriously impede the State's progress toward its ZEV goals.

Notably, the number of larger, medium-, and heavy-duty ZEVs available on the market remains extremely limited, particularly when compared to the pool of vehicles eligible for the aforementioned IRA credit (which is capped at a 14,000-pound gross vehicle weight rating). Due to this relative lack of availability, a waiver for these larger vehicles is appropriate.

[1] Current as of 9/29/25
[2] https://ogs.ny.gov/contract-award-23166

Evaluation of ZEV availability for NYS agencies – Country of Final Assembly

The Buy America requirements of SFL § 163-c also mandate that final assembly take place in the US. Just over half of the State's light-duty fleet is comprised of minivans, full-size vans, and full-size pickups, which typically have fewer ZEV options than smaller vehicle types.

Appendix B illustrates that the share of full-size pickups on contract being assembled in the US is relatively high, and one of the two full-size vans on contract can be assembled in the US. However, neither of the minivans on contract is assembled in the US. Furthermore, fewer than half of the models that fall into the other vehicle categories are assembled in the US. Since roughly half of the light-duty fleet consists of these other categories, a waiver is necessary to ensure there are sufficient ZEV options for agencies to choose from.

Final assembly location will be a key component of the analysis in the 2027 waiver determination as federal tariff effects begin to materialize.

Updates to 2025 Mitigation Measures

To encourage and facilitate the purchase of ZEVs that comply with the final assembly provisions of SFL § 163-c, OGS outlined several measures in last year's waiver. Updates to those measures are provided below:

a. Establish a minimum purchase requirement of light-duty, non-emergency ZEVs with final assembly in the United States.

   According to the zero-emission vehicle conversion plans submitted to OGS by each agency, approximately 17,500 light-duty non-emergency vehicles are to be decarbonized by 2035. In calendar year 2025, pursuant to the existing 2025 waiver, 5% of light-duty ZEVs purchased by State agencies will be assembled in the United States.

   As of November 2025, agencies exceeded the 2025 percentage of 5%. To continue agencies' progress towards compliance with the U.S.-assembled requirement, this percentage will be increased to an ambitious but achievable 8% in 2026.

b. Require reasonable efforts to purchase vehicles assembled in the United States.

   OGS required attestation by State executive agencies confirming awareness of the 5% requirement above when making purchases and included a section on vehicle bids allowing purchasing agencies to notate a preference for ZEVs assembled in the United States.

   In 2026, the attestation will be updated to reflect the increased 8% requirement.

c. Conduct a market research study.

   This study will provide up-to-date insights on the current and future state of the ZEV market, including the availability of ZEVs made with components and parts sourced in whole or in substantial part in the United States; the availability of ZEVs that are finally assembled in the United States; the expected impact of procuring vehicles domestically

produced and assembled as opposed to those globally produced and assembled; and multiyear policy recommendations to implement SFL § 163-c.

OGS and NYSERDA have retained the services of a consultant who will complete this study in 2026.

d. Provide assistance to purchasing agencies.

To meet these minimum purchasing requirements, OGS has identified vehicles typically manufactured in the United States to assist purchasing agencies in procuring ZEVs that comply with the final assembly requirement. Additionally, OGS trained agency fleet managers to assist them in determining the final assembly location of ZEVs.

Electric vehicle supply equipment

State Finance Law § 163-c also requires that State agencies include a Buy America requirement in the purchase or lease of EVSE, commonly referred to as charging stations or charging infrastructure. EVSE is the equipment necessary to charge the batteries of ZEVs. Similarly to the ZEV evaluation, this waiver will leverage the industry standard federal Build America, Buy America ("BABA") EVSE requirements as a proxy for evaluation. It is important to note that the EVSE industry is more focused on BABA requirements in relation to Level 3 chargers than Level 2 chargers. To date, agencies have prioritized Level 2 charging.

There are four methods by which State agencies can procure EVSE: (i) as a project through the OGS-New York Power Authority ("NYPA") contract, (ii) as a project through OGS Design & Construction, (iii) using the Sourcewell piggyback contract, or (iv) through an individual agency procurement process.

The last two of those options should be considered insubstantial in terms of how EVSE procurement can occur at a large scale for the State fleet. The individual agency bid process is one that OGS actively discourages to maintain consistency and centralization of the EVSE network across the State fleet. This analysis will therefore focus on the first three methods of procurement.

The offerings available on contract via the aforementioned OGS-NYPA contract will encompass much of the State's EVSE purchases. These contracts serve as a primary mechanism for other agencies to use OGS ZEV conversion funding. When procuring EVSE through this contract, multiple evaluation criteria are considered, including:

- Availability to procure from NYPA's contractors and suppliers for the project
- Compatibility with the chosen network software provider to maintain consistency within and across agencies, to the extent practicable
- Eligibility for utility and equipment financial incentives

Review of the OGS-NYPA contract's current equipment options that meet the above criteria indicates that including compliance with BABA standards results in no Level 2 EVSE availability. Level 2 EVSE installation projects that are ineligible for incentives – often due to depleted funds or programmatic limitations – present an opportunity to incorporate Buy America compliance as a criterion, provided that cost and availability do not pose significant obstacles to the project. There are a few Level 3 BABA-compliant

units that meet the above requirements. In the small number of Level 3 EVSE installations planned for installation in 2026, NYPA and OGS will pursue these units, assuming cost and availability are not prohibitive to the project.

The second EVSE procurement mechanism outlined above is via a contract established by OGS Design & Construction. For this evaluation, the analysis will focus on the unit price contract that OGS created for EVSE build-out; however, it is important to note that broader design, bid, and build contracting is also possible. Similar to the NYPA contract, the unit price contract requires the EVSE to be eligible for certain incentives. Based upon the available information provided by the equipment manufacturers on the unit price contract, even when there are BABA-compliant chargers, they carry a roughly 25% cost premium. Additionally, the most prevalent BABA-compliant offerings are Level 3 chargers, which are not a priority for agencies at this time.

The remaining EVSE options are available through the Sourcewell piggyback contract, which includes five vendors: ChargePoint, CCGI, Flo, Livingston, and Nuvve. While a majority of these vendors offer at least one Level 2 and Level 3 BABA-compliant model each, the majority of chargers on the contract are not BABA-compliant. There are significantly limited Level 2 BABA-compliant charger offerings. As Level 2 chargers are the primary focus of State agencies at this time, a waiver is needed to ensure that there remains a diversity of options, allowing each agency to define its own requirements as they pertain to price, quality, network compatibility, and incentive eligibility. Agencies are encouraged to inquire about BABA-compliant chargers when purchasing EVSE through the State contract to determine if these models meet their needs.

Assessment of Public Comments

A Public Notice and Request for Comments announcing that the Commissioner of General Services was considering a waiver of the Buy American contracting requirements for State agencies as authorized by State Finance Law § 163-c(1)(b) was posted on the OGS website on December 3, 2025, with a deadline for comments of December 19, 2025. Comments were received from the Truck & Engine Manufacturers Association.

Comment 1: The Truck & Engine Manufacturers Association stated that there is currently an insufficient supply of parts and components to produce and assemble medium- and heavy-duty ZEV trucks in the United States in whole or substantial part. Key parts and components (e.g., lithium batteries) are manufactured outside of the United States, often where the raw materials needed for such components are available.

Response 1: While our analysis focused on the availability of light-duty ZEVs to meet the more pressing goal of having a 100% ZEV light-duty State fleet by 2035, OGS acknowledges that the availability of medium- and heavy-duty ZEVs is currently constrained. The waiver issued by the Commissioner for ZEVs will cover all vehicle classes (light, medium, and heavy). However, 8% of the light-duty ZEVs purchased in 2026 by agencies must have final assembly in the United States.

Comment 2: The Truck & Engine Manufacturers Association stated that there are currently similar insufficient supply of parts and components concerns related to manufacturing charging infrastructure, as evidenced by the Federal government issuing a Buy America Waiver for EV chargers beginning in March 2023.

Response 2: The Federal waiver referenced expired and was not renewed. There are still some constraints specific to New York State agencies (outlined in the waiver) that make full compliance with the Electric Vehicle Supply Equipment (EVSE) standards set forth in the law difficult. While the market for American-made charging infrastructure improves, OGS will prioritize and encourage the purchase of State Finance Law § 163-c-compliant EVSE when feasible and reasonable.

Comment 3: The Truck & Engine Manufacturers Association stated that requiring State agencies to purchase and lease ZEVs is not in the public interest because it reduces the availability of ZEVs for consumers, consequently undermining other State and National goals.

Response 3: OGS disagrees. New York State's goal is to lead by example in reducing transportation-related emissions. There is no evidence to back the claim that the State's purchase of ZEVs is so voluminous that it has precluded the public from purchasing ZEVs for themselves or that it has driven the price of ZEVs upward.

Conclusion

For the foregoing reasons, the Commissioner of OGS hereby issues a waiver, with mitigating measures, of the Buy America requirement pursuant to State Finance Law § 163-c(1)(b) with respect to State agency procurement of both ZEVs and EVSE for the calendar year 2026. This waiver reflects OGS's assessment that compliance with the Buy American requirements would not be in the public interest and that ZEVs and EVSE components and parts meeting the domestic-content and final-assembly standards of § 163-c cannot currently be produced, made, or assembled in the United States, its territories, or possessions, in sufficient and reasonably available quantities for State agency procurement needs in 2026.

As a mitigating measure, OGS will establish a minimum requirement that 8% of all light-duty ZEVs purchased by State agencies in 2026 be assembled in the United States. OGS and NYSERDA will collaborate with a consultant to conduct a study of the evolving vehicle market. OGS will continue supporting agencies through training and by updating internal procedures. Finally, OGS will prioritize and encourage the purchase of State Finance Law § 163-c-compliant EVSE when it meets agencies' needs and when availability and cost will not severely impede build-out.

Appendix A[3]

Make	Models meeting IRA parts/components requirements	Model year	On OGS contract
Acura	ZDX	2024–2026	
Cadillac	LYRIQ	2024–2026	X
Cadillac	OPTIQ	2025–2026	X
Cadillac	VISTIQ	2026	X
Chevrolet	Blazer EV	2024–2026	X
Chevrolet	Equinox EV	2024–2026	X
Chevrolet	Silverado EV	2025–2026	X
Chrysler	Pacifica PHEV	2024–2025	X
Ford	F-150 Lightning (FLASH trim)	2024–2025	X
Ford	F-150 Lightning (LARIAT trim)	2023–2025	X
Ford	F-150 Lightning (XLT trim)	2023–2025	X
Genesis	Electrified GV70	2026	
GMC	Sierra EV	2026	X
Honda	Prologue	2024–2026	X
Hyundai	IONIQ 5	2025	X
Hyundai	IONIQ 9	2026	X
Jeep	Wagoneer S	2025	X
Kia	EV6	2025	X
Kia	EV9	2026	X
Tesla	Cybertruck Dual Motor	2025–2026	
Tesla	Cybertruck Long Range	2025–2026	
Tesla	Cybertruck Single Motor	2025–2026	
Tesla	Model 3 Long Range All-Wheel Drive	2025–2026	
Tesla	Model 3 Long Range Rear-Wheel Drive	2025–2026	
Tesla	Model 3 Performance All-Wheel Drive	2025–2026	
Tesla	Model X All-Wheel Drive	2025	
Tesla	Model Y Long Range All-Wheel Drive	2025–2026	
Tesla	Model Y Long Range Rear-Wheel Drive	2025–2026	
Tesla	Model Y Performance All-Wheel Drive	2025–2026	

[3] List current as of 9/29/25 https://www.fueleconomy.gov/feg/tax2023.shtml

Appendix B

Vehicle type (~percent of light-duty fleet)	**ZEV options on OGS contract***	**IRA parts/components met** (as of Sept. '25)	**USA final assembly** (sometimes)
Cargo Vans and Box Trucks (23%)	2026 Ford E-Transit Van		x
	2026 Ram Promaster EV		
Full-Size MPV (8%)	2026 Hummer EV SUV		x
	2026 Cadillac Vistiq	x	
	2026 IONIQ 5 N		x
	2026 Hyundai IONIQ 9	x	x
	2026 Grand Cherokee 4xe		x
	2026 Kia EV9	x	x
	2026 Volvo EX90		
Full-Size Pickup (24%)	2026 Silverado EV		x
	2025 Ford F-150 Lightning	x	x
	2026 Hummer EV Pickup		x
	2026 Sierra EV Denali	x	x
	2026 Ram 1500 REV		x
Mid-size car (7%)	2026 IONIQ 6		
	2026 Nissan Leaf		
Mid-size MPV (7%)	2026 Audi Q4 45 e-tron		
	2026 Audi Q6 e-tron		
	2026 Audi Q4 e-tron		
	2026 Audi Q4 Sportback e-tron		
	2026 Audi SQ6 e-tron		
	2026 Audi Q8 e-tron quattro		
	2026 Blazer EV	x	
	2026 Cadillac Optiq	x	x
	2026 Honda Prologue	x	
	2026 Wagoneer "S"	x	
	2026 Sorento Plug-in Hybrid		
	2026 bZ Woodland		
	2026 Lincoln Corsair Grand Touring		x
	2026 Volvo EX40		
	2026 Volvo EX30		
Minivan (10%)	2026 Chrysler Pacifica Plug-in Hybrid	MY 24-25	
	2026 ID. Buzz		
Small car (8%)	2026 Prius Plug-in Hybrid		

	2027 Bolt EV		x
	Fiat 500e		
Small MPV (7%)	2026 Lyriq	x	x
	2026 Equinox EV	x	
	2026 Charger Daytona		
	2026 Dodge Hornet R/T Plug-in Hybrid		
	2026 Mustang Mach-E		x
	2026 Ford Escape Plug-in Hybrid		x
	2026 TUCSON Plug-in Hybrid		
	2026 KONA Electric		x
	2026 IONIQ 5	MY 25	x
	2026 Wrangler 4xe		x
	2026 Niro Plug-in Hybrid		
	2026 Niro EV		
	2026 Sportage Plug-in Hybrid		
	2026 Kia EV6	x	x
	2026 Mitsubishi Outlander Plug-in Hybrid		
	2026 Solterra		
	2026 bZ		
	2026 C-HR		
	2026 RAV4 Plug-in Hybrid		
	2026 ID.4		x
	2026 Subaru Trailseeker		
	2026 Subaru Uncharted		
	2026 Rogue Plug-in Hybrid		x

*Some vehicles are categorized based on assumption of the type they will be read by the State fleet database's VIN decoder.