NEW YORK BUSINESSES WILL BENEFIT FROM PASSAGE OF THE TROPICAL DEFORESTATION-FREE PROCUREMENT ACT

Introduction/Background

Earlier this year, legislation was introduced into New York's legislature (S.4859/A.5682) that would prevent the state of New York from procuring for its state institutions goods from a variety of agricultural sectors; palm oil, soy, beef, coffee, cocoa, wood pulp, paper, logs, and lumber if those goods are found to have inputs that were grown or harvested on tropical land that was cleared of primary forest, degraded, or subject to violations of Indigenous Peoples' rights after a specified cut-off date and after a transition period.

The bill, introduced by Senator Liz Krueger and Assembly Member Kenneth Zebrowski, is a procurement reform bill with a climate change focus and a corporate due diligence orientation as it calls for contractor oversight of its supply chain to ensure that forests are not cut down in the production of the identified goods – a select group of products that are prime drivers in deforestation and a direct cause of climate change.

The bill is also an economic development initiative as it creates incentives for small, medium sized, women and minority owned as well as companies that source goods using New York state products via a 10% price differential preference program.

While the focus of the bill is on curbing environmentally harmful business practices, the legislation, if enacted, not only will be beneficial to New York's fight against climate change but will have a direct and positive impact on the stimulation of New York business, particularly the small and medium sized businesses that drives job creation. Here are a number of reasons why.

The legislation helps level New York's competitive landscape.

Knowing where your product inputs are coming from cost money. It requires creating a logistical tracking system consisting of numerous data points. Once the system is created, it also requires updating. It can be a significant investment.

Yet, many New York based companies have made that commitment as they believe it is the correct course of action to undertake. Some of those come from the sustainability community, as embodied in the hundreds of companies comprising the New York Sustainability Council but many do not. These companies have also shown that one can invest and still be profitable.

These companies are at a competitive disadvantage with regard to their sectoral competitors who do not take steps to reduce the climate and forest impacts of their products. While it depends on the specific sector, the competitive disadvantage can be significant. S. 4859/A. 5682, by requiring the creation and maintenance of a contractor due diligence system for all suppliers would help level the economic playing field by eliminating this cost differentiator potentially providing state purchasers with greater choice of product.

The legislation will create opportunities for small and medium sized business growth.

Multinational corporations, many of whose investment, tax payment and job creation efforts occur outside of New York, will not be the greatest beneficiaries of the legislation. Rather, small and medium sized businesses will benefit disproportionately from passage of the bill as they are traditionally quicker to be able to respond to new conditions. Many of them also focus on utilizing sourcing and supply chain activities as reputational denominators for their consumers.

This small business focus is important. The Small Business Association estimates that 98% of all U.S. companies are small businesses. They create two-thirds of all jobs in the U.S. and are responsible for 44% of all U.S. economic activity. In New York, the Federal Small Business Administration estimates that 98% of all New York business are small business and 53% of the state's workforce comes from that sector.

But, despite the preponderance of small businesses in the state, procurement statistics do not reflect the same economic distribution. According to SBA, women and minority owned firms in New York make up roughly 26% of all private companies in New York. Yet, according to the state, these firms were awarded $3billion in contracts in 2022, out of over $29billion let by the state; roughly 10% of the total. The bill's price incentive program will help bridge that gap.

The Legislation will create business opportunities to New York's agricultural sector

The bill focuses on an initial list of agricultural products including four – beef, soy, timber and pulp and paper – where there is production in New York itself. A number of them are local growth industries, especially soybean production. By focusing the bill on products grown in tropical forests, the bill essentially makes it harder to import these products into New York and to the extent that these imports are either bought by the state (through local contractors) or sold in the general market, a void will occur that can be filled by locally produced goods, like soy, beef, timber, pulp and paper. This is a direct benefit to New York's economy.

Conclusion

Passage of S. 4859/A. 5682 simply makes sense. For a relatively small increase in regulatory requirements, the bill would help address four key issues facing New York State; climate change, effective procurement, minority and women owned business growth and private sector economic development. It is good for New York State and for New Yorkers.