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| |  | | --- | |  | | OGS Logo | |  | | --- | |  | | |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | [**Home**](http://www.ogs.state.ny.us/default.asp) |  | [**Contact Us**](mhtml:https://stars.aashe.org/media/secure/263/2/44/324/NYS%20OGS%20-%20NYS%20Finance%20Law%2C%20Article%20XI%2C%20State%20Purchasing.mht!https://www3.ogs.state.ny.us/contactUs/default.asp?contact=customer.service) |  | [**PSG Search**](http://www.ogs.state.ny.us/Purchase/Search/default.asp) |  | [**Site Map**](http://www.ogs.state.ny.us/sitemap.html) |  |  | | --- | | | [Procurement Services Home Page](http://www.ogs.state.ny.us/purchase/default.asp) | [Commodities](http://www.ogs.state.ny.us/purchase/spg/lists/commodty.asp) | [Information Technology](http://www.ogs.state.ny.us/purchase/snt/lists/infotech.asp) | [Services](http://www.ogs.state.ny.us/purchase/snt/lists/services.asp) | [Telecommunications](http://www.ogs.state.ny.us/purchase/snt/lists/telecom.asp) | |  |  | | --- | |  | | |  | | --- | | **NYS Finance Law, Article XI, State Purchasing** | | |  | | --- | | **State Finance**  ARTICLE XI  STATE PURCHASING  Section 160. Definitions.  161. State procurement council.  162. Preferred sources.  163. Purchasing services and commodities.  163-a. Vendor preparation of specifications for technology  procurements; prohibitions.  163-b. Environmentally-sensitive cleaning and maintenance  products.  163-c. Centralized procurement contract fee.  164. Exemptions.  165. Purchasing restrictions.  166. Requirements for financed equipment acquisition or  financed creation or improvement of information  technology systems and related research and  development.  167. Transfer and disposal of personal property.  168. The management of surplus computer equipment.  § 160. Definitions. As used in this article, the following terms shall  have the following meanings unless specified otherwise:  1. "Centralized contract" means any contract for the purchase of  commodities or services, established or approved by the commissioner of  general services as meeting the state's requirements including, but not  limited to, any contract let by the federal government, other state or  local governments or purchasing consortia.  2. "Commissioner" means the commissioner of general services.  3. "Commodity" or "commodities" means, except with respect to  contracts for state printing, material goods, supplies, products,  construction items or other standard articles of commerce other than  technology which are the subject of any purchase or other exchange.  4. "Construction item" means any item or material used in construction  and which is procured directly by a state agency or by a person other  than a municipality under contract with a state agency.  5. "Costs" as used in this article shall be quantifiable and may  include, without limitation, the price of the given good or service  being purchased; the administrative, training, storage, maintenance or  other overhead associated with a given good or service; the value of  warranties, delivery schedules, financing costs and foregone opportunity  costs associated with a given good or service; and the life span and  associated life cycle costs of the given good or service being  purchased. Life cycle costs may include, but shall not be limited to,  costs or savings associated with construction, energy use, maintenance,  operation, and salvage or disposal.  6. "Price" unless otherwise specified means the amount of money set as  consideration for the sale of a commodity or service and may include,  but is not limited to, when applicable and when specified in the  solicitation, delivery charges, installation charges and other costs.  7. "Service" or "services" means, except with respect to contracts for  state printing, the performance of a task or tasks and may include a  material good or a quantity of material goods, and which is the subject  of any purchase or other exchange. For the purposes of this article,  technology shall be deemed a service. Services, as defined in this  article, shall not apply to those contracts for architectural,  engineering or surveying services, or those contracts approved in  accordance with article eleven-B of this chapter.  8. "Small business concern" or "small business" means a business which  is resident in this state, independently owned and operated, not  dominant in its field and employs one hundred or less persons.  9. "State agency" or "state agencies" means all state departments,  boards, commissions, offices or institutions but excludes, however, for  the purposes of subdivision five of section three hundred fifty-five of  the education law, the state university of New York and excludes, for  the purposes of subdivision a of section sixty-two hundred eighteen of  the education law, the city university of New York. Furthermore, such  term shall not include the legislature or the judiciary.  10. "Technology" means either a good or a service or a combination  thereof, that results in a technical method of achieving a practical  purpose or in improvements in productivity. Goods may be either new or  used.  § 161. State procurement council. 1. a. The state procurement council  shall continuously strive to improve the state's procurement process.  Such council shall consist of nineteen members, including the  commissioner, the state comptroller, the director of the budget and the  commissioner of economic development, or their respective designees;  seven members who shall be the heads of other large and small state  agencies chosen by the governor, or their respective designees; and  eight at large members appointed as follows: three appointed by the  temporary president of the senate, one of whom shall be a representative  of local government and one of whom shall be a representative of private  business; three appointed by the speaker of the assembly, one of whom  shall be a representative of local government and one of whom shall be a  representative of private business; one appointed by the minority leader  of the senate; and, one appointed by the minority leader of the  assembly; and two non-voting observers appointed as follows: one  appointed by the temporary president of the senate and one appointed by  the speaker of the assembly. The non-voting observers shall be provided,  contemporaneously, all documentation and materials distributed to  members. The council shall be chaired by the commissioner and shall meet  at least quarterly.  b. The at large members shall each serve a term of three years;  provided, however, that for their initial appointments, the temporary  president of the senate and the speaker of the assembly shall each  designate one member to serve a term of one year, one member to serve a  term of two years and one member to serve a term of three years. Any  vacancy among the at large members shall be filled by appointment  pursuant to paragraph a of this subdivision for the unexpired balance of  the term. The non-voting observers shall each serve a term of three  years. All the initial appointments made pursuant to this section shall  be deemed to have been made and to have been effective for all purposes  on the fourth day of June, nineteen hundred ninety-six.  c. The members of the council shall serve without compensation, except  that each of them shall be allowed the necessary and actual expenses  incurred in the performance of any of their duties hereunder.  d. The council may conduct any business authorized herein when a  quorum of the members are represented in session.  2. The council shall:  a. Evaluate and make recommendations to the commissioner for the  development of specifications for commodities and services to be  acquired by or for state agencies through centralized contracts,  including, but not limited to, evaluations and recommendations on  minimum purchase quantities and standards for quality, function and  utility;  b. Establish and maintain guidelines which, in the manner provided by  this article, enable state agencies to acquire products directly from  vendors or suppliers other than those participating in a centralized  contract when such products are not required by this article to be  acquired from a preferred source and when such products are available in  substantially similar function, form or utility and at prices or other  terms more economically beneficial for the purposes of the acquiring  state agency;  c. Identify to the commissioner any deficiencies in products or  services made available to state agencies through centralized contracts,  including, at the discretion of the council, matters relating to  specifications developed and employed for procurement of products or  services through centralized contracts;  d. Establish and, from time to time, amend guidelines concerning state  procurement and provide for the appropriate distribution and  dissemination of such guidelines and other information concerning all  matters relating to procurement of products, construction items or  services for state agencies;  e. Recommend to the commissioner necessary legislative changes or  modifications to existing or proposed rules, regulations and procedures  which would simplify, accelerate or otherwise improve the state's  procurement process and make specific recommendations to the  commissioner by September thirtieth, nineteen hundred ninety-five for  the improvement of the New York state printing and public documents law;  f. Act as a clearinghouse for the purpose of identification of  potential cost reductions and other efficiencies through the combination  of similar procurement requirements of state agencies;  g. Consult with and advise the commissioner on strategic technology  investments that will facilitate electronic access to the terms and  conditions of existing procurement contracts, promote electronic  commerce including, but not limited to, payment to vendors, promote and  enhance the efficiency of the procurement of products and services by or  for state agencies and produce useful information that supports state  procurement operations, management, analysis and decision making  including, but not limited to, data concerning the status and use of  procurement contracts and the number and type of contracts and award  recipients;  h. Establish and, from time to time, amend guidelines for purchases of  commodities, by the commissioner or state agencies. Such guidelines  shall ensure the wise and prudent use of public money in the best  interest of the taxpayers of the state; and guard against favoritism,  improvidence, extravagance, fraud and corruption;  i. Establish and, from time to time, amend guidelines for the  procurement of services and technology in accordance with the provisions  of this article. Such guidelines shall ensure the wise and prudent use  of public money in the best interest of the taxpayers of the state;  guard against favoritism, improvidence, extravagance, fraud and  corruption; and ensure that service contracts are awarded on the basis  of best value, including, but not limited to, the following criteria:  quality, cost, and efficiency;  j. Consult with and advise the commissioner on new opportunities to  acquire commodities and services including, but not limited to, regional  or statewide equipment or facility maintenance services, professional  services, coordination and cooperation with other centralized purchasing  entities, and coordination of reuse of surplus property;  k. Report by December thirty-first, nineteen hundred ninety-five and  thereafter biennially to the governor, the legislature and the director  of the budget, the significant findings of the council including, but  not limited to, substantial savings generated by council initiatives and  the recommendations of the council concerning the state's procurement  practices; and  l. Undertake other related activities as are necessary to effectuate  this article including the development of a strategic plan for the  improvement of state procurement.  m. Establish and, from time to time, amend guidelines with respect to  publishing by state agencies of quarterly listings of projected  procurements having a value greater than five thousand dollars but less  than fifteen thousand dollars in the procurement opportunities  newsletter established by article four-C of the economic development  law.  3. The commissioner may, when he or she deems it necessary to  implement the provisions and intent of this article, adopt  recommendations made by the council and may, at the request of the state  procurement council, promulgate rules and regulations pursuant to the  state administrative procedure act to give effect to such  recommendations. When the commissioner adopts recommendations made by  the council but does not promulgate rules and regulations implementing  such recommendations, the commissioner shall publish said  recommendations or a summary thereof in the state register. If the  commissioner modifies or rejects any recommended rule or regulation, he  or she shall notify the council providing a written explanation thereof.  4. The commissioner shall report to the governor, the legislature and  the director of the budget by December thirty-first, nineteen hundred  ninety-five and thereafter annually on any modifications to or  rejections of the rules and regulations proposed by the council.  5. Nothing in this section shall be deemed to alter, supersede, modify  or amend any provision of this article which establishes preferential  status for any producer or supplier of commodities or services.  § 162. Preferred sources. \* 1. Purpose. To advance special social and  economic goals, selected providers shall have preferred source status  for the purposes of procurement in accordance with the provisions of  this section. Procurement from these providers, except those defined in  paragraph f of subdivision two of this section, shall be exempted from  the competitive procurement provisions of section one hundred  sixty-three of this article and other competitive procurement statutes.  Such exemption shall apply to commodities produced, manufactured or  assembled, including those repackaged to meet the form, function and  utility required by state agencies, in New York state and, where so  designated, services provided by those sources in accordance with this  section.  \* NB Effective until September 1, 2008  \* 1. Purpose. To advance special social and economic goals, selected  providers shall have preferred source status for the purposes of  procurement in accordance with the provisions of this section.  Procurement from these providers shall be exempted from the competitive  procurement provisions of section one hundred sixty-three of this  article and other competitive procurement statutes. Such exemption shall  apply to commodities produced, manufactured or assembled, including  those repackaged to meet the form, function and utility required by  state agencies, in New York state and, where so designated, services  provided by those sources in accordance with this section.  \* NB Effective September 1, 2008  2. Preferred status. Preferred status as prescribed in this section  shall be accorded to:  a. Commodities produced by the department of correctional services'  correctional industries program and provided to the state pursuant to  subdivision two of section one hundred eighty-four of the correction  law;  b. Commodities and services produced by any qualified charitable  non-profit-making agency for the blind approved for such purposes by the  commissioner of the office of children and family services;  c. Commodities and services produced by any special employment program  serving mentally ill persons, which shall not be required to be  incorporated and which is operated by facilities within the office of  mental health and is approved for such purposes by the commissioner of  mental health;  d. Commodities and services produced by any qualified charitable  non-profit-making agency for other severely disabled persons approved  for such purposes by the commissioner of education, or incorporated  under the laws of this state and approved for such purposes by the  commissioner of education;  e. Commodities and services produced by a qualified veterans' workshop  providing job and employment-skills training to veterans where such a  workshop is operated by the United States department of veterans affairs  and is manufacturing products or performing services within this state  and where such workshop is approved for such purposes by the  commissioner of education; or  \* f. Commodities provided by any qualified apparel manufacturer and  contractor on the special September eleventh bidders registry, as added  by section three hundred forty-nine of the labor law, approved for such  purposes by the commissioner of labor, provided, however, that nothing  in this paragraph shall affect or displace the preferences and  priorities established in paragraphs a, b, c, d and e of this  subdivision.  \* NB Repealed September 1, 2008  \* NB There are 2 par f's  \* f. Commodities and services produced by any qualified charitable  non-profit-making workshop for veterans approved for such purposes by  the commissioner of education, or incorporated under the laws of this  state and approved for such purposes by the commissioner of education.  \* NB There are 2 par f's  3. Public list of services and commodities provided by preferred  sources.  a. By December thirty-first, nineteen hundred ninety-five, the  commissioner, in consultation with the commissioners of correctional  services, social services, mental health and education, shall prepare a  list of all commodities and services that are available and are being  provided as of said date, for purchase by state agencies, public benefit  corporations or political subdivisions from those entities accorded  preference or priority status under this section. Such list may include  references to catalogs and other descriptive literature which are  available directly from any provider accorded preferred status under  this section. The commissioner shall make this list available to  prospective vendors, state agencies, public benefit corporations,  political subdivisions and other interested parties. Thereafter, new or  substantially different commodities or services may only be made  available by preferred sources for purchase by more than one state  agency, public benefit corporation or political subdivision after  addition to said list.  b. After January first, nineteen hundred ninety-six, upon the  application of the commissioner of correctional services, the  commissioner of social services, the commissioner of mental health or  the commissioner of education, or a non-profit-making facilitating  agency designated by one of the said commissioners pursuant to paragraph  e of subdivision six of this section, the state procurement council may  recommend that the commissioner: (i) add commodities or services to, or  (ii) in order to insure that such list reflects current production  and/or availability of commodities and services, delete at the request  of a preferred source, commodities or services from, the list  established by paragraph a of this subdivision. The council may make a  non-binding recommendation to the relevant preferred source to delete a  commodity or service from such list. Additions may be made only for new  services or commodities, or for services or commodities that are  substantially different from those reflected on said list for that  provider. The decision to recommend the addition of services or  commodities shall be based upon a review of relevant factors as  determined by the council including costs and benefits to be derived  from such addition and shall include an analysis by the office of  general services conducted pursuant to subdivision six of this section.  Unless the state procurement council shall make a recommendation to the  commissioner on any such application within one hundred twenty days of  receipt thereof, such application shall be deemed recommended. In the  event that the state procurement council shall deny any such  application, the commissioner or non-profit-making agency which  submitted such application may, within thirty days of such denial,  appeal such denial to the commissioner of general services who shall  review all materials submitted to the state procurement council with  respect to such application and who may request such further information  or material as is deemed necessary. Within sixty days of receipt of all  information or materials deemed necessary, the commissioner shall render  a written final decision on the application which shall be binding upon  the applicant and upon the state procurement council.  c. The list maintained by the office of general services pursuant to  paragraph a of this subdivision shall be revised as necessary to reflect  the additions and deletions of commodities and services approved by the  state procurement council.  \* d. Paragraphs a, b and c of this subdivision shall not apply to  commodities provided by any qualified apparel manufacturer and  contractor on the special September eleventh bidders registry, as added  by section three hundred forty-nine of the labor law, or approved for  such purposes by the commissioner of labor. The commissioner of labor  shall periodically provide the commissioner of general services with the  special September eleventh bidders registry, as added by section three  hundred forty-nine of the labor law, of qualified apparel manufacturers  and contractors. The commissioner of labor shall also make the registry  available upon request to other state agencies, public benefit  corporations, public authorities, and, if requested, to political  subdivisions.  \* NB Repealed September 1, 2008  4. Priority accorded preferred sources. Except as provided in the New  York state printing and public documents law, priority among preferred  sources shall be accorded as follows:  a. (i) When commodities are available, in the form, function and  utility required by a state agency, public authority, commission, public  benefit corporation or political subdivision, said commodities must be  purchased first from the department of correctional services'  correctional industries program;  (ii) When commodities are available, in the form, function and utility  required by, a state agency or political subdivision or public benefit  corporation having their own purchasing agency, and such commodities are  not available pursuant to subparagraph (i) of this paragraph, said  commodities shall then be purchased from approved charitable  non-profit-making agencies for the blind;  (iii) When commodities are available, in the form, function and  utility required by, a state agency or political subdivision or public  benefit corporation having their own purchasing agency, and such  commodities are not available pursuant to subparagraphs (i) and (ii) of  this paragraph, said commodities shall then be purchased from a  qualified non-profit-making agency for other severely disabled persons,  a qualified special employment program for mentally ill persons, or a  qualified veterans' workshop;  b. When services are available, in the form, function and utility  required by, a state agency or political subdivision or public benefit  corporation having their own purchasing agency, equal priority shall be  accorded the services rendered and offered for sale by qualified  non-profit-making agencies for the blind and those for the other  severely disabled, by qualified special employment programs for mentally  ill persons and by qualified veterans' workshops. In the case of  services:  (i) state agencies or political subdivisions or public benefit  corporations having their own purchasing agency shall make reasonable  efforts to provide a notification describing their requirements to those  preferred sources, or to the facilitating entity identified in paragraph  e of subdivision six of this section, which provide the required  services as indicated on the official public list maintained by the  office of general services pursuant to subdivision three of this  section;  (ii) if, within ten days of the notification required by subparagraph  (i) of this paragraph, one or more preferred sources or facilitating  entities identified in paragraph e of subdivision six of this section  submit a notice of intent to provide the service in the form, function  and utility required, said service shall be purchased in accordance with  this section. If more than one preferred source or facilitating entity  identified in paragraph e of subdivision six of this section submits  notification of intent and meets the requirements, costs shall be the  determining factor for purchase among the preferred sources;  (iii) if, within ten days of the notification required by subparagraph  (i) of this paragraph, no preferred source or facilitating entity  identified in paragraph e of subdivision six of this section indicates  intent to provide the service, then the service shall be procured in  accordance with section one hundred sixty-three of this article. If,  after such period, a preferred source elects to bid on the service,  award shall be made in accordance with section one hundred sixty-three  of this article or as otherwise provided by law.  c. For the purposes of commodities and services produced by special  employment programs operated by facilities approved or operated by the  office of mental health, facilities within the office of mental health  shall be exempt from the requirements of subparagraph (i) of paragraph a  of this subdivision. When such requirements of the office of mental  health cannot be met pursuant to subparagraph (ii) or (iii) of paragraph  a of this subdivision, or paragraph b of this subdivision, the office of  mental health may purchase commodities and services which are  competitive in price and comparable in quality to those which could  otherwise be obtained in accordance with this article, from special  employment programs operated by facilities within the office of mental  health or other programs approved by the office of mental health.  \* 4-a. Priority in purchasing requirements for apparel or textiles. a.  Definitions. As used in this section, the following terms shall have the  following meanings:  (i) "Apparel" or "textiles" shall mean all articles of clothing or  goods produced by weaving, knitting, or felting or any similar  production processes for such articles of clothing and shall include all  goods produced by the apparel industry as defined by subdivision (c) of  section three hundred forty of the labor law.  (ii) "State" shall mean any New York state agency, department, board,  bureau, commission, division, or any public benefit corporation or  public authority a majority of whose members are appointed by the  governor.  b. Notwithstanding anything to the contrary, political subdivisions  may adopt and apply the priority established herein by specifically  including the provisions of this subdivision in their bid  specifications.  c. Conditions for participation in certain state contracts. In the  event the state, as defined in subparagraph (ii) of paragraph a of this  subdivision, seeks to purchase apparel or textiles pursuant to a  competitive bid pursuant to section one hundred sixty-three of this  article or other applicable competitive procurement statutes, the  following additional conditions shall apply:  (i) the bid shall include a statement that a state agency shall not  enter into a contract to purchase or obtain for any purpose any apparel  from a bidder unable or unwilling to provide documentation as part of  its bid:  (A) attesting that such apparel was manufactured in compliance with  all applicable labor and occupational safety laws, including, but not  limited to, child labor laws, wage and hour laws and workplace safety  laws;  (B) stating, if known, the name and address of each subcontractor to  be utilized; and  (C) stating, if known, all manufacturing plants utilized by the bidder  or subcontractor.  (ii) manufacturers and contractors identified on the special September  eleventh bidders registry, as added by section three hundred forty-nine  of the labor law, shall be a preferred source for purposes of a  competitive bid and the associated contract award for apparel or textile  procurements where the price bid by such participating qualified  registrant bidder is not greater than fifteen percent more than the  lowest price bid by an otherwise responsive and responsible bidder.  Where there is more than one participating qualified registrant bidder,  the state shall make the contract award based upon the lowest price bid  among such bidders. For purposes of this subdivision, such preferred  source status shall be applied to each item or product for which the  bidder proposes to utilize a manufacturing location registered pursuant  to section three hundred forty-nine of the labor law.  (iii) where no qualified bidders under subparagraph (ii) of this  paragraph participate in the competitive bid for the specified apparel  or textiles the state shall award the contract to the otherwise lowest  responsive and responsible bidder pursuant to section one hundred  sixty-three of this article or other applicable competitive procurement  statutes.  d. Waiver. The provisions of this section may be waived by the head of  any state agency, department, board, bureau, commission, division, or  any public benefit corporation or public authority a majority of whose  members are appointed by the governor where it is determined in writing  and included in the procurement record that it is in the best interests  of the state to do so.  \* NB Repealed September 1, 2008  5. Prices charged by the department of correctional services. The  prices to be charged for commodities produced by the department of  correctional services' correctional industries program shall be  established by the commissioner of correctional services in accordance  with section one hundred eighty-six of the correction law.  a. The prices established by the commissioner of correctional services  shall be based upon costs as determined pursuant to this subdivision,  but shall not exceed a reasonable fair market price determined at or  within ninety days before the time of sale. Fair market price as used  herein means the price at which a vendor of the same or similar product  or service who is regularly engaged in the business of selling such  product or service offers to sell such product or service under similar  terms in the same market. Costs shall be determined in accordance with  an agreement between the commissioner of correctional services and the  director of the budget.  b. A purchaser of any such product or service may, at any time prior  to or within thirty days of the time of sale, appeal the purchase price  in accordance with section one hundred eighty-six of the correction law,  on the basis that it unreasonably exceeds fair market price. Such an  appeal shall be decided by a majority vote of a three-member price  review board consisting of the director of the budget, the commissioner  of correctional services and the commissioner or their representatives.  The decision of the review board shall be final.  6. Prices charged by agencies for the blind, other severely disabled  and veterans' workshops.  a. Except with respect to the department of correctional services'  correctional industries program, it shall be the duty of the  commissioner to determine, and from time to time review, the prices of  all commodities and to approve the price of all services provided by  preferred sources as specified in this section offered to state  agencies, political subdivisions or public benefit corporations having  their own purchasing office.  b. In determining and revising the prices of such commodities or  services, consideration shall be given to the reasonable costs of labor,  materials and overhead necessarily incurred by such preferred sources  under efficient methods of procurement, production, performance and  administration; however, the prices of such products and services shall  be as close to prevailing market price as practicable, but in no event  greater than fifteen percent above, the prevailing market prices among  responsive offerors for the same or equivalent commodities or services.  c. Such qualified charitable non-profit-making agencies for the blind  and other severely disabled may make purchases of materials, equipment  or supplies, except printed material, from centralized contracts for  commodities in accordance with the conditions set by the office of  general services; provided that the qualified charitable  non-profit-making agency for the blind or other severely disabled shall  accept sole responsibility for any payment due the vendor.  d. Such qualified charitable non-profit-making agencies for the blind  and other severely disabled may make purchases of materials, equipment  and supplies from the department of correctional services' correctional  industries program, directly from the correctional industries program  administered by the commissioner of correctional services, subject to  such rules as may be established from time to time pursuant to the  correction law; provided that the qualified charitable non-profit-making  agency for the blind or other severely disabled shall accept sole  responsibility for any payment due the department of correctional  services.  e. The state commissioner of social services shall appoint the New  York state commission for the blind and visually handicapped, or other  non-profit-making agency, other than the agency representing the other  severely disabled, to facilitate the distribution of orders among  qualified non-profit-making charitable agencies for the blind. The state  commissioner of education shall appoint a non-profit-making agency,  other than the agency representing the blind, to facilitate the  distribution of orders among qualified non-profit-making charitable  agencies for the other severely disabled and the veterans' workshops.  The state commissioner of mental health shall facilitate the  distribution of orders among qualified special employment programs  operated or approved by the office of mental health serving mentally ill  persons.  f. The commissioner may request the state comptroller to conduct  audits and examinations to be made of all records, books and data of any  agency for the blind or the other severely disabled, any special  employment program for mentally ill persons or any veterans' workshops  qualified under this section to determine the costs of manufacture or  the rendering of services and the manner and efficiency of production  and administration of such agency or special employment program or  veterans' workshop with relation to any product or services purchased by  a state agency or political subdivision or public benefit corporation  and to furnish the results of such audit and examination to the  commissioner for such action as he or she may deem appropriate under  this section.  7. Partnering with preferred sources. The commissioner of the  appropriate appointing agency as identified in paragraph e of  subdivision six of this section, shall conduct one or more pilot studies  whereby a private vendor may be accorded preferred source status for  purposes of this section. The pilot studies shall seek to ascertain the  benefits of partnerships between private industry and those entities  accorded preferred source status as specified in this section. Preferred  source status under a partnering arrangement may only be accorded when a  proposal to a soliciting agency for commodities or services includes a  binding agreement with one or more of the entities accorded preferred  source status under this section. The binding agreement shall provide  that:  (i) The preferred source shall perform the majority of the work  necessary to such offering, and  (ii) The partnering proposal includes bona fide long term employment  opportunities for persons who could otherwise be new clients of an  entity previously accorded preferred source status herein, and  (iii) The partnering proposal offers the solicited services or  commodities at a price less than the price that otherwise would be  charged by a preferred source.  8. a. The commissioner of the appropriate appointing agency shall  report by December thirty-first, two thousand four, to the governor, the  chairperson of the senate finance committee, the chairperson of the  assembly ways and means committee and the director of the budget, the  results and findings of each pilot study conducted, pursuant to  subdivision seven of this section, and include recommendations for  improving partnering with preferred sources.  b. The council shall report to the governor, legislative fiscal  committees and the director of the budget by December thirty-first,  nineteen hundred ninety-five and thereafter annually, a separate list  concerning the denial of any application made pursuant to paragraph (b)  of subdivision three of this section, the reasons for such denial,  whether such denial was appealed to the commissioner, and the final  decision by the commissioner on such application.  9. The provisions of this section shall supersede inconsistent  provisions of any general, special or local law, or the provisions of  any charter.  \* § 163. Purchasing services and commodities. 1. Definitions. For the  purposes of this section, the following terms shall have the following  meanings unless otherwise specified:  a. "Consortium" means like entities which agree to collectively  purchase commodities at a lower price than would be otherwise achievable  through purchase by such entities pursuant to other provisions of this  article.  b. "Emergency" means an urgent and unexpected requirement where health  and public safety or the conservation of public resources is at risk.  c. "Responsible" or "responsibility" means the financial ability,  legal capacity, integrity, and past performance of a business entity and  as such terms have been interpreted relative to public procurements.  d. "Responsive" means a bidder or other offerer meeting the minimum  specifications or requirements as prescribed in a solicitation for  commodities or services by a state agency.  e. "Specification" or "requirement" means any description of the  physical or functional characteristics or the nature of a commodity or  construction item, any description of the work to be performed, the  service or products to be provided, the necessary qualifications of the  offerer,the capacity and capability of the offerer to successfully carry  out the proposed contract, or the process for achieving specific results  and/or anticipated outcomes or any other requirement necessary to  perform the work. It may include a description of any obligatory  testing, inspection or preparation for delivery and use, and may include  federally required provisions and conditions where the eligibility for  federal funds is conditioned upon the inclusion of such federally  required provisions and conditions. Specifications shall be designed to  enhance competition, ensuring the commodities or services of any offerer  are not given preference except where required by this article.  f. "Procurement record" means documentation of the decisions made and  the approach taken in the procurement process.  g. "Sole source" means a procurement in which only one offerer is  capable of supplying the required commodities or services.  h. "Single source" means a procurement in which although two or more  offerers can supply the required commodities or services, the  commissioner or state agency, upon written findings setting forth the  material and substantial reasons therefor, may award a contract or  non-technical amendment to a contract to one offerer over the other. The  commissioner or state agency shall document in the procurement record  the circumstances leading to the selection of the vendor, including the  alternatives considered, the rationale for selecting the specific vendor  and the basis upon which it determined the cost was reasonable.  i. "Lowest price" means the basis for awarding contracts for  commodities among responsive and responsible offerers.  j. "Best value" means the basis for awarding contracts for services to  the offerer which optimizes quality, cost and efficiency, among  responsive and responsible offerers. Such basis shall reflect, wherever  possible, objective and quantifiable analysis.  2. Operating principles. The objective of state procurement is to  facilitate each state agency's mission while protecting the interests of  the state and its taxpayers and promoting fairness in contracting with  the business community. The state's procurement process shall be guided  by the following principles:  a. To promote purchasing from responsive and responsible offerers,  including small businesses.  b. To be based on clearly articulated procedures which require a clear  statement of product specifications, requirements or work to be  performed; a documentable process for soliciting bids, proposals or  other offers; a balanced and fair method, established in advance of the  receipt of offers, for evaluating offers and awarding contracts;  contract terms and conditions that protect the state's interests and  promote fairness in contracting with the business community; and a  regular monitoring of vendor performance.  c. To encourage the investment of the private and not-for-profit  sectors in New York state by making reasonable efforts to ensure that  offerers are apprised of procurement opportunities; by specifying the  elements of a responsive bid and disclosing the process for awarding  contracts including, if applicable, the relative importance and/or  weight of cost and the overall technical criterion for evaluating  offers; and by ensuring the procurement is conducted accordingly.  d. To ensure that contracts are awarded consistent with the best  interests of the state.  e. To ensure that officers and employees of state entities do not  benefit financially or otherwise from the award of state contracts.  f. To ensure regular and critical review of the efficiency, integrity  and effectiveness of the overall process.  3. General provisions for purchasing commodities.  a. State agency procurement practices for commodities shall  incorporate the following:  (i) The purchase of commodities by state agencies including the office  of general services shall be conducted in a manner which accords first  priority to preferred sources in accordance with the provisions of this  article, second priority to centralized contracts, third priority to  agency or multi-agency established contracts and fourth priority to  other means of contracting.  (ii) Commodities contracts shall be awarded on the basis of lowest  price to a responsive and responsible offerer; or, in the case of  multiple awards, in accordance with paragraph c of subdivision ten of  this section.  (iii) The commissioner shall be responsible for the standardization  and centralized purchase of commodities required by state agencies in a  manner which maximizes the purchasing value of public funds.  (iv) The commissioner is authorized to permit any officer, body or  agency of the state or of a political subdivision or a district therein,  or fire company or volunteer ambulance service as such are defined in  section one hundred of the general municipal law, to make purchases of  commodities through the office of general services' centralized  contracts, pursuant to the provisions of section one hundred four of the  general municipal law. The commissioner is authorized to permit any  county extension service association as authorized under subdivision  eight of section two hundred twenty-four of the county law, or any  association or other entity as specified in and in accordance with  section one hundred nine-a of the general municipal law, or any other  association or entity as specified in state law, to make purchases of  commodities through the office of general services' centralized  contracts; provided, however, that such entity so empowered shall accept  sole responsibility for any payment due with respect to such purchase.  (v) Consistent with guidelines issued by the state procurement  council, state agencies may competitively purchase commodities procured  in accordance with this article in lieu of using centralized contracts  when the resultant price is less than the centralized contract price.  (vi) When justified by price, state agencies, and hospitals and  facilities managed and controlled by state agencies eligible pursuant to  section twenty-eight hundred three-a of the public health law, shall be  eligible to make purchases pursuant to guidelines issued by the state  procurement council from a consortium or comparable entity in lieu of  using centralized contracts for commodities.  (vii) The commissioner is authorized to enter into contracts pursuant  to the provisions of section twenty-eight hundred three-a of the public  health law.  (viii) The commissioner may permit and prescribe the conditions for,  (A) any association, consortium or group of privately owned or  municipal, federal or state owned or operated hospitals, medical  schools, other health related facilities or voluntary ambulance  services, which have entered into a contract and made mutual  arrangements for the joint purchase of commodities pursuant to section  twenty-eight hundred three-a of the public health law; (B) any  institution for the instruction of the deaf or of the blind listed in  section forty-two hundred one of the education law; (C) any qualified  non-profit-making agency for the blind approved by the commissioner of  social services; (D) any qualified charitable non-profit-making agency  for the severely disabled approved by the commissioner of education; (E)  any hospital or residential health care facility as defined in section  twenty-eight hundred one of the public health law; (F) any private  not-for-profit mental hygiene facility as defined in section 1.03 of the  mental hygiene law; and (G) any public authority or public benefit  corporation of the state, including the port authority of New York and  New Jersey and the interstate environmental commission, to make  purchases using centralized contracts for commodities. Such qualified  non-profit-making agencies for the blind and severely disabled may make  purchases from the department of correctional services' correctional  industries program subject to rules pursuant to the correction law.  b. The commissioner shall:  (i) determine, in cooperation with the state procurement council and  state agencies, the identity, form, function and utility of those  commodities which shall be made available on or through centralized  contracts. Criteria may include, but need not be limited to, the  availability of a volume discount, prior use of the commodity among  state agencies and the relative cost of establishing the contract, its  anticipated use and expected actual savings for the state. The  commissioner may also act as a broker for state agencies to procure  commodities.  (ii) determine the number and scope of centralized contracts for  commodities to be let during any period, including the letting of  multiple contracts to ensure the sufficient variety and uninterrupted  availability of commodities for state agency use.  (iii) maintain lists of firms which produce or manufacture or offer  for sale commodities in the form, function and utility required by state  agencies. The commissioner shall ensure such lists are updated  regularly. With the assistance of the department of economic development  and other state agencies, beginning on July first, two thousand one,  ensure the availability to all authorized purchasers of a centralized  list which identifies commodities offered by New York state's small  businesses and a centralized list which identifies commodities and  services offered by businesses certified pursuant to article fifteen-A  of the executive law. Such lists shall be updated semiannually and  designed to enable effective identification of New York state's small  businesses and businesses certified pursuant to article fifteen-A of the  executive law.  (iv) ensure the specification of commodities for centralized contracts  reflect the form, function and utility required by state agencies and  conform, wherever possible, to industry standards. Where necessary, the  commissioner may develop specifications for commodities. When not  otherwise forthcoming from a particular firm or industry, the  commissioner may request information from businesses for the purpose of  establishing or improving a specification. The office of general  services may assist agencies in developing specifications for  agency-procured commodity contracts when industry standards are not  available or appropriate. In all cases, specifications shall be  consistent with the requirements of state agencies.  (v) With the assistance of the department of economic development and  other state agencies, provide a training program once per year, in each  economic development region, as established in article eleven of the  economic development law, beginning January first, two thousand one, for  those businesses certified pursuant to article fifteen-A of the  executive law and those interested in becoming certified. Such training  program shall provide assistance with respect to participation as a  vendor in the procurement process, as established in this article.  (vi) With the assistance of the department of economic development and  other state agencies, provide training once per year for staff of each  state agency's minority and women business development office, or if an  agency does not have such an office, then an agency's representative.  Such training program shall consist of a meeting with such agencies'  representatives to inform each agency of how to encourage procurement of  commodities and services from businesses certified pursuant to article  fifteen-A of the executive law.  (vii) maintain a list of contractors which produce or manufacture or  offer for sale environmentally-sensitive cleaning and maintenance  products in the form, function and utility generally used by elementary  and secondary schools in accordance with specifications or guidelines  promulgated pursuant to section four hundred nine-i of the education  law.  (viii) review and consider prior to issuance of bid solicitations the  term of the proposed contract based on factors, including, but not  limited to; (A) the nature of the commodity, (B) the complexity of the  procurement, (C) the identity and type of purchasers, (D) the  suitability of the contract for adding additional contractors during the  term, and (E) the estimated contract value. This determination shall be  documented in the procurement record.  (ix) reasonably consider aggregate amount of public sales by potential  vendors.  (x) review and consider the feasibility of creating regional contracts  for commodities being procured by the state.  (xi) maintain a procurement record for each centralized contract  procurement identifying, with supporting documentation, decisions made  by the commissioner during the procurement process. The procurement  record shall include, but not be limited to, each contract amendment,  and the justification for each.  c. When commodities are not available in the form, function and  utility required by state agencies through preferred sources or  centralized contracts, a state agency may, independently or in  conjunction with other state agencies, procure commodities in accordance  with the provisions of this section. State agencies may maintain  listings of firms, including those certified pursuant to article  fifteen-A of the executive law, or may use the office of general  services' listing of firms and may request assistance from the office of  general services. It shall be the responsibility of state agencies to  periodically advise the office of general services of those  agency-procured commodities which, due to the frequency of purchase or  related factors, should be made available through centralized contracts.  d. The commissioner may make, or cause to be made by a duly authorized  representative, any investigation which he or she may deem proper for  acquiring the necessary information from a state agency for the exercise  of his or her powers and duties under this subdivision. For such  purposes the commissioner may subpoena and compel the attendance of  witnesses before him or her, or an authorized representative, and may  compel the production of books, papers, records or documents. The  commissioner or a duly authorized representative may take and hear  proofs and testimony and, for that purpose, the commissioner or the duly  authorized representative may administer oaths. In addition, the  commissioner or the duly authorized representative:  (i) Shall have access at all reasonable times to offices of state  agencies;  (ii) May examine all books, papers, records and documents in any such  state agency as pertain directly to the purchase, control or  distribution of commodities; and  (iii) May require any state agency to furnish such data, information  or statement as may be necessary.  4. General provisions for purchasing services. State agency  procurement practices for services shall incorporate the following:  a. The purchase of services by state agencies including the office of  general services shall be conducted in a manner which accords first  priority to preferred sources in accordance with the provisions of this  article when the services required are available in the form, function  and utility required by state agencies through a preferred source.  b. (i) Centralized contracts for services may be procured by the  office of general services at the request of state agencies and state  agencies may when such centralized contracts are in the form, function  or utility required by said agency, purchase from established  centralized contracts. The state procurement council may, from time to  time, require that state agencies procure services from certain  centralized contracts.  (ii) The commissioner shall:  (A) review and consider prior to issuance of bid solicitations the  term of the proposed contract based on factors, including, but not  limited to, (a) the nature of the service, (b) the complexity of the  procurement, (c) the identity and type of purchasers, (d) the  suitability of the contract for adding additional contractors during the  term, and (e) the estimated contract value. This determination shall be  documented in the procurement record.  (B) reasonably consider the aggregate amount of public sales by  potential vendors.  (C) review and consider the feasibility of creating regional contracts  for s  responsive and responsible offerer; or, in the case of multiple awards,  in accordance with paragraph c of subdivision ten of this section.  e. Any officer, body or agency of a political subdivision as defined  in section one hundred of the general municipal law or a district  therein, may make purchases of services through the office of general  services' centralized contracts for services, subject to the provisions  of section one hundred four of the general municipal law. The  commissioner may permit and prescribe the conditions for the purchase of  services through the office of general services' centralized contracts  for services by any public authority or public benefit corporation of  the state including the port authority of New York and New Jersey. The  commissioner is authorized to permit any public library, association  library, library system, cooperative library system, the New York  Library Association, and the New York State Association of Library  Boards or any other library except those which are operated by for  profit entities, to make purchases of services through the office of  general services' centralized contracts; provided, however, that such  entity so empowered shall accept sole responsibility for any payment due  with respect to such purchase.  g. All state agencies shall require all contractors, including  sub-contractors, that provide services for state purposes pursuant to a  contract, to submit an annual employment report for each contract for  services that includes for each employment category within the contract  the number of employees employed to provide services under the contract,  the number of hours they work and their total compensation under the  contract. Employment reports shall be submitted to the agency that  awarded the contract, the department of civil service and the department  of audit and control and shall be available for public inspection and  copying pursuant to section eighty-seven of the public officers law  provided that in disclosing such reports pursuant to the public officers  law, the agency making the disclosure shall redact the name or social  security number of any individual employee that is included in such  document.  5. Process for conducting state procurements. The process for  conducting state procurements for services and commodities shall be as  follows:  a. Determination of need. State agencies shall be responsible for  determining the need for a given service or commodity:  (i) For commodities, upon such determination of need, state agencies  shall ascertain whether the commodity is available in the form, function  and utility consistent with their needs from preferred sources and if  so, shall purchase said commodity from a preferred source in accordance  with the provisions of this article. If not so available, state agencies  shall determine whether the commodity is available in the form, function  and utility consistent with their needs on a centralized contract and if  so, except as provided in subparagraph (v) of paragraph a of subdivision  three of this section, shall purchase said commodity using the  centralized contract. If a commodity is not available in the form,  function and utility consistent with the needs of the state agency from  a preferred source or a centralized contract or as provided for in  subparagraph (v) of paragraph a of subdivision three of this section,  the state agency may procure the commodity independently or in  conjunction with another state agency in accordance with paragraph c of  subdivision three of this section.  (ii) For services, upon such determination of need, state agencies  shall ascertain whether the service is available in the form, function  and utility consistent with their needs from preferred sources and, if  so, shall purchase said service through the preferred source in  accordance with the provisions of this article. If not so available,  state agencies may:  (A) Purchase the service if it is available in the form, function and  utility consistent with their needs using an established centralized  contract procured by either the office of general services or another  state agency;  (B) Request that the office of general services procure such a  service, particularly with respect to those services having utility  and/or benefit to more than one state agency; or  (C) Procure the service independently or in conjunction with another  state agency.  b. The state procurement council may, from time to time, require state  agencies to procure certain services from centralized contracts.  6. Discretionary buying thresholds. Pursuant to guidelines established  by the state procurement council: the commissioner may purchase services  and commodities in an amount not exceeding eighty-five thousand dollars  without a formal competitive process; state agencies may purchase  services and commodities in an amount not exceeding fifty thousand  dollars without a formal competitive process; and state agencies may  purchase commodities or services from small business concerns or those  certified pursuant to article fifteen-A of the executive law, or  commodities or technology that are recycled or remanufactured, in an  amount not exceeding one hundred thousand dollars without a formal  competitive process.  6-a. Discretionary purchases. Notwithstanding the provisions of  subdivision two of section one hundred twelve of this chapter relating  to the dollar threshold requiring the state comptroller's approval of  contracts, the commissioner of general services may make purchases or  enter into contracts for the acquisition of commodities and services  having a value not exceeding eighty-five thousand dollars without prior  approval by any other state officer or agency in accordance with  procedures and requirements set forth in this article. Notwithstanding  the provisions of article four-C of the economic development law, the  commissioner of general services may make purchases or enter into  contracts for the acquisition of commodities and services having a value  not exceeding thirty thousand dollars without prior approval by any  other state officer or agency in accordance with procedures and  requirements set forth in this article.  6-b. Determination of threshold amount. For determination of threshold  amount purposes of determining whether a purchase is within the  discretionary thresholds established by subdivision six of this section,  the commissioner and state agencies shall consider the reasonably  expected aggregate amount of all purchases of the same commodities or  services to be made within the twelve-month period commencing on the  date of purchase. Purchases of services or commodities shall not be  artificially divided for the purpose of satisfying the discretionary  buying thresholds established by subdivision six of this section. A  change to or a renewal of a discretionary purchase shall not be  permitted if the change or renewal would bring the reasonably expected  aggregate amount of all purchases of the same commodities or services  from the same provider within the twelve-month period commencing on the  date of the first purchase to an amount greater than the discretionary  buying threshold amount.  7. Method of procurement. Consistent with the requirements of  subdivisions three and four of this section, state agencies shall select  among permissible methods of procurement including, but not limited to,  an invitation for bid, request for proposals or other means of  solicitation pursuant to guidelines issued by the state procurement  council. State agencies may accept bids electronically and may, for  technology contracts only, require electronic submission as the sole  method for the submission of bids for the solicitation, provided that  the agency has made a determination, which shall be documented in the  procurement record, that such method affords a fair and equal  opportunity for offerers to submit responsive offers. Except where  otherwise provided by law, procurements shall be competitive, and state  agencies shall conduct formal competitive procurements to the maximum  extent practicable. State agencies shall document the determination of  the method of procurement and the basis of award in the procurement  record. Where the basis for award is the best value offer, the state  agency shall document, in the procurement record and in advance of the  initial receipt of offers, the determination of the evaluation criteria,  which whenever possible, shall be quantifiable, and the process to be  used in the determination of best value and the manner in which the  evaluation process and selection shall be conducted.  8. Public notice. All procurements by state agencies in excess of  fifteen thousand dollars shall be advertised in the state's procurement  opportunities newsletter in accordance with article four-C of the  economic development law.  9. Soliciting and accepting offers. For purchases from sources other  than preferred sources and for purchases in excess of the discretionary  buying threshold established in subdivision six of this section:  a. The commissioner or a state agency shall select a formal  competitive procurement process in accordance with guidelines  established by the state procurement council and document its  determination in the procurement record. The process shall include, but  is not limited to, a clear statement of need; a description of the  required specifications governing performance and related factors; a  reasonable process for ensuring a competitive field; a fair and equal  opportunity for offerers to submit responsive offers; and a balanced and  fair method of award. Where the basis for the award is best value,  documentation in the procurement record shall, where practicable,  include a quantification of the application of the criteria to the  rating of proposals and the evaluation results, or, where not  practicable, such other justification which demonstrates that best value  will be achieved.  b. The solicitation shall prescribe the minimum specifications or  requirements that must be met in order to be considered responsive and  shall describe and disclose the general manner in which the evaluation  and selection shall be conducted. Where appropriate, the solicitation  shall identify the relative importance and/or weight of cost and the  overall technical criterion to be considered by a state agency in its  determination of best value.  c. Where provided in the solicitation, state agencies may require  clarification from offerers for purposes of assuring a full  understanding of responsiveness to the solicitation requirements. Where  provided for in the solicitation, revisions may be permitted from all  offerers determined to be susceptible of being selected for contract  award, prior to award. Offerers shall be accorded fair and equal  treatment with respect to their opportunity for discussion and revision  of offers. A state agency shall, upon request, provide a debriefing to  any unsuccessful offerer that responded to a request for proposal or an  invitation for bids, regarding the reasons that the proposal or bid  submitted by the unsuccessful offerer was not selected for an award. The  opportunity for an unsuccessful offerer to seek a debriefing shall be  stated in the solicitation, which shall provide a reasonable time for  requesting a debriefing.  d. All offers may be rejected. Where provided in the solicitation,  separable portions of offers may be rejected.  e. Every offer shall be firm and not revocable for a period of sixty  days from the bid opening, or such other period of time specified in the  solicitation to the extent not inconsistent with section 2-205 of the  uniform commercial code. Subsequent to such sixty day or other specified  period, any offer is subject to withdrawal communicated in a writing  signed by the offeror.  f. Prior to making an award of contract, each state agency shall make  a determination of responsibility of the proposed contractor which shall  supplement, as appropriate, but not supersede the determination of  responsibility that may be required pursuant to section one hundred  thirty-nine-k of this chapter.  g. A procurement record shall be maintained for each procurement  identifying, with supporting documentation, decisions made by the  commissioner or state agency during the procurement process. The  procurement record shall include, but not be limited to each contract  amendment and the justification for each.  10. Letting of contracts. Contracts for commodities shall be awarded  on the basis of lowest price to a responsive and responsible offerer.  Contracts for services shall be awarded on the basis of best value from  a responsive and responsible offerer. Multiple awards for services and  commodities shall be conducted in accordance with paragraph c of this  subdivision.  a. Selection and award shall be a written determination in the  procurement record made by the commissioner or a state agency in a  manner consistent with the provisions of the solicitation. In the event  two offers are found to be substantially equivalent, price shall be the  basis for determining the award recipient or, when price and other  factors are found to be substantially equivalent, the determination of  the commissioner or agency head to award a contract to one or more of  such bidders shall be final. The basis for determining the award shall  be documented in the procurement record.  b. (i) Single or sole source procurements for services or commodities,  or procurements made to meet emergencies arising from unforeseen causes,  may be made without a formal competitive process and shall only be made  under unusual circumstances and shall include a determination by the  commissioner or the state agency that the specifications or requirements  for said purchase have been designed in a fair and equitable manner. The  purchasing agency shall document in the procurement record, subject to  review by the state comptroller, the bases for a determination to  purchase from a single source or sole source, or the nature of the  emergency giving rise to the procurement.  (ii) State agencies shall minimize the use of single source  procurements and shall use single source procurements only when a formal  competitive process is not feasible. State agencies shall document in  the procurement record the circumstances and the material and  substantial reasons why a formal competitive process is not feasible.  The term of a single source procurement contract shall be limited to the  minimum period of time necessary to ameliorate the circumstances which  created the material and substantial reasons for the single source  award. Not later than thirty days after the contract award, state  agencies shall, for all single source procurement contracts, make  available for public inspection on the agency website, a summary of the  circumstances and material and substantial reasons why a competitive  procurement is not feasible. Any information which the contracting  agency is otherwise prohibited by law from disclosing pursuant to  sections eighty-seven and eighty-nine of the public officers law, shall  be redacted from the documentation published on the agency website.  c. The commissioner or state agency may elect to award a contract to  one or more responsive and responsible offerers provided, however, that  the basis for the selection among multiple contracts at the time of  purchase shall be the most practical and economical alternative and  shall be in the best interests of the state, and further provided that  the requirements set forth herein shall not preclude the commissioner  from establishing multiple award contracts for reasons including  increased opportunities for small businesses to participate in state  contracts.  d. It shall be in the discretion of the commissioner or state agency  to require a bond or other guarantee of performance, and to approve the  amount, form and sufficiency thereof.  e. The commissioner may authorize purchases required by state agencies  or other authorized purchasers by letting a contract pursuant to a  written agreement, or by approving the use of a contract let by any  department, agency or instrumentality of the United States government  and/or any department, agency, office, political subdivision or  instrumentality of any state or states. A state agency purchaser shall  document in the procurement record its rationale for the use of a  contract let by any department, agency or instrumentality of the United  States government or any department, agency, office, political  subdivision or instrumentality of any other state or states. Such  rationale shall include, but need not be limited to, a determination of  need, a consideration of the procurement method by which the contract  was awarded, an analysis of alternative procurement sources including an  explanation why a competitive procurement or the use of a centralized  contract let by the commissioner is not in the best interest of the  state, and the reasonableness of cost.  f. The commissioner is authorized to let centralized contracts, in  accordance with the procedures of this section, for joint purchasing by  New York state and any department, agency or instrumentality of the  United States government and/or any state including the political  subdivisions thereof; provided however that any entity incurring a  liability under such contract shall be responsible for discharging said  liability.  11. Reasonableness of results. It shall be the responsibility of the  head of each state agency to periodically sample the results of the  procurement process to test for reasonableness; to ensure that the  results withstand public scrutiny and that the quality and the price of  the purchase makes sense; and to ensure that purchasing is conducted in  a manner consistent with the best interests of the state.  12. Review by the office of the state comptroller. Review by the  office of the state comptroller shall be in accordance with section one  hundred twelve of this chapter.  13. Technological procurement improvements. The state procurement  council may request that the office of general services provide, or  recommend to the state comptroller to provide for the utilization of  technological advances and efficiencies in the procurement process  including, but not limited to, electronic ordering and payment,  procurement cards and similar improvements.  14. Reporting. To support prudent procurement management, oversight  and policy-making, the department of audit and control shall report  annually on a fiscal year basis by July first of the ensuing year to the  state procurement council, the governor, and the legislative fiscal  committees providing data concerning active procurement contracts above  fifteen thousand dollars, including but not limited to:  (i) a listing of individual and centralized contracts, including  vendor name, comptroller approval dates, dollar value of such contracts,  the state agency which let the contract and/or state agencies which  purchased off centralized contracts, expenditures made on each such  contract and by which agencies during the fiscal year and life to date,  citing contract category codes, source selection method, including  "lowest price", "best value", sole source, single source, negotiated and  emergency procurement subtotaled by agency and by type of commodity or  service;  (ii) frequency of contracts awarded during this fiscal year by number  of bids/proposals and source selection method;  (iii) number of contracts disapproved by the department of audit and  control during the fiscal year and reasons for disapproval by agency and  by source selection method, number and outcome of bid protests; and  (iv) a summary report listing total number and amount of contracts  awarded for the prior fiscal year and total year-to-date expenditures  for all contracts, with subtotals by agency and major contract category  including, but not limited to, consultant, construction, equipment,  grants, leases, land claim, miscellaneous services, printing, repayment  agreements, revenue agreements, intergovernmental agreements, and  commodities; a comparison of centralized and agency contracts by number  of contracts, number of agencies purchasing off of centralized contracts  or entering into contracts, contract amounts and year-to-date  expenditures; comparison of contracts by source selection method by  number of contracts, contract amounts, and year-to-date expenditures.  (v) for each contract for services for state purposes: the number of  employees, by employment category within the contract, employed to  provide services under the contract, the number of hours they work and  their total compensation under the contract;  (vi)(a) state agencies shall report annually on a fiscal year basis by  July first of the ensuing year to the state procurement council, the  governor, the legislative fiscal committees and the state comptroller  the total number and total dollar value of single source contracts  awarded by the agency during the fiscal year, and the percentage that  such contracts represent of the agency's total number and total dollar  value of contract awards during the reporting period.  (b) each state agency shall include with its report an assessment by  the agency head of the agency's efforts to minimize the award of single  source contracts;  (vii) all reports required under this paragraph shall be available for  public inspection and copying pursuant to section eighty-seven of the  public officers law provided that in disclosing such reports pursuant to  the public officers law, the agency making the disclosure shall redact  the name or social security number of any individual employee that is  included in such document.  \* NB Repealed June 30, 2012  Services being procured by the state.  (D) maintain a procurement record for each centralized contract  procurement identifying with supporting documentation, decisions made by  the commissioner during the procurement process. The procurement records  shall include, but not be limited to, each contract amendment, and the  justification for each.  c. When services are not available from preferred sources consistent  with the provisions of this article in the form, function or utility  required by state agencies, state agencies may procure services  independently or in conjunction with other state agencies in accordance  with the provisions of this section.  d. Service contracts shall be awarded on the basis of best value to a  § 163-a. Vendor preparation of specifications for technology  procurements; prohibitions. If a vendor prepares and furnishes  specifications for a state agency technology procurement proposal, to be  used in a competitive acquisition, such vendor shall not be permitted to  bid on such procurement, either as a prime vendor or as a subcontractor.  Contracts for evaluation of offers for products or services shall not be  awarded to a vendor that would then evaluate its own offers for products  or services. Such restrictions shall not apply where:  1. The vendor is the sole source or single source of the product or  service;  2. More than one vendor has been involved in preparing the  specifications for a procurement proposal;  3. A vendor has furnished at government request specifications or  information regarding a product or service they provide, but such vendor  has not been directly requested to write specifications for such product  or service or an agency technology procurement proposal; or  4. The state agency together with the office for technology determines  that the restriction is not in the best interest of the state. Such  office shall notify each member of the advisory council established in  article one of the state technology law of any such waiver of these  restrictions.  \* § 163-b. Environmentally-sensitive cleaning and maintenance  products. The commissioner of general services shall maintain a list of  contractors which produce or manufacture or offer for sale  environmentally-sensitive cleaning and maintenance products in the form,  function and utility generally used by elementary and secondary schools  in accordance with specifications or guidelines promulgated pursuant to  section four hundred nine-i of the education law.  NB Effective June 30, 2007  § 163-c. Centralized procurement contract fee. 1. For purposes of this  section, the following terms shall have the specified meanings:  a. "Authorized user" means any person or entity authorized to  purchase:  (i) commodities under a centralized contract pursuant to subparagraph  (iv) or subparagraph (viii) of paragraph a of subdivision three of  section one hundred sixty-three of this article; or  (ii) services or technology under a centralized contract pursuant to  paragraph b or e of subdivision four of section one hundred sixty-three  of this article.  b. "Centralized contract" means contracts for the purchase of  commodities, services or technology, established by the commissioner of  general services.  c. "Electronic" means of or relating to technology having electrical,  digital, magnetic, wireless, optical, electromagnetic, or similar  capabilities.  2. The commissioner of general services shall require that contractors  selected to offer centralized contracts through the state for  commodities, services or technology add to the price in all such  contracts a centralized procurement contract fee equal to one-half of  one percent of the price to be reported through sales reports to the  office of general services. The following types of contracts may be  exempted from the centralized procurement contract fee:  a. federal, other public jurisdictions' or multi-state contracts or  schedules adopted by the state pursuant to paragraphs e and f of  subdivision ten of section one hundred sixty-three of this article,  b. centralized contracts where an administrative fee is included as a  contract requirement.  3. Each contractor collecting the fee imposed pursuant to subdivision  two of this section shall:  a. electronically pay over to the department of taxation and finance  all fees collected quarterly, on or before the forty-fifth day following  the last day of each calendar quarter; provided, however, that if the  contractor fails to collect the fee from the authorized user on a  purchase under a centralized contract, then the contractor shall be  responsible for electronically paying the fee over to the department of  taxation and finance; and  b. electronically file a return with the department of taxation and  finance quarterly, containing such information as the commissioner of  taxation and finance shall prescribe. The return shall be due on or  before the forty-fifth day following the last day of each calendar  quarter. If no authorized users made purchases from a contractor  selected to offer a centralized contract during the calendar quarter for  which the return is required to be filed, then the contractor shall  electronically file a return indicating that no purchases were made  during that quarter. Information contained in, or derived from, the  returns required to be filed pursuant to this paragraph shall not be  covered by the secrecy provisions of the tax law.  A contractor shall be exempt from the mandatory electronic payment and  electronic filing requirements prescribed by paragraph a and paragraph b  of this subdivision if the contractor notifies the office of general  services, in a manner to be determined by such office, that it cannot  reasonably comply with such electronic payment and electronic filing  requirements. In such case, the contractor shall, in lieu of  electronically paying over the centralized procurement contract fee and  electronically filing a return with the department of taxation and  finance, pay over such fee by paper check, and file a paper return, with  the office of general services on or before the forty-fifth day  following the last day of each calendar quarter. The department of  taxation and finance and the office of general services shall mutually  develop a means by which the returns received by the office of general  services pursuant to this paragraph shall be electronically transmitted  to the department of taxation and finance for purposes of reconciling  the information reported on such returns with fee payments for each  calendar quarter.  The office of general services shall cooperate and provide the  department of taxation and finance with such information as the  department may require regarding contractors selected to offer  centralized contracts, in order to facilitate the department's  development and implementation of the electronic payment and electronic  filing applications prescribed by paragraph a and paragraph b of this  subdivision. The office of general services shall work with the  department of taxation and finance to encourage those contractors not  able to use the electronic payment and filing applications prescribed by  paragraph a and paragraph b of this subdivision to do so.  4. Failure to timely and accurately collect and remit the centralized  procurement contract fee as required by subdivision three of this  section may be deemed to constitute a breach of such contract, and the  commissioner of general services has the discretion to terminate such  centralized contract with such contractor for such breach on notice to  the contractor.  5. a. If:  (i) a contractor awarded a centralized contract has a past-due,  legally enforceable tax debt or other debt due to a state agency,  (ii) the debt is being offset against a contract payment received from  an authorized user pursuant to the state contract offset program  administered by the office of the state comptroller and the department  of taxation and finance, and  (iii) the past-due, legally enforceable debt is larger than the  contract payment (including the fee imposed by this section), then, the  full amount of the contract payment (including the fee imposed by this  section) shall be applied to the contractor's past-due, legally  enforceable debt, and the contractor shall remain responsible for filing  the return and paying over the amount of the fee due on such contract  payment at the time prescribed in subdivision three of this section.  b. If:  (i) a contractor awarded a centralized contract has a past-due,  legally enforceable tax debt or other debt due to a state agency,  (ii) the debt is being offset against a contract payment received from  an authorized user pursuant to the state contract offset program  administered by the office of the state comptroller and the department  of taxation and finance, and  (iii) the past-due, legally enforceable debt is smaller than the  contract payment (including the fee imposed by this section), then, the  amount of the contract payment necessary to fully pay the debt (which  shall include the fee imposed by this section), shall be applied to the  debt, and the contractor shall remain responsible for filing the return  and paying over the amount of the fee due on such contract payment at  the time prescribed in subdivision three of this section.  6. All fees received by the commissioner of taxation and finance and  the commissioner of general services pursuant to this section, reduced  by amounts approved by the director of the budget to be retained by the  commissioner of taxation and finance to cover administrative costs and  the costs of refunds or reimbursements required to be made to authorized  users under this section, shall be deposited quarterly to the credit of  the general fund of the state. The commissioner of taxation and finance  shall determine an amount for administrative costs incurred by the  department of taxation and finance, which amount shall represent the  reasonable costs of the department of taxation and finance in  administering the program prescribed by this section. The commissioner  of taxation and finance shall also determine the amount necessary for  refunds or reimbursements required to be made to authorized users under  this section, and shall pay such refunds or reimbursements out of such  retained amounts. The commissioner of taxation and finance shall  maintain a system of accounts showing the amount of money collected and  disbursed from the fee imposed by this section.  7. The provisions of article twenty-seven of the tax law shall apply  to the provisions of this section in the same manner and with the same  force and effect as if the language of such article had been  incorporated in full into this section and had expressly referred to the  fees under this section except that the term "fee" or "fees" when used  in this section shall mean "tax" or "taxes" for the purpose of the  application of article twenty-seven of the tax law as incorporated by  this subdivision, and except to the extent that any provision of such  article is either inconsistent with a provision of this section or is  not relevant to this section.  § 164. Exemptions. Services and commodities such as are incident to  the performance of a contract for labor and material and which are  subject to the jurisdiction of the public service commission or subject  to the jurisdiction of another similar entity shall be exempt from the  provisions of this article with respect to purchasing and contracting so  long as no competition exists for the particular service required by the  state agency.  § 165. Purchasing restrictions. 1. Definitions. a. "Non-tropical  hardwood species" shall mean any and all hardwood that grows in any  geographically temperate regions, as defined by the United States Forest  Service, and is similar to tropical hardwood in density, texture, grain,  stability or durability. Non-tropical hardwoods, the use or purchase of  which shall be preferred under this article, shall include, but not be  limited to the following species:  Scientific Name Common Name  Fraxinus americana Ash  Tila americana Basswood  Fagus grandifolia Beech  Betula papyrifera Birch  Juglans cinerea Butternut  Prunus serotina Cherry  Populus spp. Cottonwood  Ulmus spp. Elms  Nyssa sylvatica Black gum  Liquidambar styracifula Red gum  Celtis laevigata Hackberry  Hicoria spp. Hickory  Acer spp. Maples  Quercus spp. Oaks  Hicoria spp. Pecan  Liriodendron tulipi fera Yellow Poplar  Platanus occidentalis Sycamore  Juglans nigra Black Walnut  b. "Tropical hardwood" shall mean any and all hardwood, scientifically  classified as angiosperm, that grows in any tropical moist forest.  Tropical hardwoods shall be the following species:  Scientific Name Common Name  Vouacapous americana Acapu  Pericopsis elata Afrormosis  Shorea almon Almon  Peltogyne spp. Amaranth  Guibourtia ehie Amazaque  Aningeris spp. Aningeria  Dipterocarpus grandiflorus Apilong  Ochroma lagopus Balsa  Virola spp. Banak  Anisoptera thurifera Bella Rose  Guibourtis arnoldiana Benge  Deterium Senegalese Boire  Priora copaifera Cativo  Antiaris africana Chenchen  Dalbergis retusa Concobola  Cordia spp. Cordia  Diospyros spp. Ebony  Aucoumes klaineana Gaboon  Chlorophors excelsa Iroko  Acacia koa Koa  Pterygota macrocarpa Koto  Shorea negrosensis Red Lauan  Pentacme contorta White Lauan  Shores ploysprma Tanguile  Terminalia superba Limba  Aniba duckei Louro  Kyaya ivorensis Africa Mahogany  Swletenia macrophylla Amer. Mahogany  Tieghemella leckellii Makora  Distemonanthus benthamianus Movingui  Pterocarpus soyauxii African Padauk  Pterocarpus angolensis Angola Padauk  Aspidosperma spp. Peroba  Peltogyne spp. Purpleheart  Gonystylus spp. Ramin  Dalbergia spp. Rosewood  Entandrophragm a cylindricum Sapela  Shores phillippinensis Sonora  Tectona grandis Teak  Lovoa trichilloides Tigerwood  Milletia laurentii Wenge  Microberlinia brazzavillensis Zebrawood  c. "Tropical rain forests" shall mean 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.  d. "Tropical wood products" shall mean 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.  e. "Secondary materials" means any material recovered from or  otherwise destined for the waste stream, including, but not limited to,  post-consumer material, industrial scrap material and overstock or  obsolete inventories from distributors, wholesalers and other companies  but such term does not include those materials and by-products generated  from, and commonly reused within, an original manufacturing process.  2. Prohibition on purchase of tropical hardwoods.  a. Except as hereinafter provided, the state and any governmental  agency or political subdivision or public benefit corporation of the  state shall not purchase or obtain for any purpose any tropical  hardwoods or tropical hardwood products, wholesale or retail, in any  form.  b. The provisions of paragraph a of this subdivision shall not apply  to:  (i) Any hardwoods purchased from a sustained, managed forest; or  (ii) Any binding contractual obligations for purchase of commodities  entered into prior to August twenty-fifth, nineteen hundred ninety-one;  or  (iii) The purchase of any tropical hardwood or tropical hardwood  product for which there is no acceptable non-tropical hardwood species;  or  (iv) Where the contracting officer finds that no person or entity  doing business in the state is capable of providing acceptable  non-tropical hardwood species sufficient to meet the particular contract  requirements; or  (v) 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 an agency of the United States or the instructions of an  authorized representative of any such agency with respect to any such  grant, subvention or contract; or  (vi) Where inclusion or application of such provisions results in a  substantial cost increase to the state, government agency, political  subdivision, public corporation or public benefit corporation.  c. (i) In the case of any bid proposal or solicitation, request for  bid or proposal or contract for the construction of any public work,  building maintenance or improvement for or on behalf of the state and  any governmental agency or political subdivision or public benefit  corporation of the state, it shall not require or permit the use of any  tropical hardwood or wood product.  (ii) Every bid proposal, solicitation, request for bid or proposal and  contract for the construction of any public work, building maintenance  or improvement shall contain a statement that any bid, proposal or other  response to a solicitation for bid or proposal which proposes or calls  for the use of any tropical hardwood or wood product in performance of  the contract shall be deemed non-responsive.  d. The provisions of paragraph c of this subdivision shall not apply:  (i) To bid packages advertised and made available to the public or any  competitive and sealed bids received or entered into prior to August  twenty-fifth, nineteen hundred ninety-one; or  (ii) To any amendment, modification or renewal of a contract, which  contract was entered into prior to August twenty-fifth, nineteen hundred  ninety-one, where such application would delay timely completion of a  project or involve an increase in the total monies to be paid under that  contract; or  (iii) Where the contracting officer finds that:  (A) No person or entity doing business in the state is capable of  performing the contract using acceptable non-tropical hardwood species;  or  (B) The inclusion or application of such provisions will violate or be  inconsistent with the terms or conditions of a grant, subvention or  contract with an agency of the United States or the instructions of an  authorized representative of any such agency with respect to any such  grant, subvention or contract; or  (C) The use of tropical woods is deemed necessary for purposes of  historical restoration and there exists no available acceptable  non-tropical wood species.  3. Purchasing of commodities for state use.  a. For the purposes of this subdivision, the following terms shall  have the meanings set forth herein. "Recycled commodity" shall mean any  commodity that has been manufactured from secondary materials as defined  in subdivision one of section two hundred sixty-one of the economic  development law and that meets secondary material content requirements  adopted by the office of general services, which shall be consistent, to  the extent practicable, with regulations promulgated pursuant to section  27-0717 of the environmental conservation law or, if no such  requirements have been adopted or no such product is available, meets  the secondary material content requirements adopted by any state agency  with respect to a specific commodity procurement by such agency.  "Remanufactured" shall mean any commodity that has been restored to its  original performance standards and function and is thereby diverted from  the solid waste stream, retaining, to the extent practicable, components  that have been through at least one life cycle and replacing consumable  or normal wear components. "Recyclable" shall mean any commodity that  can be collected, separated, or otherwise recovered from the solid waste  stream for reuse, remanufacture or assembly of another commodity,  through a widely available and easily accessible program.  b. Consistent with determinations of need required by subdivision five  of section one hundred sixty-three of this article, the commissioner and  state agencies shall purchase recycled, remanufactured or recyclable  commodities when such commodities meet their form, function and utility  and shall consider the cost of the commodity over its lifecycle. The  commissioner and a state agency shall also have the authority to  determine that for reasons of public health or safety, a recycled,  remanufactured or recyclable commodity should not be purchased. Such  determinations shall be documented in the procurement record.  (i) A state agency shall purchase recycled commodities at a cost  premium only if (A) the cost premium associated with a commodity which  has recycled content does not exceed ten percent above the cost of a  commodity made without recycled content or, (B) the cost of a recycled  commodity that contains at least fifty percent secondary materials  generated from the waste stream in New York state, does not exceed a  cost premium of fifteen percent above the cost of a comparable  commodity.  (ii) A state agency shall not be required to purchase recyclable or  remanufactured commodities at a cost premium unless such commodity also  constitutes a "recycled commodity" as defined in this subdivision and  that as such a recycled commodity, it has been offered for sale in  conformance with the standards for application of a cost premium for  recycled commodities as set forth in clauses (A) and (B) of subparagraph  (i) of this paragraph.  c. The commissioner shall periodically review the general  specifications in order to eliminate, wherever feasible, discriminations  against the procurement of commodities manufactured with recovered  materials or remanufactured materials; and shall annually review the  paper specifications to consider increasing the percentage of recycled  paper in paper commodity purchases.  d. Whenever the commissioner or other state agencies shall purchase or  cause the purchase of printing on recycled paper, he or she shall  require, to the extent feasible, the printed material to meet the  requirements of subdivision two of section 27-0717 of the environmental  conservation law and regulations promulgated pursuant thereto, and to  include a printed statement or symbol which indicates that the document  is printed on recycled paper.  e. Each state agency shall devise, institute and maintain a program to  source separate waste paper generated within state office facilities.  Such a program shall include marketing arrangements and appropriate  procedures to ensure the recovery of discarded paper in a uncontaminated  condition.  f. Each state agency shall devise and institute a program to source  separate all other waste generated within state office facilities that  is not covered by paragraph e of this subdivision. Such program shall  include marketing arrangements and appropriate procedures to ensure the  maximum recovery of such waste.  g. In addition to carrying out the provisions of paragraphs e and f of  this subdivision, the commissioner shall identify and implement specific  steps which will reduce, to the maximum extent practicable, waste  generated in state facilities and maximize the recovery and reuse of  secondary materials from such facilities. Such steps and their  implementation shall be reviewed from time to time but no less  frequently than annually or upon receiving recommendations for  additional steps from the solid waste management board, the department  of environmental conservation or the environmental facilities  corporation.  h. All state agencies shall fully cooperate with the commissioner in  all phases of implementing the provisions of this section.  i. The commissioner shall report annually to the governor and the  legislature by September first concerning the quantities of recycled  paper purchased by the office of general services and by state agencies  pursuant to paragraph c of this subdivision, and concerning the amounts  of waste recycled from state offices and other facilities pursuant to  paragraphs e and f of this subdivision, the extent of waste reduction,  the percentage of the total waste stream which is recycled, the kinds of  materials eliminated from the waste stream, the full avoided costs of  proper collection and disposal costs of implementing the programs under  this section, the specific activities undertaken, goals for the  subsequent year resulting from the implementation of steps pursuant to  paragraph g of this subdivision, and remaining issues and areas for  improvement. Such reports shall be widely disseminated as a means of  assisting those outside state government in the design and  implementation of waste reduction and recycling programs, through  discussion of the state's experience in implementing all program aspects  such as collection, sorting, handling, storage and marketing, and the  resulting accomplishments.  j. The commissioner shall submit to the director of the budget, the  chairman and ranking minority member of the senate finance committee and  the chairman and ranking minority member of the assembly ways and means  committee an evaluation of all the source separation programs  implemented under this subdivision, for paper and other waste prepared  by an independent entity. Such evaluation shall be submitted by  September first, nineteen hundred ninety-six and by September first,  every two years thereafter.  4. Special provisions for purchase of available New York food  products.  a. Except as otherwise provided in this subdivision, when letting  contracts for the purchase of food products on behalf of facilities and  institutions of the state, solicitation specifications of the office of  general services and any other agency, department, office, board or  commission may require provisions that mandate that all or some of the  required food products are grown, produced or harvested in New York  state, or that any processing of such food products take place in  facilities located within New York state.  b. The commissioner of agriculture and markets shall determine, using  uniform criteria, those food products for which the requirements of this  subdivision are deemed beneficial and shall promulgate and forward to  the appropriate agencies a list of such food products, and shall in  addition ascertain those periods of time each year that those food  products are available in sufficient quantities for competitive  purchasing and shall forward such information to purchasing agencies.  The commissioner of agriculture and markets shall update such list as  often as is deemed by him or her to be necessary.  c. (i) Prior to issuing a solicitation for such food products,  purchasing agencies shall advise the commissioner of agriculture and  markets of the quantities of each food product on the list promulgated  by the commissioner of agriculture and markets to fulfill that agency's  purchasing needs.  (ii) The commissioner of agriculture and markets will then make a  determination of whether those products required by the purchasing  agency are available in sufficient quantities to satisfy the purchasing  agency's requirements.  (iii) Upon a determination by the commissioner of agriculture and  markets that the food products required by the purchasing agency are  available in sufficient quantities to fulfill the agency's purchasing  needs, the purchasing agency may include in its solicitation a  requirement that all or some of those food products are grown, produced  or harvested in New York state, or that any processing of such food  products take place in facilities located within New York state.  (iv) Upon a determination by the commissioner of agriculture and  markets that such food products are not available in sufficient  quantities to fulfill the agency's purchasing needs, the purchasing  agency shall issue a solicitation that does not require that all or some  of those food products are grown, produced or harvested in New York  state, or that any processing of such food products take place in  facilities located within New York state. In such cases, the purchasing  agency may include such requirements in the next contract for such food  products that is let if at such time those food products are available  in sufficient quantities. If at that time, those food products are not  available in sufficient quantities, the requirement shall again be  waived until such time as the products are available.  (v) In the event that the purchasing agency receives no offers that  meet the agency's requirement that all or some of the food products are  grown, produced or harvested in New York state, or that any processing  of such food products take place in facilities located within New York  state, it may waive the provisions of this subdivision and award a  contract in accordance with other applicable statutes. In addition, if  the commissioners of agriculture and markets, economic development and  any such individual agency shall agree as to the deleterious economic  impact of specifications requiring such purchases, such agencies may  waive the provisions of this subdivision for such purchases.  d. The commissioner, and the commissioner of agriculture and markets,  may issue such regulations as they deem necessary and proper for the  implementation of this subdivision.  e. Notwithstanding any other section of law, rule, regulation or  statute, the department of agriculture and markets shall supply  information required by paragraph b of this subdivision to the office of  general services and to all other appropriate agencies.  f. (i) With each offer, the offerer shall certify that the food  products provided pursuant to that solicitation will be in conformity  with the provisions of the percentage required to meet or exceed the  requirements in the solicitation specifying that all or some of the food  products be grown, produced, or harvested within New York state or that  any processing of such food products take place in facilities located  within New York state.  (ii) Any successful offerer who fails to comply with the provisions of  this subdivision, at the discretion of such agency, board, office or  commission, shall forfeit the right to bid on contracts let under the  provisions of this subdivision for a period of time to be determined by  the commissioner and the commissioner of agriculture and markets.  g. The commissioner and the commissioner of agriculture and markets,  shall advise and assist the chancellor of the state university of New  York in extending the benefits of the provisions of this subdivision to  the university and shall modify any regulations or procedures heretofore  established pursuant to this subdivision, in order to facilitate such  participation.  4-a. Favored source status for New York state labelled wines. a. In  order to advance specific economic goals, New York state labelled wines,  as defined in subdivision twenty-a of section three of the alcoholic  beverage control law, shall have favored source status for the purposes  of procurement in accordance with the provisions of this subdivision.  Procurement of these New York state labelled wines shall be exempt from  the competitive procurement provisions of section one hundred  sixty-three of this article and other competitive procurement statutes.  Such exemption shall apply to New York state labelled wines as defined  in subdivision twenty-a of section three of the alcoholic beverage  control law produced by a licensed winery as defined in section  seventy-six of the alcoholic beverage control law.  b. The commissioner of taxation and finance, in consultation with the  commissioners of the state liquor authority shall prepare a list of  wines that are eligible as determined by the criteria in paragraph a of  this subdivision and that are available and are being provided, for  purchase by state agencies, public benefit corporations, commissions or  political subdivisions from those entities which produce such New York  state labelled wine. Such list may include references to catalogs and  other descriptive literature which are available directly from any  winery that produces wine accorded favored source status under this  subdivision. The commissioner shall make this list available to  prospective vendors, state agencies, public benefit corporations,  political subdivisions and other interested parties. Any wines that meet  the criteria under paragraph a of this subdivision shall be eligible for  this favored source status.  c. The state procurement council in consultation with the  commissioners of the state liquor authority, and upon application from a  winery, will determine if a particular New York state labelled wine  meets the required criteria under paragraph a of this subdivision for  favored source status, and if so, such wine shall be added to the list  of favored source status New York state labelled wines. In order to  insure that such list reflects current production and/or availability of  commodities and services, the state procurement council may delete at  the request of a winery a favored wine from the list established by the  criteria in paragraph a of this subdivision. The state procurement  council will also determine if a particular wine no longer meets the  required definition under paragraph a of this subdivision for favored  source status, and if it does not, such wine shall be deleted from the  list of favored source status or favored wines.  d. The commissioners of the state liquor authority, in consultation  with the commissioner of taxation and finance and office of general  services, shall make every effort to encourage state agencies, public  authorities and political subdivisions when they purchase any quantity  of wine to purchase those wines that have been granted favored source  status as determined by the commissioners of the state liquor authority  and the state procurement council.  e. The list shall be maintained by the office of general services in  accordance with provisions of section one hundred sixty-two of this  article and shall be revised as necessary to reflect the additions and  deletions of wines as determined by the state procurement council.  5. Nondiscrimination in employment in Northern Ireland.  a. For the purposes of this subdivision "MacBride Fair Employment  Principles" shall mean those principles relating to nondiscrimination in  employment and freedom of work place opportunity which would require  employers doing business in Northern Ireland to:  (i) increase the representation of individuals from underrepresented  religious groups in the work force, including managerial, supervisory,  administrative, clerical and technical jobs;  (ii) take steps to promote adequate security for the protection of  employees from underrepresented religious groups both at the workplace  and while traveling to and from work;  (iii) ban provocative religious or political emblems from the work  place;  (iv) publicly advertise all job openings and make special recruitment  efforts to attract applicants from underrepresented religious groups;  (v) establish layoff, recall and termination procedures which do not  in practice favor a particular religious group;  (vi) abolish all job reservations, apprenticeship restrictions and  differential employment criteria which discriminate on the basis of  religion;  (vii) develop training programs that will prepare substantial numbers  of current employees from underrepresented religious groups for skilled  jobs, including the expansion of existing programs and the creation of  new programs to train, upgrade and improve the skills of workers from  underrepresented religious groups;  (viii) establish procedures to assess, identify and actively recruit  employees from underrepresented religious groups with potential for  further advancement; and  (ix) appoint a senior management staff member to oversee affirmative  action efforts and develop a timetable to ensure their full  implementation.  b. (i) With respect to contracts described in subparagraphs (ii) and  (iii) of this paragraph, and in accordance with such subparagraphs,  state agencies as defined in this article shall not contract for the  supply of commodities, service or construction with any contractor who  does not agree to stipulate to the following, if there is another  contractor who will contract to supply commodities, services or  construction of comparably quality at a comparable price or cost: the  contractor and any individual or legal entity in which the contractor  holds a ten percent or greater ownership interest and any individual or  legal entity that holds a ten percent or greater ownership interest in  the contractor either (A) have no business operations in Northern  Ireland, or (B) shall make lawful steps in good faith to conduct any  business operations they have in Northern Ireland in accordance with  MacBride Fair Employment Principles, and shall permit independent  monitoring of their compliance with such principles.  (ii) In the case of contracts let by a competitive process, whenever  the responsive and responsible offerer having the lowest price or best  value offer has not agreed to stipulate to the conditions set forth in  this subdivision and another responsive and responsible offerer who has  agreed to stipulate to such conditions has submitted an offer within  five percent of the lowest price or best value offer for a contract to  supply commodities, services or construction of comparable quality, the  contracting entity shall refer such offers to the commissioner of  general services, who may determine, in accordance with applicable law  and rules, that it is in the best interest of the state that the  contract be awarded to other than the lowest price or best value offer.  (iii) In the case of contracts let by other than a competitive process  for goods or services involving an expenditure of an amount greater than  the discretionary buying threshold as specified in section one hundred  sixty-three of this article, or for construction involving an amount  greater than fifteen thousand dollars, the contracting entity shall not  award to a proposed contractor who has not agreed to stipulate to the  conditions set forth in this subdivision unless the entity seeking to  use the commodities, services or construction determines that the  commodities, services or construction are necessary for the entity to  perform its functions and there is no other responsible contractor who  will supply commodities, services or construction of comparable quality  at a comparable price. Such determinations shall be made in writing and  shall be public documents.  c. Upon receiving information that a contractor who has made the  stipulation required by this subdivision is in violation thereof, the  contracting entity shall review such information and offer the  contractor an opportunity to respond. If the contracting entity 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 or declaring the contractor in default.  d. As used in this subdivision, the term "contract" shall not include  contracts with governmental and non-profit organizations, contracts  awarded pursuant to emergency procurement procedures or contracts,  resolutions, indentures, declarations of trust or other instruments  authorizing or relating to the authorization, issuance, award, sale or  purchase of bonds, certificates of indebtedness, notes or other fiscal  obligations, provided that the policies of this subdivision shall be  considered when selecting a contractor to provide financial or legal  advice, and when selecting managing underwriters in connection with such  activities.  e. The provisions of this subdivision shall not apply to contracts for  which the state or other contracting entity receives funds administered  by the United States department of transportation, except to the extent  Congress has directed that the department of transportation not withhold  funds from states and localities that choose to implement selective  purchasing policies based on agreement to comply with the MacBride Fair  Employment Principles, or to the extent that such funds are not  otherwise withheld by the department of transportation.  6. Special provisions relating to retaliating against other  jurisdictions which discriminate against New York state enterprises in  their procurement of products and services.  a. As used in this subdivision, the following terms shall have the  following meanings unless a different meaning appears from the context:  (i) "Discriminatory jurisdiction" shall mean any other country,  nation, province, state or political subdivision thereof which employs a  preference or price distorting mechanism to the detriment of or  otherwise discriminates against a New York state business enterprise in  the procurement of commodities and services by the same or a  non-governmental entity influenced by the same. Such discrimination may  include, but is not limited to, any law, regulation, procedure or  practice, terms of license, authorization, or funding or bidding rights  which requires or encourages any agency or instrumentality of the state  or political subdivision thereof or nongovernmental entity influenced by  the same to discriminate against a New York state business enterprise.  (ii) "Foreign business enterprise" shall mean a business enterprise,  including a sole proprietorship, partnership, or corporation, which  offers for sale, lease or other form of exchange, commodities sought by  any state agency and which are substantially produced outside New York  state or services, other than construction services, sought by any state  agency and which are substantially performed outside New York state. For  purposes of construction services, foreign business enterprise shall  mean a business enterprise, including a sole proprietorship, partnership  or corporation, which has its principal place of business outside New  York state.  (iii) "New York state business enterprise" shall mean a business  enterprise, including a sole proprietorship, partnership, or  corporation, which offers for sale or lease or other form of exchange,  commodities which are substantially manufactured, produced or assembled  in New York state, or services, other than construction services, which  are substantially performed within New York state. For purposes of  construction services, a New York state business enterprise shall mean a  business enterprise, including a sole proprietorship, partnership, or  corporation, which has its principal place of business in New York  state.  b. The commissioner of economic development shall have the power and  it shall be his or her duty to prepare a list of all discriminatory  jurisdictions. The commissioner of economic development shall add to or  delete from said list any jurisdiction upon good cause shown. The  commissioner of economic development shall deliver a copy of the list to  the commissioner, all state agencies, and every public authority and  public benefit corporation, a majority of the members of which consist  of persons either appointed by the governor or who serve as members by  virtue of holding a civil office of the state, or a combination thereof.  c. In including any additional business enterprises on solicitations  for the procurement of commodities or services, the commissioner and all  state agencies shall not include any foreign business enterprise which  has its principal place of business located in a discriminatory  jurisdiction contained on the list prepared by the commissioner of  economic development pursuant to paragraph b of this subdivision,  except, however, business enterprises which are New York state business  enterprises as defined by this subdivision.  d. A state agency shall not enter into a contract with a foreign  business enterprise, as defined by this subdivision, which has its  principal place of business located in a discriminatory jurisdiction  contained on the list prepared by the commissioner of economic  development pursuant to paragraph b of this subdivision. The provisions  of this paragraph and paragraph c of this subdivision may be waived by  the head of the state agency if the head of the state agency determines  in writing that it is in the best interests of the state to do so. The  head of the state agency shall deliver each such waiver to the  commissioner of economic development.  e. The commissioner may waive the application of the provisions of  paragraph c of this subdivision whenever he or she determines in writing  that it is in the best interests of the state to do so.  7. Special provisions regarding the purchasing of apparel or sports  equipment by the state university of New York and the city university of  New York.  a. Notwithstanding any other provision of law, the various units of  the state university of New York, the city university of New York and  community colleges shall have authority to:  (i) Determine that a bidder on a contract for the purchase of apparel  or sports equipment is not a responsible bidder as defined in section  one hundred sixty-three of this article based upon either of the  following considerations:  (A) the labor standards applicable to the manufacture of the apparel  or sports equipment, including but not limited to employee compensation,  working conditions, employee rights to form unions, and the use of child  labor, or  (B) the bidder's failure to provide information sufficient for the  state agency or corporation to determine the labor conditions applicable  to the manufacture of the apparel or sports equipment.  (ii) Include in the internal policies and procedures governing  procurement of apparel or sports equipment, where such procurement is  not further required to be made pursuant to the competitive bidding  requirements of section one hundred sixty-three of this article, a  prohibition against the purchase of apparel or sports equipment from any  vendor based upon either or both of the following considerations:  (A) the labor standards applicable to the manufacture of the apparel  or sports equipment, including but not limited to employee compensation,  working conditions, employee rights to form unions, and the use of child  labor, or  (B) the bidder's failure to provide sufficient information for said  state agencies to determine the labor standards applicable to the  manufacture of the apparel or sports equipment.  b. For the purposes of this subdivision the term:  (i) "apparel" shall mean goods, such as, but not limited to, sports  uniforms, including gym uniforms, required school uniforms, shoes,  including, but not limited to, athletic shoes or sneakers, sweatshirts,  caps, hats, and other clothing, whether or not imprinted with a school's  name or logo, academic regalia, lab coats and staff uniforms; and  (ii) "sports equipment" shall mean equipment, such as, but not limited  to, balls, bats and other goods intended for use by those participating  in sports and games.  8. Mercury-free motor vehicles. The commissioner and state agencies  shall grant a preference and give priority to the purchase of motor  vehicles which are mercury-free taking into consideration competition,  price, availability and performance.  § 166. Requirements for financed equipment acquisition or financed  creation or improvement of information technology systems and related  research and development. 1. a. No financed equipment acquisition may be  approved by the state comptroller unless the acquisition has been  approved by the director of the budget and the outright purchase cost of  the equipment is at least fifty thousand dollars for new financed  equipment acquisitions during the fiscal year nineteen hundred  eighty-eight--eighty-nine, and at least one hundred thousand dollars for  new financed acquisitions during subsequent fiscal years provided,  however, that the comptroller may issue regulations establishing higher  minimum outright purchase costs. Multiple items of the same type of  equipment or related items of equipment procured pursuant to a single  request for proposals may be grouped under one or several contracts as  part of a procurement package to reach the applicable minimum. The  financing of the creation or improvement of information technology  systems and related research and development is authorized pursuant to  this section.  b. Notwithstanding the provisions of paragraph a of this subdivision,  which shall not apply to financed equipment acquisitions for units of  the state university and city university of New York, no financed  equipment acquisition may be approved by the state comptroller for such  units until the director of the budget has determined whether such  financed equipment acquisition shall be financed by certificates of  participation pursuant to section sixty-six-b of this chapter. The  director of the budget shall make such determination no later than  thirty days following the submission of documentation, satisfactory to  the director from the state university or city university of New York.  If within such period of time the director does not indicate that such  financed equipment acquisition shall be financed by certificates of  participation, the state university or city university of New York may  proceed with a financed equipment acquisition in accordance with any  other applicable provision of law. The board of trustees of the city  university of New York and the board of trustees of the state university  of New York shall each promulgate regulations in consultation with the  comptroller and subject to the approval of the director of the budget  regarding the circumstances under which units of the respective  universities may use certificates of participation or other financed  equipment acquisitions. Such regulations shall include but not be  limited to: the establishment of minimum finance acquisition cost;  restrictions on the use of certificates of participation; and annual  ceilings on financed equipment acquisitions. Each board shall file  copies of its regulations with the director of the budget, the  comptroller, and the chairs of the senate finance committee and the  assembly ways and means committee.  2. The director of the budget shall transmit to the state comptroller  and the chairs of the senate finance committee and assembly ways and  means committee a quarterly report on new financed equipment  acquisitions approved by the director of the budget during the previous  quarter. The report shall identify the following:  a. The agency and program procuring the equipment.  b. A brief description of the equipment.  c. The cost of the equipment if purchased outright.  d. The interest rates and terms of such financing.  e. The total lease purchase or installment purchase payments for the  equipment.  f. The lease purchase or installment purchase payments by fiscal year  for the current fiscal year and the next five fiscal years.  g. The anticipated source of funds to make lease purchase or  installment purchase payments.  § 167. Transfer and disposal of personal property. Personal property  of the state which has been determined to be no longer useful may be  disposed of as set forth in this section.  1. The head of a state agency having custody or control of such  property, except vehicles, may: (a) dispose of such property in  accordance with applicable express statutory provisions, (b) reuse such  property within the same state agency, (c) use the property in part  payment on a new item which may include, but shall not be limited to,  use as a trade-in or use in a guaranteed brokerage arrangement, (d) with  the consent of the commissioner, place such property in the custody or  control of the office of general services for reuse by other state  agencies or for other disposition, or (e) where the fair market value of  such property is less than an amount established from time to time by  the commissioner, dispose of such property by such means as the head of  such state agency deems to be in the best interest of the state. Records  of each disposition shall be retained by the state agency disposing of  such property and shall be subject to audit. Where personal property has  been purchased from special funds, a state agency, upon designation of  the source of funds from which such property was purchased, may  condition the disposal of such property on the reimbursement of such  special fund in the amount of the fair market value of such property.  All proceeds realized on sale or other transfer and not otherwise  authorized to be deposited in a special fund, shall be deposited in the  general fund of the state.  2. The head of a state agency having custody or control of vehicles  which have been determined to be no longer useful shall dispose of such  vehicles in accordance with applicable express statutory provisions or  shall place such vehicles in the custody or control of the commissioner  unless otherwise directed by such commissioner.  3. The commissioner may dispose of any personal property of the state  by sale or by such other means as he or she deems to be in the best  interest of the state except that personal property other than vehicles  which have been placed in the custody or control of such commissioner by  a state agency shall first be made available for reuse by other state  agencies by advertising such availability as widely as possible among  state agencies. A record of each disposition shall be retained and shall  be subject to audit. The commissioner may also from time to time  establish a fair market value level below which personal property  determined to be no longer useful may be disposed of immediately by  state agencies through such means as, in the discretion of such  agencies, are in the best interest of the state.  4. (a) Prior to the public sale of surplus state personal property and  if the commissioner has determined that personal property of the state  shall be sold, the office of general services must first offer to sell  such property to municipalities of the state. The availability of  surplus personal property, and the offer to sell such property, shall be  advertised to municipalities on the office of general services' website  for a minimum of seven days. A municipality shall immediately advise the  commissioner whether or not the municipality wishes to acquire such  personal property. If it wishes to acquire such personal property, a  municipality shall have thirty days to arrange delivery of such property  and to conclude the negotiation of the sale. If two or more  municipalities notify the commissioner of their wish to acquire such  personal property, such personal property shall be sold to the highest  offer complying with the terms of the sale as set by the commissioner.  All proceeds of such sales shall be deposited to the credit of the  general fund of the state unless otherwise required by law. A record of  each sale shall be retained and shall be subject to audit. After the  thirty day period for municipalities to arrange delivery of such  property and to conclude the negotiation of the sale, the property may  be disposed of pursuant to paragraph (b) of this subdivision. For the  purposes of this section, "municipality" shall mean a city, county, town  or village.  (b) Where the commissioner has determined that there are no interested  municipalities pursuant to paragraph (a) of this subdivision, the  availability of such property shall be advertised at least once prior to  sale in a local newspaper. Such advertisement shall identify the  property, the place where the terms of sale may be obtained and the date  upon which offers will be received. In cases of emergency or special  circumstances, such notice may be waived if at least three separate and  independent offers are solicited and obtained. Notwithstanding the  provisions of this section, where the property will be sold by public  auction over the internet, such notice may be waived if notification of  the availability of such property is provided on the office of general  services' website five business days prior to sale. Every such sale  shall be made to the highest offer complying with the terms of sale and  all proceeds of such sales shall be deposited to the credit of the  general fund of the state unless otherwise required by law. A record of  each sale shall be retained and shall be subject to audit.  5. The secretary of the senate shall also have the power, at the  request of any member of the senate who shall hereafter resign or whose  term of office shall hereafter terminate, or the surviving spouse of  such member, to sell to such member, or to such surviving spouse, the  chair last occupied by such member in the senate for the sum of  twenty-five dollars, depositing any moneys received from such sale in  the state treasury; provided, however, that a written request therefor,  accompanied by the payment herein provided, be submitted to the  secretary of the senate within ninety days after any such resignation or  termination of term of office; and provided further that not more than  one such chair may be thus sold, regardless of any service subsequently  rendered as a member of the senate. In the event that any member of the  senate dies leaving no surviving spouse, the secretary of the senate  shall have the power to sell such chair, upon the terms and conditions  hereinabove prescribed, and in the following order of priority: (i) to  any person designated by such member in a writing filed with the  secretary of the senate, or (ii) to a child of such member, if any, in  the order of seniority, (iii) to the father of such member, (iv) to the  mother of such member, (v) to a brother or sister of such member in the  order of seniority.  6. The clerk of the assembly shall have the power, at the request of  any member of the assembly who shall hereafter resign or whose term of  office shall hereafter terminate, or the surviving spouse of such  member, to sell to such member, or to such surviving spouse, the chair  last occupied by such member in the assembly for the sum of twenty-five  dollars, depositing any moneys received from such sale in the state  treasury; provided, however, that a written request therefor,  accompanied by the payment herein provided, be submitted to the clerk of  the assembly within ninety days after such resignation or termination of  term of office; and provided further that not more than one such chair  may be thus sold, regardless of any service subsequently rendered as a  member of the assembly. In the event that any member of the assembly  dies leaving no surviving spouse, the clerk of the assembly shall have  the power to sell such chair, upon the terms and conditions hereinabove  prescribed, and in the following order of priority: (i) to any person  designated by such member in a writing filed with the clerk of the  assembly, or (ii) to a child of such member, if any, in the order of  seniority, (iii) to the father of such member, (iv) to the mother of  such member, (v) to a brother or sister of such member in the order of  seniority.  7. The commissioner shall have the power, at the request of a former  governor or head of a state department or agency, or the surviving  spouse of such a former official, to sell to such former official, or to  his or her surviving spouse, selected articles of furniture, in use by  such former official at the termination of his services as governor or  head of a state department or agency in the private offices of the  governor in the executive chamber or in the office occupied by such  former head of a state department or agency, for the reasonable value  thereof as articles of furniture as determined by the commissioner,  depositing any moneys received from such sale in the state treasury;  provided, however, that a written request therefor, specifying the  articles to be purchased, be submitted to the commissioner within ninety  days after the termination of such service.  8. The provisions of subdivision one of this section shall not apply  to the transfer of library books and journals, provided, however, that  in the event any such items are to be transferred or disposed of in a  manner other than as provided by such subdivision, the head of the  department having custody or control of the library book or journal  shall certify that it is no longer needed by the department and a record  of the transfer or disposal, including such certification, shall be  filed with and kept by the office of general services.  9. The application of subdivisions one and three of this section to  the transfer of computers, computer software and computer equipment, not  required for trade-in, reuse within the agency, or requested by another  state agency, shall be in conformity with section one hundred  sixty-eight of this article. Disposal of computer equipment pursuant to  paragraph (e) of subdivision one of this section, or disposal of  computer equipment by an agency in the exercise of its discretion  according to subdivision three of this section shall be deemed to be in  the best interest of the state if in conformity with section one hundred  sixty-eight of this article, or if the head of the disposing agency  demonstrates the existence of a greater state interest in an alternate  disposal.  § 168. The management of surplus computer equipment. 1. General  definitions. As used in this section:  (a) "Computer" means a computer central processing unit (CPU) and,  where attached to a CPU, such computer cases, computer memory, cards and  other peripheral devices as may reasonably be viewed functionally as one  unit.  (b) "Computer software" means executable computer programs and related  data files on computer-related media, including but not limited to  floppy disks, hard disks, optical and magneto-optical computer data  storage devices.  (c) "Computer equipment" means computers, computer memory, cards, and  associated peripheral devices, including but not limited to floppy disk  drives, hard disk drives, printers, modems, computer-related cables and  networking devices, scanners, computer monitors, and computer software.  2. The commissioner is authorized to dispose of surplus computer  equipment in accordance with this section whenever the potential  educational usefulness substantially exceeds its monetary value, as  provided in guidelines promulgated pursuant to subdivision two of  section three hundred eighteen of the education law.  3. The commissioner shall ensure that all state entities over which  the office has inventory control or with which the office has an  association are aware of the computer recycling program.  4. At regular intervals, at least twice annually, the office shall  deliver to the state education department an inventory of surplus  computer equipment that is available for distribution contemplated by  this section.  5. The office shall, at suitable intervals, arrange for the transfer  of surplus computer equipment to the state education department, or, in  cooperation with the commissioner of education and on his behalf,  directly to institutions conducting educational programs in accordance  with section three hundred eighteen of the education law. | | | |  |  |  | | --- | | © State of New York, Office of General Services   [Website Disclaimer](http://www.ogs.state.ny.us/About/Legal.asp) |  [Privacy Policy](http://www.ogs.state.ny.us/About/Privacy.asp) | |