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N.Y. State Finance Law Section 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 material goods, supplies, products, construction items, electronic information resources or other standard articles of commerce 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 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 11-B \(Prompt Contracting and Interest Payments For Not-for-profit Organizations\)](#).

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 [Education Law § 355 \(Powers and duties of trustees--administrative and fiscal functions\)](#), the state university of New York and excludes, for the purposes of subdivision a of [Education Law § 6218 \(Contracts and purchases\)](#), the city university of New York; provided, however,

that the state university of New York and the city university of New York shall be subject to the provisions of [§ 165-A \(Iran divestment\)](#). Furthermore, such term shall not include the legislature or the judiciary.

10.

“Technology” means either a good or a service or a combination thereof, used in the application of any computer or electronic information or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or voice including, but not limited to, hardware, software, information appliances, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically and electronically collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, coverage, interface, switch, or disseminate data of any kind or form, and shall include all associated consulting, management, facilities, maintenance and training. Goods may be either new or used.

Source: Section 160 — Definitions, <https://www.nysenate.gov/legislation/laws/STF/160> (updated Apr. 10, 2020; accessed Apr. 19, 2025).

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- (3) A person may apply [...]
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N.Y. State Finance Law Section 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 twenty-one members, including the commissioner, the state comptroller, the director of the budget, the chief diversity officer 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; one member, appointed by the governor, representing a not-for-profit New York-based organization engaged in the marketing and/or promotion of New York grown farm and agricultural products or a not-for-profit New York-based organization engaged solely in the advocacy, marketing and/or promotion of organic New York grown farm and agricultural products to be limited to a two year term; 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 fifty thousand dollars in the procurement opportunities newsletter established by article four-C of the economic development law.

n.

Recommend to the commissioner necessary legislative changes or modifications to existing or proposed rules, regulations and procedures that would increase access to the state's procurement process by minority-owned business enterprises and women-owned business enterprises and create model language to be used by agencies when issuing requests for bids or proposals to other solicitations or offers that would increase the ability of small businesses to participate in state procurements.

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.

Source: Section 161 — State procurement council, <https://www.nysenate.gov/legislation/laws/STF/161> (updated Sep. 22, 2014; accessed Apr. 19, 2025).

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N.Y. State Finance Law Section 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 shall be exempted from the competitive procurement provisions of [§ 163 \(Purchasing services and commodities\)](#) 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. [↗](#)

2.

Preferred status. Preferred status as prescribed in this section shall be accorded to:

a.

Commodities produced by the correctional industries program of the department of corrections and community supervision and provided to the state pursuant to subdivision two of [Correction Law § 184 \(Articles manufactured to be furnished to the state or subdivisions thereof\)](#);

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 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; * NB Effective until October 4, 2025 * 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; * NB Effective October 4, 2025 * e. Commodities and services produced by a qualified veterans' entity providing job and employment-skills training to veterans where such a entity is operated by the United States department of veterans affairs and is manufacturing products or performing services within this state and where such entity is approved for such purposes by the commissioner of education; or * NB Effective until October 4, 2025 * 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 * NB Effective October 4, 2025 * f. Commodities and services produced by any qualified charitable non-profit-making entity 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 Effective until October 4, 2025 * 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 Effective October 4, 2025 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 corrections and community supervision, the office of children and family services, the office of temporary and disability assistance, 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 corrections and community supervision, the commissioner of the office of children and family services, the office of temporary and disability assistance, 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.

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 correctional industries program of the department of

corrections and community supervision; * (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, provided, however, the preferred source shall perform fifty percent or more of the work; * NB Effective until October 4, 2025 * (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; * NB Effective October 4, 2025 * (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 disabled persons, a qualified special employment program for mentally ill persons, or a qualified veterans' entity; provided, however, the preferred source shall perform fifty percent or more of the work; * NB Effective until October 4, 2025 * (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; * NB Effective October 4, 2025 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 disabled, by qualified special employment programs for mentally ill persons and by qualified veterans' entities; provided, however, the preferred source shall perform fifty percent or more of the work. In the case of services: * NB Effective until October 4, 2025 * 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: * NB Effective October 4, 2025 (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 [§ 163 \(Purchasing](#)

[services and commodities](#)). If, after such period, a preferred source elects to bid on the service, award shall be made in accordance with [§ 163 \(Purchasing services and commodities\)](#), 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.

5.

Prices charged by the department of corrections and community supervision. The prices to be charged for commodities produced by the correctional industries program of the department of corrections and community supervision shall be established by the commissioner of corrections and community supervision in accordance with [Correction Law § 186 \(Prices of labor performed and articles manufactured in correctional facilities\)](#).

a.

The prices established by the commissioner of corrections and community supervision 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 corrections and community supervision 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 [Correction Law § 186 \(Prices of labor performed and articles manufactured in correctional facilities\)](#), 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 corrections and community supervision and the commissioner or their representatives. The decision of the review board shall be final.

6.

Prices charged by agencies for the blind, other disabled and veterans' entity.

a.

Except with respect to the correctional industries program of the department of corrections and community supervision, 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. The commissioner's price review and approval shall not be required for any purchases below one hundred thousand dollars.

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 for the same or equivalent commodities or services.

c.

Such qualified charitable non-profit-making agencies for the blind and other 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 disabled shall accept sole responsibility for any payment due the vendor.

d.

Such qualified charitable non-profit-making agencies for the blind and other disabled may make purchases of materials, equipment and supplies directly from the correctional industries program administered by the commissioner of corrections and community supervision, 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 disabled shall accept sole responsibility for any payment due the department of corrections and community supervision.

e.

The commissioner of the office of children and family services shall appoint the New York state commission for the blind, or other non-profit-making agency, other than the agency representing the other 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 disabled and the veterans' entities. 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 disabled, any special employment program for mentally ill persons or any veterans' entity 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' entity 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. Private vendors may be accorded preferred source status but only 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 are clients of an entity 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 the preferred source.

8.

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.

Source: Section 162 — Preferred sources, <https://www.nysenate.gov/legislation/laws/STF/162> (updated Mar. 10, 2023; accessed Apr. 19, 2025).

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Location: `https://newyork.public.law/laws/n.y._state_finance_law_section_162`

Original Source: Section 162 — Preferred sources, `https://www.nysenate.gov/legislation/laws/STF/162` (last accessed Aug. 20, 2023).

Blank Outline Levels

×

The legislature occasionally skips outline levels. For example:

(3) A person may apply [...]

(4)(a) A person petitioning for relief [...]

In this example, **(3)**, **(4)**, and **(4)(a)** are all outline levels, but **(4)** was omitted by its authors. It's only implied. This presents an interesting challenge when laying out the text. We've decided to display a blank section with this note, in order to aide readability.

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N.Y. State Finance Law Section 162-A

The New York state buy American salt act

1.

Use of American materials.

(a)

Notwithstanding any other provision of law, when soliciting a contract for the purchase of rock salt or sodium chloride, any department or agency of the state may award such contract to the responsible and reliable bidder offering to supply rock salt or sodium chloride that is mined or hand harvested in the United States, and which offer is within ten percent of the lowest price or best value offer, rather than to the lowest responsible and reliable bidder.

(b)

If it has been determined by a court or federal or state agency that any person intentionally:

(i)

affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any rock salt, or sodium chloride product used in projects to which this section applies, sold in or shipped to the United States that was not mined or hand harvested in the United States; or

(ii)

represented that any rock salt, or sodium chloride product procured in a contract to which this section applies that was not produced in the United States, was produced in the United States; then that person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under [§ 139-A \(Ground for cancellation of contract by state\)](#).

(c)

This section shall be applied in a manner consistent with the state’s obligations under any applicable international agreements pertaining to government procurement.

2.

Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a)

“Public agency” means a governmental entity as that term is defined in [§ 139-J \(Restrictions on contacts during the procurement process\)](#);

(b)

“Mined or hand harvested in the United States” means: extracted or collected from land or ponds within the boundary of the United States, from the initial separation from the earth through the addition of any additives necessary for commercial sale;

(c)

“United States” means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

Source: Section 162-A — The New York state buy American salt act, <https://www.nysenate.gov/legislation/laws/STF/162-A> (updated Apr. 7, 2023; accessed Apr. 19, 2025).

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5. § 163

N.Y. State Finance Law Section 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. Such basis may also identify a quantitative factor for offerers that are small businesses, certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of [Executive Law § 310 \(Definitions\)](#) or service-disabled veteran-owned business enterprises as defined in subdivision one of section forty of the veterans’ services law to be used in evaluation of offers for awarding of contracts for services.

k.

“Authorized user” or “non-state agency purchaser” means (i) 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 [General Municipal Law § 100 \(Definitions\)](#), to make purchases of commodities, services and technology through the office of general services’ centralized contracts, pursuant to the provisions of [General Municipal Law § 104 \(Purchase through office of general services\)](#);

(ii)

any county extension service association as authorized under subdivision eight of [County Law § 224 \(Optional appropriations and contracts for public benefit services\)](#);

(iii)

any association or other entity as specified in and in accordance with [General Municipal Law § 109-A \(Purchases through the office of general services by certain public associations\)](#);

(iv)

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, services and technology pursuant to [Public Health Law § 2803-A \(Authority to contract\)](#);

(v)

any institution for the instruction of the deaf or of the blind listed in [Education Law § 4201 \(Duties of commissioner of education\)](#);

(vi)

any qualified non-profit-making agency for the blind approved by the commissioner of the office of children and family services or the office of temporary and disability assistance;

(vii)

any qualified charitable non-profit-making agency for the severely disabled approved by the commissioner of education;

(viii)

any hospital or residential health care facility as defined in [Public Health Law § 2801 \(Definitions\)](#);

(ix)

any private not-for-profit mental hygiene facility as defined in section 1.03 of the mental hygiene law;

(x)

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;

(xi)

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;

(xii)

any other association or entity as specified in state law, to make purchases of commodities, services and technology through the office of general services' centralized contracts. Such qualified non-profit-making agencies for the blind and severely disabled may make purchases from the correctional industries program of the department of corrections and community supervision subject to rules pursuant to the correction law.

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 purchases of commodities and services for authorized users through the office of general services' centralized contracts. Such authorized users so empowered shall accept sole responsibility for any payment due with respect to such purchases.

(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 [Public Health Law § 2803-A \(Authority to contract\)](#), 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 [Public Health Law § 2803-A \(Authority to contract\)](#).

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, and including without limitation educating minority and women contractors about surety bonding requirements on state contracts, and identifying resources available to such contractors in obtaining their first bond and in increasing their bonding capacity, including but not limited to the federal small business administration bond guarantee program.

(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)

assist the department of agriculture and markets and the department of economic development in providing a training program once per year, in each economic development region, established in article eleven of the economic development law, to encourage and increase participation in the procurement process, pursuant to this article, by small businesses, as defined in [Economic Development Law § 131 \(Definition of a small business\)](#), including farms, selling food or food products, animal or plant fiber products grown, produced, harvested, or processed in New York state or textile products manufactured from animal or plant fiber grown or produced predominantly in New York state and assist such businesses in identifying such food, food products, or animal or plant fiber products and textile products which may help to meet state agencies' needs.

(viii)

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 [Education Law § 409-I \(Procurement and use of environmentally-sensitive cleaning and maintenance products\)](#).

(ix)

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.

(x)

reasonably consider aggregate amount of public sales by potential vendors.

(xi)

review and consider the feasibility of creating regional contracts for commodities being procured by the state.

(xii)

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.

(xiii)

maintain a list of New York-based firms which produce or manufacture or offer for sale animal or plant fiber textile products containing animal or plant fiber grown or produced predominantly in New York state in the form, function and utility generally purchased for use by state agencies.

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, except state agencies where the head of the agency is not appointed by the governor, including but not limited to the state education department, the department of law, and the department of audit and control, for the exercise of his or her powers and duties under this section. 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 or as determined by the commissioner. The purchase of services by state agencies, except state agencies where the head of the agency is not appointed by the governor, including but not limited to the state education department, the department of law, and the department of audit and control, shall be conducted in a manner that accords second priority to centralized contracts meeting form, function and utility required by said agency, third priority to agency or multi-agency established contracts and fourth priority to other means of contracting.

(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 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 responsive and responsible offerer; or, in the case of multiple awards, in accordance with paragraph c of subdivision ten of this section.

e.

The commissioner is authorized to permit purchases of services for authorized users through the office of general services' centralized contracts. Such authorized users so empowered shall accept sole responsibility for any payment due with respect to such purchases.

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 [Public Officers Law § 87 \(Access to agency records\)](#) 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:
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 the heads of which are appointed by the governor: (A) Shall 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) May 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) May procure the service independently or in conjunction with another state agency.

6.

Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: (a) the commissioner may purchase services and commodities for the office of general services or its customer agencies serviced by the office of general services business services center in an amount not exceeding eighty-five thousand dollars without a formal competitive process; (b) state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; (c) state agencies may purchase commodities or services from small business concerns, or commodities or technology that are recycled or remanufactured in an amount not exceeding five hundred thousand dollars without a formal competitive process; (d) state agencies may purchase commodities or services from those certified pursuant to article fifteen-A of the executive law and article three of the veterans' services law in an amount not exceeding seven hundred fifty thousand dollars without a formal competitive process; and (e) state agencies may purchase commodities that are food, including milk and milk products, or animal or plant fiber products, grown, produced, harvested, or processed in New York state or textile products manufactured from animal or plant fiber grown or produced predominantly in New York state in an amount not to exceed two hundred thousand dollars without a formal competitive process.

6-a. Discretionary purchases. Notwithstanding the provisions of subdivision two of [§ 112 \(Accounting systems\)](#) 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 for the office of general services or its customer agencies serviced by the office of general services business services center 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.

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.

6-c. Pursuant to the authority provided in subdivision six of this section, for the purchase of commodities that are food, including milk and milk products, or animal or plant fiber products, grown, produced, harvested, or processed in New York state or textile products manufactured from animal or plant fiber grown or produced predominantly in New York state, where such commodities exceed fifty thousand dollars in value, state agencies must advertise the discretionary purchase on the state agency website for a reasonable period of time and make the discretionary purchase based on the lowest price that meets the state agency's form, function and utility.

6-d. Pursuant to the authority provided in subdivision six of this section, state agencies shall report annually on a fiscal year basis by July first of the ensuing year to the director of the division of minority and women-owned business development the total number and total value of contracts awarded to businesses certified pursuant to article fifteen-A of the executive law, and with respect to contracts awarded to businesses certified pursuant to article three of the veterans' services law such information shall be reported to the division of service-disabled veteran-owned business enterprises for inclusion in their respective annual reports.

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 including submission of the statement of non-collusion required by [§ 139-D \(Statement of non-collusion in bids to the state\)](#), and the statement of certification required by [§ 139-L \(Statement on sexual harassment, in bids\)](#). 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. 7-a. Notwithstanding the electronic bid provisions set forth in subdivision seven of this section, starting April first, two thousand twenty-three, and ending March thirty-first, two thousand twenty-seven, state agencies may require electronic submission as the sole method for the submission of bids for commodity, service and technology contracts, including submission of the statement of non-collusion required by [§ 139-D \(Statement of non-collusion in bids to the state\)](#), and the statement of certification required by [§ 139-L \(Statement on sexual harassment, in bids\)](#), and may require electronic signatures on all documents required for submission of a bid, any resulting contracts, and required submissions during the term of any contract. Prior to requiring the electronic submission of bids, the agency shall make a determination, which shall be documented in the procurement record, that electronic submission affords a fair and equal opportunity for offerers to submit responsive offers, and that the electronic signature complies with the provisions of article three of the state technology law. 7-b. On or before December first, two thousand twenty-six, the commissioner of the office of general services shall submit to the speaker of the assembly and the temporary president of the senate and post on the website of the office of general services a report including, but not limited to, the following information: (a) which state agencies required electronic submission as the sole method by which bids could be submitted for the period from April first, two thousand twenty-three through March thirty-first, two thousand twenty-six; (b) the number and types of contracts for which such state agencies required electronic submission as the sole method by which bids could be submitted for the period from April first, two thousand twenty-three through March thirty-first, two thousand twenty-six; (c) the estimated savings to the state as a result of such state agencies requiring electronic submission as the sole method by which bids could be submitted in response to a solicitation and the basis on which the estimate is made; (d) to the extent practicable, the size, industry, minority- and women-owned business enterprise composition, service-disabled veteran-owned business enterprise composition, and geographic distribution of those vendors that submitted bids in response to solicitations from state agencies where electronic submission was the sole method by which bids could be submitted for the period from April first, two thousand twenty-three through March thirty-first, two thousand twenty-six; (e) to the extent practicable, the size, industry, minority- and women-owned business enterprise composition, service-disabled veteran-owned business enterprise composition, and geographic distribution of those vendors that submitted non-electronic bids in response to solicitations from state agencies where electronic submission was accepted but not required for the period from April first, two thousand twenty-three through March thirty-first, two thousand twenty-six; and (f) recommendations for the future use of electronic bidding as a permissible method of procurement.

8.

Public notice. All procurements by state agencies, including, without limitation, the state university of New York and the city university of New York, in excess of fifty 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.

(i)

A debriefing shall be requested by the unsuccessful offerer within fifteen calendar days of release by the state agency of a notice in writing or electronically that the offerer's offer is unsuccessful.

(ii)

Such notice shall be provided to all unsuccessful offerers by the state agency for the specific procurement.

(iii)

The state agency, upon a request made within fifteen days of release of the written or electronic notice from the unsuccessful offerer for a debriefing, shall schedule the debriefing to occur within a reasonable time of such request. Debriefings shall be conducted by the state agency with the unsuccessful offerer in-person, provided, however, the parties may mutually agree to utilize other means such as, but not limited to, by telephone, video-conferencing or other types of electronic communications. State agency personnel participating in the debriefing discussion shall have been involved with and knowledgeable about the procurement and the evaluation and selection of the successful offerer or offerers.

(iv)

Such debriefing shall include, but need not be limited to: (A) the reasons that the proposal, bid or offer submitted by the unsuccessful offerer was not selected for award; (B) the qualitative and quantitative analysis employed by the agency in assessing the relative merits of the proposals, bids or offers; (C) the application of the selection criteria to the unsuccessful offerer's proposal; and (D) when the debriefing is held after the final award, the reasons for the selection of the winning proposal, bid or offer. The debriefing shall also provide, to the extent practicable, general advice and guidance to the unsuccessful offerer concerning potential ways that their future proposals, bids or offers could be more responsive.

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 [§ 139-K \(Disclosure of contacts and responsibility of offerers\)](#).

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 [§ 112 \(Accounting systems\)](#). If the contracting agency has not complied with one or more provisions of this article, the state comptroller may approve the awarded contract if:

a.

the contracting agency determines that the noncompliance was a non-material deviation from one or more provisions of this article. For the purposes of this subdivision “non-material deviation” shall mean that such noncompliance did not prejudice or favor any vendor or potential vendor, such noncompliance did not substantially affect the fairness of the competitive process, and that a new procurement would not be in the best interest of the state. Such determination by the contracting agency and the state comptroller shall be documented in the procurement record; and

b.

the state comptroller concurs in such determination.

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 by the state comptroller. To support transparency in the state's procurement process and prudent procurement management, oversight and policy-making, the state comptroller shall submit a report to the state procurement council, the governor, the commissioner of the office of general services, the director of the budget, and the legislative fiscal committees containing data related to state agency contracts. Such report shall be made annually, on a fiscal year basis by the first of July of the next succeeding year.

a.

For state agency contracts, such report shall include:

(i)

a list of all active contracts as of the end of the fiscal year;

(ii)

a list of all contracts reviewed by the office of the state comptroller during the fiscal year;

(iii)

a list of contract award protests reviewed by the office of the state comptroller and the resolution thereof; and

(iv)

for consulting contracts subject to approval of the state comptroller, a report of planned and actual employment under each contract.

b.

The lists required pursuant to subparagraphs (i) and (ii) of paragraph a of this subdivision shall include, to the extent reasonably available, the following information related to each contract:

(i)

the state agency letting the contract;

(ii)

the state agency for which the contract is let, if different;

(iii)

whether an agency contract or centralized contract;

(iv)

vendor name and address;

(v)

a description of the contract. For contracts let under [Public Buildings Law § 9 \(Construction emergencies\)](#), the description shall denote the scope of work of the contract and the nature of the emergency for which it was let;

(vi)

contract start and end dates;

(vii)

the dollar value of the contract;

(viii)

for contracts subject to approval by the state comptroller, whether approved or non-approved, the date of such approval/non-approval, and if non-approved, the reason or reasons therefor;

(ix)

life to date and fiscal year expenditures against the contract and by which agencies;

(x)

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;

(xi)

source selection method, including “lowest price”, “best value”, sole source, single source, negotiated and/or emergency procurement;

(xii)

number of bids/proposals received by the contracting agency; and

(xiii)

subtotals as deemed applicable.

c.

The report required pursuant to subparagraph (iv) of paragraph a of this subdivision shall include:

(i)

information required to be reported by the contractor annually by the employment category within the contract, including the planned number of employees to provide services under the contract, the planned number of hours to be worked under the contract, and the total compensation planned under the contract; and

(ii)

information required to be reported by the contractor annually pursuant to paragraph g of subdivision four of this section, specifically, the actual number of employees, by employment category within the contract, employed to provide services under the contract, the number of hours worked and total compensation under the contract.

d.

For the purposes of the report required pursuant to subparagraph (iv) of paragraph a of this subdivision, a “contract for consulting services” shall mean any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services. Such report shall be available for public inspection and copying pursuant to [Public Officers Law § 87 \(Access to agency records\)](#) provided that in disclosing such reports pursuant to the public officers law, the agency making the disclosure shall redact the name, social security number and other personal information of any individual employee or consultant that is included in such document.

e.

The information required by this subdivision shall be provided in electronic format in such form as prescribed by the state comptroller such that the data can be searched and sorted.

f.

All reports required under this subdivision shall be available for public inspection and copying pursuant to [Public Officers Law § 87 \(Access to agency records\)](#) 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.

15.

Reporting by agencies.

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 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.

c.

All reports required under this subdivision shall be available for public inspection and copying pursuant to [Public Officers Law § 87 \(Access to agency records\)](#) 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, 2026

Source: Section 163 — Purchasing services and commodities, <https://www.nysenate.gov/legislation/laws/STF/163> (updated Mar. 29, 2024; accessed Apr. 19, 2025).

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Location: https://newyork.public.law/laws/n.y._state_finance_law_section_163

Original Source: *Section 163 — Purchasing services and commodities*, <https://www.nysenate.gov/legislation/laws/STF/163> (last accessed Mar. 30, 2024).

Blank Outline Levels



The legislature occasionally skips outline levels. For example:

(3) A person may apply [...]

(4)(a) A person petitioning for relief [...]

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N.Y. State Finance Law Section 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 of information technology services 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.

Source: Section 163-A — Vendor preparation of specifications for technology procurements; prohibitions, <https://www.nysenate.gov/legislation/laws/STF/163-A> (updated Sep. 22, 2014; accessed Apr. 19, 2025).

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Location: https://newyork.public.law/laws/n.y._state_finance_law_section_163-a

Original Source: *Section 163-A — Vendor preparation of specifications for technology procurements; prohibitions*, <https://www.nysenate.gov/legislation/laws/STF/163-A> (last accessed Aug. 20, 2023).

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5. § 163-B

N.Y. State Finance Law Section 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 [Education Law § 409-I \(Procurement and use of environmentally-sensitive cleaning and maintenance products\)](#). * NB Effective June 30, 2026 [↗](#)

Source: Section 163-B — Environmentally-sensitive cleaning and maintenance products, <https://www.nysenate.gov/legislation/laws/STF/163-B> (updated May 7, 2021; accessed Apr. 19, 2025).

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Original Source: Section 163-B — Environmentally-sensitive cleaning and maintenance products, <https://www.nysenate.gov/legislation/laws/STF/163-B> (last accessed Aug. 20, 2023).

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5. § 163-C

N.Y. State Finance Law Section 163-C

Purchase or lease of zero emission vehicles and charging or fueling infrastructure

1.

(a) Each state agency shall include requirements in any procurement for the purchase or lease of zero emission vehicles and charging or fueling infrastructure that the components and parts used or supplied in the performance of the contract or any subcontract thereto shall be produced or made in whole or substantial part in the United States, its territories or possessions and that final assembly of the zero emission vehicles and charging or fueling infrastructure shall occur in the United States, its territories or possessions. [🔗](#)

(b)

The commissioner of general services, in consultation with the New York state energy research and development authority, may waive the contracting requirements set forth in paragraph (a) of this subdivision if the commissioner of general services determines that the requirements would not be in the public interest, would result in unreasonable costs, or that obtaining such zero emission vehicles and charging or fueling infrastructure components and parts in the United States, its territories or possessions, would increase the cost of a contract for zero emission vehicles and charging or fueling infrastructure by an unreasonable amount, or such zero emission vehicles and charging or fueling infrastructure components and parts cannot be produced, made, or assembled in the United States, its territories or possessions, in sufficient and reasonably available quantities or of satisfactory quality. Such determination must be made on an annual basis no later than December thirty-first after providing notice and an opportunity for public comment, and be made publicly available, in writing, on the website of the office of general services with a detailed explanation of the findings leading to such determination. If the commissioner of general services has issued determinations for three consecutive years that no such waiver is

warranted pursuant to this paragraph, then the commissioner of general services shall no longer be required to provide the annual determination required by this paragraph.

2.

(a) Nothing in this section shall alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership, of any current employees of the state or any agency.

(b)

Nothing in this section shall result in:

(i)

the discharge, displacement, or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits;

(ii)

the impairment of existing collective bargaining agreements;

(iii)

the transfer of existing duties and functions; or

(iv)

the transfer of future duties and functions, of any currently employed worker of the state or any agency who agrees to be retrained.

(c)

Prior to the beginning of the initial procurement process for zero emission vehicles, each state agency shall create and implement a workforce development report that:

(i)

estimates the number of current positions in the agency that would be substantially changed as a result of the proposed purchase or lease of zero emission vehicles, and the number of positions expected to be created by the purchase or lease over the intended life of the proposed purchase or lease;

(ii)

identifies gaps in skills of its current workforce that are needed to operate and maintain zero emission vehicles;

(iii)

includes a comprehensive plan to transition, train, or retrain employees that are impacted by the proposed purchase or lease; and

(iv)

contains an estimated budget to transition, train, or retrain employees that are impacted by the proposed purchase or lease.

(d)

Nothing in this section shall:

(i)

limit the rights of employees pursuant to a collective bargaining agreement, or

(ii)

alter the existing representational relationships among collective bargaining representatives or the bargaining relationships between the employer and any collective bargaining representative. Employees of public entities serving in positions in newly created titles shall be assigned to the appropriate bargaining unit.

(e)

Prior to beginning the initial procurement process for zero emission vehicles, the office of employee relations, in consultation with the state agencies involved, shall inform the employees' collective bargaining representative of any potential impact on its members or unit, including positions that may be affected as a result of the proposed purchase or lease.

Source: Section 163-C — Purchase or lease of zero emission vehicles and charging or fueling infrastructure, <https://www.nysenate.gov/legislation/laws/STF/163-C> (updated Jan. 5, 2024; accessed Apr. 19, 2025).

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Location: `https://newyork.public.law/laws/n.y._state_finance_law_section_163-c`

Original Source: *Section 163-C — Purchase or lease of zero emission vehicles and charging or fueling infrastructure*, <https://www.nysenate.gov/legislation/laws/STF/163-C> (last accessed Jan. 6, 2024).

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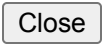
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- (3) A person may apply [...]
- (4)(a) A person petitioning for relief [...]

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N.Y. State Finance Law Section 163-D

Decarbonization plans for state-owned fleet vehicles

1.

Each state agency shall prepare a state fleet decarbonization plan for purchase or lease of state agency vehicles. The state fleet decarbonization plans for light-duty non-emergency vehicles shall be prepared on or before December thirty-first, two thousand twenty-three, and the state fleet decarbonization plans for medium- and heavy-duty vehicles shall be prepared on or before December thirty-first, two thousand twenty-five. Such plans shall include interim targets for achieving fleet decarbonization goals. [↗](#)

2.

All state agency light-duty non-emergency vehicles shall be zero emission vehicles by no later than December thirty-first, two thousand thirty-five, and all state agency medium- and heavy-duty vehicles shall be zero emission vehicles by no later than December thirty-first, two thousand forty, unless a zero emission vehicle is not feasible for a particular application.

Source: Section 163-D — Decarbonization plans for state-owned fleet vehicles, <https://www.nysenate.gov/legislation/laws/STF/163-D> (updated Mar. 31, 2023; accessed Apr. 19, 2025).

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Location: `https://newyork.public.law/laws/n.y._state_finance_law_section_163-d`

Original Source: *Section 163-D — Decarbonization plans for state-owned fleet vehicles*, <https://www.nysenate.gov/legislation/laws/STF/163-D> (last accessed Aug. 20, 2023).

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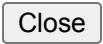
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N.Y. State Finance Law Section 164

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.

Source: Section 164 — Exemptions, <https://www.nysenate.gov/legislation/laws/STF/164> (updated Sep. 22, 2014; accessed Apr. 19, 2025).

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Location: `https://newyork.public.law/laws/n.y._state_finance_law_section_164`

Original Source: Section 164 — Exemptions, `https://www.nysenate.gov/legislation/laws/STF/164` (last accessed Aug. 20, 2023).

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N.Y. State Finance Law Section 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 styraciflua Red gum Celtis laevigata Hackberry Hicoria spp. Hickory Acer spp. Maples Quercus spp. Oaks Hicoria spp. Pecan Liriodendron tulipifera 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 Vouacapoua americana Acapu Pericopsis elata Afrormosia 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 Guibourtia arnoldiana Bengé Deterium Senegalese Boire Priora copaifera Cativo Antiaris africana Chenchen Dalbergis retusa Concobola Cordia spp. Cordia Diospyros spp. Ebony Aucoumes klaineana Gaboon Chlorophora excelsa Iroko Acacia koa Koa Pterygota macrocarpa Koto Shorea negrosensis Red Lauan Pentacme contorta White Lauan Shorea ployssprma Tanguile Terminalia

superba Limba Aniba duckyi Louro Kyaya ivorensis Africa Mahogany Swietenia 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 Entandrophragma cylindricum Sapela Shorea philippinensis Sonora Tectona grandis Teak Lova trichilloides Tigerwood Millettia 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 [Economic Development Law § 261 \(New York state waste prevention program\)](#) 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 [Environmental Conservation Law § 27-0717 \(Bureau of waste reduction and recycling\)](#) 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 [§ 163 \(Purchasing services and commodities\)](#), 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 [Environmental Conservation Law § 27-0717 \(Bureau of waste reduction and recycling\)](#) 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 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.

(i)

All such solicitations for the purchase of food products shall include the list of food products developed by the commissioner of agriculture and markets pursuant to paragraph b of this subdivision; and

(ii)

notice that such food products are available in sufficient quantities for competitive purchasing and that the list was developed to assist the state in increasing purchases of New York state food products.

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, shall issue regulations for the implementation of this subdivision, including but not limited to:

(i)

establishing guidelines that will assist agencies in increasing their use and purchase of New York state food products;

(ii)

publishing such purchasing guidelines on the office of general services website, disseminating such guidelines to agencies and training contracting personnel on implementing such guidelines; and

(iii)

providing for monitoring of implementation.

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.

(iii)

Every successful offerer shall: (1) review the list of New York state food products developed pursuant to paragraph b of this subdivision to determine whether any such products are being provided under their contracts; (2) report to the procuring agency all of the food products and processed food procured under such contracts, categorized by specific type, together with the dollar value of each such type procured under such contract, to the extent practicable and known to such vendor; and (3) for each such type of food product or processed food included on the list of New York state food products, report to the procuring agency, to the extent practicable and known to such vendor: (a) any such New York state food product procured under such contract, together with the dollar value of each such type procured under such contract; (b) any such food product from outside of New York state procured under such contract during its listed New York state availability period, together with the dollar value of each such type procured under such contract; and (c) any other such food product from outside of New York state or processed food from facilities outside of New York state procured under such contract from outside New York state, together with the dollar value of each such type procured under such contract.

g.

No later than December first of each year the commissioner shall annually report to the governor and legislature on the implementation of this subdivision. Such report shall include, at minimum:

(i)

a description of the office's efforts to improve and increase the tracking of information relating to New York state food procured by agencies; and

(ii)

the information collected pursuant to paragraph f of this subdivision, compiled to provide the following, disaggregated by food product and processed food: (a) the total dollar value of New York state food products procured by agencies; (b) the total dollar value of food products from outside of New York state procured by agencies during their listed New York state availability periods; and (c) the total dollar value of all other food products from outside of New York state and processed food from facilities outside of New York state.

h.

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 [Alcoholic Beverage Control Law § 3 \(Definitions\)](#), 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 [§ 163 \(Purchasing services and commodities\)](#) and other competitive procurement statutes. Such exemption shall apply to New York state labelled wines as defined in subdivision twenty-a of [Alcoholic Beverage Control Law § 3 \(Definitions\)](#) produced by a licensed winery as defined in [Alcoholic Beverage Control Law § 76 \(Winery license\)](#).

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 [§ 162 \(Preferred sources\)](#) 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 [§ 163 \(Purchasing services and commodities\)](#), 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 [§ 163 \(Purchasing services and commodities\)](#) 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 [§ 163 \(Purchasing services and commodities\)](#), 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.

9.

End point device security. (a) For the purposes of this subdivision “end point device” shall mean personal computing goods that include desktops, laptops, all-in-ones, tablets, mobile or cellular telephones, thin clients, and monitors of various sizes; printers; and multi-functional devices that include imaging devices that combine operations such as copying, printing, scanning and faxing into one machine. (b) The commissioner and all state agencies, when procuring end point devices, shall be consistent with any relevant standards, guidelines, or guidance developed as part of the National Institute of Standards and Technology (NIST) Cybersecurity Framework.

Source: Section 165 — Purchasing restrictions, <https://www.nysenate.gov/legislation/laws/STF/165> (updated Mar. 28, 2025; accessed Apr. 19, 2025).

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Location: `https://newyork.public.law/laws/n.y._state_finance_law_section_165`

Original Source: *Section 165 — Purchasing restrictions*, <https://www.nysenate.gov/legislation/laws/STF/165> (last accessed Apr. 2, 2025).

Blank Outline Levels

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The legislature occasionally skips outline levels. For example:

(3) A person may apply [...]

(4)(a) A person petitioning for relief [...]

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N.Y. State Finance Law Section 165-A

Iran divestment

1.

As used in this section, the following definitions shall apply:

(a)

“Energy sector” of Iran means activities to develop petroleum or natural gas resources or nuclear power in Iran.

(b)

“Financial institution” means the term as used in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(c)

“Investment” means a commitment or contribution of funds or property, a loan or other extension of credit; and the entry into or renewal of a contract for goods or services. [↗](#)

(d)

“Iran” includes the government of Iran and any agency or instrumentality of Iran.

(e)

“Person” means any of the following:

(1)

A natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group.

(2)

Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)).

(3)

Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph one or two of this paragraph.

2.

For purposes of this section, a person engages in investment activities in Iran if:

(a)

The person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(b)

The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of this section as a person engaging in investment activities in Iran as described in paragraph (a) of this subdivision.

3.

(a) A person that is identified on a list created pursuant to paragraph (b) of this subdivision as a person engaging in investment activities in Iran as described in subdivision two of this section, shall not be deemed a responsive bidder or offerer pursuant to [§ 163 \(Purchasing services and commodities\)](#).

(b)

(1) Not later than one hundred twenty days after the effective date of this section, the commissioner shall develop or contract to develop, using credible information available to the public, a list of persons it determines engage in investment activities in Iran as described in subdivision two of this section. If the commissioner has contracted to develop the list, the list shall be finally developed not later than one hundred twenty days after this section shall take effect. Such list, when completed, shall be posted on the website of the office of general services.

(2)

The commissioner shall update the list every one hundred eighty days.

(3)

Before finalizing an initial list pursuant to subparagraph one of this paragraph or an updated list pursuant to subparagraph two of this paragraph, the commissioner shall do all of the following before a person is included on the list: (A) Provide ninety days' written notice of the commissioner's intent to include the person on the list. The notice shall inform the person that inclusion on the list would make the person a non-responsive bidder or offerer. The notice shall specify that the person, if it ceases its engagement in investment activities in Iran as described in subdivision two of this section, may be removed from the list. (B) The commissioner shall provide a person with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person demonstrates to the commissioner that the person is not engaged in investment activities in Iran as described in subdivision two of this section, the person shall not be included on the list.

(4)

The commissioner shall make every effort to avoid erroneously including a person on the list.

(5)

A person that has a contract with the New York state common retirement fund, the New York state and local employees' retirement system, the New York state and local police and fire retirement system, or the New York state teachers' retirement system, shall not be deemed a person that engages in investment activities in Iran as described in subdivision two of this section on the basis of those contracts or investments with such retirement systems, provided however, that nothing in this subparagraph shall prevent the New York state common retirement fund, the New York state and local

employees' retirement system, New York state and local police and fire retirement system or the New York state teachers' retirement system from pursuing a policy of divestment in the Iranian economy.

(c)

Notwithstanding paragraph (a) of this subdivision, a state agency may permit a person engaged in investment activities in Iran as described by subdivision two of this section to be deemed a responsive bidder or offerer, on a case-by-case basis with a state agency if:

(1)

The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2)

The state agency makes a determination that the commodities or services are necessary for the state agency to perform its functions and that, absent such an exemption, the state agency would be unable to obtain the commodities or services for which the contract is offered. Such determination shall be entered into the procurement record.

4.

(a) A state agency shall require a person that submits a bid or offer in response to a notice of procurement, or that proposes to renew an existing procurement contract with a state agency or proposes to assume the responsibility of a contractor pursuant to a procurement contract with a state agency or otherwise proposes to enter into a contract with a state agency with respect to a contract for commodities, services, construction, or contracts entered pursuant to sections six and seven of the New York state printing and public documents law, [Public Buildings Law § 8 \(Contracts\)](#), or [Highway Law § 38 \(Contracts for construction or improvement of highways\)](#), to certify, at the time the bid is submitted or the contract is renewed or assigned, that the person or the assignee is not identified on a list created pursuant to paragraph (b) of subdivision three of this section. A state agency shall include certification information in the procurement record.

(b)

A person that submits a bid or offer in response to a notice of procurement or that proposes to renew an existing procurement contract with a state agency or proposes to assume the responsibility of a contractor pursuant to a procurement contract with a state agency, or otherwise proposes to enter into a contract with a state agency with respect to a contract for commodities, services, construction, or contracts entered pursuant to sections six and seven of the New York state printing and public documents law, [Public Buildings Law § 8 \(Contracts\)](#), or [Highway Law § 38 \(Contracts for construction or improvement of highways\)](#) shall not utilize, on the contract with the state agency, any subcontractor that is identified on a list created pursuant to paragraph (b) of subdivision three of this section.

5.

Upon receiving information that a person who has made the certification required by subdivision four of this section is in violation thereof, the state agency shall review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of this act within ninety days after the determination of such violation, then the state agency 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.

6.

The commissioner shall report to the governor and the legislature annually on or before October first, on the status of the federal “Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010” (Public Law 111-195), “the Iran divestment act of 2012”, and any rules or regulations adopted thereunder.

Source: Section 165-A — Iran divestment, <https://www.nysenate.gov/legislation/laws/STF/165-A> (updated Sep. 22, 2014; accessed Apr. 19, 2025).

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Location: https://newyork.public.law/laws/n.y._state_finance_law_section_165-a

Original Source: Section 165-A — Iran divestment, <https://www.nysenate.gov/legislation/laws/STF/165-A> (last accessed Aug. 20, 2023).

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N.Y. State Finance Law Section 166

Requirements for financed equipment acquisition or financed creation or improvement of information technology systems and related research...

§ 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 [§ 66-B \(Issuance of certificates of participation\)](#). 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.

Source: Section 166 — Requirements for financed equipment acquisition or financed creation or improvement of information technology systems and related research..., <https://www.nysenate.gov/legislation/laws/STF/166> (updated Sep. 22, 2014; accessed Apr. 19, 2025).

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Location: https://newyork.public.law/laws/n.y._state_finance_law_section_166

Original Source: Section 166 — Requirements for financed equipment acquisition or financed creation or improvement of information technology systems and related researc..., <https://www.nysenate.gov/legislation/laws/STF/166> (last accessed Aug. 20, 2023).

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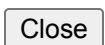
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N.Y. State Finance Law Section 167

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 at a cost set at the discretion of the secretary of the senate, 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 any parent or parents of such member, (iv) to siblings 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 at a cost set at the discretion of the clerk of the assembly, 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 any parent or parents of such member, (iv) to siblings 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 [§ 168 \(The management of surplus computer equipment\)](#). 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.

Source: Section 167 — Transfer and disposal of personal property, <https://www.nysenate.gov/legislation/laws/STF/167> (updated May 12, 2023; accessed Apr. 19, 2025).

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Original Source: *Section 167 — Transfer and disposal of personal property*, <https://www.nysenate.gov/legislation/laws/STF/167> (last accessed Aug. 20, 2023).

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N.Y. State Finance Law Section 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 [Education Law § 318 \(Distribution of surplus computers\)](#).

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 [Education Law § 318 \(Distribution of surplus computers\)](#).

Source: Section 168 — The management of surplus computer equipment, <https://www.nysenate.gov/legislation/laws/STF/168> (updated Sep. 22, 2014; accessed Apr. 19, 2025).

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