§ 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 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; and eight at large members appointed as follows: three appointed by the temporary president of the senate, one of whom shall be a representative of local government and one of whom shall be a representative of private business; three appointed by the speaker of the assembly, one of whom shall be a representative of local government and one of whom shall be a representative of private business; one appointed by the minority leader of the senate; and, one appointed by the minority leader of the assembly; and two non-voting observers appointed as follows: one appointed by the temporary president of the senate and one appointed by the speaker of the assembly. The non-voting observers shall be provided, contemporaneously, all documentation and materials distributed to members. The council shall be chaired by the commissioner and shall meet at least quarterly.

b. The at large members shall each serve a term of three years; provided, however, that for their initial appointments, the temporary president of the senate and the speaker of the assembly shall each designate one member to serve a term of one year, one member to serve a term of two years and one member to serve a term of three years. Any vacancy among the at large members shall be filled by appointment pursuant to paragraph a of this subdivision for the unexpired balance of the term. The non-voting observers shall each serve a term of three years. All the initial appointments made pursuant to this section shall be deemed to have been made and to have been effective for all purposes on the fourth day of June, nineteen hundred ninety-six.

c. The members of the council shall serve without compensation, except that each of them shall be allowed the necessary and actual expenses incurred in the performance of any of their duties hereunder.

d. The council may conduct any business authorized herein when a quorum of the members are represented in session.

2. The council shall:

a. Evaluate and make recommendations to the commissioner for the development of specifications for commodities and services to be acquired by or for state agencies through centralized contracts, including, but not limited to, evaluations and recommendations on minimum purchase quantities and standards for quality, function and utility;

b. Establish and maintain guidelines which, in the manner provided by this article, enable state agencies to acquire products directly from vendors or suppliers other than those participating in a centralized contract when such products are not required by this article to be acquired from a preferred source and when such products are available in substantially similar function, form or utility and at prices or other terms more economically beneficial for the purposes of the acquiring state agency;

c. Identify to the commissioner any deficiencies in products or services made available to state agencies through centralized contracts, including, at the discretion of the council, matters relating to specifications developed and employed for procurement of products or services through centralized contracts;

d. Establish and, from time to time, amend guidelines concerning state procurement and provide for the appropriate distribution and
dissemination of such guidelines and other information concerning all matters relating to procurement of products, construction items or services for state agencies;

e. Recommend to the commissioner necessary legislative changes or modifications to existing or proposed rules, regulations and procedures which would simplify, accelerate or otherwise improve the state's procurement process and make specific recommendations to the commissioner by September thirtieth, nineteen hundred ninety-five for the improvement of the New York state printing and public documents law;

f. Act as a clearinghouse for the purpose of identification of potential cost reductions and other efficiencies through the combination of similar procurement requirements of state agencies;

g. Consult with and advise the commissioner on strategic technology investments that will facilitate electronic access to the terms and conditions of existing procurement contracts, promote electronic commerce including, but not limited to, payment to vendors, promote and enhance the efficiency of the procurement of products and services by or for state agencies and produce useful information that supports state procurement operations, management, analysis and decision making including, but not limited to, data concerning the status and use of procurement contracts and the number and type of contracts and award recipients;

h. Establish and, from time to time, amend guidelines for purchases of commodities, by the commissioner or state agencies. Such guidelines shall ensure the wise and prudent use of public money in the best interest of the taxpayers of the state; and guard against favoritism, improvidence, extravagance, fraud and corruption;

i. Establish and, from time to time, amend guidelines for the procurement of services and technology in accordance with the provisions of this article. Such guidelines shall ensure the wise and prudent use of public money in the best interest of the taxpayers of the state; guard against favoritism, improvidence, extravagance, fraud and corruption; and ensure that service contracts are awarded on the basis of best value, including, but not limited to, the following criteria: quality, cost, and efficiency;

j. Consult with and advise the commissioner on new opportunities to acquire commodities and services including, but not limited to, regional or statewide equipment or facility maintenance services, professional services, coordination and cooperation with other centralized purchasing entities, and coordination of reuse of surplus property;

k. Report by December thirty-first, nineteen hundred ninety-five and thereafter biennially to the governor, the legislature and the director of the budget, the significant findings of the council including, but not limited to, substantial savings generated by council initiatives and the recommendations of the council concerning the state's procurement practices; and

l. Undertake other related activities as are necessary to effectuate this article including the development of a strategic plan for the improvement of state procurement.

m. Establish and, from time to time, amend guidelines with respect to publishing by state agencies of quarterly listings of projected procurements having a value greater than five thousand dollars but less than fifteen thousand dollars in the procurement opportunities newsletter established by article four-C of the economic development law.

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.