



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

April 30, 2018

To: Jerome D. Schad, Vice Chairman
Karl J. Simmeth, Treasurer
Mark S. Carney, Commissioner

From: Paul H. Riester, Director of Administration

Subject: Preferred Source Contract – New York State Industries for the Disabled Landscape
Contract – 4/15/18 – 12/31/2020

The Erie County Water Authority maintains a professional, certified procurement unit to ensure the highest in public procurement and strictly enforce Authority purchasing and disposal policies and guidelines to promote fair competition.

The State of New York under State Finance Law Article 11, Section 162, requires the procurement of available goods and services from various preferred sources as a matter of law. (See Memorandum # CL-755 August 31, 2011 and New York Procurement Bulletin, Preferred Source Guidelines October 2014 attached.)

The Erie County Water Authority has identified two service areas for such Preferred Source Purchasing. They are Janitorial Services at the Service Center and General Landscape Services at Authority facilities. Both have been contracted through New York State Industries for the Disabled and serviced by Heritage Centers/Allentown Industries.

The General Landscape Services contract expired November 15, 2017. The Authority had a good experience with the vendor and savings of over \$100,000.00 per year were realized compared to previous contracts with commercial firms.

New York Industries for the Disabled notified the Authority that it is interested in providing services for another three year period from April 15, 2018 to December 31, 2020.

Based upon the willingness of the vendor and the Authority to continue working together and based upon the laws governing Preferred Source Procurement, staff has prepared all the necessary documents for the Board to consider the award of the General Landscape Services Contract to New York State Industries for the Disabled.

A resolution for the Board to award the contract has been prepared for the Board's consideration at the regular meeting of May 3, 2018.

If there are any questions, please contact me.

Paul

New York State Office Of General Services
Procurement Services Group
Corning Tower Building
Empire State Plaza
Albany, New York 12242
<http://www.ogs.ny.gov>

PURCHASING MEMORANDUM

GENERAL INFORMATION BULLETIN

NUMBER: CL-755

DATE: August 31, 2011

PLEASE ADDRESS INQUIRIES TO:

Mark Milstein
Preferred Source Program
(518) 402-5005
mark.milstein@ogs.ny.gov

SUBJECT: Preferred Source Program

TO ALL STATE AGENCIES AND OTHERS AUTHORIZED TO USE STATE CONTRACTS:

State agencies, political subdivisions and public benefit corporations (which include most public authorities), are reminded of their obligations under State Finance Law, Article 11, Section 162 when acquiring commodities and services. When a commodity or service desired by a state agency, political subdivision or public benefit corporation (including most public authorities) is available from a preferred source in the form, function and utility required, and the price, as determined by OGS, is no more than 15 percent above the prevailing market rate (or, in the case of Correctional Industries, the price of the commodity does not exceed a reasonable, fair market rate as determined by the Department of Correctional Services), the state agency, political subdivision or public benefit corporation must purchase that commodity or service from a preferred source. When doing so, these entities must adhere to the priority that has been accorded to the various preferred sources in State Finance Law §162.

Preferred Source guidelines approved and issued by the New York State Procurement Council as well as a list of Preferred Source offerings are available on the OGS website to assist in making such purchases. Below is a link to the guidelines.

<http://www.ogs.state.ny.us/procurecounc/pdfdoc/psguide.pdf>

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October 2014

**NYS PROCUREMENT BULLETIN
PREFERRED SOURCE GUIDELINES**

List of Preferred Source Offerings

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I. PURPOSE

To advance special social and economic goals, certain providers have “preferred source” status under the law. The acquisition of commodities and/or services from preferred sources is exempted from statutory competitive procurement requirements.

The following guidelines seek three goals: first, to promote the acquisition of goods and services from special providers given preferred source status; second, to ensure that State agencies and other purchasing agents are able to buy the commodities and services they need to fulfill their respective missions; and third, to provide information to purchasers that will enable them to understand and comply with statutory requirements and State Procurement Council policy. It is the obligation of each State agency and other purchasers covered by these guidelines, to buy from preferred sources whenever possible. Purchases of this nature promote the self sufficiency and self determination of preferred source clients and their families. At the same time preferred source providers are expected to remain business-oriented, one aspect of which is customer service and meeting agency needs. While the following guidelines are intended to advance these goals, ultimate success will rely upon the professional judgment and commitment of both the preferred sources and the staff of purchasing agencies.

II. APPLICABILITY AND SCOPE

All State agencies, political subdivisions and public benefit corporations (which includes most public authorities), are required to purchase approved products and services from preferred sources in accordance with the procedures and requirements described herein. Purchases from preferred sources take precedence over all other sources of supply and competitive procurement methods. The term “purchasing agency,” as used in these guidelines, refers to State agencies, political subdivisions and public benefit corporations.

Purchases by the Legislature and the Judiciary are not covered under these guidelines.

III. PREFERRED STATUS

Preferred source status is accorded to the following entities:

- **Commodities** produced by the Department of Correctional Services' Correctional Industries Program (CORCRAFT).
- **Commodities and Services** produced by any qualified, charitable, non-profit-making agency for the blind approved by the Commissioner of Social Services.
- **Commodities and Services** produced by any qualified, charitable, non-profit-making agency for the other severely disabled persons approved by the Commissioner of Education.
- **Commodities and Services** produced by a qualified veterans' workshop providing job and employment skill training to veterans, operated by the United States Department of Veterans Affairs, that manufactures products or performs services within the State and is approved by the Commissioner of Education.

It should be noted that Correctional Industries also provides services which agencies may elect to purchase. Correctional Industries' services do not, however, have preferred source status under the law.

IV. PRIORITY AMONG PREFERRED SOURCES

- **Commodities** available in the form, function and utility required by a State agency, political subdivision or public benefit corporation (including most public authorities) must be purchased from preferred sources in the following prioritized order:
 - 1st - Department of Correctional Services' Correctional Industries Program.
 - 2nd - Approved, charitable, non-profit making agencies for the blind;
 - 3rd - Equal priority to approved, charitable, non-profit-making agencies for the severely disabled, and qualified veterans' workshops.
- **Services** available in the form, function and utility required by a State agency, political subdivision or public benefit corporation must be purchased from a preferred source. **Equal priority** is accorded to approved, charitable, non-profit-making agencies for the blind, other severely disabled persons, and qualified veterans workshops. If more than one preferred source meets the service requirements, cost shall be the determining factor in selecting among the qualified sources.

V. FACILITATING AGENCIES/PREFERRED SOURCES

Facilitating agencies are non-profit-making corporations established to facilitate the distribution of orders among approved, charitable, non-profit-making preferred sources. These include National Industries for the Blind, appointed by the Commission for the Blind and Visually Handicapped of the Department of Social Services to facilitate orders among agencies for the blind; and New York State Industries for the Disabled, designated by the Commissioner of Education to facilitate orders among agencies for the other severely disabled and the veteran's workshops.

Facilitating agencies serve the preferred sources as their agent by disseminating information regarding preferred sources and their List offerings, by processing inquiries and orders as a "one stop" contact for purchasers, and by facilitating the distribution of those commodities and services provided by preferred sources. In the description of the Preferred Source Procurement Process below (Section VIII), the activities involving preferred sources will actually be performed by the facilitating agencies where the commodity or service is offered by a blind or other severely disabled preferred source. Purchasing staff should directly contact the facilitating agencies involved.

CORCRAFT (Division of Correctional Industries) is the manufacturing division of the New York State Department of Correctional Services.

VI. LIST OF PREFERRED SOURCE OFFERINGS

The Office of General Services has posted a list of all commodities and services that are available and being provided by preferred sources. This list, referred to as the List of Preferred Source Offerings, contains generic groups of commodities and services as well as specific items and references preferred source catalogs and other literature detailing the specific approved commodities and services offered for sale by preferred sources.

All new or substantially different commodities or services that are offered for sale by preferred sources to more than one State agency, political subdivision or public benefit corporation, under the preferred source provisions of the law, must first be added to the List of Preferred Source Offerings. In other words, if the commodity or service is not on the List, purchasers may elect to buy the commodity or service from a preferred source but are not required to do so. The addition of new or substantially different services to the List requires action by the Procurement Council and the Commissioner of General Services. OGS will maintain a current List. The addition of new or substantially different commodities over \$ 500,000.00 annually requires action by the Procurement Council and the Commissioner of General Services. The Procurement Council delegated to the Commissioner of General Services the authority to approve additions to the List of Preferred Sources for commodities which have an estimated annual sales volume under \$ 500,000.00.

VII. PREFERRED SOURCE COMMODITY AND SERVICE PRICING

A. Correctional Industries Program (CORCRAFT)

1. **Prices** - Prices charged for commodities produced by Correctional Industries are to be established by the Commissioner of Correctional Services based upon costs, but may not exceed a *reasonable fair market price* determined at, or within 90 days before the time of sale. Fair market price means the price at which a vendor of the same or similar product offers to sell such product under similar terms, in the same market.
2. **Appeals** - At any time prior to, or within 30 days of the date of sale, a purchaser of a Correctional Industries product may appeal the purchase price on the basis that it unreasonably exceeds fair market price. Appeals are to be sent to the Director of the Budget, the Commissioner of Correctional Services and the Commissioner of General Services and will be decided by a majority vote of a three member review board consisting of the Director of the Budget, the Commissioner of Correctional Services and the Commissioner of General Services, or their designees. Decisions of the review board are final. Purchasing agencies are encouraged to consult with CORCRAFT on pricing issues prior to a formal appeal.

B. Agencies for the Blind, Other Severely Disabled and Veterans' Workshops

1. **Price Review and Approval** - With the exception of commodities offered by Correctional Industries, the Commissioner of General Services is responsible for reviewing and approving the prices of all commodities and services provided by preferred sources to State agencies, political subdivisions or public benefit corporations. In determining and revising the prices of commodities and services, consideration will be given to the reasonable costs of labor, materials and overhead necessarily incurred by preferred sources under efficient methods of procurement, production, performance and administration.
2. **Price Standards** - In approving the prices of preferred source commodities and services, OGS will seek to ensure the prices are as close to *prevailing market price* as practicable. Prevailing market price means the price at which a vendor of the same or similar commodity or service offers to sell such commodity or service under similar terms in the same market. Prices may not exceed 15 percent above prevailing market prices among responsive and responsible offers, for the same or equivalent commodities or services.

VIII. Preferred Source Procurement Process

The procedures below outline a step-by-step process to be performed by purchasing agencies and preferred sources. The 10 day notification requirement detailed in Step 5b for commodities, and in Step 3a and 3b for services, applies only to those commodities that have been approved as a preferred source commodity on a statewide basis, and to those services approved for one or more State agencies, political subdivisions or public benefit corporations as indicated on the List of Preferred Source Offerings. For commodities or services approved for purchase only by a specific purchasing agency, the 10 day notification requirement applies only to the specific agency.

A. Commodities

Step 1. The purchasing agency determines and defines its need for particular commodities.

Step 2. The purchasing agency reviews the current List of Preferred Source Offerings to determine if the commodity being sought is one provided by one or more preferred sources. Purchasing agencies should broadly interpret the generic listing of commodities.

Step 3. a. If the commodity is identified on the List as available from one or more preferred sources, the purchasing agency determines which preferred source has priority and reviews the preferred sources' catalogs to generally determine whether the commodity meets the agency's specific needs.

Purchasing agencies should consult directly with the preferred sources/facilitating agencies to gain additional information and/or clarify catalog descriptions.

If necessary, the purchasing agency should proceed through each of the preferred sources' catalogs that, based on the List, offer the commodity being sought to locate one which meets the specific needs. If one is identified, proceed to Step 4.

b. If the commodity is not identified on the List as being available from a preferred source, State agencies should, and local governments and public benefit corporations may, consult OGS Centralized Contracts to determine if the commodity is covered by such a contract. If not, the purchasing agency may proceed with an appropriate competitive procurement in accordance with the applicable law.

Step 4. If the commodity is on the list, and in the preferred source catalog, the purchasing agency shall determine whether the commodity is in the form, function and utility required.

To apply the form, function and utility standard, the agency should define the commodity in terms of the **minimum essential requirements** which will meet its needs. Every effort should be made to purchase from the preferred source so long as the item meets the agency's needs. Requirements may include quality, quantity, delivery, packaging, performance standards and compatibility, among others. Requirements should not be inflated or overstated to eliminate preferred source suppliers; nor, should the purchasing agency acquire a preferred source product which is materially unsuited to the needs of the agency.

In making the form, function and utility determination, purchasing agencies should at least consider the following:

- Does the commodity offered by the preferred source meet either agency specifications or industry standards which may be applicable?
- If there are deviations from specifications will the commodity suffice, or substantially meet the minimum requirements for function and performance?
- Are delivery schedules, installation requirements, performance standards reasonable, necessary and within accepted commercial practices? For example, is the divergence between the purchasing agency's desired delivery date and the preferred source's delivery date within reason or so great as to impede the agency from accomplishing its goals (i.e. six weeks vs. six months)?
- Has the preferred source been consulted with? Can the preferred source make necessary accommodations to meet the purchasing agency's needs?

- Step 5.**
- a. If the commodity meets the form, function and utility required by the purchasing agency, the agency completes the purchase from the preferred source at the price determined by OGS or established by the Dept. of Correctional Services. If a state agency is purchasing a commodity valued at \$50,000 or more (\$85,000 for OGS) the agency must also obtain Office of the State Comptroller (OSC) approval. The purchasing agency **should not** put the commodity out to bid to determine prevailing market price.
 - b. If the purchasing agency determines that the commodity does not meet the form, function or utility required, the agency shall provide a written notification to the preferred source or the applicable facilitating agency (i) describing the basis for its finding; (ii) providing the name address and phone number of the responsible agency purchasing official; and (iii) indicating the date on which the Contract Reporter insertion form (if required) will be submitted, or the date on which competitive solicitations will be made by the agency. This notification must be received by the preferred source at

the address provided in the List of Preferred Source Offerings at least 10 days prior to the date indicated in (iii) above. Proof of notification should be retained by the agency.

- Step 6.** Within the 10 days provided, the preferred source or facilitating agency may:
- a. Contact, in writing or other form, the agency purchasing officer indicating agreement with the agency;
 - b. Provide no response to the purchasing officer; or
 - c. Contact in writing or other form, the agency purchasing officer indicating disagreement with the agency's finding.
- Step 7.**
- a. If (a) or (b) in Step 6 occurs, the purchasing agency may proceed with the procurement from OGS Centralized Commodity Contracts or with an appropriate competitive procurement in accordance with the applicable law.
 - b. If (c) occurs, the preferred source or facilitating agency may consult or negotiate with the agency regarding procurement options including, but not limited to, the commodity offered, a modified version of the required commodity, delivery schedules, etc.
- Step 8.**
- a. If the procurement is negotiated to the satisfaction of the purchasing agency, the agency shall proceed with the procurement from the preferred source.
 - b. If negotiations are unsuccessful, the purchasing agency will so advise the preferred source or applicable facilitating agency and proceed with alternative procurement procedures, including Contract Reporter notification, if required.
- Step 9.** The preferred source or facilitating agency may elect to inform the Commissioner or other chief executive of the purchasing agency as to its objection to the agency decision. A copy of such objection must be included with contract documents or vouchers sent by State agencies to the Office of the State Comptroller.
- Step 10.** All documentation of findings, actions, decisions and objections are to be retained by the purchasing agency, in conformance with standard records retention schedules, as part of the Procurement Record for that acquisition.

B. Services

- Step 1.** The Purchasing agency determines and defines its need for services.
- Step 2.** The Purchasing agency reviews the List of Preferred Source Offerings to determine if the service being sought is one provided by one or more preferred sources. Agencies should broadly interpret the generic listing of services. If the service is clearly not on the List the agency may proceed with a competitive procurement.
- Step 3.**
- a. The agency must make reasonable efforts to notify preferred sources or their facilitating agency of the need for services appearing on the List. Notification, including a description of the purchasing agency's requirements, should be provided to the preferred source(s) at the address provided in the List of Preferred Source Offerings. Proof of notification should be retained by the agency.
 - b. If a preferred source or facilitating agency responds within 10 days of the notification, with a notice of intent to provide the service in the form, function and utility required, identifying the specific preferred source that will be performing the service, either independently or with a corporate partner, the agency shall proceed with the procurement as indicated in Step (4) below. If more than one preferred source submits notice of intent to provide the service and all meet the requirements, cost shall be the determining factor.
 - c. If no preferred source responds within the 10 day period with a notice of intent, or the preferred source(s)/facilitating agency provides a notice that it has no interest in providing the required service, the purchasing agency must next determine if there is an OGS Centralized Services or Technology Contract which meets its form, function and utility needs before it may proceed with a competitive procurement. **If** the purchasing agency decides to pursue a competitive procurement, and one or more preferred sources elects to "bid" on that procurement, the purchasing agency must award on the basis of "best value", or, in instances involving a political subdivision, to the lowest responsible bidder, **irrespective** of the preferred sources' special status. In other words, in such a case, preferred sources are treated as any other vendor.
- Step 4.** Once a service has been identified as available from a preferred source, the purchasing agency shall determine whether the service is in the form, function and utility required by the agency.

To apply the form, function and utility standard, the agency should define its service requirements in terms of the **minimum essential requirements**. In other words, every effort should be made to purchase from the preferred source so long as the service meets the agency's

needs. Requirements may include quality, timeliness, and performance standards, among others. Requirements should not be inflated or overstated to eliminate preferred source suppliers; nor, should the purchasing agency acquire a preferred source service which is materially unsuited to the needs of the agency.

In making the form, function and utility determination agencies should consider the following:

- Does the service meet either agency specifications or industry standards which may be applicable?
- Are deviations from specifications minor? Will the service, or could the service be made to suffice, or substantially meet the minimum requirements for function and performance?
- Are start-up lead times and performance standards reasonable, necessary and within accepted commercial practices?
- Has the preferred source been consulted with? Can the preferred source make necessary accommodations to meet agency's needs?

- Step 5.** a) If the service meets the form, function and utility needs of the agency and cost \$50,000 or more, the preferred source or facilitating agency must obtain OGS price approval before the agency completes the purchase. In addition, if the service is valued at \$50,000 or more (\$85,000 for OGS) and the purchase is by a state agency, the state agency must obtain OSC approval. The price of services shall be approved by OGS as being as close as practicable to prevailing market price but may not be greater than 15 percent above prevailing market price among responsive and responsible offers for equivalent service. The purchasing agency **should not** put the service out to bid to determine prevailing market price. The Office of General Services shall follow the requirements of Section 162 of the State Finance Law and ensure that the price of services offered by preferred sources are within the 15% cap based on the agency's detailed specification. To assist the Office of General Services, agencies should provide any price information they have available in order to ensure that the prevailing market price is accurately identified for the agency's specific services.
- b) If the purchasing agency determines that the service does not meet its form, function or utility needs, the agency must first determine if there is an OGS Centralized Services and Technology contract which meets its form, function and utility needs before it may proceed with a competitive procurement. Again, if a preferred source/facilitating agency elects to "bid" on such procurement, the purchasing agency shall make the award on the basis of best value, or, in instances involving a political subdivision, to the lowest responsible bidder, treating preferred sources as any other vendor.

Step 6. The preferred source or facilitating agency may elect to inform the Commissioner, or other chief executive of the purchasing agency as to its objection to the agency decision. A copy of such objection must be included with contract documents or vouchers sent by State agencies to the Office of the State Comptroller.

Step 7. All documentation of findings, actions, decisions and objections are to be retained by the purchasing agency, in conformance with standard records retention schedules, as part of the Procurement Record for that acquisition.

IX. COMPLIANCE REVIEW

It is a purchasing agency's responsibility to purchase from preferred source suppliers whenever possible, after determining the form, function and utility of preferred source products and services meet the agency's requirements. If, in the opinion of a preferred source or its facilitating agency, a purchasing agency shows a pattern of extended or repeated failure to purchase from the preferred source, the preferred source/facilitating agency may protest such purported practice to the State Procurement Council. The Council or a subcommittee thereof, may request to review the purchasing agency's relevant Procurement Records and based upon that review, may either concur with the purchasing agency's procurement decisions, or advise the agency of the need to take corrective action on future procurements consistent with statutory requirements and Council policy. A copy of the Council's decision shall be sent to the Comptroller's Office.

X. ADDING A COMMODITY OR SERVICE TO THE LIST OF PREFERRED SOURCE OFFERINGS

New or substantially different commodities and services may be made available as preferred source items for purchase by more than one State agency, public benefit corporation or political subdivision only after such commodity or service has been added to the List of Preferred Source Offerings.

A. Statutory Responsibilities

The State Procurement Council is responsible for recommending to the Commissioner of the Office of General Services (OGS) for formal action, the addition of new or substantially different commodities and services to the List of Preferred Source Offerings. One reason for rendering such recommendation is to provide a public forum for the discussion of those proposed new commodity/service offerings of preferred source providers given preferred status under the law. The Council shall consider all relevant factors, including costs and benefits in making its recommendations. The Council may also recommend the deletion of commodities or services from the List at the request of a preferred source; and may make a non-binding recommendation to a preferred source to delete a commodity or service from the List.

The Commissioner of General Services maintains the List of Preferred Source Offerings; adds commodities and services to the List after receiving a recommendation from the Council, reviews and approves the price of preferred source services and commodities other than commodities produced by the Correctional Industries Program; and, renders decisions on appeals made by preferred sources should the Procurement Council deny recommendation of any application to make available a new or substantially different commodity or service.

The filing of an application to the State Procurement Council to add new or substantially different commodities or services to the List of Preferred Source Offerings may be made by the Commissioners of Corrections, Office of Children and Family Services and Education, or the non-profit facilitating agency designated by one of the Commissioners.

B. General Criteria for Commodity/Service Addition

In evaluating the costs and benefits of an application to add either commodities or services to the List of Preferred Source Offerings, the State Procurement Council shall apply the following criteria:

1. Commodities must be produced, manufactured, assembled or repackaged by an appropriately certified preferred source or by Correctional Industries in New York State, with preferred source employee participation and with value added to the finished commodity by employees of the preferred source. "Value Added" means that the commodity or product has
 - a) Undergone a change in physical state which enhances its value or been altered or processed in a manner which increases its value and provides a customer with benefits that appeal to his or her immediate needs; and
 - b) Is not simply a pass through from the private sector without meaningful participation by the incarcerated or disabled.
2. Services must be performed by employees of an appropriately certified or approved New York State preferred source either independently or with a corporate partner.
3. Commodities or services must be new to the List of Preferred Source Offerings or substantially different from commodities or services already included on the List by the preferred source applicant, and must be intended for offering for sale to more than one purchaser.
4. Commodities or services must meet appropriate quality standards and specifications.
5. The cost/price data for commodities or services submitted with the application has been reviewed and approved by OGS. Applications submitted by, or on behalf of, the Commissioner of Corrections shall contain a price established by the Commissioner of Corrections.

6. Service and commodity additions may not represent an attempt by a private vendor to obtain an unfair advantage over competitors.

C. Impact Assessment on NYS Vendor/Suppliers

It is essential that the decision to add a commodity or service to the List of Preferred Source Offerings be sensitive to the business environment within which the State operates. New York State Department of Economic Development, d/b/a Empire State Development (ESD) will review applications to add new products and services to determine if adding a commodity or service to the preferred source list will have a significant impact on a substantial number of NYS businesses. Nothing in these guidelines prevents any preferred source or facilitating agency from contacting ESD prior to filing the application with the Council to explain to, consult with and receive input of ESD on the application. ESD is also available to assist the preferred source or facilitating agency in identifying NYS suppliers and/or partners if requested by the preferred source during the development of an offering. Information collected during this assessment, and efforts made to secure NYS businesses as suppliers for all components, including packaging, should be included in the cost/benefit analysis section of the application to be considered by the State Procurement Council. ESD review shall run concurrent with OGS review to be completed within 120 days of receipt of application.

D. Application Requirements

The application made by the Commissioners of Corrections, Office of Children and Family Services or Education, or the facilitating agencies, must provide the following information for both commodity and service applications:

1. Commodity Specification/Service Description – The application shall include the name of, and a description of, the commodity or service (either by specification or narrative explanation), including a recitation as to how it is new or substantially different from the commodities/services already offered by the preferred source.
2. Market Information – The applicant should provide information on the scope of the potential market for the commodity or service.
3. Client Employment – The applicant should identify the nature of the tasks the clients of the preferred source will perform in the preparation of the commodity or in providing the service. Projected employment opportunities for clients should be quantified.
4. Preferred Source – The applicant should identify the specific preferred source which will provide the commodity or service, and provide evidence of the preferred source's qualifications and expertise to manufacture, produce or assemble the commodity or provide the service. If applicable, the preferred source shall also identify the corporate partner the preferred source will be working with to provide the services.

5. Value Added – The application must specifically address the value added by preferred source client labor to the finished commodity or service.
6. Direct Labor Workforce – The application must specifically detail the number and hours of the direct labor employed in the provision of each preferred source commodity and service agreement and reflect the objective that 75% of the direct labor be provided by people who are blind or by people with disabilities. The following guidelines allow exceptions for commodity and service agreement phase-in, and for commodities and service agreements requiring a workforce of 10 people or less (measured as full-time equivalents):
 - a) 75% of the direct labor under a preferred source agreement must be provided by people who are blind or by people with disabilities. For commodity or service agreements requiring a workforce (working supervisors and laborers) of 10 people or less, a majority of the direct labor must be provided by people who are blind or by people with disabilities.
 - b) Upon application by the preferred source and approval by the Office of General Services, up to a six month period will be allowed for phase-in of commodity and service agreements, after which the 75% direct labor requirement will apply. During phase-in a majority of the direct labor must be provided by people who are blind or by people with disabilities.
 - c) Preferred source applications will indicate a start-up date (based upon termination of the existing contract or other factors as applicable). This start-up date will key the phase-in period.
 - d) These workforce standards will apply to all new commodity and service requests and to all requests for changes in, or renewal of, approved commodities and services.
 - e) Direct labor includes all labor other than non-working supervisors.

If it is anticipated that a preferred source will not be able to meet the 75% direct labor requirement for a commodity or service agreement within the allowable phase-in period, the preferred source application must specifically address staffing and related timing issues.

7. Cost/Benefits Analysis – The application will provide a summary of projected costs and benefits expected to accrue to the State, its agency(ies), political subdivision(s), public benefit corporations(s), or the preferred source, as well as any broader social and economic impacts on client employment and government costs. (For example, will a successful application maintain client employment, create employment opportunities for new clients, or result in reduced governmental support being provided to clients through other government programs?) The analysis should be quantitative, but may include qualitative factors.

8. **Cost/Price Data** – The application should include information sufficient to enable OGS to approve the price data on the commodity or service in accordance with the statute. In the case of Corcraft, the application should include its price for the offered Corcraft commodity. For applications involving multiple commodities (e.g., complete product line, various sizes and packaging, etc.) and individual service rates (e.g., wage rates), the price of each commodity or individual service component may not exceed 15% above prevailing market price. Preferred sources are encouraged to provide independent market analyses to be considered in the OGS determination of prevailing market price.
9. **Current Suppliers** – If the commodity or service is already being purchased by State agencies, public benefit corporations or political subdivisions, the application will list the current suppliers or contract holders if known to the applicant.
10. **Preferred Source Suppliers** – The application should contain the projected first year value of anticipated contracts and the name(s) and location(s) of the contractor(s) who would supply raw materials, semi-finished or finished products required by the preferred source, including any information as to methods employed in selecting such suppliers, if appropriate.

The application and supporting documentation must be submitted to the State Procurement Council coordinating Office, via the Procurement Services Group of Office of General Services. If PSG determines that the application is a new offering, the preferred source will be instructed to submit the application to ESD for review.”

E. Office of General Services Review

The Office of General Services will review the application to ensure that it is complete and to render the required pricing determinations. OGS may seek to verify or clarify any information included in the application, and may contact the applicant to obtain additional information OGS deems necessary to properly evaluate the application. If, in the judgment of OGS, adequate information on which to make an evaluation has not been provided, the application may be returned to the preferred source for additional documentation. OGS may request one or more State agencies represented on the Council to provide staff assistance to the Office of General Services.

F. Application Lead Times

Applications for the addition of commodities or services to the List of Preferred Source Offerings should be received at least forty-five days ~~six weeks~~ prior to a scheduled meeting date of the State Procurement Council to receive consideration at that meeting. The Council is expected to meet quarterly (March, June, September and December). When a commodity or service is currently covered by a State contract, applications should be submitted at least six months in advance of the expiration of the State contract.

G. Council Meeting/Application Review

The appropriate Commissioner or facilitating agency making the application, the Office of General Services, or the agency assisting OGS may present an assessment of the application at the Council meeting upon its own request or upon request of the Council. Additionally, any other interested party may request to offer comments in support of, or in opposition to, the application.

H. Council Decisions

A quorum of the Council members (or their designees) must be present to conduct business. Applications shall be decided by a simple majority vote of those present and, in the case of tie votes, an application shall be held over until the next scheduled meeting of the Council. Applications are deemed to have been received by the Council on the date the application is received by OGS in accordance with these guidelines. (If the application has been returned to the applicant by OGS for further completion, the application shall be deemed received by the Council when it is resubmitted to OGS.) If the Council does not make a recommendation to the Commissioner of General Services within 120 days of that date, the application shall be deemed recommended.

I. Appeals

In the event that the Council denies an application, the Commissioner or facilitating agency that submitted the application may, within 30 days of such denial, appeal the denial to the Commissioner of General Services.

The Commissioner shall review all materials submitted to the State Procurement Council regarding the application, and may request additional information or material as deemed necessary. Within 60 days of receiving all the information or material deemed necessary, the Commissioner shall render a final written decision on the appeal. The Commissioner's decision is final and binding upon the applicant and upon the State Procurement Council.