§ 43. Homeless housing and assistance contracts. 1. Within the limits of funds available in the homeless housing and assistance fund, the commissioner is hereby authorized to enter into contracts with municipalities to provide state financial assistance for the project costs attributable to the establishment of homeless housing projects. The municipalities that enter into contracts with the commissioner shall undertake the establishment of the homeless housing project or shall contract with a not-for-profit corporation or charitable organization to undertake the project, pursuant to this article.

2. Subject to the approval of the director of the budget, the commissioner is hereby authorized to enter into contracts with not-for-profit corporations or subsidiaries thereof, public corporations or charitable organizations or subsidiaries thereof to provide state financial assistance for the project costs attributable to the establishment of homeless projects.

3. The state financial assistance shall be in the form of grants, loans or loan guarantees, as the commissioner may determine provided, however, that financial assistance to a for-profit subsidiary of a not-for-profit corporation or of a charitable organization must be in the form of a loan or loan guarantee. Any loan to a for-profit subsidiary shall be repaid under such terms as will protect the financial viability of the project. Subject to the approval of the division of the budget, the commissioner may contract with other state agencies, public benefit corporation's or private institutions to administer a loan or loan guarantee program pursuant to regulations to be promulgated by the commissioner.

4. The commissioner shall require that, in order to receive funds pursuant to this article, the municipality, not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof must submit an operating plan. Such plan shall include:

(a) the manner in which the operating expenses of the project shall be met;

(b) the services that will be provided to homeless persons, including

procedures for intake, referral and outreach;

(c) the responsibilities of the municipality and social services district for the operation of the project;

(d) the specific population that will be served by the project and how the project will address the population's special needs;

(e) the category of facility proposed to be established; and

(f) evidence demonstrating that such project complies or will comply with existing local, state and federal laws and regulations.

5. The commissioner may use up to one percent of the appropriation for any fiscal year to pay for technical assistance in support of project development and operation. Technical assistance may include assistance with general project development and operation, support services development, architecture and engineering, legal services and financial services and may be provided by individuals and not-for-profit or business corporations. The providers of technical assistance shall be chosen by the department based on such information as the department shall require in a request for proposals or in any other competitive process which satisfies the provisions of the state finance law.

6. Prior to entering into a contract for the establishment and operation of a homeless project pursuant to this section, the commissioner shall determine that the not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof that proposes to undertake the homeless project is a bona fide organization which shall have demonstrated by its past and current activities that it has the ability to maintain, manage or operate homeless projects, that the organization is financially responsible, that the proposed project is financially viable and that the project plan has been determined to be appropriate for the needs of the homeless in the relevant community.

7. Every contract entered into for the establishment and operation of a homeless project pursuant to this article shall contain a provision that in the event the property which is the subject of such contract ceases to be used as a homeless project during a seven-year period commencing with the date of the commissioner's written approval of

occupancy of the homeless project, or such longer period of time as may be established in the contract, or in case of any other substantial violation, the commissioner may terminate the contract and may require the repayment of any moneys previously advanced to the municipality, not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof pursuant to the terms of such contract. Where the municipality has entered into a contract with a not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof, the commissioner may, pursuant to this subdivision, require that the municipality terminate the contract with such corporation. Any money repaid pursuant to this subdivision shall be returned to the homeless housing and assistance fund.

8. Each contract entered into for the establishment and operation of a homeless project pursuant to this article shall be subject to the approval of the director of the budget and shall provide for payment to the municipality, not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof for the project costs related to the homeless project to be established by it, pursuant to a payment schedule. The full amount of the contract, or any appropriate portion thereof, as determined by the commissioner and subject to the approval of the director of the budget, shall be available for payment at any time on or after the effective date of the contract.

9. Notwithstanding any other provision of this article, the commissioner may, subject to the approval of the director of the budget, enter into contracts to provide financial assistance for other than project costs where such financial assistance can be demonstrated to be necessary; provided, however, that no more than twenty-five per centum of the total amount appropriated for the purposes of this article in any fiscal year shall be allocated in contracts for other than project costs. In determining whether financial assistance for other than project costs is necessary, the commissioner shall consider the proposed project's plan for meeting operating expenses, the efforts made by the contracting organizations to secure alternative sources of funding for

other than project costs, and such other factors as the commissioner shall deem appropriate.

10. Notwithstanding any other provision of this article, the state shall not, in the exercise of its responsibilities pursuant to this article, assume the legal title to projects developed pursuant to this article.

11. The municipality, not-for-profit corporation or subsidiary thereof, public corporation or charitable organization or subsidiary thereof seeking financial assistance pursuant to this article shall, within thirty days of its application for such assistance, notify the local planning board, as defined by section twenty-seven of the general city law, section two hundred seventy-one of the town law, section 7-718 of the village law, or section eighty-four of the charter of the city of New York, appropriate for the geographic area in which the proposed homeless project would be located, and shall provide such board with information regarding the proposed homeless project.