

**POWER AUTHORITY OF THE STATE OF NEW YORK  
2015 ANNUAL REPORT OF PROCUREMENT CONTRACTS**

**EXECUTIVE SUMMARY**

The Power Authority of the State of New York (the "Authority") is a corporate municipal instrumentality and political subdivision of the State of New York. The Authority generates, transmits and sells electric power and energy principally at wholesale. The Authority's primary customers are municipal and investor-owned utilities and rural electric cooperatives located throughout New York State, high-load-factor industries and other businesses, various public corporations located within the metropolitan area of New York City and certain out-of-state customers. The Authority does not use tax revenues or State funds or credit. It finances construction of its projects through bond and note sales to private investors and repays the debt holders with proceeds from operations.

The Authority requires the services of outside firms for accounting, engineering, legal, public relations, surveying and other work of a consulting, professional or technical nature to supplement its own staff, as well as to furnish varied goods and services and perform construction work. Many of these contracts are associated with the construction, maintenance and operation of the Authority's electric generating and transmission facilities, transmission lines, as well as for support of Energy Efficiency ("EE") and Customer Energy Solutions ("CES") Programs.

**PROCUREMENT GUIDELINES (Exhibit "A-2")**

In compliance with the applicable provisions of § 2879 of the Public Authorities Law ("PAL"), as amended, the Authority has established comprehensive Guidelines detailing its operative policy and instructions concerning the use, awarding, monitoring and reporting of procurement contracts. The Guidelines describe the Authority's process for soliciting proposals and awarding contracts. Topics detailed in the Guidelines include solicitation requirements, evaluation criteria, contract award process, contract provisions, change orders, Minority- and Women-owned Business Enterprise ("MWBE") and Service-Disabled Veteran-Owned Business ("SDVOB") requirements, employment of former officers and reporting requirements. These Guidelines, approved by the Authority's Trustees, were initially implemented on January 1, 1990, and have been amended as deemed advisable and necessary, and reviewed and approved by the Board annually since that date, most recently on March 26, 2015.

Staff has reviewed the Procurement Guidelines and recommends a number of changes to make them more consistent with the law or to improve or clarify the Authority's procurement process. The most significant of such changes pertain to **Definitions, Solicitation Requirements, Evaluation of Proposals, Contract Provisions, and Contracting Decisions Involving Current or Former Employees**, as well as the **Service-Disabled Veteran-Owned Business ("SDVOB") program**, which are highlighted below:

- **DEFINITIONS** as set forth in Article 2 of the Procurement Guidelines:

The following new definitions have been added:

*“Service-Disabled Veteran-Owned Business” (“SDVOB”) is a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is at least 51% owned by one or more service-disabled veterans; in which such ownership is real, substantial and continuing, and also has and exercises the authority to control independently the day-to-day business decisions of the enterprise; is a Small Business and is certified by the New York State Office of General Services, as further set forth in Article 17-B of the Executive Law.*

*“Discretionary Purchase” is a procurement made below statutorily established monetary threshold amounts (e.g., not exceeding \$200,000 for the purchase of commodities and/or services from Small Businesses or NYS-certified MWBE or SDVOB firms, and as further set forth in Sections 3.D and 3.K.5-7) and at the discretion of the Authority, without the need for a formal competitive bid process. For the purpose of determining whether a purchase is within the discretionary thresholds, the aggregate amount of all purchases of the same commodities and/or services to be made within the 12-month period commencing on the date of purchase, shall be considered. 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 and/or services from the same provider within the 12-month period commencing on the date of the first purchase to an amount greater than \$200,000, pursuant to State Finance Law § 163.*

- **SOLICITATION REQUIREMENTS** include the use of “**MINI-BIDS**,” where applicable, as summarized below and more fully set forth in Section 3.F of the Procurement Guidelines:

*Certain Procurement Contracts established by the OGS or GSA require that authorized users conduct a “mini-bid” (i.e., an abbreviated supplemental competitive bid procurement process) among prequalified bidders identified in such established contracts. Certain other Procurement Contracts issued by the Authority (e.g., for on-call consulting or contracting services) may also utilize a mini-bid process, typically, in cases of a multiple award, where a contract is awarded to more than one bidder that meets the Authority’s bid requirements, in order to satisfy multiple factors and needs as set forth in the bid document. Such mini-bids shall be conducted by the Authority’s Procurement staff (or on behalf of the Authority by an Implementation Contractor) where applicable and practicable. Within a said multiple award group, work may be assigned to a specific firm without conducting a mini-bid, under certain circumstances, including but not limited to: where such firm possesses specialized expertise and is uniquely qualified to perform such work; where time constraints,*

*emergency or other critical conditions exist or geographic location is of primary consideration in order to meet schedule requirements, respond to emergent issues or otherwise meet the Authority's needs; or when the work scope is below a specified monetary threshold. The decision to assign work without conducting a mini-bid shall typically be made jointly by the Procurement and initiating departments, and shall be documented for the procurement record.*

- **EVALUATION OF PROPOSALS** may include a new Supplier Diversity Program factor, assessment of the bidder's **DIVERSITY PRACTICES**, based on "**BEST VALUE**," as summarized below and more fully set forth in Sections 4.B and 4.D, respectively, of the Procurement Guidelines:

*Another Supplier Diversity Program factor to be considered in evaluating proposals may involve an assessment of the bidder's diversity practices, where applicable. Pursuant to Article 15-A of the Executive Law, diversity practices are the contractor's practices and policies with respect to utilizing NYS-certified MWBEs in contracts as subcontractors and suppliers, and entering into partnerships, joint ventures or other similar arrangements with NYS-certified MWBEs. A contractor's diversity practices may be assessed when: (1) a procurement is awarded on the basis of "Best Value" as described in Section 4.D [of the Procurement Guidelines] (but not when a procurement is awarded based upon "lowest price"); (2) the anticipated award is \$250,000 or greater; and (3) such assessment is practicable, feasible and appropriate. Such assessment shall not permit the automatic rejection of a bid or procurement contract proposal based on lack of adherence to diversity practices.*

*As a best practice, and pursuant to State Finance Law § 163, the Authority will be transitioning to a "Best Value" basis for awarding contracts for services to the offerer that optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis and may also identify a quantitative factor for offerers that are Small Businesses or NYS-certified SDVOB or MWBE firms.*

- **PROHIBITIONS RELATING TO VENDOR PREPARATION OF CONCEPTUAL STUDIES, DESIGNS OR SPECIFICATIONS AND AWARD OF FUTURE WORK, INCLUDING IMPLEMENTATION**, as summarized below and more fully set forth in Section 7.C of the Procurement Guidelines:

*..... Furthermore, any firm, person or other entity retained by the Authority to provide conceptual studies, designs or specifications is prohibited from being awarded future phases of work, including implementation, related to the original work. The above restrictions shall not apply where.....3. There is no qualified response to the solicitation for future phases of work, including implementation; or 4. The originating Authority Business Unit determines in writing that the restrictions are not in the best interests of the Authority.....*

- **CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER AUTHORITY EMPLOYEES**, as summarized below and more fully set forth in new paragraph 9.B.3 of the Procurement Guidelines:

*Pursuant to the provisions of New York Public Officers Law § 73(8-b), notwithstanding the provisions of 1. and 2. above, a former Authority officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to the Authority, if, prior to engaging in such service, the President and Chief Executive Officer certifies in writing to the New York State Joint Commission on Public Ethics that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the Authority's needs and is otherwise unavailable at a comparable cost. Where approval of the contract is required under § 112 of the New York State Finance Law, the Comptroller shall review and consider the reasons for such certification. The New York State Joint Commission on Public Ethics must review and approve all such certifications.*

- **SERVICE-DISABLED VETERAN-OWNED BUSINESS (“SDVOB”) PROGRAM – NEW STATUTORY REQUIREMENTS**, as summarized below and more fully set forth in updated Section 3.I and new Article 11 of the Procurement Guidelines, respectively, pursuant to Article 17-B of the Executive Law and State Finance Law § 163:

*In order to further increase participation of service-disabled veterans in New York State's contracting opportunities, the Service-Disabled Veteran-Owned Business (“SDVOB”) Act was signed into law on May 12, 2014. The SDVOB program provides for eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business. The Division of Service-Disabled Veterans' Business Development within the New York State Office of General Services (“OGS”) is responsible for certifying eligible SDVOBs, assisting agencies and authorities in complying with the law, and promoting SDVOB participation in the state's procurement activities. Under this program, contracts may be awarded on a non-competitive basis to NYS-certified SDVOBs for discretionary purchases not exceeding \$200,000 in the aggregate. Alternately, contracts may be competitively bid exclusively among NYS-certified SDVOBs regardless of value, and advertised as such on the Contract Reporter website.*

*The Authority also strives to foster the development of business opportunities for NYS-certified SDVOBs and to further increase participation by SDVOBs in Authority contracts, as set forth in Sections 2.L and 3.I of these Guidelines and pursuant to Article 17-B of the Executive Law. One tool is the use of SDVOB discretionary purchasing, as further described in Sections 3.D, I and K of these Guidelines. Another tool authorized by the law is the use of set-asides, which permit the reservation in whole or in part of certain procurements by state agencies and authorities when more than one NYS-certified SDVOB is*

*available and can provide the necessary goods or services to meet the Authority's form, function and utility. The same dollar limits apply to SDVOB contracts as those set forth for MWBEs in Article 10 of these Guidelines.*

It may also be noted that non-substantive and stylistic changes have also been made throughout the document.

These amended Guidelines, as reviewed by the Governance Committee on March 29, 2016, are now presented to the full Board of Trustees for review and approval at their meeting of the same date. The approved Guidelines will become effective on March 31, 2016 and will be posted on the Authority's internet website. Such Guidelines will also be filed with the Director of the Division of the Budget, the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee, the Assembly Ways and Means Committee and the Authorities Budget Office within 90 days of the end of the calendar year.

## **ACCOMPLISHMENTS**

Major Procurement efforts in 2015 included purchase of goods, services and construction work in support of the Authority's operating projects and Headquarters facilities, Life Extension and Modernization ("LEM") Program at Niagara's Lewiston Pump Generating Plant, Transmission LEM and EE Programs. The Authority's Procurement Department is continuing efforts to enhance the SAP procurement and materials management system, as well as supporting the requirements of the Authority's operations and maintenance work, capital projects, EE and CES Programs and Headquarters operations.

In fourth quarter 2014, the Procurement Department conducted its first Kaizen event under the direction of the NYS Lean Office to focus on improving business processes. As a result of the event, four initiatives were identified for streamlining the procurement bidding process. Three of the four initiatives have been completed; the fourth initiative will be completed via the implementation of SAP Ariba. Procurement will continue to evaluate and monitor its bidding process to identify areas of improvement.

In an effort to align NYPA's procurement practices with the industry's best practices, the Procurement Department initiated the implementation of SAP Ariba, a comprehensive Sourcing, Contract Management and Supplier Management system, in March 2015. Ariba will allow Procurement to streamline its processes by using electronic documents and automating processes. The Procurement Department has initiated the implementation of the first of three modules, Supplier Information and Performance Management ("SIPM"). SIPM will provide the functionality to manage suppliers' information, risk and performance, which will be measured via surveys completed by the project team. The additional two modules, Sourcing and Contract Management, have planned implementations in 2016.

In 2014, construction began on a new 24,000 square foot warehouse at the Blenheim-Gilboa Power Project. Upon completion, both the Procurement and Warehouse departments will move in, which is expected to be accomplished by the end of third quarter 2016.

## **SUPPLIER DIVERSITY PROGRAM (“SDP”)**

In New York State’s 3rd fiscal quarter, October – December 2015, the Authority awarded \$15.4 million or 15.05% of its reportable expenditures to New York State-certified MWBEs. For the calendar year January – December 2015, the Authority awarded \$53.6 million or 18% of its reportable expenditures to New York State certified MWBEs. This figure includes both direct contracts and subcontract expenditures. Attachment I illustrates the dollars awarded by the Authority’s Supplier Diversity program since 1996.

Reportable expenditures continue to exclude specialty procurements (such as high voltage transformers, circuit breakers, turbine runners, other major electrical generating and mechanical equipment, and commodities such as natural gas), where MWBEs are not available to provide such goods or related services.

It should also be noted that during calendar year 2015, Treasury’s transactions with five (5) different NYS-certified MWBE financial dealers totaled over \$135 million in principal sales and purchases for the Authority.

## **SERVICE-DISABLED VETERAN-OWNED BUSINESS (“SDVOB”) PROGRAM**

The Service-Disabled Veteran-Owned Business Act was signed into law by Governor Andrew M. Cuomo on May 12, 2014. In January of 2015, the Authority was selected as one of four (4) authorities to participate in a pilot program under the auspices of the Office of General Services (“OGS”). The program is now in full effect and all New York State agencies and authorities are mandated to meet six percent (6%) SDVOB participation goals. The 6% SDVOB goal is in addition to 30% goals established pursuant to Article 15-A of the Executive Law with respect to procurements from certified Minority and Women-owned Business Enterprises. To date the Authority has contracted over \$1.4 million or nearly 16% of designated spend with such firms, exceeding 2015’s commitment by nearly 10%. The Authority has been acknowledged by OGS as one of the leading agencies in this effort, and our SDVOB participation continues to grow. As the program evolves, target areas will be expanded to afford even greater procurement opportunities for the SDVOB community.

## **CREDIT CARD PROCUREMENT SYSTEM**

The Credit Card Procurement System (CCPS) is utilized to procure goods and services valued under \$5,000. At the end of 2015, the Authority had approximately 130 cardholders in both headquarters and operating facilities. The average value of a single transaction was approximately \$556. The average number of credit card transactions was 791 per month, with an average monthly value of \$439,922, totaling more than \$5.2 million in the report year. The total amount of the rebate received by the Authority from JP Morgan Chase based on credit card activity for the year 2015 was \$48,537.

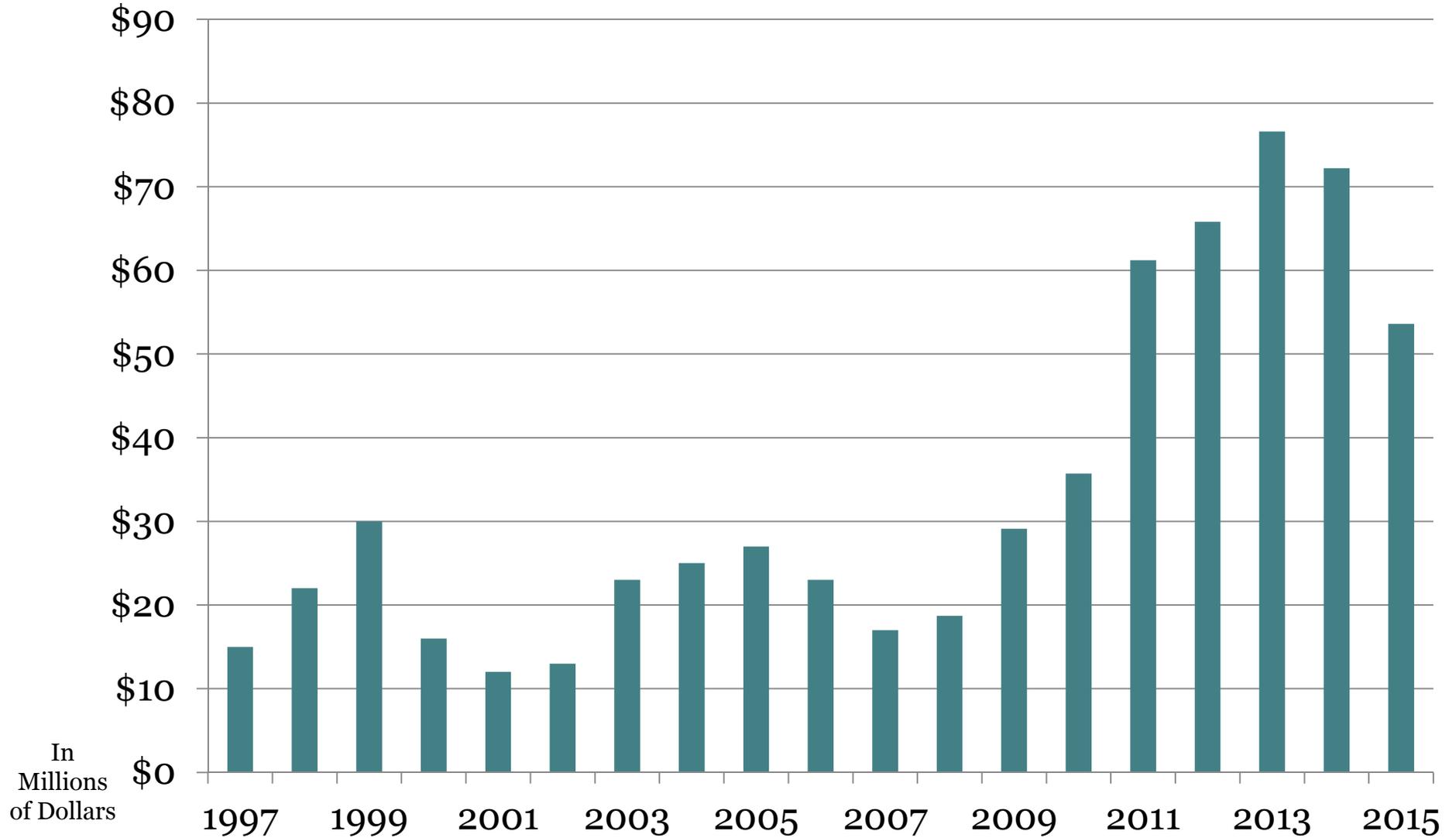
## **2015 ANNUAL REPORT OF PROCUREMENT CONTRACTS (Exhibit “A-3”)**

The Annual Report includes specific details for procurements with a value of \$5,000 or greater that were open, completed or awarded in 2015, including contracts that were extended into 2016 or beyond. There were 2,457 such contracts with an estimated value of more than \$7.9 billion, which also includes fossil fuel and corporate finance expenditures. Total procurement expenditures in 2015 exceeded \$675 million. This amount included more than \$200 million for the purchase of fossil fuels and related services.

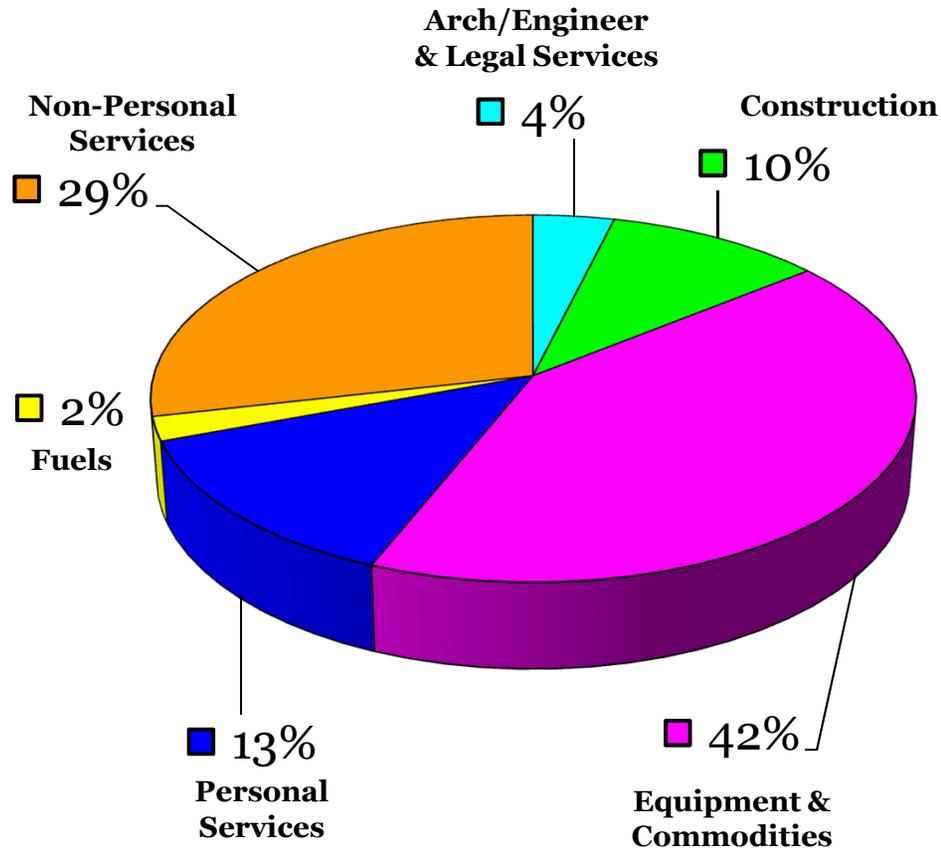
As illustrated in Attachment II, the following is a breakdown of the total number of active contracts including fuels and corporate finance by contract type:

- 10% of these contracts are for Construction Services;
- 42% are for the purchase of Equipment and Commodities;
- 2% are for Architectural and Engineering Services;
- 2% are for Legal Services;
- 13% are for Personal Service contracts such as professional consulting services;
- 29% are for Non-Personal Service contracts such as maintenance, repairs, technicians and contracted Personnel;
- 2% are for Fuels.

Attachment III indicates that based on the total value of the contracts included in the Annual Report (\$7.9 billion), including fuels and corporate finance, approximately 98% of contracts (with a total contract value of approximately \$7.8 billion), were competitively bid. In 2015, approximately 2% of contracts (with a total contract value of \$184 million), were sole/single-source awards, which included over \$5.6 million in MWBE, SDVOB and SBE contract awards. The sole/single-source awards included, but were not limited to, the purchase of spare parts and services from original equipment manufacturers (OEM), procurements from proprietary sources and procurements required on an emergency basis.

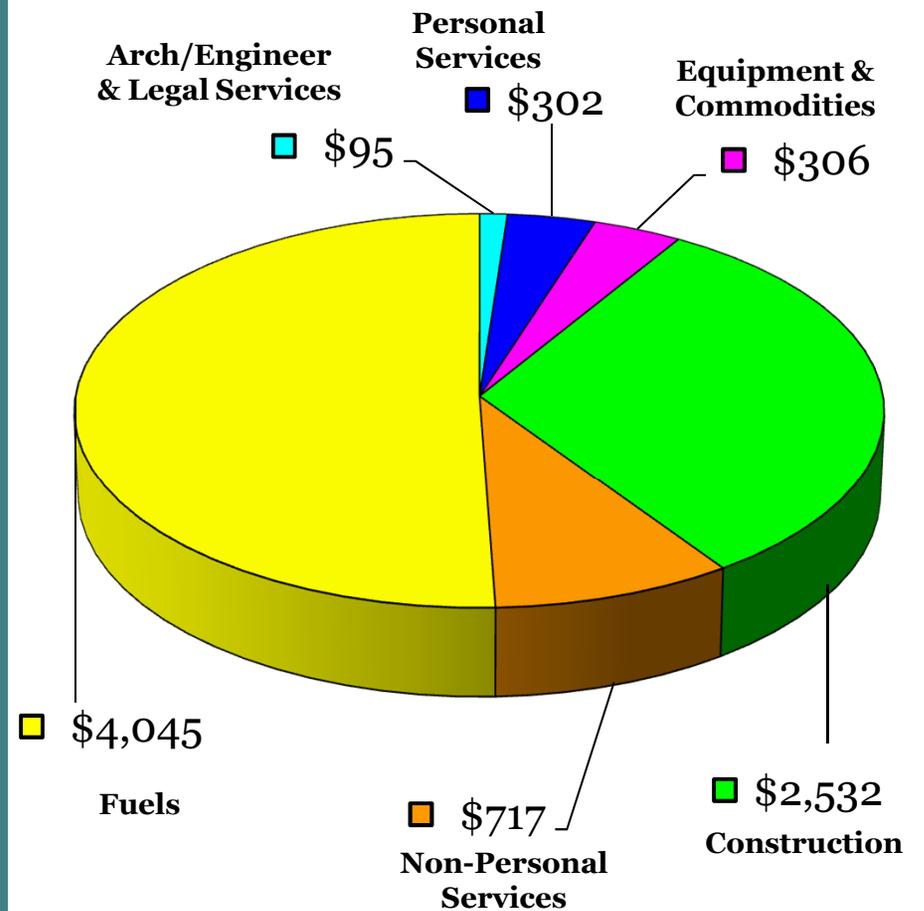
**2015 Expenditures to New York State-certified MWBEs**

### Number of Contracts



### Value of Contracts

\*Value in millions



**2015 Total Number of Active Contracts:**  
**2,457**

**2015 Total Value of Active Contracts:**  
**\$7,996,318,281**

Total Number of Contracts Issued in 2015: 1,356

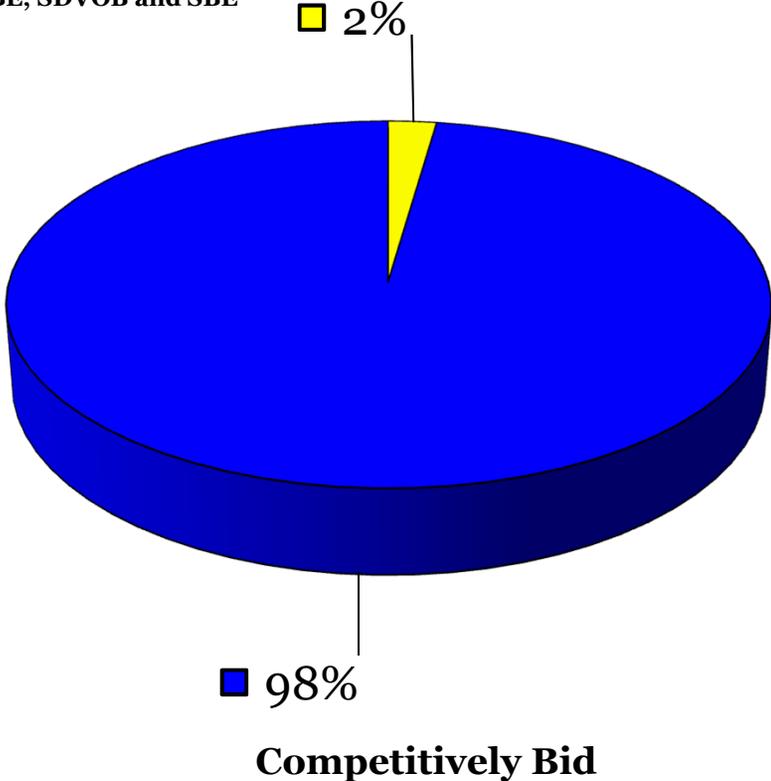
Total Value of Contracts Issued in 2015: \$619,743,141

Totals include Fuels and Corporate Finance

### Method of Award

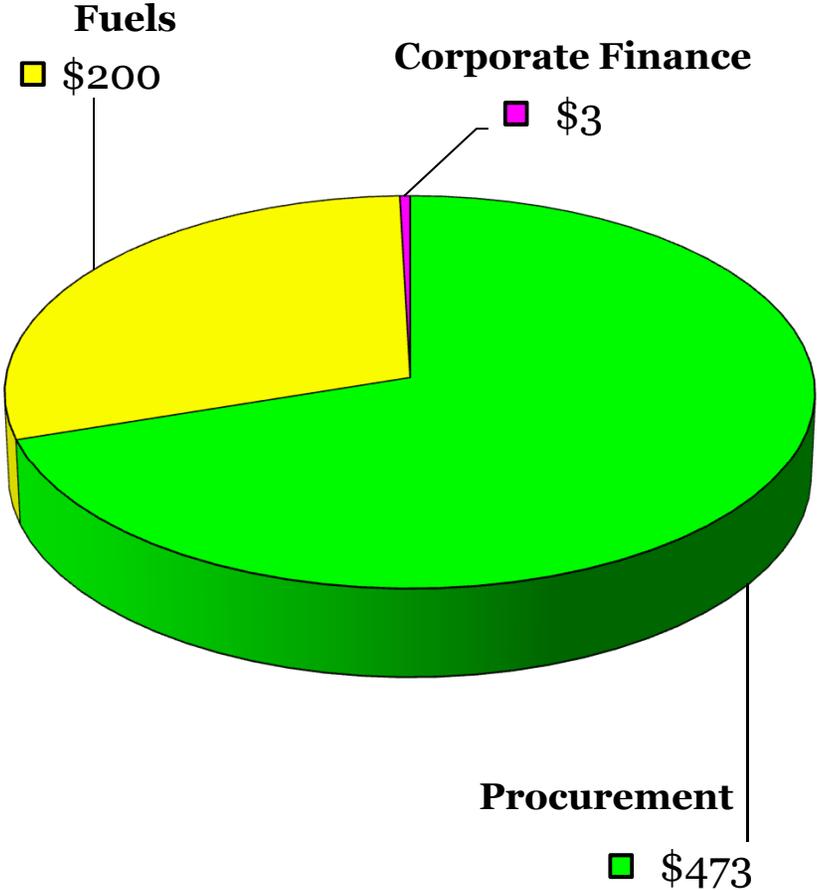
#### Single/Sole Source

\*Includes over \$5.6M in MWBE, SDVOB and SBE awards



### Amount Expended - 2015

\*Value in millions



**2015 Total Value of Active Contracts:**  
**\$ 7,996,318,281**

**Total Amount Expended in 2015:**  
**\$ 675,996,079**

Totals include Fuels and Corporate Finance