

Invitation to Potential Bidders:
Procurement of Renewable Energy Attributes for Executive Order 111
Compliance- October 18, 2007
(Schedule A as amended October 22, 2007)

Overview of Request and Executive Order 111 Requirements

The New York Power Authority ("NYPA" or "Authority") is hereby issuing a request for price quotes for the purchase of Renewable Energy Attributes (hereinafter, "Attributes" or "REC"s) for itself and/or resale to its customers.

Attributes will be purchased for compliance with New York State Executive Order 111 dated June 10, 2001 (and continued by Governor Spitzer on January 1, 2007) (hereinafter, "EO 111"). Bidders are referred to the Guidelines for Executive Order III, Section 5, Requirements for the Purchase of Renewable Power, for a description of the products sought under this solicitation. Please see the link to the Guidelines to the Executive Order, shown below.

http://www.nyserda.org/programs/State_Government/exorder111guidelines.pdf.)

The Renewable Energy Attributes solicited must be associated with electrical energy delivered into the New York Independent System Operator (NYISO) spot market directly from a supplier and/or marketer.

The Authority will be purchasing REC's for each of 2008, 2009 and 2010, and may consider longer terms based upon bid economics and NYPA customer needs. Specific quantities and terms are shown on Attachment A. All purchases will be in the Authority's name.

Bids are due by close of business October 31, 2007 and are to be submitted via email to robin.shanen@nypa.gov .

Bidder shall provide, along with pricing for REC's, location and name of associated facility(ies) and eligible resource type for Attributes bid. In addition, Bidder shall provide a brief description of its business organization and history, financial condition and most recent audited financial statements.

Eligible Resource Types

Eligible resource types are defined by EO 111 as those facilities generating energy from the following technologies:

- Wind
- Solar thermal
- Photovoltaics
- Sustainable managed biomass, which for these purposes shall include all wood resources, with the exception of contaminated waste wood, and shall exclude utility-scale facilities that co-fire with coal
- Tidal
- Geothermal
- Methane waste (from landfills or anaerobic digesters)
- Fuel cells

Hydro production will not be considered.

The generation source for any resource type specified in a response to this bid solicitation must qualify as an acceptable source of renewable generation under guidelines established by the New York State Department of Public Service ("NYS PSC"). (Please refer to: www.dps.state.ny.us/EnvDisclosureLabel.html for more information.)

New York State Environmental Disclosure Program

The successful bidder must satisfy the requirements of the Environmental Disclosure Program Rules and Procedures for Conversion Transactions, or any successor rules, established by the NYS PSC. A Conversion Transaction documents the sale of qualifying renewable energy into the New York Independent System Operator ("NYISO") Spot Market by an eligible generating facility and the purchase from the NYISO Spot Market of a like amount of energy by an eligible entity during the same six month settlement period. Conversion Transaction procedures are described in more detail on the Department of Public Service website at:

http://www.dps.state.ny.us/Final_Rules_and_ProceduresCTnov5.htm

Bidders may also be asked to furnish proof of prior or current contracts for the commodity stated herein to demonstrate their ability to satisfactorily operate in the renewable energy market.

After Contract Award: Verification of Rights to Attributes

Throughout the contract term, NYPA will require certification/ verification of delivery of all rights to the Attributes purchased by NYPA as follows:

- Each invoice submitted by the successful bidder requesting payment must be accompanied by an appropriate Certification, which will identify the number and vintage of all Attributes for which payment is requested, bear an appropriate certification as to the eligibility of such Attributes and transfer all rights and assignments to NYPA.
- In the event the NYS PSC solely or in conjunction with others, creates, sanctions, adopts or begins participation in a Generation Tracking System in the New York Control Area ("NYCA") during the term of the agreement contemplated in this bid solicitation, each Attribute associated with fulfillment of the selected bidder's requirements must be transferred to an account designated by NYPA.
- Facilities providing products that are not located in the NYCA, but are located in a control area with a compatible generation tracking system at the time of submittal of the Bid Proposal, must deliver REC's associated with the Attributes to an account designated by NYPA. For example, the NEPOOL Generation Information System and the PJM GATS system are deemed compatible systems by the administrator of the NYS Environmental Disclosure Program.
- For facilities outside the NYCA, NYPA will require verification of the electricity market of origin through "NERC" tags for each delivery.

No Double Counting: In no event shall the Attributes of the generation associated with a contract with NYPA under this solicitation be assigned or sold by the seller to any entity other than NYPA. Any assignment or application by the seller of the Attributes associated with a contract with NYPA to any other entity, program or jurisdiction, whether associated with a publicly administered program or a voluntary transaction, is strictly prohibited.

Required Contract Agreement

Selected bidders shall be required to execute a contract substantially similar to the contract set forth in Attachment C. No material changes to this contract will be accepted.

Submission of Proposals

Bids are to be submitted via email to robin.shanen@nypa.gov by close of business October 31 2007. Bidders should use the form of Attachment B included herein, or provide substantially similar information.

Evaluation process and Criteria

Proposals must be complete, in conformance with the specifications and other requirements of this solicitation (including the requirements of EO 111 and NYS PSC Environmental Disclosure rules, and must include all documentation, evidence or verification requested. Bids will be evaluated according to price, with consideration given to creditworthiness, and customer policy goals, if applicable.

Basis for Disqualification

A bidder may be disqualified and the bid not considered for reasons including, but not limited to, the following:

- receipt of the bid after the deadline for submission;
- failure to meet all eligibility requirements;
- incomplete bid;
- willful misrepresentations in the bid;
- illegal or undue attempts to influence the bid review process;
- a determination by NYPA, in its discretion, that some or all bids should be rejected.

Communication during the RFP Process

NYPA's contact for this solicitation is:

Robin Shanen, Analyst, Power Resource Planning and Acquisition

Telephone: 914-287-3764

Fax: 914-390-8155

Email: robin.shanen@nypa.gov

**ATTACHMENT A- Quantities and Term Requested
(as amended October 22, 2007)**

Calendar Year	2008	2009	2010
Up to specified amount Renewable Attributes in mWh	38,500	45,000	94,500

ATTACHMENT B- to be completed by Bidder

Bid Quantity, Delivery Dates, and Price

MWH Quantity	Renewable Energy Source / Eligible Resource Type	Facility Name and Location	Generation Time Period	Price \$/MWH

ATTACHMENT C- REQUIRED CONTRACT AGREEMENT

COUNTERPARTY

and

POWER AUTHORITY OF THE STATE OF NEW YORK

RENEWABLE ENERGY ATTRIBUTE PURCHASE AGREEMENT

This Agreement (“Agreement”) is entered into this ____ day of _____ 200x, by and between COUNTERPARTY, with a principal place of business at FULL ADDRESS (“Seller”), and Power Authority of the State of New York, a corporate municipal instrumentality of the State of New York, with a principal place of business at 30 South Pearl Street, Albany, New York 12207 (“NYPA”). Hereinafter, Seller and NYPA shall each be referred to individually as a “Party” and, collectively, as the “Parties”.

WHEREAS, Seller has access to “Renewable Energy Attributes” associated with “Renewable Energy Source(s)”; and

WHEREAS, NYPA provides electricity to certain governmental customers located in and about the New York City area; and

WHEREAS, such customers have requested NYPA to procure for them Renewable Energy Attributes; and

WHEREAS, to assist its customers, NYPA desires to purchase Renewable Energy Attributes from Seller for resale to its customers, on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants and obligations contained herein, the Parties hereto agree as follows:

Definitions

“*Conversion Transaction.*” This Agreement references the Environmental Disclosure Rules and Procedures for Conversion Transactions set forth by the New York State Department of Public Service (“NYS PSC”). A Conversion Transaction documents the sale of qualifying renewable energy into the NYISO Spot Market by an eligible

generating facility and the purchase from the NYISO Spot Market of a like amount of energy by an eligible entity during the same six month settlement period. Conversion Transaction procedures are described in more detail on the Department of Public Service website at: http://www.dps.state.ny.us/Final_Rules_and_ProceduresCTnov5.htm.

“*EO 111*” means the Executive Order signed June 10, 2001 by Governor Pataki, and continued by Governor Spitzer on January 1, 2007. EO 111 requires, among other things, that New York State agencies and other affected entities must seek to increase their purchases of energy generated from Renewable Sources so that by 2005, 10% of their energy requirements will be served by Renewable Sources, increasing to 20% by 2010.

“*NYISO*” means New York Independent System Operator.

“*NEPOOL*” means the Independent System Operator New England

“*NEPOOL Generation Information System*” means the rules and procedures as defined by NEPOOL for the tracking, monitoring, exporting, and creation of renewable energy certificates (“NE-GIS”). The NE-GIS includes a generation information database and certificate system operated by the New England Power Pool that accounts for generation Renewable Energy Attributes of electrical energy.

“*Renewable Energy Attributes*” means any and all credits (including renewable energy credits), benefits, emissions reductions, offsets and allowances of any nature whatsoever and however entitled, attributable to a Renewable Generator, relating to the quantity of megawatt hours (MWh) delivered by such Renewable Generator, including: (i) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), other pollutants or particulates that are now or may in the future be regulated under the pollution control laws of the United States or any state or political subdivision thereof; (ii) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and any other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, Northeast Governors Regional Greenhouse Gas Initiative or other standard-setting entity with respect to any relevant market to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; and (iii) all reporting rights to these avoided emissions, including those rights known as “Green Tag Reporting Rights” that may be available from a legally-constituted or designated authority pursuant to which the purchaser may be entitled to report the ownership of accumulated usage of energy in compliance with Federal or state law, if applicable, and to a Federal or state agency or any other party at such purchaser’s discretion, and include without limitation those rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future Federal, state, or local law, regulation or bill, and any international or foreign emissions trading program. The definition of “Renewable Energy Attributes” does not include

the Federal renewable electricity production credit, as provided in 26 U.S.C. § 45, or any successor thereto.

“*Renewable Energy Credits*” or “*RECs*” means the title to and claim for all the Renewable Energy Attributes associated with one (1) megawatt hour (MWh) of generation from a Renewable Energy Source. Renewable Energy Credits are also referred to as “*Green Tags*.”

“*Renewable Energy Source*” means one of the sources of energy described in EO 111, namely: wind, solar thermal, photovoltaics, sustainably managed biomass, tidal, geothermal, methane waste and fuel cells. Sustainably managed biomass shall include all wood resources, with the exception of contaminated waste wood, and shall exclude utility scale facilities that co-fire with coal. For purposes of this Agreement, such resource must be eligible for Conversion Transaction treatment.

“*Renewable Generator*” means an energy generating facility that generates electricity through the use of a fuel source and technology that meets the requirements of a Renewable Energy Source.

1. Purchase and Sale of Renewable Energy Attributes

(a) Seller agrees to sell to NYPA and NYPA agrees to purchase from Seller Renewable Energy Attributes derived from Renewable Energy Source(s) in the quantities, for the price, and according to the schedule set forth on Exhibit A.

(b) NYPA shall have the exclusive, unencumbered, undiluted and irrevocable legal and contractual right to own, assign, sell or otherwise dispose of all Renewable Energy Attributes purchased hereunder.

2. Price

(a) The purchase price shall include all customs duties and charges and be net, F.O.B. destination any point in NYISO’s territory. The price shall be fixed firm and shall represent only the cost of the procurement of the Renewable Energy Attributes. The price is to be in dollars per MWh associated with any transaction and is NOT to include charges for energy or other related capacity, transmission or ancillary services.

(b) All Renewable Energy Credits, to the extent such credits exist or arise, resulting from or associated with the Renewable Energy Attributes purchased hereunder, shall be provided to NYPA.

(c) Seller’s obligation to provide Renewable Energy Attributes is on a reasonable commercial best efforts basis. Seller shall not be liable for damages if, notwithstanding its reasonable commercial best efforts, it fails to deliver all the

Renewable Energy Attributes set forth on Exhibit A. However, with respect to any instance when Seller fails to deliver all the Renewable Energy Attributes set forth on Exhibit A, Seller shall give NYPA notice thereof at least six months prior to the applicable Conversion Transaction Date shown in Exhibit A.

3. Delivery

The electrical output equivalent to that of the Renewable Generator(s) associated with the Renewable Energy Attributes provided hereunder will be delivered into the Spot Market administered by the NYISO. In a separate Conversion Transaction, the Renewable Energy Attributes will be transferred to NYPA.

4. Representation and Warranty

Seller represents and warrants that it has the exclusive right to provide the Renewable Energy Attributes to be provided to NYPA under this Agreement; that it has the right to arrange the transfer of ownership of such Renewable Energy Attributes to NYPA free and clear of all claims, liens, security interests and encumbrances; and that after transfer of ownership to NYPA, NYPA shall have the unrestricted right to transfer ownership of the Renewable Energy Attributes to a third party.

5. Verification of Rights to Renewable Energy Attributes

Throughout the term of this Agreement, Seller shall be required to certify and verify delivery of all rights to the Renewable Energy Attributes contracted for hereunder as follows:

i. Each invoice submitted and requesting payment for the delivery of the rights to Renewable Energy Attributes pursuant to this Agreement shall be accompanied by a certification substantially in the form included in Exhibit B from Seller which will identify the number and vintage of all Renewable Energy Attributes sold to NYPA as set forth in such invoice. The certification shall be accompanied by a representation and warranty substantially in the form included in Exhibit B to the invoiced Renewable Energy Attributes.

ii. In the event the NYS PSC solely, or in conjunction with others, creates, sanctions, adopts or begins participation in a Generation Tracking System in the New York Control Area (“NYCA”) during the term of this Agreement, each REC associated with each applicable Attribute purchased hereunder must be transferred to an account designated by NYPA.

iii. For Renewable Energy Attributes provided hereunder from Renewable Generator(s) located outside the New York Control Area, but located in a control area with compatible environmental attribute accounting system such as NE-GIS, Seller shall provide verification and transfer to NYPA through the export provisions of NE-GIS and New York Public Service Commission rules for Conversion Transaction(s).

6. Invoicing

Seller shall submit its invoice(s) for payment to NYPA at the address set forth below. Invoices shall be payable by NYPA in accordance with the provisions of its Prompt Payment Policy (Appendix 1) attached hereto. NYPA shall not be required to pay Seller unless and until NYPA has received the certification(s) described in Section 5(i) above.

The original and two (2) copies of all invoices shall be submitted to:

New York Power Authority
P.O. Box 437
White Plains, NY 10602-0437
Attn: Accounts Payable
Copy: _____

All invoices shall reference Agreement No. _____

Seller shall not invoice NYPA for Renewable Energy Attributes before delivery into the Spot Market administered by the NYISO. The parties agree that payment may be made by NYPA prior to the actual completion of the Conversion Transaction for the applicable period. In the event the New York Public Service Commission determines that Seller did not successfully complete Conversion Transactions associated with certifications previously invoiced, Seller shall, within fifteen(15) days of notification, complete Conversion Transactions from a Renewable Energy Source(s) or provide a refund of the invoice amount to NYPA.

7. Limitation of Liability

NO PARTY SHALL BE RESPONSIBLE TO ANOTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND. THE FOREGOING SHALL BE BINDING UPON ANY SUCCESSOR IN TITLE, ASSIGNS AND TRANSFEREES. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES

AND MEASURES OF DAMAGES PROVIDED IN THE AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

8. Notices

All notices which may be given in connection with this Agreement shall be in writing and shall be sent by either Party to the other Party by U.S. Certified Mail, return receipt requested, or by overnight courier service. Notice shall be effective upon receipt.

Notice given to Seller shall be addressed to:

COUNTERPARTY
ADDRESS
Attn: _____
Tel: _____
Fax: _____

Notice given to NYPA shall be addressed to:

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601
Attn: Jordan Brandeis
Tel: 914-681-6403
Fax: 914-390-8156

9. Term and Termination

(a) This Agreement shall be effective as of the date first written above and, unless extended by mutual agreement of the Parties, shall terminate when the last Attribute(s) scheduled to be sold hereunder are transferred to NYPA. Notwithstanding termination, those obligations intended to survive termination, including but not limited to Sections 1(b), 4, 7, and 12 shall survive termination.

(b) If either Party defaults in its obligations under this Agreement and such default continues uncured for a period of 15 days after the defaulting Party receives notice of the default, the non-defaulting Party may terminate this Agreement by providing written notice to the defaulting Party. Termination shall be effective upon receipt of such notice.

10. Entire Agreement

This Agreement shall constitute the entire agreement between the Parties with respect to the subject matter hereof. All other letters, agreements or communications whatsoever, whether oral or written with respect to the subject matter contained herein are superseded by the Agreement and will be without effect. Exhibits A and B are incorporated into and form a part of this Agreement. Exhibit C is attached hereto for illustrative purposes only.

11. Governing Law/Venue

This Agreement shall be governed by and construed under the laws of the State of New York without reference to its conflicts of law principles. Any action at law or in equity, or other judicial proceeding, for the enforcement of this Agreement or any of its provisions must be brought in and maintained only in a State court located in Albany County, New York.

12. Confidentiality

Each Party will treat and hold as confidential all of the information received from the other Party that is marked “confidential,” and shall refrain from using any of such confidential information (“Confidential Information”) except in connection with this Agreement undertaken hereunder or except as set forth below.

- i. In the event that the Party receiving the information (the “Receiving Party”) is requested or required (by oral question or request for information or documents in any legal proceeding or arbitration, legislative hearing, interrogatory, subpoena, civil investigative demand, or similar process or pursuant to applicable law, rule or regulation, including the New York Freedom of Information Law and the Open Meeting Law) to disclose any Confidential Information, the Receiving Party will notify the Party which provided the Confidential Information (the “Disclosing Party”) promptly of the request or requirement so that the Disclosing Party may seek an appropriate protective order or waive compliance with the provisions of this Section 12. If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party is, on the advice of counsel, required to disclose any Confidential Information to any tribunal or to disclose any Confidential Information to any third party in compliance with any applicable freedom of information or open meeting law or other applicable law or regulation, the Receiving Party may disclose the Confidential Information to such tribunal or such third party; provided, however, that the Receiving Party shall use its commercially reasonable efforts to obtain, at the request of the Disclosing Party and at the Disclosing Party’s cost, an order or other assurance that confidential treatment will be accorded to such portion

of the Confidential Information required to be disclosed as the Disclosing Party shall designate.

- ii. The obligations set forth in subsection i above shall not apply to any Confidential Information with respect to which the Receiving Party can demonstrate was:
 - (a) in its possession prior to the time of disclosure by the Disclosing Party and was not, to the knowledge of the Receiving Party, subject to a confidentiality obligation;
 - (b) in the public domain at the time of disclosure, or subsequently became part of the public domain through no fault of the Receiving Party; or
 - (c) received from a third party who, to the Receiving Party's knowledge, was not subject to a confidentiality agreement or other confidentiality or fiduciary obligation regarding the information.
- iii. NYPA may provide Confidential Information to any of its customers intended by NYPA to receive any of the Renewable Energy Renewable Energy Attributes, provided that such customers agree in writing to protect the Confidential Information from unwarranted disclosure to third parties as provided in this Section 12.
- iv. Notwithstanding anything set forth herein, nothing in this Agreement shall be interpreted as precluding either Party from reporting or disclosing any information with the prior written consent of the Disclosing Party, or to its Affiliates, attorneys, financial advisors and accountants who are assisting either Party in connection with this Agreement or its operations, financing or reporting obligations.

IN WITNESS HEREOF, the Parties, agreeing to be bound, have executed this Agreement by their authorized representatives as of the date first set forth above.

COUNTERPARTY

Name: _____

Title: _____

**Power Authority of the
State of New York**

Name: _____

Title: _____

EXHIBIT A

Quantity, Delivery Dates, and Price

MWH Quantity of Power with which Renewable Energy Attributes are associated	Renewable Energy Source, including facility name	Generation Production Time Period	Approximate Conversion Transaction(s) Dates	Price \$/MWH

Seller will identify the Renewable Generators associated with the Renewable Energy Attributes with or prior to each invoice.

EXHIBIT B

Certification

Number of Renewable Energy Attributes (MWh)

Renewable Energy Source(s) of such Renewable Energy Attributes

Name of Renewable Generator(s) per MWh producing the Renewable Energy Attributes

Representation and Warranty

_____ [name of Seller] represents and warrants that it has the exclusive right, title and ownership in the above-mentioned Renewable Energy Attributes; that it has the right to transfer ownership of the Renewable Energy Attributes to NYPA; and that it hereby transfers all right, title and ownership to the Renewable Energy Attributes to NYPA, free and clear of all claims, liens and encumbrances. Furthermore, _____ [name of Seller] represents and warrants that NYPA shall have the unrestricted right to transfer ownership of the Renewable Energy Attributes to a third party.

By:
Title:

EXHIBIT C [For Illustrative Purposes Only]

Conversion Transaction Form

1) Name of the Reporting Entity

2) Name of Seller

3) Name of Buyer

New York Power Authority

4) Generating Station (and Unit) Name

5) Fuel Type

6) Amount of Energy Converted by Transaction (Mwhr)

7) Calendar Quarter

8) Contact Person

Telephone Number –

E-Mail Address –

APPENDIX "1"

NYPA's Prompt Payment Policy

A. GENERAL

1. This statement is intended to establish rules and regulations as required under Section 2880 of the Public Authorities Law describing the policy of the Power Authority of the State of New York (the "Authority") to promptly pay all proper invoices submitted by any Contractor. Subject to the conditions and exceptions set forth in Section 2880 and herein, in the event any proper invoice is not paid promptly, the Authority shall be liable for the payment of interest on late payments. This policy shall apply to all Contracts entered into on or after April 30, 1988.

B. DEFINITIONS

1. "CONTRACT" means an enforceable agreement entered into between the Authority and a Contractor.
2. "CONTRACTOR" means any person, partnership, private corporation or association: a) selling materials, equipment or supplies or leasing property or equipment to the Authority; b) constructing, reconstructing or repairing buildings, highways or other improvements for or on behalf of the Authority; or c) rendering or providing services to the Authority pursuant to a Contract.
3. "DESIGNATED PAYMENT OFFICE" means the office designated by the Authority to which a proper invoice is to be submitted by a Contractor.
4. "PROPER INVOICE" means a written request for a Contract Payment that is submitted by a Contractor to the Authority's designated payment office setting forth the description, price and quantity of goods, property or services delivered or rendered in accordance with the terms of the Contract, in such form and supported by such other substantiating documentation as the Authority may reasonably require.
5. "RECEIPT OF AN INVOICE" and "INVOICE RECEIVED DATE" mean (a) the date on which proper invoice is actually received in the designated payment office, or (b) the date on which the Authority receives the purchased goods, property or services covered by the proper invoice, whichever is later. With regard to final payments on construction contracts, (b) shall mean the date on which all the Contract Work has been accepted as completed by the Authority in accordance with the Contract terms.
6. "SET-OFF" means the reduction by the Authority of a payment due a Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to the Authority.

C. RESPONSIBILITY FOR PROMPT PAYMENT

1. The Authority's Controller shall have the responsibility for the implementation of the Prompt Payment Policy and the prompt payment of all proper invoices under the general guidance and supervision of the Executive Vice President for Finance and Administration.

D. PROMPT PAYMENT PROCEDURE

1. A Contractor shall request payment under a Contract by submitting a proper invoice to the Authority at its designated payment office at the time and in the manner specified in the Contract.
2. The Authority shall have fifteen (15) calendar days after receipt of an invoice at its designated payment office to notify the Contractor of certain facts and conditions, including but not limited to those listed below, which, in the opinion of the Authority's Controller, justify extension of the statutory payment period.
 - a) there is a defect in the delivered goods, property or services;
 - b) there is a defect in the invoice;
 - c) there are suspected defects or improprieties of any kind the existence of which prevent the commencement of the statutory payment period;
 - d) prior to payment, a statutory or contractual provision requires an inspection period or an audit to determine the resources applied or used by the Contractor in fulfilling the contract terms;
 - e) a proper invoice must be examined by the federal government prior to payment;

- f) the Authority is prevented from making payment by reason of the filing of a lien, attachment, other legal process or requirement of law.

Any time taken to satisfy or rectify any such facts or conditions shall extend the date by which contract payment must be made in order for the Authority not to become liable for interest payments by an equal period of time.

- 3. Should the Authority fail to notify a Contractor of such facts and conditions within fifteen calendar days of the invoice received date, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the Contractor. Should the Authority, in such situations, fail to provide reasonable grounds for its contention that a fact or condition justifying a time extension exists, the date by which contract payment must be made in order for the Authority not to become liable for interest payment shall be calculated from the invoice received date.
- 4. The Authority shall make payment within forty five (45) calendar days after the invoice received date. Effective July 1, 1989, the Authority shall make payment within thirty (30) calendar days, excluding legal holidays, after invoice received dates occurring after that date.
- 5. Except for the payments described in Paragraph E, every payment by the Authority to a Contractor pursuant to a Contract is eligible for interest should the Authority fail to make such payment within forty five (45) days after the invoice received date for contracts entered into between April 30, 1988 and June 30, 1989 and within thirty (30) days for contracts entered into on or after July 1, 1989.
- 6. The Authority shall not be liable for interest on any retention amounts withheld by the Authority in accordance with the terms of the Contract.
- 7. Interest shall be computed at the rate set by the state tax commission for corporate taxes pursuant to paragraph one of subsection (e) of section 1096 of the tax law, but the Authority shall not be liable for payment of interest when such interest is less than ten dollars.
- 8. The Authority has available funds in its custody to pay all interest penalties.

E. EXCEPTIONS

- 1. Payments are not eligible for interest when they are due and owing by the Authority:
 - a) under the eminent domain procedure law;
 - b) as interest allowed on a judgment by a court pursuant to any provision of law other than section 2880 of the Public Authorities Law;
 - c) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government including but not limited to, counties, cities, towns, villages, school districts, or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;
 - d) in situations where the Authority exercises a legally authorized set-off against all or part of the payment due the Contractor.