

**MINUTES OF THE REGULAR MEETING  
OF  
THE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD**

**September 18, 1997**

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**September 18, 1997**

A regular meeting of the Economic Development Power Allocation Board was held at the Onandoga County Oncenter in Syracuse, New York at 2:00 p.m.

The following Members of the Board were present:

1. Clarence D. Rappleyea - Chairman
2. H. Douglas Barclay
3. James A. Duncan
4. Thomas R. Frey

Also in attendance were:

Frank S. McCullough	Trustee, NYPA
Eugene W. Zeltmann	President and Chief Operating Officer, NYPA
Robert A. Hiney	Executive Vice President – Project Operations, NYPA
Joseph J. Carline	Assistant General Counsel, NYPA
Daniel Berical	Director – Intergovernmental Affairs, NYPA
James H. Yates	Director – Business Marketing and Economic Development, NYPA
Anne Wagner-Findeisen	Deputy Secretary, NYPA
Vernadine E. Quan-Soon	Assistant Secretary - Corporate Affairs, NYPA
Douglas M. Kerr	Director – Marketing Planning, NYPA
John L. Murphy	Director – Public Information, NYPA
James F. Pasquale	Manager - Business Power Allocations and Compliance, NYPA
James J. Peterson	Manager, Power Contracts, NYPA

John Hamor	Assistant Director – Intergovernmental Relations, NYPA
James J. Dillion	Manager – Marketing & Sales Central Division - Niagara Mohawk Power Corporation
Nicholas Pirro	County Executive – Onandoga County
Tim Frateschi	New York State Empire Development Corporation
David Prestemon	North American Energy Association
Paul Norris	North American Energy Association
Tim Knauss	Syracuse Post-Standard

Chairman Rappleyea presided at the meeting and Ms. Wagner-Findeisen kept the minutes.

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**2. Adoption of Minutes**

The minutes of the meeting of July 29, 1997 were unanimously adopted by those member of the board present.

**3. GUIDELINES FOR COMPETITIVE PROCUREMENT  
(Statutory Authority: Economic Development Law (Section 189))**

The following Guidelines were unanimously adopted by the Members of the Board

**I. Purpose**

These guidelines for a competitive procurement process are intended, according to the requirements established in Economic Development Law Section 189, to:

- A. Acquire power for allocation under the Power for Jobs program to recipients designated by the Economic Development Power Allocation Board (Board);
- B. Advance the State's public policies to provide the least cost power for economic development consistent with safe and reliable service to all customers;
- C. Assure a fair and reasonable administration of the competitive procurement process; and
- D. Provide an opportunity for qualified suppliers to compete for the contracts.

**II. Definitions**

These terms shall have the following meanings:

- A. "Local Distribution Company" or "LDC" shall mean the company that transports electricity to the end-user customer.
- B. "Lowest price" shall mean the principal basis for awarding contracts among qualified suppliers who satisfy specifications.
- C. "Qualified supplier" shall mean a person or entity that meets the minimum specifications or requirements prescribed in the request for proposals including, but not limited to, requirements relating to reliability of supply, system reliability, transmission constraints, environmental protection and financial integrity.
- D. "Specification" shall mean any description of the characteristics of the firm capacity or energy to be provided, terms of delivery, associated services, capacity and capability to provide the firm capacity or energy, or any other requirements necessary for performance of a contract to supply capacity and energy under the Power for Jobs Program.

### **III. Principles**

The competitive procurement process shall operate under the following principles:

- A. Clearly stated procedures, a documented process for soliciting bids or proposals, a balanced and fair method (established in advance of the request for bids or proposals) for evaluating bids or proposals and awarding contracts, and contract terms and conditions that protect the State's interests and promote fairness in contracting with power suppliers, will be developed and applied consistently.
- B. Reasonable efforts will be made to ensure that qualified bidders are apprised of procurement opportunities and specifications.
- C. Officers and employees of the Board, the Department of Public Service and the Power Authority will not benefit financially or otherwise from the award of contracts.
- D. Reviews of the efficiency, integrity and effectiveness of the overall process will be conducted.
- E. The Power Authority will not participate in the competitive procurement process as a bidder in light of its role as administrator of the process.

### **IV. Competitive Procurement Process**

- A. The Power Authority, according to the procedures established in these guidelines, shall:
  - 1. Prepare and issue requests for proposals for the purchase of firm capacity and energy to provide power under the Power for Jobs program.
  - 2. Evaluate the bids from qualified suppliers with reference to the specifications set forth in its request for proposals, with specific emphasis on price and reliability.
  - 3. Negotiate the power supply contract(s) with bidder(s) who best meet the specifications of the request for bids.
- B. In cases where two or more qualified suppliers submit identical bids, the Power Authority may award contract(s) to any or all of such bidders.
- C. The Power Authority may reject all bids and re-advertise for new bids.
- D. The Power Authority shall document in advance of the receipt of responses, the process to be used in the determination of the lowest bid, and the manner in which the evaluation process and selection shall be conducted.

## **V. Public Notice and Advertisements**

- A. The Power Authority shall issue a notice of its intent to issue a request for proposals to supply firm capacity and energy for the Power for Jobs program. Public notices and advertisements for bids shall be published in newspapers of general circulation. In addition, the Power Authority shall identify and notify potential suppliers and utilize other methods of notification that might provide interested persons with an opportunity to participate in the competitive procurement process.
- B. Public notices and advertisements shall contain a statement containing information including, but not limited to, the following:
  - 1. Where to obtain an RFP;
  - 2. Time and place for pre-bid conference;
  - 3. Identification of the capacity and energy requested and description of any other services required;
  - 4. Any other information useful to potential qualified suppliers.

## **VI. Bidding, Selection and Evaluation Process**

- A. Consistent with the need to protect commercially sensitive information, the Power Authority will take appropriate steps to safeguard the confidentiality of bidders and the information submitted by bidders during the competitive procurement process, as well as providing for safeguarding the confidentiality of any customer data provided to bidders.
- B. The Power Authority shall conduct a pre-bid conference.
- C. The Power Authority shall designate an officer or employee to open the proposals. Such designee shall make a record of all bids in sufficient form and detail to provide an adequate description of each proposal.
- D. The designee shall rank the bids on the basis of a formal evaluation of pre-determined criteria, including but not limited to price, reliability, environmental protection, and financing.
- E. In the event that the Power Authority makes a material change in the specifications or selection criteria described in a request for proposals, it shall inform all bidders of the change and permit them to modify their proposals.
- F. Upon selection of a winning bidder(s), the Power Authority may conduct further negotiations to obtain the most favorable prices, terms and conditions possible.
- G. The Power Authority may award a contract after a resolution approved by majority vote of its Trustees at a public meeting. Such resolution shall set forth the criteria upon which selection was made.

## **VII. Request for Proposals**

The request for proposal shall clearly state all specifications including, but not limited to:

- A. An introduction and general description of the Power for Jobs and Competitive Procurement programs
- B. Procedures, Schedule of Events and Deadlines
  - 1. Time and place for pre-bid conference
  - 2. Time and place for receipt of bids
  - 3. Form and content of proposals
  - 4. Address for submission of proposals
  - 5. Address for submission of questions
  - 6. Procedure for handling responses to bidders' questions and addenda to the Request for Proposals
  - 7. Description of minimum requirements for bidders
  - 8. Description of the method of verification and evaluation of bids
  - 9. Description of the process for award of contract(s)
  - 10. Process and criteria for disqualification
- C. Specifications
  - 1. Amount of firm capacity and energy
  - 2. Delivery points to the facilities of the investor owned utilities
  - 3. Provision of transmission and ancillary services
  - 4. Term
  - 5. Pricing and payment
  - 6. Notifications, scheduling and dispatch
  - 7. Default, termination and liquidated damages
  - 8. Reserve Requirements
- D. Contract

The bid shall contain a copy of the proposed contract.

## **VIII. General Requirements**

- A. Bidders must comply with applicable local, state and federal law and regulations, including the requirements of the New York State Public Officers Law establishing standards for business and professional activities of State employees and governing the conduct of employees of private firms in business with the State.
- B. Deliveries of electricity are subject to the operating procedures of the Northeast Power Coordinating Council, the New York Power Pool or its successor, and the Local Distribution Company.

- C. The Power Authority may require bidders to submit information demonstrating that bidders are competent, experienced, qualified and financially capable of entering into power supply contracts and fulfilling the terms and conditions of the contract. The information may include, but not be limited to, annual reports, 10K reports submitted to the SEC, annual FERC Form 1 submittals, documentation establishing ownership of generation capacity or evidence of firm power contracts, and information about similar services provided to others.

## **IX. Status Reports**

At the request of the Board, the Power Authority shall produce report(s) on the status of the implementation of the competitive procurement process.

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4. **Power for Jobs Program Presentation**

Messrs. Pasquale, Peterson and Kerr submitted a presentation on the Power for Jobs Program.

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5. **Status of Approved Applications**

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6. **Summary of Action on Applications**

September 18, 1997

7. **Next Meeting**

It was agreed that the next meeting of the Board would be held at such time as new applications for power are available for consideration.

**Closing**

The meeting was adjourned at 3:15 p.m.