

**MINUTES OF THE MEETING
OF
THE GOVERNANCE COMMITTEE**

March 14, 2011

A meeting of the Governance Committee was held via videoconference at the Authority's offices at 501 Seventh Avenue, New York, New York, 123 Main Street, White Plains, New York and 95 Perry Street, Buffalo, New York at approximately 3:00 p.m.

The following Members of the Governance Committee were present:

Trustee Eugene L. Nicandri, Chairperson
Trustee D. Patrick Curley
Trustee Jonathan Foster
Trustee Mark O'Luck

Also in attendance were:

<i>Michael Townsend</i>	<i>Chairman, New York Power Authority</i>
<i>Gil Quiniones</i>	<i>Chief Operating Officer</i>
<i>Judith McCarthy</i>	<i>Acting General Counsel</i>
<i>Joan Tursi</i>	<i>Senior Vice President – Corporate Support Services</i>
<i>Joseph Gryzlo</i>	<i>Vice President of Labor Relations and Chief Ethics and Compliance Officer</i>
<i>Patricia Leto</i>	<i>Vice President - Procurement</i>
<i>Lesly Pardo</i>	<i>Vice President – Internal Audit</i>
<i>Karen Pasquale</i>	<i>Vice President Enterprise Shared Services</i>
<i>Brian McElroy</i>	<i>Treasurer</i>
<i>Karen Delince</i>	<i>Corporate Secretary</i>
<i>Dennis Eccleston</i>	<i>Chief Information Officer</i>
<i>Rod Mullin</i>	<i>Director – Fuel Planning and Operations</i>
<i>Mark O'Connor</i>	<i>Director – Real Estate</i>
<i>Shannon Sramek</i>	<i>Senior Treasury Analyst</i>
<i>Lorna Johnson</i>	<i>Assistant Corporate Secretary</i>
<i>Louise Nestler</i>	<i>Assistant Ethics Officer</i>
<i>Sheila Baughman</i>	<i>Senior Secretary, Corporate Secretary's Office</i>

Chairman Nicandri welcomed Ms. Judith McCarthy, Acting General Counsel, and other staff members to meeting.

1. **Minutes of the Regular Meeting of October 26, 2010**

The minutes of the Committee's October 26, 2010 meeting were adopted.

2. Review and Recommendation of Guidelines and Procedures

Ms. Karen Pasquale presented an overview of the Authority's Procurement activities, with Ms. Patricia Leto, Mr. Mark O'Connor, Mr. Rod Mullin, Ms. Shannon Sramek and Mr. Joseph Gryzlo reporting on procurement contracts and disposal of personal property; acquisition and disposal of real property; fossil fuel; corporate finance and ethics and compliance.

Ms. Pasquale said that four sets of Guidelines and Procedures were being presented to the Committee for approval: Guidelines for Procurement Contracts; Guidelines and Procedures for the Disposal of Personal Property; Guidelines and Procedures for the Disposal of Real Property and Guidelines and Procedures for the Acquisition of Real Property. The following highlights as it relates to each Guideline were presented:

2.1 Guidelines for Procurement Contracts

The Guidelines for Procurement Contracts describe the Authority's process for soliciting proposals and awarding contracts. As a result of recently enacted state laws, chapters 174 and 175 of the Laws of 2010, that made substantial amendments to the Public Authorities Law, with several changes governing procurements, Authority staff is proposing several changes to its guidelines for procurement contract as follows:.

- Definitions of Minority and Women-owned Business Enterprise ("M/WBE"), small business, single source and sole source have been modified to be in line with the federal definitions.
- Procurement contracts may be awarded on a sole source, single source or other non-competitive basis to (1) a small business or a NYS-certified M/WBE firm for purchases of goods and/or services not exceeding \$200,000 (increased from \$5,000); and (2) for the purchase of goods and/or technology recycled or remanufactured, not exceeding \$200,000.
- The Authority may be required to submit certain procurement contracts that are awarded on a sole source, single source, or other non-competitive basis for the purchase of goods and/or services in an amount equal to or greater than \$1 million, to the New York State Comptroller for approval. Such contracts shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed without action by the Comptroller.
- The award of a contract to a NYS-certified M/WBE requires the written approval of the Vice President of Procurement.
- Every potential sole source or single source contract with a value of \$1 million or more must be approved by the President and CEO or the COO prior to processing by the Procurement Department.

Additional non-substantive and stylistic changes have also been made throughout the Guidelines.

In response to a question from Trustee O'Luck, Ms. Pasquale said that the proposal for the approval of contracts in the amount of \$1million or more does not relate specifically to M/WBEs but to all sole source or single source contracts within that limit.

2.2 Guidelines and Procedures for the Disposal of Personal Property

The Guidelines for the Disposal of Personal Property include, but is not limited to, the use, award, monitoring and reporting of contracts for the disposal of personal property, materials, tools, equipment and vehicles owned by the Authority, with a value in excess of \$5,000. The proposed changes are to make the Guidelines consistent with the law, clarify or improve the Authority's disposal process and to reflect particular or organizational changes in the Authority. In summary, the proposed changes to the Guidelines:

- Modifies the procedure of disposal of Property from soliciting proposals from “at least three” bidders to “qualified” bidders to reflect realistic market conditions while still encouraging full and adequate competition;
- Clarifies that the methods by which all bids shall be publicly disclosed include posting to the Authority’s internet website to formalize current Authority practice;
- Expands on and clarifies disposal options where no bids or no acceptable bides are received by the Authority;
- Recognizes and establishes disposals as part of a competitive procurement, including trade-ins, as method of disposal and sets for the requirements for such disposals to ensure compliance with the PAL;
- Clarifies that the return to the original equipment manufacturer is only permissible where the Fair Market Value of the Property does not exceed \$15,000.

Additional non-substantive and editorial or stylistic changes were also made throughout the Guidelines.

In response to a question from Trustee O’Luck, Ms. Joan Tursi said that the Authority conducted a re-sale of the 2008 –2009 vehicles because of issues with the cars. She added that the Authority generally dispose of vehicles within a certain timeframe or mileage, 5 yrs or 75,000 miles; however, with the referenced vehicles there was a cost benefit in replacing them at that time.

In response to further question from Trustee O’Luck, Ms. Tursi said that commission rates are based on the type of equipment being purchased; transportation fees are also included in the commission. She added that all Authority vehicle sales are done by an auctioneer, JJ Kane of Rome, New York.

2.3 Guidelines and Procedures for the Disposal of Real Property and

2.4 Guidelines and Procedures for the Acquisition of Real Property

The guidelines and procedures for the disposal and guidelines and procedures for the acquisition of real property allows for Authority acquisitions and dispositions to ensure that these transactions are transparent to the public while preserving the Authority’s ability to assist in economic development. The only substantive change in the 2011 guidelines from 2010 is a title change, which reflects operational changes made within the past year. The Vice President – Enterprise Shared Services is named as the Authority’s Contracting Officer in the place of the Senior Vice President – Enterprise Shared Services.

The members of the Governance Committee agreed to forward the proposed changes to the Guidelines for Procurement Contracts; Guidelines and Procedures for the Disposal of Personal Property; Guidelines and Procedures for the Disposal of Real Property and Guidelines and Procedures for the Acquisition of Real Property to the Authority’s Board of Trustees for review and approval.

3. Procurement and Real Estate Reports

3.1 Procurement Contract Activity

Ms. Leto highlighted the following procurement contract activities:

- As of December 31, 2010, there were 2125 contract awards, excluding fossil fuel or corporate finance expenditures, in the amount of \$5,000 or greater in value;
- The total estimated value of these contracts is more than \$2.6 billion;
- The total expenditures for procurement contracts in 2010 exceeded \$365 million;
- 9% of the contracts were for construction work;
- 45% for purchase of equipment and commodities;
- 16% for personal service contracts (engineering, consulting and legal services);
- 30% for other services (technicians, contracted personnel, maintenance and repairs);
- Approximately 96% of the total amount expended were for contracts that were competitively bid;
- The basis for sole source awards included the purchase of highly specialized spare parts and services from original equipment manufacturers and procurement of services on an emergency basis and from proprietary sources.
- On March 31, 2011, the “2010 Annual Report of Procurement Services Contracts” was certified by the Authority’s Chief Financial Officer and submitted to the New York State Comptroller’s Public Authorities Reporting Information System in accordance with section 2879 of the NYS Public Authority Law

In response to a question from Trustee Mark O’Luck, Ms. Leto said that the Authority plans to raise its goals as it pertains to M/WBEs and will also be posting construction contracts of \$100,000 or more in value and contracts to M/WBEs on its Web Site. Also, the Diversity division will monitor the Authority’s activities to ensure that it is in compliance with the new laws.

3.2 Disposal of Personal Property

Ms. Leto provided the following report:

2010 Annual Report of Disposal of Personal Property

The Public Authorities Accountability Act (“PAAA”) requires the preparation of a report listing all personal property over \$5,000 in value disposed of during the year. This information will be included in the Annual Report of Personal Property Disposal to be submitted to the ABO by March 31, 2011 and posted on its Public Authorities Reporting Information System (“PARIS”).

WPO and Facilities

The Authority received \$1,374,386.66 for Personal Property Disposal transactions in 2010. This included the sale of scrap metals conducted at the St. Lawrence/FDR Project (\$65,186.66) and the sale of certain plant equipment/materials in connection with the decommissioning and dismantling of the Charles Poletti Power Project (\$1,309,200).

Ms. Joan Tursi provided the following report:

Fleet Operations

The Authority participated in three Fleet-related auctions conducted by JJ Kane Auctioneers. This auction resulted in the sale of 160 units of property comprising light duty vehicles, heavy duty trucks and special equipment; 64 units were sold for more than \$5,000. The Authority received \$647,750 for the 64 units. The net amount received, after commission and transportation costs were deducted, was \$613,935.75.

The Authority also participated in an online auction on December 22, 2009 conducted by Auctions International. This auction resulted in the sale of three additional units, one of which was sold for more than \$5,000. The net proceeds of this auction were \$6,991. Since payment was not received by the Authority until 2010, this transaction is included in the 2010 Report. In addition to the aforementioned auctions, Fleet Operations staff also solicited bids for the sale of three crew cabs which resulted in additional net proceeds of \$44,985.

In summary, the Authority’s Fleet Operations disposed of 68 units of property with a sale price of more than \$5,000, the net proceeds of which were \$699,749. The net value of Fleet-related auctions during 2010 was \$665,911.75.

An additional \$104,389.60 was received for the sale of 98 units with a value less than or equal to \$5,000.

In 2010, the Authority received \$2,040,298.41, after commission and transportation costs were deducted, for all personal property disposed of that had a value of more than \$5,000.

3.3. Acquisition and Disposal of Real Property

Mr. Mark O'Connor reported on the acquisition and disposal of real property as well as leasing and permitting activities during the period January 1, to December 31, 2010.

Acquisitions

The Authority acquired three easements during this period: 1) an easement for underwater cable to support the St. Lawrence transmission; 2) a water and sewer utility easement to support the Authority's construction at Niagara Project and 3) an easement for the construction of an electrical grounding grid to alleviate a safety concern near the Authority's Flynn Plant in Holtsville, Long Island.

In addition, in order to support the Niagara Project's ice boom operations, the Authority had one major acquisition, the First Buffalo Marina, to secure permanent mooring rights for winter storage of the its tugboat, ice breaker and barge.

Danger Trees

With regard to danger tree permits, the Real Estate division continues to support the Transmission division with the acquisition of danger tree permits which gives the Authority the right to remove trees and other tall growing vegetation which pose a threat to the safe operation of its transmission system. During the period, the Real Estate division obtained 82 danger tree permits at a cost of \$43,000.

Land Use Permits

The Authority controls the use of its lands and rights-of-way by others by issuing land use permits. During 2010, the Real Estate division issued 13 permits for the use of Authority fee-owned property or for activities within its rights-of-way.

Leasing

The Authority continues to perform leasing activities to support its operational needs. Its headquarters at 123 Main Street, White Plains, generates approximately \$3.2M of gross rental. During 2010, staff renewed a lease with a long-standing tenant, Hodagaya Chemical. The renewal was for 5 years at an annual rate of \$70,000. In addition, staff renewed the office and hanger lease for the storage of the Authority's plane at Landmark Aviation, Westchester County Airport. This renewal was for three years at an annual rate of \$82,000. Staff also modified and extended the lease term for the Authority's Albany Office for a 5-year term. Approximately 3,860 rentable square feet was added, bringing the total to 12,720 rentable square feet with an annual rental of \$253,000; the expiration date was also extended one year to July 31 2015. Staff entered into an agreement with 501 7th Avenue Associates for a modification and surrender agreement because the Authority no longer subleases to the Office of Alcohol and Substance Abuse Services. The effect of this agreement was to surrender approximately 40,000 square feet which the Authority had been subleasing to New York State Office of General Services. The effect of this early surrender was to save the Authority approximately \$477,000 of direct rental payments. The Authority currently occupy approximately 7,185 rentable square feet on the 9th floor of 501 7th Avenue at an annual rental of \$276K and a current termination date of August 31, 2011.

St. Lawrence Relicensing

As part of the Authority's license compliance efforts at its St. Lawrence/FDR Power Plant, 599 acres of Authority-owned lands was committed to municipalities or landowners who own lands adjoining the Authority's land. All the municipal parcels committed to in the relicensing of the Plant have been conveyed. Also, 360 of the 520 private parcels have been conveyed and 64 deeds have been finalized, closed and recorded in the St. Lawrence County Clerk's office. In addition, 57 deeds are awaiting final payment and closing. Funds collected, to date, for these transactions total more than \$765,000. These funds will be returned to the local communities to fund local public projects.

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In response to a question from Chairman Nicandri, Mr. O'Connor said that the Authority has not placed a time limit for the transfers. A 2-year time frame was anticipated for the transactions, however staff is having difficulty in getting some landowners to close; there are approximately 70 deeds awaiting final signature.

3.4 Supplier Diversity Program

Ms. Leto said in 2010, the Authority had awarded, \$35.7 million ((11.7% of the Authority's reportable expenditures) to New York State Certified Minority and Women-Owned Business Enterprises (M/WBEs). The Authority's goal for 2010 is 6% of "Reportable Expenditures." Also, seven different NYS certified MBE financial dealers transacted over \$421 million or 27.6% in principal sales and purchases for the Authority.

The Empire State Development Corporation provided a template for submittal of agencies' 2011-2012 goal plans, due April 21, 2011. The template incorporates new requirements set forth in the recent M/WBE legislation and the new Article 15-A regulations adopted on December 22, 2010. A major component of the plan is to increase the M/WBE annual goal to help meet the Governor's goal for minority and women-owned firms to account for 20 percent of the state's business.

The Empire State Development Corporation also amended the M/WBE Guidelines which were used to update the Authority's M/WBE and EEO contract language respectively, as well as the Authority's procurement policies and procedures. The Guidelines also increased monitoring and reporting requirements to facilitate transparency in state procurement.

An inquiry was submitted to all agencies and authorities by the new Chief Diversity Office for New York State requesting specific information on their Supplier Diversity Program and practices. This information was prepared and submitted on February 9, 2011.

3.5 Inventory Statistics

Ms. Leto reported that as of December 31, 2010, the total stock value of the Authority's inventory was \$87,021,409. This figure includes \$1.3 for B-G LEM spare materials purchases and transfers into inventory and \$1.3 for blades, rings and control valves for the Flynn Plant.

The Construction of the new Niagara Warehouse continues. Construction completion of the new Niagara Warehouse and Office Facility is scheduled for July, 2011.

3.6 Fossil Fuel Activity

Mr. Mullin said that in 2010, the total fuel expenditures and related costs was \$213 million. Of this total, \$212.3 million was spent on natural gas and associated costs and \$631,000 on oil storage and inspection. There were 27 natural gas and oil contracts in total, all of which were competitively bid.

The fuel prices for products that impact the Authority's cost of doing business are as follows:

- Crude oil, currently trading at \$100/barrel
- No. 2 heating oil (used at the Flynn Plant), currently trading at \$128/barrel
- Jet/Kero (used for the 500 MW unit) currently, trading at \$133/barrel

Natural gas prices have been comparatively low due to weak demand, high storage levels and increased supply availability to the Northeast.

3.7. Corporate Finance Activity

Ms. Sramek reported that the “Corporate Finance Addendum” to the Annual Report of Procurement Contracts identifies certain non-procurement items paid throughout the year. Through December 31, 2010, the total is approximately \$2.2 million. The firms listed in the addendum provide unique and specialized services in that performance of such services requires a broad depth of knowledge and experience and are therefore provided by a limited group of firms. These non-procurement items include trustee and paying agent services, commercial paper remarketing services, escrow agent services and fees paid for revolving credit agreements supporting the Authority’s Variable Rate Debt Program. Of the \$2.2 million spent to date, approximately \$1.4 million is associated with the Authority’s revolving credit agreements.

In response to a question from Chairman Eugene Nicandri, Ms. Sramek said that all of the contracts being reported on are existing contracts. She continued that, at the December 2010 Board meeting, the Authority’s Trustees did authorize staff to enter into a Revolving Credit Agreement to replace the Authority’s Revolving Credit Agreement that expired in January of this year. The new Revolving Credit Agreement went into effect on January 20, 2011 and will be included in the next report to the Committee.

4. Recent Developments and Status of NYPA's Ethics and Compliance Program

Mr. Gryzlo provided an update of the Authority's Ethics and Compliance program. He said the ethics case load continues to increase. The Ethics and Compliance Office views this as a positive sign and attributes it to the Authority's Code of Conduct training program and certification to the NYPA Code of Conduct. The 2010 ethics training focused on conflicts of interest, outside employment, outside activities and gifts. In 2011, ethics training will focus on outside activities and employment. There are a number of employees engaged in various outside activities and employment; the Authority wants to ensure that there are no conflicts of interest with the Authority's mission, business interests or the individual employee's job duties. Employees who are interested in seeking outside employment will be asked to contact the Ethics & Compliance Office for an evaluation.

Financial Disclosure

With regards to the annual financial disclosure filing, due at the NYS Commission on Public Integrity ("Commission") no later than May 16, 2011, Mr. Gryzlo said that Ethics and Compliance Office staff will be communicating with employees required to file and all of the Trustees. The Commission will notify required filers and provide them with user IDs and passwords for electronic filing at their NYPA e-mail address. The Ethics and Compliance Office will work with the Secretary's Office to ensure proper notification goes out to the Trustees. Approximately one quarter of the Authority's staff are required to file.

In response to a question from Trustee Foster, Mr. Gryzlo said that Law Department has an Assistant Ethics Officer and a Compliance Specialist. The Power Supply Business Unit Group also has a Technical Compliance group that works in conjunction with the Internal Audit Department, Human Resources and other business units in the Authority on various aspects of the Authority's compliance activities.

Referrals from New York State Inspector General

Mr. Gryzlo said that during 2010, two referrals of allegations were received from the State Inspector General's Office, both of which were found to be without merit.

In response to a question from Trustee O'Luck, Mr. Gryzlo said that there were no firings as a result of allegations or cases reported.

In response to further questions from Trustee O'Luck, Chairman Nicandri said that the Authority does not currently have an Inspector General on staff. An internal review determined that the State Inspector General has statutory authority to investigate all issues that arise related to the Authority. In an effort to avoid any conflicts with that statutory authority, NYPA dissolved its internal Inspector General's Office.

Mr. Quiniones added that the statute does not require the Authority to have an Inspector General on staff, therefore it was determined that staff should refer cases to the New York State Inspector General's office. He then asked the Acting General Counsel to review the matter and report to the Committee the exact reasoning for the Authority's decision to eliminate the position.

Mr. Gryzlo added that the Authority conducted training sessions with staff from the Inspector General's office in 2009, and explained the Authority's obligation to work with their office on matters under their jurisdiction. He ended by saying that the Authority has a good working relationship with the Inspector General's Office

NERC Reliability Compliance

Mr. Gryzlo reported that NERC, which has standards and requirements designed to protect the power system and which utilities must adhere to, conducts continuing evaluations as to the appropriate level of resources and staffing for the Authority. The Authority is subject to more than 100 standards and requirements. In June and July 2011, the Authority is scheduled for an audit to be conducted by the regional entity of NERC that enforces its standards.

In response to a question from Chairman Nicandri, Mr. Gryzlo said that the Authority has an ongoing assessment of its staffing levels to be in compliance with NERC standards. Mr. Gil Quiniones added that the Authority increased staff last year in the technical compliance area and will continue to evaluate its needs in order to be in full compliance.

Anti-Retaliation in Policy

Mr. Gryzlo reported that the Authority revised its Anti-retaliation Policy in late 2010, to focus on whistle blowing events, and encourage staff to report concerns of alleged wrongdoing, misconduct, fraud, and policy and procedure violations, without fear of retaliation. Employees were encouraged to cooperate during investigations and inquiries. The Authority maintains a vendor operated anti-retaliation "hotline" which employees can use to report such incidents. Employees are protected if they participate in an investigation related to a whistle blowing event.

5. **Next Meeting**

The next regular meeting of the Governance Committee will be held on a date to be determined. On motion made and seconded the meeting adjourned at approximately 5:30 p.m.

March 14, 2011

EXHIBITS
TO
MARCH 14, 2011
MEETING MINUTES

EXHIBIT 2.1 (Clean)

GUIDELINES FOR PROCUREMENT CONTRACTS

1. PURPOSE

These Guidelines for Procurement Contracts (“Guidelines”) set forth the policy of the Authority regarding the solicitation and awarding of procurement contracts. The provisions of Article 4-C of the Economic Development Law, §§ 2879 and 2879-a of the Public Authorities Law, Article 15-A of the Executive Law and §§ 139-j and 139-k of the State Finance Law were considered in developing these Guidelines. Departments and facilities may adopt further procedures to implement these guidelines.

2. DEFINITIONS

- A. “Procurement Contracts” are contracts for the acquisition of goods and/or services in the actual or estimated amount of \$5,000 or more. Such goods and/or services are those necessary to support the Authority’s White Plains office, facilities, operations and maintenance (“O&M”) and capital projects, including but not limited to goods such as office supplies, major electrical equipment, construction and maintenance work and services as more fully described in Section 2.C below.
- B. “Non-Procurement Contracts” include contracts for energy with or without environmental attributes included, capacity, ancillary services, transmission, distribution or related services in support of providing service to Authority customers; contracts for differences; financial hedge contracts (including but not limited to swaps, calls, puts or swap options) and credit rating services. In addition, Non-Procurement Contracts include direct placement of advertisements with radio, television, print and electronic media, periodicals, subscriptions, reference materials or professional research tools, written materials, fees or tuition associated with continuing education courses, training courses, conferences, seminars and symposiums, funding agreements, co-funding agreements, grants or memberships in various industry groups, professional societies or similar cooperative associations, or any cooperative projects and procurement activities conducted or sponsored by such organizations in which the Authority participates.
- C. “Services Contracts” are Procurement Contracts for services of a consulting, professional or technical nature provided by outside consultants/contractors (individuals, partnerships or firms who are not and do not employ officers or employees of the Authority) for a fee or other compensation. Services Contracts comprise three specific types: Personal Services, Non-Personal Services and

Construction. Personal Services include, but are not limited to: accounting, architectural, engineering, financial advisory, legal, public relations, planning, management consulting, surveying, training (when specifically developed by consultant for the Authority) and construction management. Non-Personal Services include, but are not limited to: skilled or unskilled temporary personnel, including clerical office staff, technicians or engineers working under Authority supervision; maintenance, repairs, and printing services. Construction consists of craft labor and other services utilizing laborers and/or mechanics not otherwise considered Non-Personal Services.

Note: Use of such services may be appropriate (1) when a consultant/contractor possesses special experience, background or expertise; (2) when there is insufficient Authority staff and retention of a consultant/contractor is more appropriate or economical than hiring additional permanent staff; (3) to provide independent external review or a second opinion; (4) to meet unusual schedule requirements or emergencies or (5) for a combination of these factors.

- D. “Goods” include equipment, material and supplies of any kind.
- E. “Contact” means any oral, written or electronic communication with the Authority under circumstances where a reasonable person would infer that the communication was intended to influence the procurement.
- F. “Relative” is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant, as referred to in Subsection 9.E.1 of these Guidelines.
- G. “Minority and Women-owned Business Enterprise” (“M/WBE”) is defined as any New York State certified business enterprise at least 51% of which is owned by black persons, Hispanics, Native Americans, Asians, Pacific Islanders and/or women, and as further described in the Authority’s Supplier Diversity Program Policy and Procedures and Executive Law Article 15-A, and pursuant to the definition found in Executive Law § 310..
- H. “Small Business” is a business that is resident in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.
- I. “Single Source” means a procurement in which although two or more offerers can supply the required goods or services, the Authority, upon written findings setting forth the material and substantial reasons therefore, may award a contract or amendment to a contract to one offerer over the other.

- J. “Sole Source” means a procurement in which only one offerer is capable of supplying the required goods or services.

3. SOLICITATION REQUIREMENTS

- A. Preparation of the solicitation of proposals for Procurement Contracts is the joint responsibility of the White Plains Procurement Department, or the facilities’ Procurement Departments, and the initiating department. Except as otherwise authorized by these Guidelines, a Request for Proposals (“RFP”) or Request for Quotations (“RFQ”) will be made available to a minimum of three providers and/or firms (if available) for purchases valued under \$25,000 and a minimum of five providers and/or firms (if available) for purchases valued at \$25,000 and greater, commensurate with the magnitude and nature of the goods and/or services, and the schedule for performance. Whenever possible and practicable, notification of the availability of an RFP and RFQ on the Authority’s Procurement website should be sent to more than five providers.
- B. Prospective bidders on Procurement Contracts may be prequalified by invitation. In such cases, proposals are requested only from those providers and/or firms whose prequalification submittals demonstrate sufficient ability and competence to supply the particular goods and/or perform the particular services required.
- C. The Authority may withdraw any pending solicitation (including but not limited to RFPs and RFQs) at any time, for cause or no cause. Any person or entity submitting any responsive document to the Authority does so at its own cost or expense and will not be reimbursed by the Authority for the preparation of any responsive document, unless otherwise agreed to in writing and signed by an authorized Authority representative.
- D. In order to promote the use of Minority and Women-owned Business Enterprises (“M/WBEs”), the Authority will solicit offers from M/WBEs known to have experience in the type of goods and/or services to be provided, regardless of the type of contract. For the purpose of these Guidelines, the definition of a NYS-certified M/WBE is in Section 2.G.

To foster increased use of M/WBEs, a single proposal may be sought, negotiated and accepted for purchases of goods and/or services not exceeding \$200,000, in the aggregate including all amendments, from a NYS-certified M/WBE that offers a reasonable price for such goods and/or services. The award of such proposal requires the written approval the Vice President of Procurement. Any subsequent alteration to the accepted proposal, including, but not limited to, change orders, amendments, or supplemental terms shall also necessitate the written approval of the Vice President of Procurement.

- E. It is the policy of New York State to promote the participation of and maximize the opportunities for New York State Business Enterprises and New York State residents in Procurement Contracts. The Authority will endeavor to promote such participation and to comply with the applicable statutory provisions. In furtherance of Public Authorities Law § 2879, the following definitions and actions apply:
1. “New York State Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation that offers for sale or lease or other form of exchange, goods sought by the Authority that are substantially manufactured, produced or assembled in New York State or services, excluding construction services, sought by the Authority that are substantially performed within New York State as further described in Public Authorities Law § 2879.
 2. “New York State resident” is a person who maintains a fixed, permanent and principal home in New York State to which such person, whenever temporarily located, always intends to return as further described in Public Authorities Law § 2879.
 3. “Foreign Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale, lease or other form of exchange, goods sought by the Authority that are substantially produced outside New York State, or services other than construction services, sought by the Authority that are substantially performed outside New York State as further described in Public Authorities Law § 2879. For purposes of construction services, Foreign Business Enterprise is a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York State.
 4. “Discriminatory Jurisdiction” is any country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of, or otherwise discriminates against, a New York State Business Enterprise in the procurement of goods and/or services by the same or a non-governmental entity influenced by the same.
 5. Pursuant to Public Authorities Law § 2879, the Authority shall not enter into a contract with a Foreign Business Enterprise which has its principal place of business in a Discriminatory Jurisdiction contained on the list prepared by the Commissioner of the New York State Department of Economic Development (“DED”). The provisions of this section may be waived by the Authority’s President and CEO if the CEO determines in writing that it is in the

best interests of the Authority to do so, as further set forth in the above-referenced law.

6. Pursuant to Public Authorities Law § 2879, the Authority will, where feasible, make use of the stock item specifications list of New York State manufacturers, as made available by the commissioner of general services of producers and/or assemblers for any Procurement Contract for the purchase of goods.
- F. Goods and/or services may be procured pursuant to Procurement Contracts let by any department, agency, officer, political subdivision or instrumentality of the State or Federal government or any city or municipality where the White Plains Procurement Department, or facility Procurement Departments, and the initiating department determine that a reasonable potential exists for cost savings or other benefits to the Authority and have approved the specifications and proposed terms and conditions of such contract.
- G. Solicitations will include a scope of work that defines the goods required and/or the services to be performed; milestone dates; the Authority's Supplier Diversity Program requirements, if applicable; all other applicable Authority requirements and any special methods or limitations that the Authority chooses to govern the work. Telephone solicitation, usually for procurements valued at \$25,000 or less, may be used where time constraints do not permit issuance of an RFP, where issuance of an RFP is otherwise impracticable or for goods that are catalog items or do not require a detailed bill of materials or specification.
- H. For all Procurement Contracts with a value equal to or greater than \$15,000 (except for those contracts noted below), the Authority will, prior to soliciting proposals, submit the following information to the Commissioner of the DED to be included on the New York State Contract Reporter website, (www.nyscr.com) (unless such posting would serve no useful purpose): (1) the Authority's name and address; (2) the solicitation number; (3) a brief description of the goods and/or services sought, the location where goods are to be delivered and/or services provided and the contract term; (4) the address where bids or proposals are to be submitted; (5) the due date for bids or proposals; (6) a description of any eligibility or qualification requirements or preferences; (7) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture or coproduction arrangement; (8) any other information deemed useful to potential contractors; (9) the name, address, and phone number of the person to be contacted for additional information and (10) a statement as to whether the goods and/or services sought have, in the immediately preceding three-year period, been supplied by a Foreign Business Enterprise. Such information will be submitted to the DED Commissioner in accordance with the schedule set forth by the DED. The due date for bids or proposals will be a minimum of 21 calendar days (including holidays) after the date of publication of such notice on the Contract Reporter website.

This section 3.J does not apply to (i) Procurement Contracts awarded on an emergency basis as described below in Section 3.M, (ii) Procurement Contracts being rebid or re-solicited for substantially the same goods and/or services, within 45 business days after the original due date, and/or (iii) Procurement Contracts awarded to not-for-profit human services providers.

Certain Procurement Contracts may require purchases: (1) on a spot market; (2) needed prior to the time limits for noticing on the Contract Reporter website or that do not lend themselves to the solicitation process. Such purchases are exempted from the noticing requirements of Article 4-C of the Economic Development Law subject to the approval of the Vice President of Procurement, and/or the head of the initiating department that does not complete its procurements through the Procurement Department. From time to time or where appropriate, generic notices may be published on the Contract Reporter website notifying potential bidders of such opportunities and soliciting qualification statements for consideration by the Authority.

- I. Proposals for certain Services Contracts may also be solicited by competitive search, as follows:

For contracts where the scope of work cannot be well defined or quantified, or where selection requires evaluation of factors such as breadth and depth of experience in a unique or highly specialized field and suitability as an Authority representative, a “competitive search” will be conducted to determine which consultants are most qualified, for reasonable compensation terms, to perform the work. Depending on market conditions, at least five potential sources should be evaluated; if there are fewer than five sources, all sources should be evaluated. The White Plains Procurement Department or the appropriate facility Procurement Department will work with the initiating department to gather information from potential sources, that will include a description of the consultant/firm’s qualifications, résumés of key personnel, past experience and proposed billing rates.

- J. A Procurement Contract may be awarded on a Sole Source, Single Source, or other non-competitive basis where:
1. Compatibility of equipment, accessories or spare or replacement parts is the paramount consideration.
 2. Services are required to extend or complement a prior procurement and it is impracticable or uneconomic to have a source other than the original source continue the work.
 3. A sole supplier’s item is needed for trial use or testing, or a proprietary item is sought for which there is only one source.
 4. Other circumstances or work requirements exist that cause only one source to be available to supply the required goods and/or services.

5. The contract is awarded to a Small Business or to a NYS- certified M/WBE firm for purchases not exceeding \$200,000, pursuant to Section 3.D.
 6. The contract is for the purchase of goods and/or technology that are recycled or remanufactured, in an amount not exceeding \$200,000, subject to the approvals stated in Section 3.D.
 7. Purchases made on a Sole Source, Single Source, or other non-competitive basis are subject to Public Authorities Law § 2879-a, 2 NYCRR Part 206, entitled “Comptroller Approval of Contracts Made by State Authorities” (“Comptroller Regulations”) and the State Authority Contract Manual.
- K. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain contracts to the New York State Comptroller for approval that are awarded on a Sole Source, Single Source, or other non-competitive basis for the purchase of goods and/or services in an amount equal to or greater than \$1 million, and shall notify the successful bidder therefor. Such contracts or contract amendments shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed from such submission without action by the Comptroller, as further set forth in the referenced law and regulations.
- L. Subject to the Authority’s Expenditure Authorization Procedures (“EAPs”), and Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, a Procurement Contract may be awarded without following the solicitation requirements that ordinarily apply (but using such competitive selection procedures as are practicable under the circumstances) where emergency conditions exist, such as:
1. A threat to the health or safety of the public or Authority employees or workers.
 2. Proper functioning of the Authority facilities or construction or operating projects requires adherence to a schedule that does not permit time for an ordinary procurement solicitation.
- M. Whenever an initiating department determines that a Procurement Contract should be awarded on a Single Source, Sole Source, or an emergency basis, the head of the department will provide a written statement explaining the reasons therefor to the White Plains Procurement Department or the appropriate facility Procurement Department.
- N. Every potential Sole Source or Single Source contract with a value of \$1 million or more must be approved by the President and CEO or the COO prior to processing by the Procurement Department.

- O. In furtherance of Public Authorities Law, Section 2800, when a procurement is made on a non-competitive basis, and the price for goods or services purchased exceeds fair market value, prior to making the purchase, the Business Unit Head of the initiating department shall provide a detailed explanation of the justification for making the purchase and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such purchase and determined that it complies with applicable law and procurement guidelines. The following definition shall apply: “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair market value may be determined by internal appraisals, industry-recognized sources, or other methods of valuation generally accepted in the industry in which such property is utilized, as may be approved by the Vice President of Procurement or authorized designee.
- P. It is the policy of New York State to discourage improper communications intended to influence a governmental procurement. The Authority will endeavor to control such practices and will comply with the applicable statutory provisions. In furtherance of the State Finance Law §§ 139-j and 139-k, the following definitions shall apply:
1. Pursuant to Article 11-B of the State Finance Law a “Procurement Contract” is any contract or other agreement for a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property that is the subject of a governmental procurement. Grants, contracts between the Authority and non-profit organizations pursuant to Article 11-B of the State Finance Law, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions are not Procurement Contracts.
 2. The “Restricted Period” is the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from bidders/contractors intending to result in a procurement contract with the Authority and ending with the final contract award.
 3. The Authority shall designate a person or persons who may be contacted, with respect to each Authority procurement. The bidders/contractors or persons acting on their behalf, shall only contact the Authority’s designated person or persons where a reasonable person would infer that the communication was intended to influence the procurement during the Restricted Period.

4. EVALUATION OF PROPOSALS

- A. Proposals will be evaluated using a fair and equitable comparison of all aspects of the proposals against the specifics of the solicitation and against each other, including an analysis of each offer that considers: the quality of the goods and/or the competence of the bidder, the technical merit of the proposal and the price for which the goods and/or services are to be supplied.

In the event the price submitted by the bidder recommended to be awarded a contract exceeds the cost estimated, where a cost estimate is provided, on the solicitation at the time of bidding, the initiating department will prepare a written explanation to be reviewed by the White Plains Procurement Department and/or the appropriate facility Procurement Department and appropriate managers as stipulated in the EAPs. The following options should be considered: (1) rejecting the bids, resoliciting proposals and/or modifying the scope of work; (2) revising the cost estimate and proceeding with the contract award and (3) negotiating with the low bidder(s), as determined by the Vice President of Procurement or equivalent(s) or designee, to reduce the price quoted. Factors to be considered in reaching the proper course of action include but are not limited: to the effects of a delay on both the schedule and the cost of the specific capital construction project or outage at an operating facility, the magnitude of the contract, available bidders, the ability to attract additional competition if the solicitation is reissued, and the accuracy of the original cost estimate. The recommended course of action and the reasons therefor must be fully documented in a memorandum for consideration by the appropriate level of management prior to approval and placed in the appropriate procurement file.

- B. Factors to be considered in evaluating the goods and/or services to be supplied and/or the competence of the bidder are: previous experience (including applicable experience in New York State and evaluations from other clients for whom the bidder has provided goods and/or services); the abilities and experience of the personnel to be assigned to the Authority's work and the ability to provide any needed advanced techniques such as simulation and modeling. The approach proposed in meeting the exact requirements of the scope of work will be given consideration in evaluating the technical merit of the proposal, together with a well-organized task structure, the ability to timely supply the goods and/or perform the proposed services and the ability to meet Supplier Diversity Program goals, if any. The need to purchase the goods from and/or subcontract performance of services to others will be evaluated as to their effects on cost, as well as quality, schedule and overall performance.
- C. For Services Contracts, (as defined in Section 2.C of these Guidelines), the technical merits of the proposals and the experience and capabilities of the bidders will be the primary factors in determining the individual or firm to be awarded the contract, provided that the price for performing such work is reasonable and competitive.

- D. For Procurement Contracts other than Personal Services (as defined in Section 2.C. of these Guidelines), the award should generally be made to the lowest-priced firm submitting a proposal that meets the commercial and technical requirements of the bid documents.
- E. Pursuant to § 139-j of the State Finance Law, the Authority shall not award a Procurement Contract (as defined in Subsection 3.N.1. of these Guidelines) to a bidder/contractor who fails to provide timely, accurate and complete responses to inquiries about past determinations of non-responsibility (unless awarding the contract is necessary to protect public property or public health or safety and the bidder/contractor is the only source capable of supplying the required article of procurement within the necessary timeframe.)

A bidder's/contractor's knowing and willful violation of the Authority's policy providing for certain procurement disclosures shall result in a determination of non-responsibility of such bidder/contractor pursuant to State Finance Law §§ 139-j and 139-k only.

More than one determination of non-responsibility due to violations of State Finance Law § 139-j in a four-year period shall render a bidder/contractor ineligible to submit bids for four years from the second determination of non-responsibility.

- F. An award to "other than low bidder" can be made only with the approval of appropriate management as stipulated in the EAPs, and should be based on such a proposal providing a clear advantage to the Authority over the lower-priced proposal. Factors justifying an "other than low bidder" award may include, but are not limited to: improved delivery schedules that will reduce outages, longer warranty periods, improved efficiency over the usable life of the equipment, reduced maintenance costs, the bidders' financial resources or the ability to meet or exceed Supplier Diversity Program goals.
- G. The specifications set forth in any solicitation prepared under these Guidelines were based upon information available at the time of the preparation of the solicitation. Thus, the Authority may diverge from the specifications of any solicitation if after review of the proposals responsive to such solicitation; the Authority deems it prudent in light of its experience, the circumstances of the solicitation and/or potential cost savings.

5. RECOMMENDATION OF AWARD

- A. A recommendation for approval of a proposed award of a Procurement Contract is usually prepared in the form of a memorandum or e-mail by the department requiring the goods and/or services. The recommendation must include an evaluation of proposals as specified in Article 4 above, as well as proposed specific compensation terms that provide a clear breakdown of cost factors and methods of calculation, including, as applicable:
1. Lump sum and/or unit prices for equipment and construction work.
 2. Hourly or daily rates for personnel.
 3. Markups for payroll taxes, fringe benefits, overhead and fees, if the proposal is based on reimbursement of actual payroll costs.
 4. Terms for reimbursement of direct out-of-pocket expenses, such as travel and living costs, telephone charges, services of others and computer services.
 5. Provisions, if any, for bonus/penalty arrangements based on target person-hours and/or target schedule.
- B. The recommendation will also review any substantive exceptions to commercial and technical requirements of a price inquiry, RFP, RFQ or bidding documents, including but not limited to payment terms, warranties and bond requirements, if any.

6. AWARD OF CONTRACT

- A. Services Contracts to be performed for a period of more than 12 months are approved and reviewed annually by the Trustees. Services Contracts for a period of less than 12-months are approved by authorized designees in accordance with existing EAPs. Extending a contract for services with an initial duration of less than 12 months beyond 12 months will be approved by the Trustees at the request of the initiating department and will be reviewed by the Trustees annually. Extending a contract for services that has previously been approved by the Trustees for a cumulative term of more than 12 months requires further Trustees' approval. Extending a contract previously approved by the Trustees for 12 months or less requires approval by an authorized designee in accordance with existing EAPs and concurrence by the Vice President of Procurement.
- B. For Services Contracts to be performed for a period of more than 12 months that must be awarded prior to the next quarterly Trustees' meeting, the initial contract will be issued for the entire intended term of the contract. Based on its total

value, such contract must be approved by the appropriate management as set forth in the EAPs. Such contract is subject to the Trustees' approval, at the next quarterly Trustees' meeting. If such approval is not granted, the contract will be terminated immediately.

- C. A contract or contract task is deemed to be for services in excess of 12 months where the contract does not specify a definite term and the work will not be completed within 12 months, and any "continuing services" contract with no fixed term that provides for the periodic assignment of specific tasks or particular requests for services. This includes Trustee-approved contracts for architect/engineering services with the original engineers of operating facilities, as well as the original supplier of steam supply systems or boilers and turbine generating equipment. Each task authorized under such contracts (which may be referred to as a "Change Order," "Purchase Order" or "Task Number") is considered a separate commitment and must be separately approved in accordance with the EAPs.
- D. The term of a Personal Services contract is limited to a maximum of five (5) years, including any extensions.
- E. When time constraints or emergency conditions require extending an existing contract with an initial duration of less than a year beyond a year, and the cumulative monetary change order value does not exceed the appropriate limit set forth in the EAPs, the Business Unit Head, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize extending such contract, subject to the Trustees ratifying such action as soon as practicable.
- F. When the total estimated contract value or the value of the extension exceeds the monetary limits set forth in the EAPs, interim approval by the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee is required, subject to the Trustees' ratifying such action as soon as practicable.
- G. When time constraints or emergency conditions require immediate commencement of services to be performed for a period of more than one year, and when the contract value exceeds the monetary approval limit for the President and Chief Executive Officer or Chief Operating Officer or equivalent(s), as set forth in the EAPs, the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize the commencement of such services. The initial compensation limitation may not exceed the authorization level for the President and Chief Executive Officer or equivalent(s) or Chief Operating Officer or equivalent(s) as set forth in the EAPs. Such contracts will be subject to the Trustees' approval, which will be solicited at their next scheduled Trustee meeting.
- H. The White Plains Procurement Department or the facilities' Procurement Departments prepare the contract for execution by the Authority and the successful

bidder. No work by the selected contractor will commence until the contract is executed by both parties, except that mutually signed letters of award or intent may initiate work prior to formal execution. Authority signatories of such letters must be authorized to approve contract awards pursuant to the EAPs.

- I. Pursuant to Public Authorities Law § 2879, the Authority shall notify the Commissioner of Economic Development of the award of any Procurement Contract for the purchase of goods and/or services from a Foreign Business Enterprise (as defined in Subsection 3.E.3 of these Guidelines) in an amount equal to or greater than \$1 million simultaneously with notifying the successful bidder therefor. The Authority shall not enter into the Procurement Contract for said goods and/or services until at least 15 days have elapsed from the notification of the award, except for a Procurement Contract awarded on an emergency or critical basis. The notification to the Commissioner shall include the name, address, telephone and facsimile number of the Foreign Business Enterprise, the amount of the proposed Procurement Contract and the name of the individual at the Foreign Business Enterprise or acting on behalf of same who is principally responsible for the proposed Procurement Contract.

7. CONTRACT PROVISIONS

- A. The following standard forms of contracts are available from the White Plains Procurement Department: purchase order format for standard procurements of goods and/or services; furnish-and-deliver format for major equipment purchases; letter agreements and agreement formats for consulting work and contract work orders (for construction work of small magnitude), construction contracts (for major construction work) and furnish, deliver and install contracts (for specialized, major procurements where single responsibility is required for procurement and installation). These contract forms are intended to govern the purchase of goods and/or performance of services.

Authority departments proposing to initiate a Procurement Contract should review these forms to suggest any modifications and additions that may be required for the particular goods and/or services. Under no circumstances should contract forms be shown to proposed bidders without the prior approval of the Procurement Department, which, along with the facilities' Procurement Departments, is solely responsible for requesting proposals.

- B. The following types of provisions setting forth contractor responsibilities are to be contained in the standard forms of Procurement Contracts, except that any provisions listed below that are inapplicable or unnecessary because of the nature or duration of the work to be performed, the location(s) where the work is to be performed or the type of compensation being paid therefor, need not be included. Other provisions may be added as necessary and appropriate.

1. Schedule of Services or Specifications
2. Time of Completion
3. Compensation or Itemized Proposals
4. Relationship of Parties
5. Delays
6. Termination
7. Changes in the Work
8. Claims and Disputes
9. Warranty
10. Insurance
11. Records, Accounts, Inspection and Audit
12. Assignment
13. Notices
14. Indemnification
15. Governing Law
16. Proprietary Nature of Work
17. Testimony
18. Entire Agreement

Contract Attachments

1. Compensation Schedule
2. Schedule of Services or Specifications
3. Appendix “A” (Miscellaneous Statutory Provisions)
4. Appendix “B” (Prompt Payment Provisions)
5. Appendix “C” (Minority and Women-owned Business Enterprise Provisions)
6. Appendix “D” (Background Security Screening for Authority Contractors)
7. Appendix “E” (Omnibus Procurement Act of 1992 Requirements)
8. Appendix “F” (Computer Aided Drawing Requirements For New York Power Authority)
9. Appendix “G” (Equal Employment Opportunity Requirements)
10. Appendix “H” (Tax Law Requirements)
11. Appendix “T” (New York Power Authority (NYPA) North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) Cyber Access And/Or Unescorted Physical Access Training Requirements)
12. Appendix “J” (Bidder/Contractor Compliance with State Finance Law §§ 139-j and 139-k Providing for Certain Procurement Disclosures)
13. Appendix “K” (Additional State and Federal Provisions Required for American Recovery and Reinvestment Act (Pub.L. No. 111-5 Stat. 2009) (“ARRA”) Funded Projects)
14. Appendix “L” (DOE Federal Contract Provisions)
15. Appendix “M” (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology (“BART”) for Heavy Duty Vehicles)

- C. Any firm, person or 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. If there is no qualified response to the solicitation for future phases of work, including implementation, the approval of the Vice President of Procurement or equivalent(s) or designee, applicable Business Unit Head or equivalent(s), Assistant General Counsel or equivalent(s) and President and Chief Executive Officer or designee or Chief Operating Officer or equivalent(s) is required to waive this restriction on a case-by-case basis.

8. CHANGE ORDERS

- A. Change Orders to existing contracts are justified in the following cases:
 - 1. To incorporate additional work related to the original scope, to delete work or to otherwise modify the original work scope;
 - 2. To exercise options previously included in the original contract to perform additional work or to extend the contract term;
 - 3. To accommodate emergency conditions, defined in Section 3.L herein, that require the immediate performance of work by a firm already under contract;
 - 4. When rebidding would not be practical or in the best interests of the Authority's customers; and
 - 5. To meet the Authority's Supplier Diversity Program goals in accordance with Executive Law Article 15-A.
- B. All Change Orders must be approved in accordance with the Authority's EAPs, and should include specific schedules for completion of work at the earliest possible time.

9. CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER EMPLOYEES

- A. Former Authority officers and employees are eligible to be considered for employment as contractors and/or consultants provided that they meet all criteria for contractors and/or consultants generally as specified in these Guidelines; their employment is not barred by New York Public Officers Law § 73(8); they obtain an opinion by the New York State Commission on Public Integrity that such

employment is permissible; and upon approval of the President and Chief Executive Officer.

- B. Pursuant to the provisions of New York Public Officers Law § 73(8):
1. No Authority officer or employee is eligible, within a period of two years after the termination of Authority service to appear or practice before the Authority or receive compensation for any services rendered on behalf of any person, firm, corporation or association, in relation to any case, proceeding or application or other matter before the Authority.
 2. No Authority officer or employee is eligible, at any time after the termination of Authority service, to appear, practice, communicate or otherwise render services before the Authority or any other state agency or receive compensation for any such services rendered on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction that such person was directly concerned with and personally participated in during his or her period of service, or which was under his or her active consideration.
- C. No Authority employee who is involved in the award of Authority grants or contracts may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official or candidate for elective office or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- D. No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 9.C above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- E. No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which the Authority employee or a Relative of such Authority employee owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If a contracting matter arises relating to this Section 9.E, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
1. For purposes of Section 9.E, the term "Relative" is defined in Definitions, Section 2.F of these Guidelines.

10. SUPPLIER DIVERSITY PROGRAM REQUIREMENTS

The Authority strives to continue to foster the development of business opportunities on Authority contracts for M/WBEs. Article 15-A of the Executive Law established the NYS Office of Minority/Women Owned Business and Community Relations that is responsible for developing rules and regulations for implementation of this statute, certifying M/WBEs and reviewing and monitoring goal plans, compliance reports and contract provisions to be included in all non-construction contracts for more than \$25,000 and construction contracts for more than \$100,000. The definition of an M/WBE is included in Section 2.G of these Guidelines. The Authority aims to solicit proposals from NYS-certified M/WBEs that are qualified to perform the required work. In addition, specific goals may be included in certain contracts for consulting work, construction and procurement of goods and other services requiring the contractor/vendor to subcontract a portion of the work to NYS-certified M/WBEs as required by law. Bidders' proposals will include Preliminary Subcontracting Plans for M/WBEs, where required, and such bidders failure to meet these requirements may be grounds for rejection of the proposal, or cancellation of the contract if a contractor did not make a good faith effort to meet its goals after contract award. Utilization Plans for Construction contracts valued at more than \$100,000 shall be posted on the Procurement website by the successful vendor within ten business days of contract signing.

Pursuant to § 2879 of the Public Authorities Law and as further set forth in the Authority's Supplier Diversity Program Manual, the following guidelines apply:

1. Identify those areas or types of contracts for which M/WBEs may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises.
2. Provide notice, in addition to any other notice of procurement opportunities required by law, to professional and other organizations that serve M/WBEs providing the types of services procured by the Authority.
3. Maintain lists of qualified NYS-certified M/WBEs, including professional firms that have expressed an interest in doing business with the Authority and ensuring that such lists are updated regularly. The Authority shall also consult the lists of NYS-certified M/WBEs maintained by the DED pursuant to Executive Law Article 15-A.
4. Establish appropriate goals for participation by M/WBEs in procurement contracts awarded by the Authority and for the utilization of M/WBEs as subcontractors and suppliers by entities having procurement contracts with the Authority. Statewide numerical participation target goals shall be established by the Authority based on the criteria set forth in Public Authorities Law § 2879.

5. Conduct procurements in a manner that will enable the Authority to achieve the maximum feasible portion of the goals established pursuant to Subdivision 4 of this Section and that eliminates barriers to participation by M/WBEs in the Authority's procurements.
6. Designate one or more senior staff of the Authority to oversee the Authority's programs established to promote and assist participation by and utilization of NYS-certified M/WBEs.

11. PROCUREMENT RECORD AND REPORTING

A. Procurement Record

The White Plains Procurement Department maintains records of Procurement Contracts, including bidders' names, the selection processes used and the status of existing contracts, including goods provided and/or services performed and fees earned, billed and paid.

B. Procurement Report

At the facilities, such records will be kept by the facilities' Procurement Departments. After the end of each calendar year, the Vice President, Procurement or equivalent(s) will prepare and submit an annual report to the Trustees for their approval that will include:

1. A copy of the Guidelines;
2. An explanation of the Guidelines and any amendments thereto since the last annual report;
3. A list of all Procurement Contracts entered into since the last annual report, including all contracts entered into with New York State Business Enterprises and the subject matter and value thereof and all contracts entered into with Foreign Business Enterprises and the subject matter and value thereof;
4. A list of fees, commissions or other charges paid;
5. A description of work performed, the contract number, the date of the contract and its duration, the name, address and NYS-certified M/WBE designation of the awardees, the total amount of the contract, the amount spent on the contract during the reporting period and for the term of the contract to date and the status of open Procurement Contracts during the report year;
6. The type of contract (equipment, services, personal services or construction);
7. The method of awarding the contract (e.g., competitive bidding, Sole Source, Single Source or competitive search);

8. The reasons why any procurements with a value greater than \$15,000 were not noticed in the Contract Reporter;
 9. The number of bids received and
 10. All referrals made and all penalties imposed, if any, pursuant to § 316 of the Executive Law.
- C. Such annual report, as approved by the Trustees, shall be submitted to the New York State Division of the Budget within 90 days of the end of such calendar year, with copies and shall be distributed to the New York State Department of Audit and Control, the DED, the New York State Senate Finance Committee, and the New York State Assembly Ways and Means Committee and any other entity as may be required by law. The annual procurement report is posted on the Authority's website and copies shall be made available to the public upon reasonable written request therefor.
- D. State Finance Law §§ 139-j and 139-k
1. A statement describing the basis for a determination of a bidder's/contractor's non-responsibility (per State Finance Law §§ 139-j and 139-k only) and the Authority's decision not to award a bidder/contractor the Procurement Contract must be included in the procurement record.
 2. The Authority shall notify the New York State Office of General Services of bidders/contractors who have been determined to be non-responsible bidders (per State Finance Law §§ 139-j and 139-k only) or debarred due to violations of § 139-j of the State Finance Law.
 3. All forms entitled "Record of Contact" shall be included in the respective procurement record.
 4. A statement describing the basis for a termination of a Procurement Contract for providing an intentionally false certification must be included in the procurement contract record.
- E. The Authority may be called upon periodically to submit information regarding the procurement of goods and/or services to organizations implementing the PAAA or other statutes regulating the procurement of goods and services, such as the Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

12. THIRD PARTY RIGHTS: VALIDITY OF CONTRACTS

- A. These Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended, nor should it be construed,

to confer on any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

- B. Nothing contained in these Guidelines alters or affects the validity of, modifies the terms of or impairs any contract or agreement entered into in violation of these Guidelines.

EXHIBIT 2.1 (REDLINED)

GUIDELINES FOR PROCUREMENT CONTRACTS

1. PURPOSE

These Guidelines for Procurement Contracts (“Guidelines”) ~~comply with~~ set forth the applicable policy of the Authority regarding the solicitation and awarding of procurement contracts. The provisions of Article 4-C of the Economic Development Law, ~~the Public Authorities Accountability Act, §§ 2879 and 2879-a~~ of the Public Authorities Law, Article 15-A of the Executive Law and §§ 139-j and 139-k of the State Finance Law, ~~and establish the basis for the Authority to solicit and evaluate proposals from individuals and/or firms providing goods and/or services as defined were considered in Article 2 below. Consistent with developing these Guidelines, individual, Departments and facilities, White Plains office or departments may establish specific supplementary adopt further procedures to implement these guidelines based on their own needs.~~

2. DEFINITIONS

- A. “Procurement Contracts” are contracts for the acquisition of goods and/or services in the actual or estimated amount of \$5,000 or more. Such goods and/or services are those necessary to support the Authority’s White Plains office, facilities, ~~Operations~~ operations and ~~Maintenance~~ maintenance (“O&M”) and capital projects, including but not limited to: goods such as office supplies, major electrical equipment, construction and maintenance work and services as more fully described in Section 2.-C below.
- B. “Non-Procurement Contracts” include contracts for energy with or without environmental attributes included, capacity, ancillary services, transmission, distribution or related services in support of providing service to Authority customers; contracts for differences; financial hedge contracts (including but not limited to swaps, calls, puts or swap options) and credit rating services. In addition, Non-Procurement Contracts include direct placement of advertisements with radio, television, print and ~~print~~ electronic media, periodicals, subscriptions, reference materials or professional research tools, written materials, fees or tuition associated with continuing education courses, training courses, conferences, seminars and symposiums, funding agreements, co-funding agreements, grants or memberships in various industry groups, professional societies or similar cooperative associations, or any cooperative projects and procurement activities conducted or sponsored by such organizations in which the Authority participates.

- C. “Services Contracts” are Procurement Contracts for services of a consulting, professional or technical nature provided by outside consultants/contractors (individuals, partnerships or firms who are not and do not employ officers or employees of the Authority) for a fee or other compensation. Services Contracts comprise three specific types: Personal Services, Non-Personal Services and Construction. Personal Services include, but are not limited to: accounting, architectural, engineering, financial advisory, legal, public relations, planning, management consulting, surveying, training (when specifically developed by consultant for the Authority) and construction management. Non-Personal Services include, but are not limited to: skilled or unskilled temporary personnel, including clerical office staff, technicians or engineers working under Authority supervision; maintenance, repairs, and printing services. Construction consists of craft labor and other services utilizing laborers and/or mechanics not otherwise considered Non-Personal Services.

Note: Use of such services may be appropriate (1) when a consultant/contractor possesses special experience, background or expertise; (2) when there is insufficient Authority staff and retention of a consultant/contractor is more appropriate or economical than hiring additional permanent staff; (3) to provide independent external review or a second opinion; (4) to meet unusual schedule requirements or emergencies or (5) for a combination of these factors.

- D. “Goods” include equipment, material and supplies of any kind.
- E. “Contact” means any oral, written or electronic communication with the Authority under circumstances where a reasonable person would infer that the communication was intended to influence the procurement.
- F. “Relative” is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant, as referred to in Subsection 9.E.1 of these Guidelines.

G. “Minority and Women-~~Owned~~ Business ~~Enterprise~~” (“M/WBE”) is defined as any New York State certified business enterprise at least 51% of which is owned by black persons, Hispanics, Native Americans, Asians, Pacific Islanders and/or women, and as further described in the Authority’s Supplier Diversity Program Policy and Procedures and Executive Law Article 15-A, and pursuant to the definition found in Executive Law § 310.

H. “Small Business” is a business that is resident in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.

I. “Single Source” means a procurement in which although two or more offerers can supply the required goods or services, the Authority, upon written findings setting forth the material and substantial reasons therefore, may award a contract or amendment to a contract to one offerer over the other.

G.J. “Sole Source” means a procurement in which only one offerer is capable of supplying the required goods or services.

3. SOLICITATION REQUIREMENTS

A. Preparation of the solicitation of proposals for Procurement Contracts is the joint responsibility of the White Plains Procurement Department, or the facilities’ Procurement Departments, and the initiating department. Except as otherwise authorized by these Guidelines, a Request for Proposals (“RFP”) or Request for Quotations (“RFQ”) will be made available to a minimum of three providers and/or firms (if available) for purchases valued under \$25,000 and a minimum of five providers and/or firms (if available) for purchases valued at \$25,000 and greater, commensurate with the magnitude and nature of the goods and/or services, and the schedule for performance. Whenever possible and practicable, notification of the availability of an ~~RFP’s~~RFP and ~~RFQ’s~~RFQ on ~~our web site~~the Authority’s Procurement website should be sent to more than five providers.

B. Prospective bidders on Procurement Contracts may be prequalified by invitation. In such cases, proposals are requested only from those providers and/or firms whose prequalification submittals demonstrate sufficient ability and competence to supply the particular goods and/or perform the particular services required.

C. The Authority may withdraw any pending solicitation (including but not limited to ~~RFP’s~~RFPs and ~~RFQ’s~~RFQs) at any time, for cause or no cause. Any person or entity submitting any responsive document to the Authority does so at its own cost or expense and will not be reimbursed by the Authority for the preparation of any responsive document, unless otherwise agreed to in writing and signed by an authorized Authority representative.

D. In order to promote the use of Minority and Women-owned Business Enterprises ~~“(M/WBE’s”, WBEs”)~~, the Authority will solicit offers from M/~~WBE’s~~WBEs known to have experience in the type of goods and/or services to be provided, regardless of the type of contract. For the purpose of these Guidelines, the definition of a NYS-~~certified~~ M/WBE is in Section 2.G.

To foster increased use of M/~~WBE’s~~WBEs, a single proposal may be sought, negotiated and accepted for purchases of goods and/or services not exceeding \$~~200,000~~, in the aggregate including all amendments, from a NYS-certified M/WBE that offers a reasonable price for such goods and/or services. The award of such proposal requires the written approval the Vice President of Procurement.

Any subsequent alteration to the accepted proposal, including, but not limited to, change orders, amendments, or supplemental terms shall also necessitate the written approval of the Vice President of Procurement.

E. It is the policy of New York State to promote the participation of and maximize the opportunities for New York State Business Enterprises and New York State residents in Procurement Contracts. The Authority will endeavor to promote such participation and to comply with the applicable statutory provisions. In furtherance of ~~the~~ Public Authorities Law § 2879, the following definitions ~~shall~~ and actions apply:

1. ~~-~~ “New York State Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation that offers for sale or lease or other form of exchange, goods sought by the Authority that are substantially manufactured, produced or assembled in New York State or services, excluding construction services, sought by the Authority that are substantially performed within New York State as further described in Public Authorities Law § 2879.

2. “New York State resident” is a person who maintains a fixed, permanent and principal home in New York State to which such person, whenever temporarily located, always intends to return as further described in Public Authorities Law § 2879.

~~3.~~ 3. “Foreign Business Enterprise” is a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale, lease or other form of exchange, goods sought by the Authority that are substantially produced outside New York State, or services other than construction services, sought by the Authority that are substantially performed outside New York State as further described in Public Authorities Law § 2879. For purposes of construction services, Foreign Business Enterprise is a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York State.

4. “Discriminatory Jurisdiction” is any country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of, or otherwise discriminates against, a New York State Business Enterprise in the procurement of goods and/or services by the same or a non-governmental entity influenced by the same.

5. Pursuant to ~~the~~ Public Authorities Law § 2879, the Authority shall not enter into a contract with a Foreign Business Enterprise which

has its principal place of business in a Discriminatory Jurisdiction contained on the list prepared by the Commissioner of the New York State Department of Economic Development (“DED”). The provisions of this section may be waived by the Authority’s President and CEO if the CEO determines in writing that it is in the best interests of the Authority to do so, as further set forth in the above-referenced law.

~~F.6.~~ Pursuant to Public Authorities Law § 2879, the Authority will, where feasible, make use of the stock item ~~specifications~~specifications list of New York State manufacturers, as made available by the commissioner of general services of producers and/or assemblers for any Procurement Contract for the purchase of goods ~~when preparing an RFP, RFQ, purchase order, price inquiry, technical specifications or similar document.~~

~~G.F.~~ Goods and/or services may be procured pursuant to Procurement Contracts let by any department, agency, officer, political subdivision or instrumentality of the State or Federal government or any city or municipality where the White Plains Procurement Department, or -facility Procurement Departments, and the initiating department determine that a reasonable potential exists for cost savings or other benefits to the Authority and have approved the specifications and proposed terms and conditions of such contract.

~~H.G.~~ Solicitations will include a scope of work that defines the goods required and/or the services to be performed; milestone dates; the Authority’s Supplier Diversity Program requirements, if applicable; all other applicable Authority requirements and any special methods or limitations that the Authority chooses to govern the work. Telephone solicitation, usually for procurements valued at \$25,000 or less, may be used where time constraints do not permit issuance of an RFP, where issuance of an RFP is otherwise impracticable or for goods that are catalog items or do not require a detailed bill of materials or specification.

~~I.H.~~ For all Procurement Contracts with a value equal to or greater than \$15,000 (except for those contracts noted below), the Authority will, prior to soliciting proposals, submit the following information to the Commissioner of the ~~New York State Department of Economic Development (“DED”)~~DED to be included on the New York State Contract Reporter website, (www.nyscr.com) (unless such posting would serve no useful purpose): (1) the Authority’s name and address; (2) the solicitation number; (3) a brief description of the goods and/or services sought, the location where goods are to be delivered and/or services provided and the contract term; (4) the address where bids or proposals are to be submitted; (5) the due date for bids or proposals; (6) a description of any eligibility or qualification requirements or preferences; (7) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture or coproduction arrangement; (8) any other information deemed useful to potential contractors; (9)

the name, address, and phone number of the person to be contacted for additional information and (10) a statement as to whether the goods and/or services sought have, in the immediately preceding three-year period, been supplied by a Foreign Business Enterprise. Such information will be submitted to the DED Commissioner in accordance with the schedule set forth by the DED. The due date for bids or proposals will be a minimum of 21 calendar days (including holidays) after the date of publication of such notice on the Contract Reporter website.

This ~~provision~~section 3.J does not apply to (i) Procurement Contracts awarded on an emergency basis as described below in Section 3.M; (ii) Procurement Contracts being rebid or re-solicited for substantially the same goods and/or services, within 45 business days after the original due date; and/or (iii) Procurement Contracts awarded to not-for-profit human services providers.

Certain Procurement Contracts may require purchases: (1) on ~~the~~a spot market; (2) needed prior to the time limits for noticing on the Contract Reporter website or that do not lend themselves to the solicitation process. ~~In accordance with paragraph 3(h) of §2879 of the Public Authorities Law, such purchases, including, but not limited to, oil or gas purchases on the spot market, Such purchases~~ are exempted from the noticing requirements of Article 4-C of the Economic Development Law subject to the approval of the Vice President of Procurement ~~or equivalent(s) or designee,~~ and/or the head of the initiating department that does not complete its procurements through the Procurement Department. From time to time or where appropriate, generic notices may be published on the Contract Reporter website notifying potential bidders of such opportunities and soliciting qualification statements for consideration by the Authority.

~~J.I.~~ J.I. Proposals for certain Services Contracts may also be solicited by competitive search, as follows:

For contracts where the scope of work cannot be well defined or quantified, or where selection requires evaluation of factors such as breadth and depth of experience in a unique or highly specialized field and suitability as an Authority representative, a “competitive search” will be conducted to determine which consultants are most qualified, for reasonable compensation terms, to perform the work. Depending on market conditions, at least five potential sources should be evaluated; if there are fewer than five sources, all sources should be evaluated. The White Plains Procurement Department or the appropriate facility Procurement Department will work with the initiating department to gather information from potential sources, that will include a description of the consultant/firm’s qualifications, résumés of key personnel, past experience and proposed billing rates.

~~K.J.~~ K.J. A Procurement Contract may be awarded on a ~~sole source~~Sole Source, Single Source, or other non-competitive basis where:

1. Compatibility of equipment, accessories or spare or replacement parts is the paramount consideration.
2. Services are required to extend or complement a prior procurement and it is impracticable or uneconomic to have a source other than the original source continue the work.
3. A sole supplier's item is needed for trial use or testing, or a proprietary item is sought for which there is only one source.
4. Other circumstances or work requirements exist that cause only one source to be available to supply the required goods and/or services.
5. The contract is awarded to a Small Business or to a NYS- certified M/WBE firm for purchases not exceeding \$5200,000, pursuant to Section 3.D.

6. The contract is for the purchase of goods and/or technology that are recycled or remanufactured, in an amount not exceeding \$200,000, subject to the approvals stated in Section 3.D.
7. Purchases made on a Sole Source, Single Source, or other non-competitive basis are subject to Public Authorities Law § 2879-a, 2 NYCRR Part 206, entitled "Comptroller Approval of Contracts Made by State Authorities" ("Comptroller Regulations") and the State Authority Contract Manual.

K. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain contracts to the New York State Comptroller for approval that are awarded on a Sole Source, Single Source, or other non-competitive basis for the purchase of goods and/or services in an amount equal to or greater than \$1 million, and shall notify the successful bidder therefor. Such contracts or contract amendments shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed from such submission without action by the Comptroller, as further set forth in the referenced law and regulations.

L. Subject to the Authority's Expenditure Authorization Procedures ("EAP's"), EAPs"), and Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, a Procurement Contract may be awarded without following the solicitation requirements that ordinarily apply (but using such competitive selection procedures as are practicable under the circumstances) where emergency conditions exist, such as:

1. A threat to the health or safety of the public or Authority employees or workers.
2. Proper functioning of the Authority facilities or construction or operating projects requires adherence to a schedule that does not permit time for an ordinary procurement solicitation.

M. Whenever an initiating department determines that a Procurement Contract should be awarded on ~~either a sole source~~ Single Source, Sole Source, or an emergency basis, the head of the department will provide a written statement explaining the reasons therefor to the White Plains Procurement Department or the appropriate facility Procurement Department.

N. Every potential Sole Source or Single Source contract with a value of \$1 million or more must be approved by the President and CEO or the COO prior to processing by the Procurement Department.

~~M.~~ O. In furtherance of Public Authorities Law, Section 2800, when a procurement is made on a ~~sole source~~ non-competitive basis, and the price for goods or services purchased exceeds fair market value, prior to making the purchase, the Business Unit Head of the initiating department shall provide a detailed explanation of the justification for making the purchase and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such purchase and determined that it complies with applicable law and procurement guidelines. ~~In furtherance of Chapter 506 of the Laws of 2009 regarding the Public Authorities Law (“PAL”), the~~ The following definition shall apply: “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair market value may be determined by internal appraisals, industry-recognized sources, or other methods of valuation generally accepted in the industry in which such property is utilized, as may be approved by the Vice President of Procurement or authorized designee.

~~N.~~ P. It is the policy of New York State to discourage improper communications intended to influence a governmental procurement. The Authority will endeavor to control such practices and will comply with the applicable statutory provisions. In furtherance of the State Finance Law §§ 139-j and 139-k, the following definitions shall apply:

1. Pursuant to Article 11-B of the State Finance Law a “Procurement Contract” is any contract or other agreement for a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property that is the subject of a governmental procurement. Grants, contracts between the Authority and non-profit organizations pursuant to Article 11-B of the State Finance Law, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions are not Procurement Contracts.
2. The “Restricted Period” is the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from bidders/contractors intending to result in a procurement contract with the Authority and ending with the final contract award.
3. The Authority shall designate a person or persons who may be contacted, with respect to each Authority procurement. The bidders/contractors or persons acting on their behalf, shall only contact the Authority’s designated person or persons where a reasonable person would infer that the communication was intended to influence the procurement during the Restricted Period.

4. EVALUATION OF PROPOSALS

- A. Proposals will be evaluated using a fair and equitable comparison of all aspects of the proposals against the specifics of the solicitation and against each other, including an analysis of each offer that considers: the quality of the goods and/or the competence of the bidder, the technical merit of the proposal and the price for which the goods and/or services are to be supplied.

In the event the price submitted by the bidder recommended to be awarded a contract exceeds the cost estimated, where a cost estimate is provided, on the solicitation at the time of bidding, the initiating department will prepare a written explanation to be reviewed by the White Plains Procurement Department and/or the appropriate facility Procurement Department and appropriate managers as stipulated in the ~~EAP's~~EAPs. The following options should be considered: (1) rejecting the bids, resoliciting proposals and/or modifying the scope of work; (2) revising the cost estimate and proceeding with the contract award; and (3) negotiating with the low bidder(s), as determined by the Vice President of Procurement or equivalent(s) or designee, to reduce the price quoted. Factors to be considered in reaching the proper course of action include but are not limited: to the effects of a delay on both the schedule and the cost of the specific capital construction project or outage at an operating facility, the magnitude of the contract, available bidders, the ability to attract additional competition if the solicitation is reissued, and the accuracy of the original cost estimate. The recommended course of action and the reasons therefor must be fully documented in a memorandum for consideration by the appropriate level of management prior to approval and placed in the appropriate procurement file.

- B. ~~Factors~~ Factors to be considered in evaluating the goods and/or services to be supplied and/or the competence of the bidder are: previous experience (including applicable experience in New York State and evaluations from other clients for whom the bidder has provided goods and/or services); the abilities and experience of the personnel to be assigned to the Authority's work and the ability to provide any needed advanced techniques such as simulation and modeling. The approach proposed in meeting the exact requirements of the scope of work will be given consideration in evaluating the technical merit of the proposal, together with a well-organized task structure, the ability to timely supply the goods and/or perform the proposed services and the ability to meet Supplier Diversity Program goals, if any. The need to purchase the goods from and/or subcontract performance of services to others will be evaluated as to their effects on cost, as well as quality, schedule and overall performance.
- C. For Services Contracts, (as defined in Section 2.C of these Guidelines), the technical merits of the proposals and the experience and capabilities of the bidders will be the primary factors in determining the individual or firm to be awarded the contract, provided that the price for performing such work is reasonable and competitive.

D. For Procurement Contracts other than Personal Services (as defined in Section 2.C of these Guidelines), the award should generally be made to the lowest-priced firm submitting a proposal that meets the commercial and technical requirements of the bid documents.

E. Pursuant to § 139-j of the State Finance Law, the Authority shall not award a Procurement Contract (as defined in Subsection 3.N.1. of these Guidelines) to a bidder/contractor who fails to provide timely, accurate and complete responses to inquiries about past determinations of non-responsibility (unless awarding the contract is necessary to protect public property or public health or safety and the bidder/contractor is the only source capable of supplying the required article of procurement within the necessary timeframe.)

A bidder's/contractor's knowing and willful violation of the Authority's policy providing for certain procurement disclosures shall result in a determination of non-responsibility of such bidder/contractor pursuant to State Finance Law §§ 139-j and 139-k only.

More than one determination of non-responsibility due to violations of State Finance Law § 139-j in a four-year period shall render a bidder/contractor ineligible to submit bids for four years from the second determination of non-responsibility.

F. An award to "other than low bidder" can be made only with the approval of appropriate management as stipulated in the ~~EAP's~~EAPs, and should be based on such a proposal providing a clear advantage to the Authority over the lower-priced proposal. Factors justifying an "other than low bidder" award may include, but are not limited to: improved delivery schedules that will reduce outages, longer warranty periods, improved efficiency over the usable life of the equipment, reduced maintenance costs, the bidders' financial resources or the ability to meet or exceed Supplier Diversity Program goals.

G. The specifications set forth in any solicitation prepared under these Guidelines were based upon information available at the time of the preparation of the solicitation. Thus, the Authority may diverge from the specifications of any solicitation if after review of the proposals responsive to such solicitation; the Authority deems it prudent in light of its experience, the circumstances of the solicitation and/or potential cost savings. ~~Such divergence from the specifications should be immaterial, for example only, as to qualifications, quantity, quality, term, services and/or price.~~

5. RECOMMENDATION OF AWARD

- A. A recommendation for approval of a proposed award of a Procurement Contract is usually prepared in the form of a memorandum or e-mail by the department requiring the goods and/or services. The recommendation must include an evaluation of proposals as specified in Article 4 above, as well as proposed specific compensation terms that provide a clear breakdown of cost factors and methods of calculation, including, as applicable:
1. Lump sum and/or unit prices for equipment and construction work.
 2. Hourly or daily rates for personnel.
 3. Markups for payroll taxes, fringe benefits, overhead and fees, if the proposal is based on reimbursement of actual payroll costs.
 4. Terms for reimbursement of direct out-of-pocket expenses, such as travel and living costs, telephone charges, services of others and computer services.
 5. Provisions, if any, for bonus/penalty arrangements based on target person-hours and/or target schedule.
- B. The recommendation will also review any substantive exceptions to commercial and technical requirements of a price inquiry, RFP, RFQ or bidding documents, including but not limited to payment terms, warranties and bond requirements, if any.

6. AWARD OF CONTRACT

- A. Services Contracts to be performed for a period of more than 12 months are approved and reviewed annually by the Trustees. Services Contracts for a period of less than 12-months are approved by authorized designees in accordance with existing ~~EAP's~~EAPs. Extending a contract for services with an initial duration of less than 12 months beyond 12 months will be approved by the Trustees at the request of the initiating department and will be reviewed by the Trustees annually. Extending a contract for services that has previously been approved by the Trustees for a cumulative term of more than 12 months requires further Trustees' approval. Extending a contract previously approved by the Trustees for 12 months or less requires approval by an authorized designee in accordance with existing ~~EAP's~~EAPs and concurrence by the Vice President of Procurement.
- B. For Services Contracts to be performed for a period of more than 12 months that must be awarded prior to the next ~~scheduled~~quarterly Trustees' meeting, the initial contract will be issued for the entire intended term of the contract. Based

on its total value, such contract must be approved by the appropriate management as set forth in the EAP'sEAPs. Such contract is subject to the Trustees' approval, at the next quarterly Trustees' meeting. If such approval is not granted, the contract will be terminated immediately.

- C. A contract or contract task is deemed to be for services in excess of 12 months where the contract does not specify a definite term and the work will not be completed within 12 months, and any "continuing services" contract with no fixed term that provides for the periodic assignment of specific tasks or particular requests for services. This includes Trustee-approved contracts for architect/engineering services with the original engineers of operating facilities, as well as the original supplier of steam supply systems or boilers and turbine generating equipment. Each task authorized under such contracts (which may be referred to as a "Change Order," "Purchase Order" or "Task Number") is considered a separate commitment and must be separately approved in accordance with the EAP'sEAPs.
- D. The term of a Personal Services contract is limited to a maximum of five (5) years, including any extensions.
- E. When time constraints or emergency conditions require extending an existing contract with an initial duration of less than a year beyond a year, and the cumulative monetary change order value does not exceed the appropriate limit set forth in the EAP'sEAPs, the Business Unit Head, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize extending such contract, subject to the Trustees ratifying such action as soon as practicable.
- F. When the total estimated contract value or the value of the extension exceeds the monetary limits set forth in the EAP'sEAPs, interim approval by the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee is required, subject to the Trustees' ratifying such action as soon as practicable.
- G. When time constraints or emergency conditions require immediate commencement of services to be performed for a period of more than one year, and when the contract value exceeds the monetary approval limit for the President and Chief Executive Officer or Chief Operating Officer or equivalent(s), as set forth in the EAP'sEAPs, the President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee, with the prior concurrence of the Vice President of Procurement or equivalent(s) or designee, may authorize the commencement of such services. The initial compensation limitation may not exceed the authorization level for the President and Chief Executive Officer or equivalent(s) or Chief Operating Officer or equivalent(s) as set forth in the EAP'sEAPs. Such contracts will be subject to the Trustees' approval, which will be solicited at their next scheduled Trustee meeting.

- H. The White Plains Procurement Department or the facilities' Procurement Departments prepare the contract for execution by the Authority and the successful bidder. No work by the selected contractor will commence until the contract is executed by both parties, except that mutually signed letters of award or intent may initiate work prior to formal execution. Authority signatories of such letters must be authorized to approve contract awards pursuant to the ~~EAP's~~EAPs.
- I. Pursuant to Public Authorities Law § 2879, the Authority shall notify the Commissioner of Economic Development of the award of any Procurement Contract for the purchase of goods and/or services from a Foreign Business Enterprise (as defined in Subsection 3.E.3 of these Guidelines) in an amount equal to or greater than \$1 million ~~simultaneous~~simultaneously with notifying the successful bidder therefor. The Authority shall not enter into the Procurement Contract for said goods and/or services until at least 15 days have elapsed from the notification of the award, except for a Procurement Contract awarded on an emergency or critical basis. The notification to the Commissioner shall include the name, address, telephone and facsimile number of the Foreign Business Enterprise, the amount of the proposed Procurement Contract and the name of the individual at the Foreign Business Enterprise or acting on behalf of same who is principally responsible for the proposed Procurement Contract.

7. **CONTRACT PROVISIONS**

A. The following standard forms of contracts are available from the White Plains Procurement Department: purchase order format for standard procurements of goods and/or services; furnish-and-deliver format for major equipment purchases; letter agreements and agreement formats for consulting work and contract work orders (for construction work of small magnitude), construction contracts (for major construction work) and furnish, deliver and install contracts (for specialized, major procurements where single responsibility is required for procurement and installation). These contract forms are intended to govern the purchase of goods and/or performance of services.

A. Authority departments proposing to initiate a Procurement Contract should review these forms to suggest any modifications and additions that may be required for the particular goods and/or services. Under no circumstances should contract forms be shown to proposed bidders without the prior approval of the Procurement Department, which, along with the facilities' Procurement Departments, is solely responsible for requesting proposals.

B. The following types of provisions setting forth contractor responsibilities are to be contained in the standard forms of Procurement Contracts, except that any provisions listed below that are inapplicable or unnecessary because of the nature or duration of the work to be performed, the location(s) where the work is to be performed or the type of compensation being paid therefor, need not be included. Other provisions may be added as necessary and appropriate.

1. Schedule of Services or Specifications
2. Time of Completion
3. Compensation or Itemized Proposals
4. Relationship of Parties
5. Delays
6. Termination
7. Changes in the Work
8. Claims and Disputes
9. Warranty
10. Insurance
11. Records, Accounts, Inspection and Audit
12. Assignment
13. Notices
14. Indemnification
15. Governing Law
16. Proprietary Nature of Work
17. Testimony
18. Entire Agreement

Contract Attachments

1. Compensation Schedule
 2. Schedule of Services or Specifications
 3. Appendix “A” (Miscellaneous Statutory Provisions)
 4. Appendix “B” (Prompt Payment Provisions)
 5. Appendix “C” (Minority and Women-~~Owned~~Owned Business ~~Enterprises~~Enterprise Provisions)
 6. Appendix “D” (Background Security Screening for Authority Contractors)
 7. Appendix “E” (Omnibus Procurement Act of 1992 Requirements)
 8. Appendix “F” (Computer Aided Drawing Requirements For New York Power Authority)
 9. Appendix “G” (Equal Employment Opportunity Requirements)
 10. Appendix “H” (Tax Law Requirements)
 11. Appendix “I” (~~NEW YORK POWER AUTHORITY~~New York Power Authority (NYPA)~~NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION CRITICAL INFRASTRUCTURE PROTECTION~~ North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) Cyber ~~Security~~Access And/Or Unescorted Physical Access Training Requirements)
 12. Appendix “J” (Bidder/Contractor Compliance with State Finance Law §§ 139-j and 139-k Providing for Certain Procurement Disclosures)
 13. Appendix “K” (Additional State and Federal Provisions Required for American Recovery and Reinvestment Act (Pub.L. No. 111-5 Stat. 2009) (“ARRA”) Funded Projects)
 14. Appendix “L” (DOE) Federal Contract Provisions)
 15. Appendix “M” (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology (“BART”) for Heavy Duty Vehicles)
- C. Any firm, person or 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. If there is no qualified response to the solicitation for future phases of work, including implementation, the approval of the Vice President of Procurement or equivalent(s) or designee, applicable Business Unit Head or equivalent(s), Assistant General Counsel or equivalent(s) and President and Chief Executive Officer or designee or Chief Operating Officer or equivalent(s) is required to waive this restriction on a case-by-case basis.

8. CHANGE ORDERS

- A. Change Orders to existing contracts are justified in the following cases:
1. To incorporate additional work related to the original scope, to delete work or to otherwise modify the original work scope;

2. To exercise options previously included in the original contract to perform additional work or to extend the contract term;
3. To accommodate emergency conditions, defined in Section 3.L herein, that require the immediate performance of work by a firm already under contract;
4. When rebidding would not be practical or in the best interests of the Authority's customers; and
5. To meet the Authority's Supplier Diversity Program goals in accordance with Executive Law Article 15-A.

B. All Change Orders must be approved in accordance with the Authority's ~~EAP's~~EAPs, and should include specific schedules for completion of work at the earliest possible time.

~~B.~~

9. CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER EMPLOYEES

- A. Former Authority officers and employees are eligible to be considered for employment as contractors and/or consultants provided that they meet all criteria for contractors and/or consultants generally as specified in these Guidelines; their employment is not barred by New York Public Officers Law § ~~73(8);~~ they obtain an opinion by the New York State Commission on Public Integrity that such employment is permissible; and upon approval of the President and Chief Executive Officer.
- B. Pursuant to the provisions of New York Public Officers Law § ~~73(8)~~:
 1. No Authority officer or employee is eligible, within a period of two years after the termination of Authority service to appear or practice before the Authority or receive compensation for any services rendered on behalf of any person, firm, corporation or association, in relation to any case, proceeding or application or other matter before the Authority.
 2. No Authority officer or employee is eligible, at any time after the termination of Authority service, to appear, practice, communicate or otherwise render services before the Authority or any other state agency or receive compensation for any such services rendered on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction that such person was directly concerned with and personally participated in during his or her period of service, or which was under his or her active consideration.

- C. —No Authority employee who is involved in the award of Authority grants or contracts may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official or candidate for elective office or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- D. —No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 9.C above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- E. —No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which the Authority employee or a Relative of such Authority employee owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If a contracting matter arises relating to this Section 9.E, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
 1. For purposes of Section 9.E, the term "Relative" is defined in Definitions, Section 2.F of these Guidelines.

10. SUPPLIER DIVERSITY PROGRAM REQUIREMENTS

The Authority strives to continue to foster the development of business opportunities on Authority contracts for M/~~WBE's~~WBEs. Article 15-A of the Executive Law established the NYS Office of Minority/Women Owned Business and Community Relations that is responsible for developing rules and regulations for implementation of this statute, certifying M/~~WBE's~~WBEs and reviewing and monitoring goal plans, compliance reports and contract provisions to be included in all non-construction contracts for more than \$25,000 and construction contracts for more than \$100,000. The definition of an M/WBE is included in Section 2.G of these Guidelines. The Authority aims to solicit proposals from NYS-certified M/~~WBE's~~WBEs that are qualified to perform the required work. In addition, specific goals may be included in certain contracts for consulting work, construction and procurement of goods and other services requiring the contractor/vendor to subcontract a portion of the work to NYS-certified M/~~WBE's~~WBEs as required by law. Bidders' proposals will include Preliminary Subcontracting Plans for M/~~WBE's~~WBEs, where required, and such bidders failure to meet these requirements may be grounds for rejection of the proposal, or cancellation of the contract if a contractor did not make a good

faith effort to meet its goals after contract award. Utilization Plans for Construction contracts valued at more than \$100,000 shall be posted on the Procurement website by the successful vendor within ten business days of contract signing.

Pursuant to § 2879 of the Public Authorities Law and as further set forth in the Authority's Supplier Diversity Program Manual, the following guidelines apply:

1. Identify those areas or types of contracts for which M/WBEs may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises.
2. Provide notice, in addition to any other notice of procurement opportunities required by law, to professional and other organizations that serve M/WBEs providing the types of services procured by the Authority.
3. Maintain lists of qualified NYS-certified M/WBEs, including professional firms that have expressed an interest in doing business with the Authority and ensuring that such lists are updated regularly. The Authority shall also consult the lists of NYS-certified M/WBEs maintained by the DED pursuant to Executive Law Article 15-A.
4. Establish appropriate goals for participation by M/WBEs in procurement contracts awarded by the Authority and for the utilization of M/WBEs as subcontractors and suppliers by entities having procurement contracts with the Authority. Statewide numerical participation target goals shall be established by the Authority based on the criteria set forth in Public Authorities Law § 2879.
5. Conduct procurements in a manner that will enable the Authority to achieve the maximum feasible portion of the goals established pursuant to Subdivision 4 of this Section and that eliminates barriers to participation by M/WBEs in the Authority's procurements.
6. Designate one or more senior staff of the Authority to oversee the Authority's programs established to promote and assist participation by and utilization of NYS-certified M/WBEs.

11. REPORTING AND PROCUREMENT RECORD AND REPORTING

A. Procurement Record

The White Plains Procurement Department maintains records of Procurement Contracts, including bidders' names, the selection processes used and the status of

existing contracts, including goods provided and/or services performed and fees earned, billed and paid.

B. Procurement Report

~~A.~~ At the facilities, such records will be kept by the facilities' Procurement Departments. After the end of each calendar year, the Vice President, Procurement or equivalent(s) will prepare and submit an annual report to the Trustees for their approval that will include:

1. A copy of the Guidelines;
2. An explanation of the Guidelines and any amendments thereto since the last annual report;
3. A list of all Procurement Contracts entered into since the last annual report, including all contracts entered into with New York State Business Enterprises and the subject matter and value thereof and all contracts entered into with Foreign Business Enterprises and the subject matter and value thereof;
4. A list of fees, commissions or other charges paid;
5. A description of work performed, the contract number, the date of the contract and its duration, the name, address and NYS-certified M/WBE designation of the awardees, the total amount of the contract, the amount spent on the contract during the reporting period and for the term of the contract to date and the status of open Procurement Contracts during the report year;
6. The type of contract (equipment, services, personal services or construction);
7. The method of awarding the contract (e.g., competitive bidding, ~~sole source~~ Sole Source, Single Source or competitive search);
8. The reasons why any procurements with a value greater than \$15,000 were not noticed in the Contract Reporter ~~and~~;
9. The number of bids received ~~and~~
10. All referrals made and all penalties imposed, if any, pursuant to § 316 of the Executive Law.

~~B.C.~~ Such annual report, as approved by the Trustees, shall be submitted to the New York State Division of the Budget within 90 days of the end of such calendar year, with copies and shall be distributed to the New York State Department of Audit and Control, the DED, the New York State Senate Finance Committee, and the New York State Assembly Ways and Means Committee and any other entity as may be required by law. The annual procurement report is posted on the Authority's website and copies shall be made available to the public upon reasonable written request therefor.

~~C.D.~~ State Finance Law §§ 139-j and 139-k.

1. A statement describing the basis for a determination of a bidder's/contractor's non-responsibility (per State Finance Law §§ 139-j and 139-k only) and the Authority's decision not to award a bidder/contractor the Procurement Contract must be included in the procurement ~~contract~~ record.
2. The Authority shall notify the New York State Office of General Services of bidders/contractors who have been determined to be non-responsible bidders (per State Finance Law §§ 139-j and 139-k only) or debarred due to violations of § 139-j of the State Finance Law.
3. All forms entitled "Record of Contact" shall be included in the respective procurement ~~contract~~ record.
4. A statement describing the basis for a termination of a Procurement Contract for providing an intentionally false certification must be included in the procurement contract record.

~~D.E.~~ The Authority may be called upon periodically to submit information regarding the procurement of goods and/or services to organizations implementing the PAAA or other statutes regulating the procurement of goods and services, such as the Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

12. **THIRD PARTY RIGHTS: VALIDITY OF CONTRACTS**

A. These Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended, nor should it be construed, to confer on any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

~~B.~~ Nothing contained in these Guidelines alters or affects the validity of, modifies the terms of or impairs any contract or agreement entered into in violation of these Guidelines.

~~B.~~

EXHIBIT 2.2 (Clean)

GUIDELINES

AND

PROCEDURES

FOR THE

DISPOSAL OF NEW YORK POWER AUTHORITY

PERSONAL PROPERTY

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GUIDELINES AND PROCEDURES
FOR THE
DISPOSAL OF NEW YORK POWER AUTHORITY PERSONAL PROPERTY

I. **PURPOSE**

These Guidelines and Procedures for the Disposal of Personal Property (hereinafter “Guidelines”), which comply with Title 5-A, Article 9 of the Public Authorities Law, establish the procedures that detail the Authority’s policy and instructions regarding the use, award, monitoring and reporting of the disposal of personal property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Authority’s compliance with, and enforcement of, the Guidelines.

II. **DEFINITIONS**

A. “Contracting Officer” shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority’s Board of Trustees to be responsible for the disposition of personal property. The “Contracting Officer” is hereby designated to be the Vice President – Enterprise Shared Services, or equivalent(s), or a designee so stated in writing. The Authority’s Contracting Officer shall not be responsible for compliance for dispositions of the Authority’s personal property conducted by another state entity authorized to dispose of the Authority’s personal property under the Public Authorities Accountability Act (“PAAA”) or as otherwise authorized by law.

- B. “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal property in accordance with these Guidelines.
- C. “Property” shall mean personal property owned by the Authority with a value in excess of \$5,000, and any other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. For the purposes of these Guidelines, personal property may include, but is not limited to, materials, tools, equipment, or vehicles.
- D. “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair Market Value may be determined by consulting industry-recognized sources, contacting original suppliers, depreciation analysis, appraisals, fair market valuations by public auction or other methods of valuation generally accepted in the industry in which such Property is utilized, as may be approved by the Contracting Officer or authorized designee.
- E. “Relative” is defined in Subsection X.G.1 of these Guidelines.

III. OBJECTIVE

The objective of these Guidelines is to identify those Authority personnel responsible for authorizing the disposal of Property owned by the Authority and to ensure that the Authority receives fair and reasonable value for such Property. The transfer or sale of Property shall be accounted for in accordance with the Authority's

Corporate Accounting Policy No. CAP 4.3 dated 6/30/05, Revision 2 -- “Accounting for Materials and Supplies.”

IV. TRANSACTIONS NOT COVERED

These Guidelines do not apply to any of the following transactions:

1. Disposal of real property interests;
2. Exchange of Property with other utilities or power plant owners, where such owners will provide an identical or in-kind replacement;
3. Transfer/re-deployment of Property from one Authority facility to another Authority facility.

V. DESIGNATION OF PROPERTY DISPOSAL COORDINATORS

- A. The Contracting Officer shall be responsible for the Authority’s compliance with, and enforcement of, the Guidelines.
- B. The individual responsible for disposal of all Property at the Authority’s facilities will be the Director – Site Purchasing & Materials Management (“DSP&MM”). For purposes of Property disposal, the DSP&MM reports directly to the Contracting Officer or authorized designee.
- C. The Purchasing and Warehouse Manager from each facility will be the local Property Disposal Coordinator for his or her facility or location (“Facility PDC”). The Facility PDC reports to the DSP&MM.
- D. The Contracting Officer or authorized designee will designate one or more individuals from the White Plains Office Procurement Division to be the

Property Disposal Coordinator(s) for the White Plains, Albany and New York corporate offices ("WPO PDC"). For purposes of Property disposal, the WPO PDC(s) will confer, interface with and report to the Contracting Officer or authorized designee.

E. The Director of Fleet Operations ("DFO") or equivalent(s) or authorized designee is responsible for the disposal of vehicles and rolling equipment. The DFO reports directly to the Senior Vice President – Corporate Support Services or authorized designee.

F. If appropriate, the responsible Facility PDC should confer (by oral or written communication) with the DSP&MM and the WPO PDC(s) should confer (by oral or written communication) with the Contracting Officer or authorized designee to determine if a "centralized" sale of Property, as outlined in Article VII, is appropriate. If agreed, the responsible PDC should arrange for shipment of the Property to be sold from the site to the sale location. If a centralized sale is not appropriate, the responsible PDC should proceed in accordance with the "decentralized" procedures, as outlined in Article VIII.

VI. PROCEDURES FOR DISPOSAL OF AUTHORITY PERSONAL PROPERTY

Except for Disposals pursuant to Article VII, Article XII and Subsection VI.A.4 of these Guidelines, whenever practicable, the responsible PDC shall solicit proposals from qualified bidders, to purchase the Property to be disposed of, and will maintain records of such solicitations. The PDC should use "Attachment A" attached hereto

or an appropriate substitute for solicitations under this Article VI.

A. DISPOSAL METHODS FOR PERSONAL PROPERTY

1. For the purposes of these Guidelines, Disposal methods may include, but are not limited to: sale (directly to the Buyer, through a third party, negotiation, well-advertised public auction that permits full and free competition consistent with the value and nature of the property or on any other centralized basis that achieves the same level of competition); return to the original equipment manufacturer or to the source; trade-ins or disposals as part of a competitive procurement; or disposal through the New York State Office of General Services (“OGS”). Provided, however, that no disposition of any Property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar Property, shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the record of the transaction. The Authority's Environment, Health and Safety Division should be consulted, on a case-by-case basis, regarding disposal of items that may be considered hazardous waste.
2. Solicitation via telephone, e-mail and/or direct mailings may be used where the estimated Fair Market Value of the Property to be disposed of is greater than \$5,000 but does not exceed \$15,000. All bids must be submitted in writing on the forms or an appropriate substitute and in the

manner prescribed by this procedure and by the date and time (the “Bid Due Date”) included in the solicitation.

3. All Disposals of Authority Property in excess of \$15,000 shall be made after publicly advertising for bids except as provided in Subsection 4 below, using the following process:
 - a. the appropriate advertisement for bids (Attachment “B” or an appropriate substitute) shall be made at such time prior to the Disposal, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Property. This may include advertisements in one or more of the following publications, depending on the nature of the Property: local newspapers in the geographic area of the facility where the sale is taking place, trade journals, regional or nationwide publications (if the market for such sale is regional or nationwide), the New York State Contract Reporter, internet services or other communication outlets as appropriate;
 - b. all bids must be submitted in writing on the forms or an appropriate substitute and in the manner prescribed by this procedure and by the Bid Due Date included in the solicitation;
 - c. all bids shall be publicly disclosed, at the time and place stated in the solicitation or by posting to the Authority’s internet website; and
 - d. the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforms to the bid solicitation and is

most advantageous to the Authority, price and other factors considered; however, any bid may be rejected when in the public interest to do so at the Authority's sole discretion.

4. Disposals of Property may be negotiated or made by public auction without regard to Subsection 3 of this Section, but subject to obtaining such competition as is feasible under the circumstances, if:
 - a. the Property involved has qualities separate from the utilitarian purpose of such Property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect that would tend to increase its value, or if the Property is to be disposed of in such quantity that, if it were Disposed of under Subsection 3 of this Section, would adversely affect the state or local market for such Property, and the estimated Fair Market Value of such Property and other satisfactory terms of disposal may be obtained by negotiation;
 - b. bid prices after advertising therefore are not reasonable, either as to all or part of the Property, or have not been independently arrived at in open competition;
 - c. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Property and other satisfactory terms of Disposal are obtained by negotiation;
 - d. under those circumstances permitted by Subsection 6 of this Section;
 - e. if the estimated or actual fair market value of the property does not exceed \$15,000; or

- f. such action is otherwise authorized by law.
5. An explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property which has an estimated Fair Market Value in excess of fifteen thousand dollars (\$15,000). In addition, an explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property disposed of by exchange, regardless of value. Each such statement shall be transmitted to the Commissioner of General Services, the State Legislature, the State Comptroller, the Director of the Division of the Budget and the Authorities Budget Office, not less than ninety days in advance of such Disposal, and a copy thereof shall be preserved in the Authority's files.
6. a. No Property owned or otherwise in the control of the Authority may be disposed or otherwise alienated for less than its Fair Market Value except if:
- (i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Property will remain with the government or any other public entity;
 - (ii) the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
 - (iii) in the event the Authority seeks to transfer Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not be consistent with the

Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate and Assembly, the Authority may effectuate such transfer provided, however, that with respect to a below-market transfer by the Authority that is not within the purpose, mission or governing statute of the Authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the

political subdivision in which the Authority resides, and if the transfer is of Property obtained by the Authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

b. In the event a below Fair Market Value Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and the public:

- (i) a full description of the Property;
- (ii) an appraisal of the Fair Market Value of the Property and any other information establishing the Fair Market Value sought by the Board of Trustees;
- (iii) a description of the purpose of the transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the Property is situated as are required by the transfer;
- (iv) a statement of the value to be received compared to the Fair Market Value;
- (v) the names of any private parties participating in the transfer and, if different than the statement required by subparagraph

(iv) of this Subsection, a statement of the value to the private party; and

(vi) the names of other private parties who have made an offer for such Property, the value offered and the purpose for which the Property was sought to be used.

c. Before approving the Disposal of any Property for less than Fair Market Value, the Board of Trustees shall consider the information described in paragraph b of this Subsection and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

7. In addition, in cases where a Disposal of Property is made without competitive bidding and where the proposed contract price for the Property disposed of is less than Fair Market Value, prior to finalizing the Disposal a detailed explanation of the justification for making the Disposal without competitive bidding shall be prepared, and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such Disposal and have determined that it complies with applicable law and these Guidelines.

B. DISPOSAL OPTIONS IF NO BIDS OR NO ACCEPTABLE BIDS ARE RECEIVED

The appropriate PDC shall confer with the DSP&MM and the Contracting Officer or authorized designee to decide (i) if re-soliciting is feasible; (ii) if shipment to a third-party contractor for Disposal would result in higher-priced proposals; (iii) if disposal by other methods would be appropriate; and/or (iv) if the Fair Market Value estimate requires review or adjustment, where:

1. the solicitation pursuant to Section VI.A does not produce any bids to purchase the Property;
2. in the opinion of the Authority, the bids are not arrived at independently;
3. all bids are not reasonable in accordance with Section X.C; or
4. all bids received are less than the Authority's Fair Market Value estimate.

VII. CENTRALIZED DISPOSAL

A. Subject to the approval of the Contracting Officer or authorized designee and in accordance with Article VI of these Guidelines, in either the initial document authorizing the disposal or through a subsequent communication, Property may be disposed of using any of the following methods:

1. Shipment of the material to a third-party vendor(s), selected by competitive bidding, which, pursuant to these Guidelines, will market the

material for sale or dispose of such material in accordance with environmental and any other Authority requirements.

2. Consolidation of such Property at one of the Authority's facilities or an offsite warehouse for the purpose of conducting a sale managed by Authority staff, possibly with the assistance of an outside contractor.
3. Participation in public auctions provided the advertisement for bids through such methods permits full and free competition consistent with the value and nature of the property, as may be conducted through an independent auctioneer, online auction service, or another utility.

VIII. DECENTRALIZED DISPOSAL

- A. The Regional Manager, Project Manager, or head of a Department or Division requiring disposal of Property which he or she believes to be surplus, will submit to the responsible PDC a written description of the material, with the original price (if known), and estimate of the Property's Fair Market Value (if available). If practical, a photograph of the material or equipment in question should be provided. Such submission shall be made to the responsible PDC for the location where the Property is located.
- B. If the responsible PDC, in conference with either the DSP&MM or the Contracting Officer or authorized designee, as appropriate, determines that other Authority facilities may have an interest in the Property, a notice should be sent to the other Authority facilities advising of its availability and requesting a response within a specified time frame. A record of the notice

will be maintained by the responsible PDC. In the event that the responsible PDC and either the DSP&MM or the Contracting Officer or authorized designee, as appropriate, determine there is no interest in such material at other Authority facilities, a written explanation should be prepared by the PDC to that effect and maintained in the file for that transaction.

- C. If no response to the notice is received, the responsible PDC will solicit bids for the purchase of such Property in accordance with the procedures described in Article VI.

IX. PARTIES PROHIBITED FROM BIDDING

- A. All current and former employees of the Authority and relatives of such employees or third parties acting on behalf of such employees shall not be eligible to bid for the purchase of Authority Property and are prohibited from subsequently acquiring it in any manner. Each bidder will be required, as part of his or her bid, to certify, by signing Attachment "A," that he or she is not a current or former employee of the Authority, is not related to any current or former employee of the Authority and is not acting on behalf of a current or former employee of the Authority or a relative of any such employee. No bid will be accepted unless accompanied by such certification.
- B. The term "related to" as used in paragraph A above means the relationship of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law or son-

in-law.

X. EVALUATION OF PROPOSALS; AWARD OF CONTRACT

- A. Following the receipt of proposals for the Property, the responsible PDC shall evaluate the proposals submitted and determine whether the highest of such proposals is reasonable, given the estimated Fair Market Value of the Property.
- B. If the responsible PDC determines that the highest bid received is reasonable, the responsible PDC shall recommend to the Responsible Officer(s), as hereinafter defined in Article XI, that such bid be accepted, and upon the written approval of the Responsible Officer(s), the sale shall be made to the person offering such proposal. After obtaining all necessary approvals in accordance with Article XI “Authorization Levels,” a Sales Agreement appended hereto (“Attachment C”) must be executed by the responsible Authority staff member and by the successful bidder prior to completion of the transaction.
- C. If either (a) the responsible PDC determines that the highest bid is not reasonable or (b) the Responsible Officer(s) decline(s) to authorize the sale, the Property will, except as provided in paragraph D below, be retained for future disposal in accordance with these Guidelines. Factors to be considered in determining whether a bid is reasonable include, but are not limited to: adequacy of the estimate of the Fair Market Value, anticipated improved future market conditions, potential for other means of disposal or

redeployment, financial viability of the bidder, and condition of the Property.

- D. Notwithstanding any determination by the responsible PDC, the Responsible Officer(s), with the review and approval of the Contracting Officer, may direct the sale of the Property to the person or firm submitting the highest bid.
- E. No Authority employee who is involved in the award of Authority grants or contracts, may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- F. No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section E above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- G. No Authority employee may take part in any contracting decision involving the payment of \$1,000 or more: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer,

director or partner of that entity. If a contracting matter arises relating to this Section G, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

1. For purposes of this Section G, the term “Relative” shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant.

XI. AUTHORIZATION LEVELS AND SIGNING AUTHORITY

A. For the purposes of these Guidelines, the Responsible Officer(s) will in each case review the appropriateness of the Fair Market Value estimate and the recommendation for contract award for disposal of the Property. Responsible Officers are designated as follows:

1. The Board of Trustees, if the Fair Market Value of the Property is greater than \$1,000,000 or if the Disposal is for less than Fair Market Value in accordance with paragraph VI.A.6; or
2. The President or the Chief Operating Officer or equivalent(s), if the Fair Market Value of the Property is up to \$1,000,000; or
3. The Vice President – Enterprise Shared Services or equivalent(s) or, for Fleet Disposals, the Senior Vice President – Corporate Support Services or equivalent(s), if the Fair Market Value of the Property is up to \$500,000; or
4. The Vice President – Procurement or equivalent(s), if the Fair Market

Value of the Property is up to \$250,000; or

5. The DSP&MM, if the Fair Market Value of the Property is up to \$50,000; or

6. The responsible PDC, with the prior written approval of either the DSP&MM or the Contracting Officer or authorized designee, as appropriate, if the Fair Market Value of the Property is \$5,000 or less.

B. For public auctions or similar centralized disposals, such authorization should be obtained prior to submitting Property to auction based on the estimated Fair Market Value of the Property.

1. For purposes of these Guidelines, the Director - Fleet Operations (“DFO”) or equivalent(s) and DSP&MM are authorized to sign Disposal Sales Agreements based upon the provisions of Section XI.A above whereby the DFO is authorized to sign fleet-related sales agreements and the DSP&MM may sign both fleet and non-fleet sales agreements.

C. For decentralized disposals, such authorization should be obtained prior to signing of Sales Agreement or award of contract, in accordance with the Authorization Levels set forth in Section XI.A. Sales Agreements for individual disposal transactions through a decentralized sale should be signed in accordance with the limits set forth in the Authority’s Expenditure Authorization Procedures – Attachment C.

XII. OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY

A. Disposals as Part of a Competitive Procurement

These Guidelines are not intended to restrict disposals as part of a competitive procurement, including trade-ins, where the procurement is competitively bid and awarded in accordance with the Authority's Guidelines for Procurement Contracts and Fair Market Value can be obtained for the Property. Any such proposed disposal must be included as part of the solicitation of bids for the procurement. The solicitation must also include an estimated Fair Market Value of the Property or minimum bid amount. The disposal or trade-in value must be stated in the proposals from bidders. When disposing of Property as part of a competitive procurement, the Authority may consider the cost difference between the accepted proposal and the next lowest responsive proposal as part of the consideration for the disposal of the Property.

B. Return to the Original Equipment Manufacturer ("OEM") or to the Source

For Property with a Fair Market Value of \$15,000 or less, return of materials to the OEM or the source is permissible provided that the Authority receives full value for any materials equal to the price paid by the Authority or the estimated Fair Market Value of the Property. In the event a re-stocking fee is charged by the OEM or the source, the DSP&MM or the Contracting Officer or authorized designee, as appropriate, shall be consulted to determine if such a re-stocking fee is reasonable and if there are other opportunities for sale of such material. Approval of all such returns to the

OEM or the source when a re-stocking fee is charged, must be in accordance with the Authorization Levels delineated in Section XI.A.

C. **Disposal through the New York State Office of General Services (OGS)**

The Authority may utilize OGS for Disposal of Authority-owned Property including on-line disposal methods offered by OGS. In addition, in accordance with New York State law, surplus computers and related accessories, surplus office furniture, and other equipment may, with the approval of the Contracting Officer or authorized designee, be transferred to OGS for disposition, in the case of computers and accessories to school districts located near Authority offices or operating facilities, or in the case of office furniture and office equipment, to other state entities. Disposal of these items in this manner represents the best value to New York State in lieu of attempted re-sale of such materials.

XIII. METHODS OF PAYMENT

The proceeds from the sale of Property in the form of cash or a certified check made payable to the Authority must be forwarded to the Authority's Treasurer by the Facility PDCs and to the Authority's Controller's Office by the DSP&MM and WPO PDC(s). In certain cases involving a transfer of Property to other state agencies or authorities, the performance of documented services to the Authority equal to or greater in value to the Fair Market Value of the Property, will serve as payment for such Property. The authorization limits of Article XI shall apply to such transactions.

XIV. REPORTING REQUIREMENTS

- A. The Authority shall publish, not less frequently than annually, a report of all Property disposed of during the reporting period, including the full description, price (if any) received and the name of the purchaser for all such Property disposed of by the Authority during such period. Such report shall be prepared in conjunction with the report required by the Authority's "Guidelines and Procedures for the Disposal of Real Property."
- B. Such report, as approved by the Board of Trustees, shall be submitted to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the Authorities Budget Office.
- C. These Guidelines, as approved by the Trustees, shall be reviewed and approved annually by the Authority's Board of Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the Guidelines most recently reviewed and approved by the Board of Trustees, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the Comptroller, the Authority shall also post such Guidelines on the Authority's internet website and maintain such Guidelines on the website.
- D. For disposal by negotiation of Property over \$15,000, Property of any value related to the disposal of Real Property by exchange, or Property where part

of the consideration received is Real Property, an explanatory statement shall be prepared and submitted to the parties as set forth in Subsection VI.A.5.

- E. The Authority's Governance Committee meets at least three times per year. Staff from the Enterprise Shared Services and Corporate Support Services Business Units, or the equivalent(s), prepare and present ongoing reports regarding disposals of personal property and real property.
- F. The Authority may be called upon periodically to submit information regarding the Disposal of Personal Property to organizations implementing the PAAA or other statutes regulating the disposal of Property, such as the Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

BID SHEET

The following personal property is available for sale "AS IS, WHERE IS" and the Power Authority gives no warranty whatsoever as to its condition.

LUMP SUM BID AMOUNT* \$ _____

Subject to all terms and conditions set forth on the reverse hereof, the undersigned offers and agrees to purchase the above-described personal property at the bid amount indicated.

Signature

Company Name

Name (Printed)

Street Address

Date

City, State, Zip Code

FAX number

Telephone number

* All sales are subject to New York State Sales Tax and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

PERSONAL PROPERTY SALE
SALE NO. _____
NEW YORK POWER AUTHORITY
(ADDRESS OF PROJECT)
Telephone: () _____
FAX: () _____

Subject to the terms and conditions stated below, bids will be received on the personal property, either by mail, fax or hand delivery at the (Location) _____ no later than (Date) _____.

The personal property is available for inspection, by appointment, at the (Project) _____ . For an appointment, please contact the Property Disposal Coordinator, (Name) _____ at (Telephone no.) _____.

Successful bidders will be required to pay by certified check, on notice from the Authority that the bid has been accepted, and remove the personal property from the Authority's premises within ten (10) calendar days after receipt of notice of award.

Envelopes containing bids submitted by mail should be marked on the outside to indicate that a bid on Sale No. ____ is enclosed.

Current and former employees of the Power Authority or relatives of such employees or third parties acting on behalf of such employees or relatives are ineligible to bid and are prohibited from subsequently acquiring such personal property in any manner.

1. **INSPECTION.** Bidders are invited, urged and cautioned to inspect the personal property being sold prior to submitting a bid. The personal property will be available for inspection at the time and place specified above. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening.
2. **CONDITION OF PROPERTY.** All personal property listed is offered for sale "AS IS, WHERE IS". The Authority does not in any way warrant the fitness of the personal property for any particular use or its merchantability and disclaims any other representations or warranties, express or implied, including, but not limited to, quality, character, performance or condition of the personal property or any of its component parts, assemblies, or accessories.
3. **CONSIDERATION OF BIDS.** Bids must be submitted in writing on the form provided by the Authority (see reverse side) and shall be submitted on all items listed. The Authority reserves the right to reject any and all bids, to waive technical defects in bids and to award sale of the items as may be in the best interest of the Authority.
4. **PAYMENT.** The Purchaser agrees to pay for the awarded personal property in accordance with the prices quoted in his/her bid. Payment of the full purchase price must be made within the time allowed for removal, and prior to the release of any personal property to the Purchaser.
5. **NEW YORK STATE SALES AND COMPENSATING USE TAX.** All sales will be subject to New York State Sales and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

ADVERTISEMENT FOR PROPOSALS

The following described personal property, shall be sold "AS IS, WHERE IS" by the New York Power Authority ("the Authority").

1. Sealed bids are invited for the above, which will be available for inspection by inquiry at the (Location/Building) at the (Project and Address) between the hours of _____ a.m. to __ p.m. on (Date/s). Bids must be submitted on the Authority's bid form, which can be obtained by calling (Telephone no.). No bid will be accepted unless it is on such form. Bids shall be accepted on or before ____ p.m. on (Date).
2. Current and former employees of the Authority or relatives of such employees or third parties seeking to act on behalf of such employees or relatives shall be ineligible to bid.
3. Successful bidders, on notice from the Authority, shall be required to pay by certified check and shall promptly remove the personal property from the Authority's property.
4. The Authority reserves the right to reject any and all bids.

**PERSONAL PROPERTY
SALES AGREEMENT**

_____, the Buyer, and the Power Authority of the State of New York ("the Authority"), agree as follows:

- 1) The personal property identified herein is sold by the Authority and purchased by Buyer "AS IS, WHERE IS" at the price(s) shown, plus any applicable sales tax.
- 2) **THE AUTHORITY DOES NOT IN ANY WAY WARRANT THE FITNESS OF THE PERSONAL PROPERTY FOR ANY PARTICULAR USE OR ITS MERCHANTABILITY AND DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE QUALITY, CHARACTER, PERFORMANCE, OR CONDITION OF THE PERSONAL PROPERTY OR ANY OF ITS COMPONENT PARTS, ASSEMBLIES, OR ACCESSORIES.**
- 3) The Bidder warrants that he/she/it is not a current or former Authority employee, is not related to an Authority employee and did not bid on behalf of an Authority employee. Bidder is aware that Authority employees and their family members are precluded from subsequently receiving, or acquiring, in whole or in part, by any manner including gift, sale, loan or lease, the personal property acquired by the Bidder pursuant to this sale. The term "related to" as used in this paragraph means the relationships of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law. The Authority reserves the right to invoke any available legal or equitable remedy in the event of a breach by the Bidder of his or her warranty under this paragraph, including but not limited to, rescinding the sale and recovering the property sold and all costs associated with the sale and the rescission of said sale.
- 4) The Buyer shall indemnify and hold harmless the Authority and all of its officers, agents and employees from any loss, damage, remedial or response cost, liability or expense, on account of damage or contamination to property and injuries, including death, to all persons, including Buyer's employees, or any third parties, arising or in any manner growing out of the sale of any personal property or the performance of any work under this agreement and shall defend at its own expense any suits or other proceedings brought against the Authority and its officers, agents and employees, or any of them, on account thereof, and pay all expenses and satisfy all judgments which may be incurred by or rendered against them or any of them in connection therewith.
- 5) Except for disposals by public auction, the Buyer shall remove the personal property from the Authority's premises by _____ at Buyer's expense. The Buyer shall make payment upon delivery by certified check payable to the New York Power Authority.

Description of Personal Property:

Selling Price: _____

Executed this _____ day of _____, 20 _____.

Buyer (Print or Type):

Seller:

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

Authorized Signature

Authorized Signature

Full Name (Printed)

Title

Title

PRIVACY LAW NOTIFICATION

SECTION 94(1)(d) OF THE NEW YORK PUBLIC OFFICERS LAW REQUIRES THIS NOTICE TO BE PROVIDED WHEN COLLECTING PERSONAL INFORMATION FROM POTENTIAL PURCHASERS OF AUTHORITY PROPERTY.

This information is requested pursuant to Article 5, Title I of the Public Authorities Law. The principal purpose for which the information is collected is to assist the Power Authority of the State of New York in the sale of Authority personal property in accordance with Section 96(1) of the Personal Privacy Protection Law, particularly subdivisions (b), (e) and (f).

Failure to provide the requested information may result in ineligibility for participation in a program, sale or benefit provided by the Authority.

This information will be maintained by Fleet Operations, at the Power Authority of the State of New York, Clark Energy Center located at 6520 Glass Factory Road, Marcy, N.Y. 13403, (315) 724-8186 or, when appropriate, by the Procurement Department at the Corporate office or at one of the Authority facilities.

GUIDELINES

AND

PROCEDURES

FOR THE

DISPOSAL OF NEW YORK POWER AUTHORITY

PERSONAL PROPERTY

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GUIDELINES AND PROCEDURES
FOR THE
DISPOSAL OF NEW YORK POWER AUTHORITY PERSONAL PROPERTY

I. **PURPOSE**

These Guidelines and Procedures for the Disposal of Personal Property (hereinafter "Guidelines"), which comply with Title 5-A, Article 9 of the Public Authorities Law, establish the procedures ~~which~~that detail the Authority's policy and instructions regarding the use, award, monitoring and reporting of the disposal of personal property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Authority's compliance with, and enforcement of, the Guidelines.

II. **DEFINITIONS**

A. "Contracting Officer" shall mean the officer or employee of ~~a public~~the ~~a~~A Authority who shall be appointed by resolution of the Authority's Board of Trustees to be responsible for the disposition of personal property. The "Contracting Officer" is hereby designated to be the ~~Senior~~ Vice President – Enterprise Shared Services, or equivalent(s), or a designee so stated in writing. The Authority's Contracting Officer shall not be responsible for compliance for dispositions of the Authority's personal property conducted by another state entity authorized to dispose of the Authority's personal property under the Public Authorities Accountability Act ("PAAA") or as otherwise authorized by law.

- B. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal property in accordance with these Guidelines.
- C. "Property" shall mean personal property owned by the Authority with a value in excess of \$5,000, and any other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. For the purposes of these Guidelines, personal property may include, but is not limited to, materials, tools, equipment, or vehicles.
- D. "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Property in an arms-length transaction in the appropriate marketplace and under similar circumstances. Fair Market Value may be determined by consulting industry-recognized sources, contacting original suppliers, depreciation analysis, appraisals, fair market valuations by public auction or other methods of valuation generally accepted in the industry in which such Property is utilized, as may be approved by the Contracting Officer or authorized designee.
- E. "Relative" is defined in Subsection X.G.1. of these Guidelines.

III. OBJECTIVE

The objective of these Guidelines is to identify those Authority personnel responsible for authorizing the disposal of Property owned by the Authority and to ensure that the Authority receives fair and reasonable value for such Property. The transfer or sale of Property shall be accounted for in accordance with the Authority's

Corporate Accounting Policy No. CAP 4.3 dated 6/30/05, Revision 2 -- "Accounting for Materials and Supplies."

IV. TRANSACTIONS NOT COVERED

These Guidelines do not apply to any of the following transactions:

1. Disposal of real property interests;
2. Exchange of Property with other utilities or power plant owners, where such owners will provide an identical or in-kind replacement;
3. Transfer/re-deployment of Property from one Authority facility to another Authority facility.

V. DESIGNATION OF PROPERTY DISPOSAL COORDINATORS

- A. The Contracting Officer shall be responsible for the Authority's compliance with, and enforcement of, the Guidelines.
- B. The individual responsible for ~~disposal~~ of all Property at the Authority's facilities will be the ~~Facilities Materials Superintendent ("FMS")~~ Director – Site Purchasing & Materials Management ("DSP&MM") ~~currently located at the Clark Energy Center~~. For purposes of Property disposal, the ~~FMS~~ DSP&MM reports directly to the Contracting Officer or authorized designee.
- C. The Purchasing and Warehouse Manager from each ~~facility~~ will be the local Property Disposal Coordinator for his or her facility or location ("Facility PDC"). The Facility PDC reports to the FMS DSP&MM.
- D. The Contracting Officer or authorized designee will designate one or more

individuals from the White Plains Office Procurement Division to be the Property Disposal Coordinator(s) for the White Plains, Albany and New York corporate offices ("WPO PDC"). For purposes of Property disposal, the WPO PDC(s) will confer, interface with and report to the Contracting Officer or authorized designee.

- E. The Director of Fleet Operations ("DFO") or equivalent(s) or [authorized designee](#) is responsible for the disposal of vehicles and rolling equipment. The DFO reports directly to the ~~Contracting Officer~~ [Senior Vice President – Corporate Support Services or authorized designee](#).
- F. If appropriate, the responsible Facility PDC should confer (by oral or written communication) with the [FMSDSP&MM](#) and the WPO PDC(s) should confer (by oral or written communication) with the Contracting Officer [or authorized designee](#) to determine if a "centralized" sale of Property, as outlined in Article VII, is appropriate. If agreed, the responsible PDC should arrange for shipment of the Property to be sold from the site to the sale location. If a centralized sale is not appropriate, the responsible PDC should proceed in accordance with the "decentralized" procedures, as outlined in Article VIII.

VI. PROCEDURES FOR DISPOSAL OF AUTHORITY PERSONAL PROPERTY

Except for Disposals pursuant to Article VII, Article XII and Subsection VI.A.4 of these Guidelines, whenever practicable, the responsible PDC shall solicit proposals from ~~at least 3~~ [qualified](#) bidders, to purchase the Property to be disposed of, and will

maintain records of such solicitations. The PDC should use "Attachment A" attached hereto or an appropriate substitute for solicitations under this Article VI.

A. DISPOSAL METHODS FOR PERSONAL PROPERTY

1. For the purposes of these Guidelines, Disposal methods may include, but are not limited to: sale (directly to the Buyer, through a third party, negotiation, well-advertised public auction that permits full and free competition consistent with the value and nature of the property or on any other centralized basis that achieves the same level of competition); return to the original equipment manufacturer or to the source; trade-ins or disposals as part of a competitive procurement; or disposal through the New York State Office of General Services ("OGS"). ~~Use of the internet, in conjunction with the foregoing options, may also be utilized, as applicable.~~ Provided, however, that no disposition of any Property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar Property, shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the record of the transaction. The Authority's Environment, Health and Safety Division should be consulted, on a case-by-case basis, regarding disposal of items that may be considered hazardous waste.
2. Solicitation via telephone, e-mail and/or direct mailings may be used where the estimated Fair Market Value of the Property to be disposed of

is greater than \$5,000 but does not exceed \$15,000. All bids must be submitted in writing on the forms [or an appropriate substitute](#) and in the manner prescribed by this procedure and by the date and time (the "Bid Due Date") included in the solicitation.

3. All Disposals of Authority Property in excess of \$15,000 shall be made after publicly advertising for bids except as provided in Subsection 4 below, using the following process:
 - a. the appropriate advertisement for bids (Attachment "B" or an appropriate substitute) shall be made at such time prior to the Disposal, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Property. This may include advertisements in one or more of the following publications, depending on the nature of the Property: local newspapers in the geographic area of the facility where the sale is taking place, trade journals, regional or nationwide publications (if the market for such sale is regional or nationwide), the New York State Contract Reporter, internet services or other communication outlets as appropriate;
 - b. all bids must be submitted in writing on the forms [or an appropriate substitute](#) and in the manner prescribed by this procedure and by the Bid Due Date included in the solicitation;
 - c. all bids shall be publicly disclosed, at the time and place stated in the solicitation [or by posting to the Authority's internet website](#); and

- d. the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforms to the bid solicitation and ~~will be~~ most advantageous to the Authority, price and other factors considered; however, any bid may be rejected when in the public interest to do so at the Authority's sole discretion.
4. Disposals of Property may be negotiated or made by public auction without regard to Subsection 3 of this Section, but subject to obtaining such competition as is feasible under the circumstances, if:
 - a. the Property involved has qualities separate from the utilitarian purpose of such Property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect that would tend to increase its value, or if the Property is to be disposed of in such quantity that, if it were Disposed of under Subsection 3 of this Section, would adversely affect the state or local market for such Property, and the estimated Fair Market Value of such Property and other satisfactory terms of disposal may be obtained by negotiation;
 - b. bid prices after advertising therefore are not reasonable, either as to all or part of the Property, or have not been independently ~~determined~~ arrived at in open competition;
 - c. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Property and other satisfactory terms of Disposal are obtained by negotiation;
 - d. under those circumstances permitted by Subsection 6 of this Section;

- e. if the estimated or actual fair market value of the property does not exceed \$15,000; or
 - f. such action is otherwise authorized by law.
5. An explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property which has an estimated Fair Market Value in excess of fifteen thousand dollars (\$15,000). In addition, an explanatory statement shall be prepared of the circumstances of each Disposal by negotiation of any Property disposed of by exchange, regardless of value. Each such statement shall be transmitted to the Commissioner of General Services, the State Legislature, the State Comptroller, ~~and~~ the [Director of the Division of the Budget](#) and the Authorities Budget Office, not less than ninety days in advance of such Disposal, and a copy thereof shall be preserved in the Authority's files.
6. a. No Property owned or otherwise in the control of the Authority may be disposed or otherwise alienated for less than its Fair Market Value except if:
- (i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Property will remain with the government or any other public entity;
 - (ii) the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or

- (iii) in the event the Authority seeks to transfer Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate and Assembly, the Authority may effectuate such transfer provided, however, that with respect to a below-market transfer by the Authority that is not within

the purpose, mission or governing statute of the Authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which the Authority resides, and if the transfer is of Property obtained by the Authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

b. In the event a below Fair Market Value Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and the public:

- (i) a full description of the Property;
- (ii) an appraisal of the Fair Market Value of the Property and any other information establishing the Fair Market Value sought by the Board of Trustees;
- (iii) a description of the purpose of the transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the Property is situated as are required by the transfer;
- (iv) a statement of the value to be received compared to the Fair Market Value;

- (v) the names of any private parties participating in the transfer and, if different than the statement required by subparagraph (iv) of this Subsection, a statement of the value to the private party; and
 - (vi) the names of other private parties who have made an offer for such Property, the value offered and the purpose for which the Property was sought to be used.
- c. Before approving the Disposal of any Property for less than Fair Market Value, the Board of Trustees shall consider the information described in paragraph b of this Subsection and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.
7. In addition, in cases where a Disposal of Property is made without competitive bidding and where the proposed contract price for the Property disposed of is less than Fair Market Value, prior to finalizing the Disposal a detailed explanation of the justification for making the Disposal without competitive bidding shall be prepared, and a certification shall be signed by the Chief Executive Officer and Chief Financial Officer of the Authority stating that they have reviewed the terms of such Disposal and have determined that it complies with applicable law and these Guidelines.

B. DISPOSAL OPTIONS IF NO BIDS OR NO ACCEPTABLE BIDS ARE RECEIVED

~~If solicitation pursuant to Section VI.A. does not produce any proposals to purchase the Property from the Authority or if all proposals received are less than the Authority's Fair Market Value estimate, t~~The appropriate PDC shall confer with the FMSDSP&MM and the Contracting Officer or authorized designee to decide (i) if re-soliciting is feasible; (ii) if shipment to a third-party contractor for Disposal would result in higher-priced proposals; (iii) if disposal by other methods would be appropriate; and/or (iv) if the Fair Market Value estimate requires review or adjustment-, where:

1. the solicitation pursuant to Section VI.A does not produce any bids to purchase the Property;
2. in the opinion of the Authority, the bids are not arrived at independently;
3. all bids are not reasonable in accordance with Section X.C; or
4. all bids received are less than the Authority's Fair Market Value estimate.

VII. CENTRALIZED DISPOSAL

A. Subject to the approval of the Contracting Officer or authorized designee and in accordance with Article VI of these Guidelines, in either the initial document authorizing the disposal or through a subsequent communication, Property may be disposed of using any of the following methods:

1. Shipment of the material to a third-party vendor(s), selected by competitive bidding, which, pursuant to these Guidelines, will market the material for sale or dispose of such material in accordance with environmental and any other Authority requirements.
2. Consolidation of such Property at one of the Authority's facilities or an offsite warehouse for the purpose of conducting a sale managed by Authority staff, possibly with the assistance of an outside contractor.
3. Participation in public auctions ~~such as through a private auctioneer or other utility~~ provided the advertisement for bids through such methods permits full and free competition consistent with the value and nature of the property, as may be conducted through an independent auctioneer, online auction service, or another utility.

VIII. DECENTRALIZED DISPOSAL

- A. The Regional Manager, Project Manager, or head of a Department or Division requiring disposal of Property which he or she believes to be surplus, will submit to the responsible PDC a written description of the material, with the original price (if known), and estimate of the Property's Fair Market Value (if available). If practical, a photograph of the material or equipment in question should be provided. Such submission shall be made to the responsible PDC ~~designated at~~for the location ~~at which~~where the Property is located, ~~the responsible PDC~~.
- B. If the responsible PDC, in conference with either the FMSDSP&MM or the

Contracting Officer or authorized designee, as appropriate, determines that other Authority facilities may have an interest in the Property, a notice should be sent to the other Authority facilities advising of its availability and requesting a response within a specified time frame. A record of the notice will be maintained by the responsible PDC. In the event that the responsible PDC and either the FMSDSP&MM or the Contracting Officer or authorized designee, as appropriate, determine there is no interest in such material at other Authority facilities, a written explanation should be prepared by the PDC to that effect and maintained in the file for that transaction.

- C. If no response to the notice is received, the responsible PDC will solicit bids for the purchase of such Property in accordance with the procedures described in Article VI.

IX. PARTIES PROHIBITED FROM BIDDING

- A. All current and former employees of the Authority and relatives of such employees or third parties acting on behalf of such employees shall not be eligible to bid for the purchase of Authority Property and are prohibited from subsequently acquiring it in any manner. Each bidder will be required, as part of his or her bid, to certify, by signing Attachment "A," that he or she is not a current or former employee of the Authority, is not related to any current or former employee of the Authority and is not acting on behalf of a current or former employee of the Authority or a relative of any such employee. No bid will be accepted unless accompanied by such certification.

- B. The term "related to" as used in paragraph A above means the relationship of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law or son-in-law.

X. EVALUATION OF PROPOSALS; AWARD OF CONTRACT

- A. Following the receipt of proposals for the Property, the responsible PDC shall evaluate the proposals submitted and determine whether the highest of such proposals is reasonable, given the estimated Fair Market Value of the Property.
- B. If the responsible PDC determines that the highest bid received is reasonable, the responsible PDC shall recommend to the Responsible Officer(s), as hereinafter defined in Article XI, that such bid be accepted, and upon the written approval of the Responsible Officer(s), the sale shall be made to the person offering such proposal. After obtaining all necessary approvals in accordance with Article XI "Authorization Levels," a Sales Agreement appended hereto ("Attachment C") must be executed by the responsible Authority staff member and by the successful bidder prior to completion of the transaction.
- C. If either (a) the responsible PDC determines that the highest bid is not reasonable or (b) the Responsible Officer(s) decline(s) to authorize the sale, the Property will, except as provided in paragraph D below, be retained for

future disposal in accordance with these Guidelines. Factors to be considered in determining whether a bid is reasonable include, but are not limited to: adequacy of the estimate of the Fair Market Value, anticipated improved future market conditions, potential for other means of disposal or redeployment, financial viability of the bidder, and condition of the Property.

- D. Notwithstanding any determination by the responsible PDC, the Responsible Officer(s), with the review and approval of the Contracting Officer, may direct the sale of the Property to the person or firm submitting the highest bid.

- E. No Authority employee who is involved in the award of Authority grants or contracts, may ask any officer, director or employee of such current or prospective contractor or grantee to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.

- F. No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section E above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.

- G. No Authority employee may take part in any contracting decision involving the payment of \$1,000 or more: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If a contracting matter arises relating to this Section G, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
1. For purposes of this Section G, the term "Relative" shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee's grandparents or the spouse of such descendant.

XI. AUTHORIZATION LEVELS AND SIGNING AUTHORITY

- A. For the purposes of these Guidelines, the Responsible Officer(s) will in each case review the appropriateness of the Fair Market Value estimate and the recommendation for contract award for disposal of the Property. Responsible Officers are designated as follows:
1. The [Board of Trustees](#), if the Fair Market Value of the Property is greater than \$1,000,000 [or if the Disposal is for less than Fair Market Value in accordance with paragraph VI.A.6](#); or
 2. The President or the Chief Operating Officer or equivalent(s), if the Fair Market Value of the Property is up to \$1,000,000; or

3. The ~~Senior~~ Vice President – Enterprise Shared Services or equivalent(s) or, for Fleet Disposals, the ~~Executive~~Senior Vice President – ~~Chief Administrative Officer~~Corporate Support Services or equivalent(s), if the Fair Market Value of the Property is up to \$500,000; or
 4. The Vice President – Procurement or equivalent(s), if the Fair Market Value of the Property is up to \$250,000; or
 5. The FMSDSP&MM, if the Fair Market Value of the Property is up to \$50,000; or
 6. The responsible PDC, with the prior written approval of either the FMSDSP&MM or the Contracting Officer or authorized designee, as appropriate, if the Fair Market Value of the Property is \$5,000 or less.
- B. For public auctions or similar centralized disposals, such authorization should be obtained prior to submitting Property to auction based on the estimated ~~f~~Fair ~~m~~Market ~~v~~Value of the Property.
1. For purposes of these Guidelines, the Director - Fleet Operations (“DFO”) or equivalent(s) and FMSDSP&MM are authorized to sign Disposal Sales Agreements based upon the provisions of Section XI.A above whereby the DFO is authorized to sign fleet-related sales agreements and the FMSDSP&MM may sign both fleet and non-fleet sales agreements.
- C. For decentralized disposals, such authorization should be obtained prior to signing of Sales Agreement or award of contract, in accordance with the Authorization Levels set forth in Section XI.A. Sales Agreements for

individual disposal transactions through a decentralized sale should be signed in accordance with the limits set forth in the Authority's Expenditure Authorization Procedures – Attachment C.

XII. OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY

A. Trade-Ins Disposals as Part of a Competitive Procurement

~~These procedure Guidelines are is~~ not intended to restrict ~~the disposals as part of a competitive procurement, including trade-ins of equipment (i.e., computer or office equipment), materials, and/or vehicles for replacements from dealers furnishing replacement equipment, materials, and/or vehicles, where the procurement is competitively bid and awarded in accordance with the Authority's Guidelines for Procurement Contracts and reasonable Fair Market Value~~ can be obtained for the ~~trade-in Property~~. Any such proposed ~~disposal trade-in~~ must be included as part of the solicitation of bids for the ~~replacement equipment, materials and/or vehicles procurement. The solicitation must also include an estimated Fair Market Value of the Property or minimum bid amount, and the disposal or trade-in value must be stated in the proposals from solicited bidders. When disposing of Property as part of a competitive procurement, the Authority may consider the cost difference between the accepted proposal and the next lowest responsive proposal as part of the consideration for the disposal of the Property. Best efforts shall be utilized to secure a trade in value that is equal to or exceeds the Fair Market Value.~~

B. **Return to the Original Equipment Manufacturer ("OEM") or to the Source**

~~For Property with a Fair Market Value of \$15,000 or less, R~~return of materials to the OEM or the source is permissible provided that the Authority receives full value for any materials equal to the price paid by the Authority or the estimated Fair Market Value of the Property. In the event a re-stocking fee is charged by the OEM or the source, the FMSDSP&MM or the Contracting Officer or authorized designee, as appropriate, shall be consulted to determine if such a re-stocking fee is reasonable and if there are other opportunities for sale of such material. Approval of all such returns to the OEM or the source when a re-stocking fee is charged, must be in accordance with the Authorization Levels delineated in Section XI.A.

C. **Disposal through the New York State Office of General Services (OGS)**

~~When it is determined advantageous to the Authority, t~~The Authority may utilize OGS for Disposal of Authority-owned Property including ~~but not limited to vehicles and rolling equipment, and/or may make use of~~ on-line disposal methods offered by OGS. In addition, in accordance with New York State law, surplus computers and related accessories, ~~(e.g. monitors and keyboards) and~~ surplus office furniture, and other equipment may, with the approval of the Contracting Officer or authorized designee, be transferred to OGS for disposition, in the case of computers and accessories to school districts located near Authority offices or operating facilities, or in the case of office furniture and office equipment, to other state entities. Disposal of

these items in this manner represents the best value to New York State in lieu of attempted re-sale of such materials.

XIII. METHODS OF PAYMENT

The proceeds from the sale of Property in the form of cash or a certified check made payable to the Authority must be forwarded to the Authority's Treasurer by the Facility PDCs and to the Authority's Controller's Office by the [FMSDSP&MM](#) and WPO PDC(s). In certain cases involving a transfer of Property to other state agencies or authorities, the performance of documented services to the Authority equal to or greater in value to the Fair Market Value of the Property, will serve as payment for such Property. The authorization limits of Article XI shall apply to such transactions.

XIV. REPORTING REQUIREMENTS

- A. The Authority shall publish, not less frequently than annually, a report of all Property disposed of during the reporting period, including the full description, price (if any) received and the name of the purchaser for all such Property disposed of by the Authority during such period. Such report shall be prepared in conjunction with the report required by the Authority's "Guidelines and Procedures for the Disposal of Real Property."
- B. Such report, as approved by the [Board of Trustees](#), shall be submitted to the [State Comptroller](#), the Director of the [Division of the Budget](#), the

Commissioner of General Services, the State Legislature and the Authorities Budget Office.

- C. These Guidelines, as approved by the Trustees, shall be reviewed and approved annually by the Authority's Board of Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the Guidelines most recently reviewed and approved by the Board of Trustees, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the Comptroller, the Authority shall also post such Guidelines on the Authority's internet website and maintain such Guidelines on the website.
- D. For disposal by negotiation of Property over \$15,000, Property of any value related to the disposal of Real Property by exchange, or Property where part of the consideration received is Real Property, or exchange (except when an identical or in-kind replacement is provided to the Authority) an explanatory statement shall be prepared and submitted to the parties ~~described more fully as set forth~~ in Subsection VI.BA.5.
- E. The Authority's Governance Committee meets at least three times per year. ~~and s~~Staff from the Enterprise Shared Services and Corporate Support Services Department~~Business Units~~, or the equivalent(s), prepare and present ongoing reports regarding disposals of personal property and real property.
- F. The Authority may be called upon periodically to submit information regarding the Disposal of Personal Property to organizations implementing the PAAA or other statutes regulating the disposal of Property, such as the

Authorities Budget Office through the Public Authorities Reporting Information System ("PARIS").

BID SHEET

The following personal property is available for sale "AS IS, WHERE IS" and the Power Authority gives no warranty whatsoever as to its condition.

LUMP SUM BID AMOUNT* \$ _____

Subject to all terms and conditions set forth on the reverse hereof, the undersigned offers and agrees to purchase the above-described personal property at the bid amount indicated.

Signature

Company Name

Name (Printed)

Street Address

Date

City, State, Zip Code

FAX number

Telephone number

* All sales are subject to New York State Sales Tax and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

PERSONAL PROPERTY SALE
SALE NO. _____
NEW YORK POWER AUTHORITY
(ADDRESS OF PROJECT)
Telephone: () _____
FAX: () _____

Subject to the terms and conditions stated below, bids will be received on the personal property, either by mail, fax or hand delivery at the (Location) _____ no later than (Date) _____.

The personal property is available for inspection, by appointment, at the (Project) _____ . For an appointment, please contact the Property Disposal Coordinator, (Name) _____ at (Telephone no.) _____.

Successful bidders will be required to pay by certified check, on notice from the Authority that the bid has been accepted, and remove the personal property from the Authority's premises within ten (10) calendar days after receipt of notice of award.

Envelopes containing bids submitted by mail should be marked on the outside to indicate that a bid on Sale No. ____ is enclosed.

Current and former employees of the Power Authority or relatives of such employees or third parties acting on behalf of such employees or relatives are ineligible to bid and are prohibited from subsequently acquiring such personal property in any manner.

1. **INSPECTION.** Bidders are invited, urged and cautioned to inspect the personal property being sold prior to submitting a bid. The personal property will be available for inspection at the time and place specified above. In no case will failure to inspect constitute grounds for the withdrawal of a bid after opening.
2. **CONDITION OF PROPERTY.** All personal property listed is offered for sale "AS IS, WHERE IS". The Authority does not in any way warrant the fitness of the personal property for any particular use or its merchantability and disclaims any other representations or warranties, express or implied, including, but not limited to, quality, character, performance or condition of the personal property or any of its component parts, assemblies, or accessories.
3. **CONSIDERATION OF BIDS.** Bids must be submitted in writing on the form provided by the Authority (see reverse side) and shall be submitted on all items listed. The Authority reserves the right to reject any and all bids, to waive technical defects in bids and to award sale of the items as may be in the best interest of the Authority.
4. **PAYMENT.** The Purchaser agrees to pay for the awarded personal property in accordance with the prices quoted in his/her bid. Payment of the full purchase price must be made within the time allowed for removal, and prior to the release of any personal property to the Purchaser.
5. **NEW YORK STATE SALES AND COMPENSATING USE TAX.** All sales will be subject to New York State Sales and Compensating Use Tax unless the Purchaser furnishes the Authority with an exemption certificate.

ADVERTISEMENT FOR PROPOSALS

The following described personal property, shall be sold "AS IS, WHERE IS" by the New York Power Authority ("the Authority").

1. Sealed bids are invited for the above, which will be available for inspection by inquiry at the (Location/Building) at the (Project and Address) between the hours of _____ a.m. to __ p.m. on (Date/s). Bids must be submitted on the Authority's bid form, which can be obtained by calling (Telephone no.). No bid will be accepted unless it is on such form. Bids shall be accepted on or before ____ p.m. on (Date).
2. Current and former employees of the Authority or relatives of such employees or third parties seeking to act on behalf of such employees or relatives shall be ineligible to bid.
3. Successful bidders, on notice from the Authority, shall be required to pay by certified check and shall promptly remove the personal property from the Authority's property.
4. The Authority reserves the right to reject any and all bids.

**PERSONAL PROPERTY
SALES AGREEMENT**

_____, the Buyer, and the Power Authority of the State of New York ("the Authority"), agree as follows:

- 1) The personal property identified herein is sold by the Authority and purchased by Buyer "AS IS, WHERE IS" at the price(s) shown, plus any applicable sales tax.
- 2) **THE AUTHORITY DOES NOT IN ANY WAY WARRANT THE FITNESS OF THE PERSONAL PROPERTY FOR ANY PARTICULAR USE OR ITS MERCHANTABILITY AND DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE QUALITY, CHARACTER, PERFORMANCE, OR CONDITION OF THE PERSONAL PROPERTY OR ANY OF ITS COMPONENT PARTS, ASSEMBLIES, OR ACCESSORIES.**
- 3) The Bidder warrants that he/she/it is not a current or former Authority employee, is not related to an Authority employee and did not bid on behalf of an Authority employee. Bidder is aware that Authority employees and their family members are precluded from subsequently receiving, or acquiring, in whole or in part, by any manner including gift, sale, loan or lease, the personal property acquired by the Bidder pursuant to this sale. The term "related to" as used in this paragraph means the relationships of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law. The Authority reserves the right to invoke any available legal or equitable remedy in the event of a breach by the Bidder of his or her warranty under this paragraph, including but not limited to, rescinding the sale and recovering the property sold and all costs associated with the sale and the rescission of said sale.
- 4) The Buyer shall indemnify and hold harmless the Authority and all of its officers, agents and employees from any loss, damage, remedial or response cost, liability or expense, on account of damage or contamination to property and injuries, including death, to all persons, including Buyer's employees, or any third parties, arising or in any manner growing out of the sale of any personal property or the performance of any work under this agreement and shall defend at its own expense any suits or other proceedings brought against the Authority and its officers, agents and employees, or any of them, on account thereof, and pay all expenses and satisfy all judgments which may be incurred by or rendered against them or any of them in connection therewith.
- 5) Except for disposals by public auction, the Buyer shall remove the personal property from the Authority's premises by _____ at Buyer's expense. The Buyer shall make payment upon delivery by certified check payable to the New York Power Authority.

Description of Personal Property:

Selling Price: _____

Executed this _____ day of _____, 20 _____.

Buyer (Print or Type):

Seller:

Power Authority of the State of New York
123 Main Street
White Plains, New York 10601

Authorized Signature

Authorized Signature

Full Name (Printed)

Title

Title

PRIVACY LAW NOTIFICATION

SECTION 94(1)(d) OF THE NEW YORK PUBLIC OFFICERS LAW REQUIRES THIS NOTICE TO BE PROVIDED WHEN COLLECTING PERSONAL INFORMATION FROM POTENTIAL PURCHASERS OF AUTHORITY PROPERTY.

This information is requested pursuant to Article 5, Title I of the Public Authorities Law. The principal purpose for which the information is collected is to assist the Power Authority of the State of New York in the sale of Authority personal property in accordance with Section 96(1) of the Personal Privacy Protection Law, particularly subdivisions (b), (e) and (f).

Failure to provide the requested information may result in ineligibility for participation in a program, sale or benefit provided by the Authority.

This information will be maintained by Fleet Operations, at the Power Authority of the State of New York, Clark Energy Center located at 6520 Glass Factory Road, Marcy, N.Y. 13403, (315) 724-8186 or, when appropriate, by the Procurement Department at the Corporate office or at one of the Authority facilities.

GUIDELINES

AND

PROCEDURES

FOR THE

DISPOSAL OF NEW YORK POWER AUTHORITY

REAL PROPERTY

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**GUIDELINES AND PROCEDURES FOR THE DISPOSAL OF
NEW YORK POWER AUTHORITY REAL PROPERTY**

I. PURPOSE

The purpose of these Guidelines and Procedures for the Disposal of Real Property (“Guidelines”), which comply with Title 5-A, Article 9 of the Public Authorities Law, is to establish the procedures that detail the Authority’s policy and instructions regarding the disposal of real property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Authority’s compliance with, and enforcement of, the Guidelines.

II. DEFINITIONS

- 2.1 “Contracting Officer” shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority’s Trustees to be responsible for enforcement of the Guidelines for the Disposal of Real Property. The “Contracting Officer” is hereby designated to be the Vice President – Enterprise Shared Services, or equivalent(s) or designee.
- 2.2 For the purposes of these Guidelines, “Dispose” or “Disposal” shall mean transfer of title or any other beneficial interest in real property in accordance with these Guidelines. Disposal does not include a release of an easement.
- 2.3 For the purposes of these Guidelines, “Real Property” shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

- 2.4 “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in the appropriate marketplace and under similar circumstances.
- 2.5 The term “Relative” shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant.

III. COMPLIANCE OVERVIEW

The Public Authorities Accountability Act (“PAAA”) requires the Authority to establish policy guidelines to accomplish the following:

- 3.1 Maintain inventory controls and accountability systems for all Real Property under the Authority’s control.
- 3.2 Periodically inventory Authority Real Property to determine which Real Property shall be Disposed of.
- 3.3 Dispose of Authority Real Property interests in accordance with the PAAA.
- 3.4 Prepare annual reports of Real Property Disposal transactions.

IV. DUTIES OF THE DIRECTOR OF REAL ESTATE

- 4.1 The Director of Real Estate or equivalent(s) or designee shall maintain adequate inventory controls and accountability systems for all Real Property under the Authority’s control.
- 4.2 The Director of Real Estate or equivalent(s) or designee shall annually inventory Authority Real Property to determine which Authority Real Property shall be

Disposed of and shall prepare a report identifying such Real Property for Disposal.

4.3 The Director of Real Estate or equivalent(s) or designee shall produce for publishing written reports of such Real Property as set forth in Article VI of these Guidelines.

4.4 The Director of Real Estate or equivalent(s) or designee shall arrange for the Disposal of any Real Property identified for Disposal by the Authority in accordance with these Guidelines and the Authority's Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.

V. PROCEDURES FOR THE DISPOSITION OF AUTHORITY REAL PROPERTY

5.1 The Authority may Dispose of Real Property for not less than the Fair Market Value of such Real Property by sale, exchange, or transfer, for cash, credit or other property, without warranty, and upon such other terms and conditions as the Contracting Officer deems proper under the provisions of the PAAA and as implemented by these Guidelines. Fair Market Value of the Authority Real Property subject to Disposal shall be established by independent appraisal as appropriate and consistent with the intent of the PAAA. Such appraisal documents shall be included in the record of the Real Property Disposal transaction.

5.2 Except as set forth in Section 5.3 of the Guidelines, any Disposal of Real Property shall only be made after publicly advertising for bids in accordance with the following:

5.2.1 the advertisement for bids shall be made at such time prior to the Disposal or contract, through such methods, and on such terms and conditions as

shall permit full and free competition consistent with the value and nature of the Real Property;

5.2.2 all bids shall be publicly disclosed at the time and place stated in the advertisement; and

5.2.3 the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Authority, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

5.3.a The Disposal of Authority Real Property may be negotiated or made by public auction without regard to Section 5.2 but subject to obtaining such competition as is feasible under the circumstances, if:

1. the Fair Market Value of the Real Property does not exceed fifteen thousand dollars (\$15,000.00); or
2. bid prices after advertising therefore are not reasonable, either as to all or some part of the Real Property, or have not been independently arrived at in open competition; or
3. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Real Property and other satisfactory terms of Disposal are obtained by negotiation; or
4. under those circumstances permitted by Section 5.3; or
5. such action is otherwise authorized by law.

5.3.b.1 No Real Property owned, leased or otherwise in the control of the Authority may be sold, leased, or otherwise alienated for less than its Fair Market Value except if:

- a. the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Real Property will remain with the government or any other public entity;
- b. the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
- c. in the event the Authority seeks to transfer Real Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not

be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate, or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate, and Assembly, the Authority may effectuate such transfer.

5.3.b.2. In the event a below Fair Market Value Real Property transfer is proposed, the following information must be provided to the Authority's Board of Trustees and the public:

- a. a full description of the Real Property;
- b. an appraisal of the Fair Market Value of the Real Property and any other information establishing the Fair Market Value sought by the Authority's Board of Trustees;
- c. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the Real Property is situated as are required by the transfer;
- d. a statement of the value to be received compared to the Fair Market Value;
- e. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- f. the names of other private parties who have made an offer for such Real Property, the value offered, and the purpose for which the Real Property was sought to be used.

5.3.b.3. Before approving the Disposal of any Real Property for less than Fair Market Value, the Authority's Board of Trustees shall consider the information described

in Paragraph 5.3.5b and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

5.4 An explanatory statement detailing the Disposal by negotiation of Authority Real Property subject to the PAAA as set forth in Section 5.3 shall be made for any Disposal of:

5.4.1 Real Property with a Fair Market Value in excess of one hundred thousand dollars (\$100,000.00) except that Real Property Disposed of by lease or exchange shall only be subject to 5.4.2 of this Section 5.4;

5.4.2 Real Property Disposed of by lease if the fair annual rent over the term of the lease is in excess of fifteen thousand dollars (\$15,000.00); and

5.4.3 Any Real Property or real and related personal property Disposed of by exchange, regardless of value, or any property any part of the consideration is for Real Property:

5.5 Each explanatory statement prepared in accordance with Section 5.4 above shall be transmitted to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State Authorities Budget Office not less than 90 days in advance of such Disposal, and a copy shall be kept by the Authority.

5.6 In the Authority's discretion, when it shall be deemed advantageous to the Authority and the State, the Authority may enter into an agreement with the Office of the Commissioner of General Services ("OGS") under which OGS may Dispose of the Authority's Real Property under terms and conditions agreed to by the Authority and the OGS. In Disposing of any such Real Property of the Authority, the OGS shall be bound by the relevant provisions of the PAAA.

5.7 The Guidelines shall not apply to any transfers of jurisdiction by the Authority pursuant to Public Lands Law §3(4).

- 5.8 The Director of Real Estate or equivalent(s) or designee shall provide all relevant documentation to the Environmental Division for the purposes of determining, if applicable, whether the Disposal of Real Property is in compliance with the State Environmental Quality Review Act, and for whether it adheres to the American Society of Testing and Material's guidelines for Environmental Site Assessments, if applicable.
- 5.9 No Authority employee who is involved in the award of Authority grants or contracts, may ask any purchaser(s), grantor(s), lessor(s) or officer(s), director(s) or employee(s) of such current or prospective purchaser(s), contractor(s) or grantee(s) to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- 5.10 No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 5.9 above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- 5.11 No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such

situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

VI. AUTHORITY REAL PROPERTY REPORTS

6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Disposed of during such reporting period and the name of the purchaser of the Real Property and the price paid by the purchaser for the Real Property, and (b) a description of the total amounts of Real Property sold without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property sold is less than Fair Market Value, a detailed explanation of the justification for making the sale without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such sale and determined that it complies with applicable law.

6.1.2 Pursuant to Public Authorities Law § 2896(3)(a), the Director of Real Estate or equivalent(s) or designee shall prepare for distribution to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State Authorities Budget Office, an annual report which shall include a list and description of all Real Property including such Real Property Disposed of during the fiscal reporting period. Regarding Disposals, this annual report shall include the price received by the Authority and the name of the purchaser of the Real Property.

- 6.2 The Authority may be called upon periodically to submit information regarding the Disposal of Real Property to organizations implementing the PAAA or other statutes regulating the Disposal of Real Property.
- 6.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent(s) may prepare and present ongoing reports regarding the Disposal of Real Property.

VII. APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD

- 7.1 The Guidelines shall be annually reviewed and approved by the Authority's Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the most recently reviewed and approved Guidelines, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the State Comptroller, the Authority shall also post such Guidelines on its internet website.

GUIDELINES

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**GUIDELINES AND PROCEDURES FOR THE DISPOSAL OF
NEW YORK POWER AUTHORITY REAL PROPERTY**

I. PURPOSE

The purpose of these Guidelines and Procedures for the Disposal of Real Property (“Guidelines”), which comply with Title 5-A, Article 9 of the Public Authorities Law, is to establish the procedures ~~which~~that detail the Authority’s ~~operative~~ policy and instructions regarding the disposal of real property. ~~In addition, the Guidelines and~~ designate a ~~e~~Contracting ~~e~~Officer who is responsible for the Authority’s compliance with, and enforcement of, ~~sueh~~the Guidelines.

II. DEFINITIONS

2.1 “Contracting Officer” shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority’s Trustees to be responsible for enforcement of the Guidelines for the Disposal of Real Property. The “Contracting Officer” is hereby designated to be the ~~Senior~~ Vice President – Enterprise Shared Services, or equivalent(s) or designee.

2.2 For the purposes of these Guidelines, “Dispose” or “Disposal” shall mean transfer of title or any other beneficial interest in real property in accordance with these Guidelines. Disposal does not include a release of an easement.

2.3 For the purposes of these Guidelines, “Real Property” shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to

another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

2.4 “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in the appropriate marketplace and under similar circumstances.

2.5 The term “Relative” shall mean any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant~~as referred to in~~ **Subsection 5.11.1.**

III. COMPLIANCE OVERVIEW

The Public Authorities Accountability Act (“PAAA”) requires the Authority to establish policy guidelines to accomplish the following:

- 3.1 Maintain inventory controls and accountability systems for all Real Property under the Authority’s control.
- 3.2 Periodically inventory Authority Real Property to determine which Real Property shall be Disposed of.
- 3.3 Dispose of Authority Real Property interests in accordance with the PAAA.
- 3.4 Prepare annual reports of Real Property Disposal transactions.

IV. DUTIES OF THE DIRECTOR OF REAL ESTATE

- 4.1 The Director of Real Estate or equivalent(s) or designee shall maintain adequate inventory controls and accountability systems for all Real Property under the Authority's control.
- 4.2 The Director of Real Estate or equivalent(s) or designee shall annually inventory Authority Real Property to determine which Authority Real Property shall be Disposed of and shall prepare a report identifying such Real Property for Disposal.
- 4.3 The Director of Real Estate or equivalent(s) or designee shall produce for publishing written reports of such Real Property as set forth in Article VI of these Guidelines.
- 4.4 The Director of Real Estate or equivalent(s) or designee shall arrange for the Disposal of any Real Property identified for Disposal by the Authority in accordance with these Guidelines and the Authority's Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.

V. PROCEDURES FOR THE DISPOSITION OF AUTHORITY REAL PROPERTY

- 5.1 The Authority may Dispose of Real Property for not less than the Fair Market Value of such Real Property by sale, exchange, or transfer, for cash, credit or other property, without warranty, and upon such other terms and conditions as the Contracting Officer deems proper under the provisions of the PAAA and as implemented by these Guidelines. Fair Market Value of the Authority Real

Property subject to Disposal shall be established by independent appraisal as appropriate and consistent with the intent of the PAAA. Such appraisal documents shall be included in the record of the Real Property Disposal transaction.

5.2 Except as set forth in Section 5.3 of the Guidelines, any Disposal of Real Property shall only be made after publicly advertising for bids in accordance with the following:

5.2.1 the advertisement for bids shall be made at such time prior to the Disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Real Property;

5.2.2 all bids shall be publicly disclosed at the time and place stated in the advertisement; and

5.2.3 the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Authority, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

5.3.a The Disposal of Authority Real Property may be negotiated or made by public auction without regard to Section 5.2 but subject to obtaining such competition as is feasible under the circumstances, if:

1. the Fair Market Value of the Real Property does not exceed fifteen thousand dollars (\$15,000.00); or

2. bid prices after advertising therefore are not reasonable, either as to all or some part of the Real Property, or have not been independently arrived at in open competition; or

3. the Disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Real Property and other satisfactory terms of Disposal are obtained by negotiation; or

4. under those circumstances permitted by Section 5.3; or

5. such action is otherwise authorized by law.

5.3.b.1 No Real Property owned, leased or otherwise in the control of the Authority may be sold, leased, or otherwise alienated for less than its Fair Market Value except

if:

- a. the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the Real Property will remain with the government or any other public entity;
- b. the purpose of the transfer is within the purpose, mission or governing statute of the Authority; or
- c. in the event the Authority seeks to transfer Real Property for less than its Fair Market Value to other than a governmental entity, which Disposal would not be consistent with the Authority's mission, purpose or governing statutes, the Authority shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate, or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either House of the Legislature shall take the form of a resolution by such House. The Governor and each House of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate, and Assembly, the Authority may effectuate such transfer.

5.3.b.2. In the event a below Fair Market Value Real Property transfer is proposed, the

following information must be provided to the Authority's Board of Trustees and the public:

- a. a full description of the Real Property;
- b. an appraisal of the Fair Market Value of the Real Property and any other information establishing the Fair Market Value sought by the Authority's Board of Trustees;
- c. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to

the communities in which the Real Property is situated as are required by the transfer;

- d. a statement of the value to be received compared to the Fair Market Value;
- e. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- f. the names of other private parties who have made an offer for such Real Property, the value offered, and the purpose for which the Real Property was sought to be used.

5.3.b.3. Before approving the Disposal of any Real Property for less than Fair Market Value, the Authority's Board of Trustees shall consider the information described in Paragraph 5.3.5b and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

5.4 An explanatory statement detailing the Disposal by negotiation of Authority Real Property subject to the PAAA as set forth in Section 5.3 shall be made for any Disposal of:

- 5.4.1 Real Property with a Fair Market Value in excess of one hundred thousand dollars (\$100,000.00) except that Real Property Disposed of by lease or exchange shall only be subject to 5.4.2 of this Section 5.4;
- 5.4.2 Real Property Disposed of by lease if the fair annual rent over the term of the lease is in excess of fifteen thousand dollars ~~(\$15,000.00)~~; and
- 5.4.3 Any Real Property or real and related personal property Disposed of by exchange, regardless of value, or any property any part of the consideration is for Real Property:

5.5 Each explanatory statement prepared in accordance with Section 5.4 above shall be transmitted to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State

Authorities Budget Office not less than 90 days in advance of such Disposal, and a copy shall be kept by the Authority.

- 5.6 In the Authority's discretion, when it shall be deemed advantageous to the Authority and the State, the Authority may enter into an agreement with the Office of the Commissioner of General Services (“OGS”) under which OGS may Dispose of the Authority’s Real Property under terms and conditions agreed to by the Authority and the OGS. In Disposing of any such Real Property of the Authority, the OGS shall be bound by the relevant provisions of the PAAA.
- 5.7 The Guidelines shall not apply to any transfers of jurisdiction by the Authority pursuant to Public Lands Law §3(4).
- 5.8 The Director of Real Estate or equivalent(s) or designee shall provide all relevant documentation to the Environmental Division for the purposes of determining, if applicable, whether the Disposal of Real Property is in compliance with the State Environmental Quality Review Act, and for whether it adheres to the American Society of Testing and Material’s guidelines for Environmental Site Assessments, if applicable.
- 5.9 No Authority employee who is involved in the award of Authority grants or contracts, may ask any purchaser(s), grantor(s), lessor(s) or officer(s), director(s) or employee(s) of such current or prospective purchaser(s), contractor(s) or grantee(s) to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.

- 5.10 No Authority employee may award or decline to award any grant or contract, or recommend, promise or threaten to do so because of a current or prospective grantee's or contractor's: (a) refusal to answer any inquiry prohibited by Section 5.9 above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- 5.11 No Authority employee may take part in any contracting decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

~~5.11.1 For purposes of this Section 5.11, the term "Relative" is defined in Section 2.5 of these Guidelines.~~

VI. AUTHORITY REAL PROPERTY REPORTS

- 6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Disposed of during such reporting period and the name of the purchaser of the

Real Property and the price paid by the purchaser for the Real Property, and (b) a description of the total amounts of Real Property sold without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property sold is less than Fair Market Value, a detailed explanation of the justification for making the sale without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such sale and determined that it complies with applicable law.

6.1.2 Pursuant to Public Authorities Law § 2896(3)(a), the Director of Real Estate or equivalent(s) or designee shall prepare for distribution to the State Comptroller, the Director of the Division of the Budget, the Commissioner of General Services, the State Legislature and the State Authorities Budget Office, an annual report which shall include a list and description of all Real Property including such Real Property Disposed of during the fiscal reporting period. Regarding Disposals, this annual report shall include the price received by the Authority and the name of the purchaser of the Real Property.

6.2 The Authority may be called upon periodically to submit information regarding the Disposal of Real Property to organizations implementing the PAAA or other statutes regulating the Disposal of Real Property.

6.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent(s) may prepare and present ongoing reports regarding the Disposal of Real Property.

VII. APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD

7.1 The Guidelines shall be annually reviewed and approved by the Authority's Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the most recently reviewed and approved Guidelines, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the State Comptroller, the Authority shall also post such Guidelines on its internet website.

EXHIBIT 2.4

GUIDELINES

AND

PROCEDURES

FOR THE

ACQUISITION OF REAL PROPERTY

BY THE NEW YORK POWER AUTHORITY

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GUIDELINES AND PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY BY THE NEW YORK POWER AUTHORITY

I. PURPOSE

1.1 These Guidelines and Procedures for the Acquisition of Real Property (“Guidelines”), which comply with Title 2, Article 9 of the Public Authorities Law, establish the procedures that detail the Authority’s policy and instructions regarding the acquisition of real property. In addition, the Guidelines designate a contracting officer who is responsible for the Authority’s compliance with, and enforcement of, the Guidelines.

II. DEFINITIONS

2.1 “Contracting Officer” shall mean the officer or employee of the Authority who shall be responsible for enforcement of the Guidelines for the acquisition of real property. The “Contracting Officer” is hereby designated to be the Vice President – Enterprise Shared Services, or the equivalent(s), or designee.

2.2 “Acquisition” or “Acquire” shall mean to obtain title to or any other beneficial interest in real property in accordance with applicable statutes and these Guidelines.

2.3 “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in

the appropriate marketplace and under similar circumstances.

2.4 “Real Property” shall mean real property, including land, tenements and hereditaments owned by the Authority, and any other interest in such real property, to the extent that such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

2.5 “Relative” is any person living in the same household as the Authority employee or any person who is a direct descendant of the Authority employee’s grandparents or the spouse of such descendant, as referred to in Article 5 of these Guidelines.

III. COMPLIANCE OVERVIEW

3.1 These Guidelines are being adopted consistent with the Public Authorities Accountability Act (“PAAA”).

3.2 The Authority may Acquire Real Property through purchase, eminent domain, state transfers of jurisdiction, lease and by other legal means.

3.3 The Authority’s New York statutory authority for land acquisition includes, without limitation, the Public Authorities Law, the Real Property Law, the Public Lands Law, the Eminent Domain Procedure Law and the Highway Law, as amended.

IV. DUTIES OF THE DIRECTOR OF REAL ESTATE

- 4.1 The Director of Real Estate or the equivalent(s) or designee will maintain adequate inventory controls and accountability systems for all Real Property under the Authority's control.
- 4.2 Real Property to be Acquired by the Authority will be in support of existing operating and transmission facilities or in support of new initiatives being pursued by the Authority. The Director of Real Estate or the equivalent(s) or designee will, in consultation with the other appropriate Authority staff (by oral or written communication), determine what Lands are necessary or convenient for Acquisition by the Authority.
- 4.3 The compensation for and the procedure for such Acquisition must be consistent with these Guidelines and the Authority's Real Estate Expenditure Authorization Procedures as amended.
- 4.4 The Director of Real Estate or the equivalent(s) or designee will arrange for the transfer or Acquisition of any Real Property identified for Acquisition by the Authority in accordance with these Guidelines and the Authority's Real Estate Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.
- 4.5 The Director of Real Estate or the equivalent(s) or designee will provide all relevant

documentation to the Authority's Environmental Division to determine whether the Acquisition of Real Property is in compliance with the State Environmental Quality Review Act, and whether it adheres to the American Society of Testing and Material's Guidelines for Environmental Site Assessments, if applicable.

V. ETHICAL CONSIDERATIONS

- 5.1 No Authority employee who is involved in the Acquisition of Real Property, may ask any purchaser, grantor, lessor or officers, directors or employees of such current or prospective purchaser, grantor or lessor to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- 5.2 No Authority employee may take part in any Acquisition decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such situation arises, the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

VI. ACQUISITION REPORTS BY THE AUTHORITY

6.1 The Director of Real Estate or equivalent(s) or designee shall publish the following reports in accordance with these Guidelines:

- 6.1.1 Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Authority Acquired during such reporting period and the name of the seller of the Real Property and the price paid by the Authority for the Real Property, and (b) a description of the total amounts of Real Property purchased without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property purchased exceeds Fair Market Value, a detailed explanation of the justification for making the purchase without competitive bidding, and a certification by the Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such purchase and determined that it complies with applicable law.
- 6.1.2 The Authority may be called upon periodically to submit information regarding the Acquisition of Real Property to organizations implementing the PAAA or other statutes regulating the Acquisition of Real Property, such as the Authority Budget Office through the Public Authorities Reporting System ("PARIS").
- 6.1.3 The Authority's Governance Committee meets at least three times per year and staff from Enterprise Shared Services – Real Estate or the equivalent may, upon request, prepare and present ongoing reports regarding the Acquisition of Real Property.

3.1 PROCUREMENT CONTRACTS SUMMARY **DECEMBER 31, 2010**

The following is a summary of all procurement contracts including multi-year contracts awarded prior to December 31, 2010. These contracts have been active during 2010 and are \$5,000 or greater in value. There are 2125 such contracts with a total estimated value of more than \$2.6 billion not including fossil fuel or corporate finance expenditures covered in Sections 3.6 and 3.7 of this report. The total expenditures in 2010 for these contracts exceeded \$365 million.

- 9% of these contracts are for construction work;
- 45% are for the purchase of equipment and commodities;
- 16% are for personal service contracts such as engineering, consulting and legal services
- 30% are for other services, such as technicians, contracted personnel, maintenance and repairs.

Based on the total value of the contracts included in this summary, approximately 96% of the total dollars expended were for contracts that were competitively bid. The basis for the sole source awards included the purchase of highly specialized spare parts and services from original equipment manufacturers and procurement of services on an emergency basis and from proprietary sources.

On March 31, 2011, the “2010 Annual Report of Procurement Contracts” will be certified by the Authority’s Chief Financial Officer and submitted to the NYS Comptroller’s Public Authorities Reporting Information System (PARIS) in accordance with Section 2879 of the NYS Public Authorities Law.

EXHIBIT 3.2

DISPOSAL OF PERSONAL PROPERTY January – December 2010

2010 Annual Report of Disposal of Personal Property

The Public Authorities Accountability Act (“PAAA”) requires the preparation of a report, not less frequently than annually, listing all Personal Property disposed of during the reporting period. To this end, the 2010 Annual Report of Disposal of Personal Property over \$5,000 in value is attached. The description of the property, purchaser’s name and price received by the Authority, as required by New York Public Authorities Law § 2896, will be presented in the official 2010 Annual Report of Disposal of Personal Property to be submitted to the full Board of Trustees for review and approval at their March 29, 2011 meeting and included in the Authority’s § 2800 Annual Report and other filings to be submitted to various State entities. The sale price and other additional data (such as fair market value, date of transaction, full address of purchaser, etc.) required by the Authorities Budget Office (“ABO”) will be included in the 2010 Public Authorities Reporting Information System (“PARIS”) Annual Report of Personal Property Disposal to be submitted to the ABO by March 31, 2011.

WPO and Facilities – Fourth Quarter Activity

In June 2010, staff solicited proposals (RFP P10-080274KK) for the sale and removal of certain plant equipment, in connection with the decommissioning and dismantling of the Poletti Plant. This resulted in five disposal transactions conducted during the 4th Qtr 2010 with the following four firms: 1) Utility Investment Recovery LLC of Wilmington, NC for a total amount of \$818,700 for equipment / materials relating to the Condenser, Feedwater Heaters and Generator Hydrogen Cooler. (Note: of this amount, UIR paid the Authority \$646,816 as of 12/31/10 and the balance is expected to be paid in the 1st Qtr 2011 per payment schedule); 2) TCI of NY LLC of Hudson, NY for four 345 kV Step-Up Transformers and one 3-phase Auxiliary Transformer for \$305,000; 3) ProPump Services LLC of Bethlehem, PA for various pumps for \$10,500 and 4) two contracts to Siemens Energy Inc of Orlando, FL for various valves for \$50,000 and a Generator Exciter for \$125,000. The total Sale Price / Price Received by the Authority for these five transactions was \$1,309,200.

WPO and Facilities – Annual Summary and Subtotal

Pages 1 – 2 include seven (7) Personal Property Disposal transactions over \$5,000 in value conducted by the Property Disposal Coordinators (“PDCs”) during the 2010 reporting period. As previously reported, of this number, two (2) were conducted at the St. Lawrence /FDR Project for the sale of scrap metals, resulting in payment to the Authority of \$65,186.66 and five (5) were conducted at the Charles Poletti Power Project for the sale of certain plant equipment / materials in connection with the decommissioning and dismantling of the Poletti Plant, resulting in payment to the Authority of \$1,309,200, as further set forth above. There were no such other reportable transactions conducted by the PDCs in 2010. **The Total Price Received by the Authority for these Personal Property Disposal transactions conducted by the PDCs in 2010 was \$1,374,386.66.**

EXHIBIT 3.2

Fleet

Fleet – Fourth Quarter Activity

The November 20, 2010 auction conducted by JJ Kane resulted in the sale of 26 additional units, of which 19 were over \$5,000. The “Sale Price” (Gross) for these 19 units was \$221,450.00, which resulted in a “Price Received by the Authority” (Net Amount) of \$210,721.50 after commission and transportation costs were deducted.

Fleet – Annual Summary and Subtotal

Pages 3 – 6 include 68 disposal transactions with a Sale Price over \$5,000 conducted on behalf of the Authority’s Fleet Operations Division in 2010. The Authority participated in three Fleet-related auctions conducted by the firm JJ Kane Auctioneers on April 24, August 28, and November 20, 2010, respectively. Such auctions resulted in the sale of 160 units comprising light duty vehicles, heavy duty trucks and special equipment, of which 64 were over \$5,000 and which are included in the attached Report. The total auction “Sale Price” (Gross) for these 64 units was \$647,750, which resulted in a “Price Received by the Authority” (Net Amount) of \$613,935.75 (after commission and transportation costs were deducted).

The Authority also participated in an online auction on December 22, 2009 handled by the firm Auctions International. Such auction resulted in the sale of 3 additional Fleet units, of which one was over \$5,000 and which resulted in net proceeds of \$6,991. Since payment was not received by the Authority until 2010, Fleet included this transaction in the 2010 Report. In addition to the aforementioned auctions, Fleet Operations staff also solicited bids for the sale of three crew cabs (removed from Trooper tracked utility machines), which resulted in additional net proceeds of \$44,985.

In summary, the 2010 Annual Personal Property Disposal Report includes the sale of 68 reportable Fleet-related units with a Sale Price over \$5,000 conducted during the 2010 reporting period by or on behalf of the Authority’s **Fleet Operations**, with a total “Sale Price” (Gross) of \$699,749 and a “**Price Received by the Authority**” (Net Amount) of **\$665,911.75**.

Grand Total for 2010

As summarized on page 6 of the attached Report, the **Grand Total “Price Received by the Authority” (Net Amount)** for all Personal Property with a value in excess of \$5,000 that was disposed of in 2010 was **\$2,040,298.41** [Sale Price (Gross) \$2,074,135.66 less \$33,837.25 (commission / transportation fees)]. (It should be noted that an **additional \$104,389.60** was received for the sale of 98 Fleet units with a value **less than or equal to \$5,000**, which are not included in the attached Report.)

EXHIBIT 3.2

POWER AUTHORITY OF THE STATE OF NEW YORK

2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

DESCRIPTION	PURCHASER	SALE PRICE	PRICE RECEIVED by the Authority
SCRAP METALS AT ST. LAWRENCE /FDR PROJECT	CASELLA WASTE SERVICES	\$ 50,337.16	\$ 50,337.16
SCRAP METALS AT ST. LAWRENCE /FDR PROJECT	CASELLA WASTE SERVICES	\$ 14,849.50	\$ 14,849.50
EQUIPMENT RELATING TO CONDENSER, FEEDWATER HEATERS AND HYDROGEN COOLER AT POLETTI PROJECT	UTILITY INVESTMENT RECOVERY LLC	\$ 818,700.00	\$ 818,700.00 *
EQUIPMENT RELATING TO FOUR 345KV STEP-UP TRANSFORMERS & ONE 3-PHASE AUX. TRANSFORMER AT POLETTI PROJECT	TCI OF NY LLC	\$ 305,000.00	\$ 305,000.00
VARIOUS PUMPS AT POLETTI PROJECT	PRO PUMP SERVICES LLC	\$ 10,500.00	\$ 10,500.00
VARIOUS VALVES AT POLETTI PROJECT	SIEMENS ENERGY INC	\$ 50,000.00	\$ 50,000.00

* Of this amount, UIR paid the Authority \$ 646,816 as of 12/31/10 and the balance is expected to be paid in the 1st Qtr 2011.

EXHIBIT 3.2

POWER AUTHORITY OF THE STATE OF NEW YORK
2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

DESCRIPTION	PURCHASER	SALE PRICE	PRICE RECEIVED by the Authority
EQUIPMENT RELATING TO GENERATOR EXCITER AT POLETTI PROJECT	SIEMENS ENERGY INC	\$ 125,000.00	\$ 125,000.00
	SUBTOTAL:	\$ 1,374,386.66	\$ 1,374,386.66

EXHIBIT 3.2

POWER AUTHORITY OF THE STATE OF NEW YORK
2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000
FLEET OPERATIONS

DESCRIPTION	PURCHASER	SALE PRICE	Commission/ Transportation Fees	PRICE RECEIVED * by the Authority
1987 GROVE MANLIFT MZ56	D POMINVILLE CONSTRUCTION LLC	\$5,750.00	\$377.50	\$5,372.50
1994 EAGER BEAVER TRAILER	CRASH SCRAP METALS INC	\$11,000.00	\$580.00	\$10,420.00
1995 CLARK FORKLIFT	APOLLO NORTHEAST SALES & SVCS INC	\$6,250.00	\$325.00	\$5,925.00
1996 DODGE D2500 PICKUP	SDE EQUIPMENT SALES	\$6,999.00	\$8.00	\$6,991.00
1998 CHEVY K3500 PICKUP	UPSTATE AUTO SALES INC	\$5,600.00	\$418.00	\$5,182.00
1998 INTR AERIAL MANLIFT	RICHARD MARKIEL	\$27,500.00	\$1,030.00	\$26,470.00
1998 MACK SNOW PLOW	VILLAGE TRUCK SALES	\$10,500.00	\$520.00	\$9,980.00
1998 NEW HOLLAND TRACTOR	CASSONE TRUCK SALES & LEASING INC	\$13,500.00	\$589.00	\$12,911.00
1999 BRUSH CHIPPER	WILLIAM BIERS INC	\$74,000.00	\$2,425.00	\$71,575.00
1999 FORD F350	UPSTATE AUTO SALES INC	\$6,500.00	\$445.00	\$6,055.00
1999 FORD F550	UPSTATE AUTO SALES INC	\$6,950.00	\$458.50	\$6,491.50
1999 HICO HT081-8	CC POWER LLC	\$27,000.00	\$1,060.00	\$25,940.00
1999 HICO HT081-8	CC POWER LLC	\$23,000.00	\$815.00	\$22,185.00
1999 HICO HT081-8	4496213 CANADA INC	\$21,000.00	\$880.00	\$20,120.00
1999 KENWORTH T80 TRACTOR	JABLONSKI EXCAVATING INC	\$11,500.00	\$595.00	\$10,905.00
2000 CHEVY CUBE VAN	UPSTATE AUTO SALES INC	\$6,850.00	\$455.50	\$6,394.50
2000 CHEVY K3500	UPSTATE AUTO SALES INC	\$6,300.00	\$439.00	\$5,861.00
2000 FORD EXPEDITION	RIDGE ROAD LEASING LLC	\$5,700.00	\$421.00	\$5,279.00
2001 CHEVY K2500	UPSTATE AUTO SALES INC	\$6,500.00	\$379.00	\$6,121.00
2001 CHEVY TAHOE	JACOB SKABELUND	\$6,250.00	\$387.50	\$5,862.50
2001 CHEVY TAHOE	LISA NAI	\$6,000.00	\$380.00	\$5,620.00
2001 CHEVY TAHOE	UPSTATE AUTO SALES INC	\$5,250.00	\$357.50	\$4,892.50

* Sale Price less commission / transportation costs

EXHIBIT 3.2

POWER AUTHORITY OF THE STATE OF NEW YORK
2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000
FLEET OPERATIONS

DESCRIPTION	PURCHASER	SALE PRICE	Commission/ Transportation Fees	PRICE RECEIVED * by the Authority
2001 DODGE D2500	UPSTATE AUTO SALES INC	\$7,500.00	\$475.00	\$7,025.00
2001 DODGE D3500	UPSTATE AUTO SALES INC	\$6,950.00	\$392.50	\$6,557.50
2001 FORD F550	RIDGE ROAD LEASING LLC	\$16,500.00	\$695.00	\$15,805.00
2001 JLG 660SJC MANLIFT	STEVEN J HALL GEN'L CONTRACTOR INC	\$24,000.00	\$970.00	\$23,030.00
2002 CHEVY TAHOE	NANCY PECKHAM	\$9,100.00	\$473.00	\$8,627.00
2002 CHEVY TAHOE	UPSTATE AUTO SALES INC	\$6,000.00	\$380.00	\$5,620.00
2002 CHEVY TAHOE	LAFAVE MOTOR SALES LLC	\$6,000.00	\$430.00	\$5,570.00
2002 GMC K1500	LAMONICA MOTOR SALES	\$5,250.00	\$407.50	\$4,842.50
2003 CHEVY K150	JASON MACIEJKO	\$5,100.00	\$353.00	\$4,747.00
2003 CHEVY K2500	GYMO ARCH ENG SUR PC	\$9,250.00	\$477.50	\$8,772.50
2003 CHEVY TAHOE	ROBERT DAWES	\$7,900.00	\$437.00	\$7,463.00
2003 CHEVY TAHOE	CHRIS BUSHNELL	\$5,500.00	\$365.00	\$5,135.00
2003 CHEVY TAHOE	BRAVO AUTO SALES INC	\$6,650.00	\$399.50	\$6,250.50
2003 CHEVY TAHOE	BRAVO AUTO SALES INC	\$7,800.00	\$396.50	\$7,403.50
2003 CHEVY TAHOE	MCGUIRE TREE REMOVAL	\$8,100.00	\$443.00	\$7,657.00
2003 CHEVY TAHOE	M & J CONSTRUCTION CO	\$7,700.00	\$431.00	\$7,269.00
2003 GMC K1500	BRAVO AUTO SALES INC	\$6,500.00	\$395.00	\$6,105.00
2003 HONDA CIVIC	ROADRUNNER EXPRESS LUBE LLC	\$6,500.00	\$445.00	\$6,055.00
2003 HONDA CIVIC	ROADRUNNER EXPRESS LUBE LLC	\$6,500.00	\$445.00	\$6,055.00
2003 HONDA CIVIC	DAVID WILSON	\$6,750.00	\$452.50	\$6,297.50
2004 BOBCAT TOOLCAT LOADER	W E MCCARTHY INC	\$18,000.00	\$1,122.25	\$16,877.75
2004 CHEVY TAHOE	HERBERT D YANCEY	\$7,850.00	\$435.50	\$7,414.50

* Sale Price less commission / transportation costs

EXHIBIT 3.2

POWER AUTHORITY OF THE STATE OF NEW YORK
2010 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000
FLEET OPERATIONS

DESCRIPTION	PURCHASER	SALE PRICE	Commission/ Transportation Fees	PRICE RECEIVED * by the Authority
2004 CHEVY TAHOE	BRAVO AUTO SALES INC	\$6,000.00	\$380.00	\$5,620.00
2004 CHEVY TAHOE	QUICK STOP EXPRESS INC	\$6,250.00	\$437.50	\$5,812.50
2004 CHEVY TAHOE	JAMES BARBER	\$7,600.00	\$478.00	\$7,122.00
2004 CHEVY TAHOE	QUICK STOP EXPRESS INC	\$6,250.00	\$387.50	\$5,862.50
2004 CHEVY TAHOE	W & W DIRT WORX	\$6,500.00	\$425.00	\$6,075.00
2004 CHEVY TAHOE	W & W DIRT WORX	\$6,500.00	\$395.00	\$6,105.00
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,750.00	\$402.50	\$5,347.50
2004 TOYOTA PRIUS	BARBARA MCCONNELL	\$5,750.00	\$402.50	\$5,347.50
2004 TOYOTA PRIUS	CARSBAZAR INC	\$6,000.00	\$430.00	\$5,570.00
2004 TOYOTA PRIUS	AMBER HORNYAK	\$5,500.00	\$395.00	\$5,105.00
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,750.00	\$402.50	\$5,347.50
2004 TOYOTA PRIUS	CARSBAZAR INC	\$5,750.00	\$402.50	\$5,347.50
2005 CHEVY TAHOE	QUICK STOP EXPRESS INC	\$5,200.00	\$386.00	\$4,814.00
2005 FORD ESCAPE	CHARLES DATTELLAS	\$6,400.00	\$442.00	\$5,958.00
2005 FORD ESCAPE	KELVIN WIEBE	\$6,500.00	\$445.00	\$6,055.00
2005 FORD ESCAPE	CHARLES DATTELLAS	\$6,250.00	\$350.00	\$5,900.00
2005 FORD F250	HERBERT D YANCEY	\$7,500.00	\$475.00	\$7,025.00
2005 FORD F250 PICKUP	THE OL' STATION LLC	\$9,500.00	\$485.00	\$9,015.00
2007 CAMOPLAST CAB	PRINOTH LTD	\$15,000.00	\$5.00	\$14,995.00
2007 CAMOPLAST CAB	PRINOTH LTD	\$15,000.00	\$5.00	\$14,995.00
2007 CAMOPLAST CAB	PRINOTH LTD	\$15,000.00	\$5.00	\$14,995.00
2007 CHEVY TAHOE	PAUL BURGESS JR	\$17,750.00	\$762.50	\$16,987.50

* Sale Price less commission / transportation costs

3.3 ACQUISITION AND DISPOSAL OF REAL PROPERTY JANUARY 1 – DECEMBER 31 2010

Section 2896 of the PAL requires a report setting out all real property transactions of the Authority over a given reporting period. Such report shall consist of a list and full description of all real property disposed of during such period. The report shall contain the price received by the Authority and the name of the purchaser. There is no monetary threshold so all disposals regardless of value need to be reported. In addition, acquisitions and leasing transactions are also included in this report. All acquisitions and dispositions reported herein were approved by the Authority's Trustees and/or are consistent with current Trustee approved Expenditure Authorization Procedures. The reporting period is January 1 through December 31, 2010.

I. ACQUISITIONS

Acquisition

Easement Acquisition

Easement to Cumberland Head – The Authority finalized a long term easement for the placement, operation, and maintenance of the Authority's 115 kV Plattsburgh to Vermont (PV-20) transmission line that crosses Lake Champlain from Cumberland Head in Clinton County, New York to Vermont. This important transmission line provides power to the New England States from the St. Lawrence Power Project and is in accordance with the FERC operating license.

Sewer Easements in Support of New Warehouse - Real Estate has acquired easements for utilities across lands of Niagara University and NYSDOT. These utilities, including a sewer line, will serve the new warehouse currently being constructed, as well as future expansion by Niagara University.

Holtsville Fence Easement – The Authority acquired an easement for the construction of a fence grounding system located on the perimeter of the Holtsville Power Plant on Long Island. This facility is to mitigate stray current from becoming a shock potential on the security fence surrounding the Holtsville plant. In addition, it mitigates any spark hazard from stray current. The easement was acquired from National Grid.

Fee Acquisition

First Buffalo Marina – Finalized and closed on a 16 acre site known previously as the First Buffalo Marina. This was a major acquisition and has now permanently resolved the question of the winter boat mooring of our tug boats, icebreaker, and barge. NYPA is currently looking for a contractor to operate the Marina as well as working with Erie Canal Harbor Development Corporation to potentially convey a portion of the marina to ECHDC.

Transfers of Jurisdiction

The Authority completed a series of land exchanges with the New York State Department of Transportation through the process of Transfers of Jurisdiction. Through this process, the Authority and DOT have now memorialized long standing commitments for use and access of the

Authority's Interplant Access Road located in Niagara Falls, New York proximate to the Niagara Power Project.

Danger Tree Permits Acquired

During this reporting period, the Authority acquired 82 danger tree permits. These rights allow the Authority to eliminate dangerous vegetation which is critical to the safe operation of the New York State transmission grid. The transmission facilities covered by these danger tree permits include the Niagara-Adirondack, Fitz-Edic, Willis-Plattsburgh, Plattsburgh-Vermont, Gilboa-New Scotland and Moses-Willis-Plattsburgh lines. This is an on-going effort.

Land Use Permits Acquired

Finally, the real estate group issued 13 land use permits for use of the Authority's easement areas. These permits, with their accompanying insurance requirements, assure the use of the Authority's easement consistent with the operation of our transmission lines.

Permit No. MRG-10-1P	Permittee ALCOA, Inc.
Type of Permit Permit	
Purpose Install, operate, maintain, repair, replace, and remove a monitoring and pump well and two piezometers between the Authority's MRG 1 and MRG 2 115 kV transmission lines together with the necessary accessories and appurtenances thereto.	
Date Issued 8/13/2010	
Permit No. MW-10-1P	Permittee St. Lawrence Gas Company
Type of Permit Permit Requiring Insurance	
Purpose Construct, install, operate, maintain, repair, replace, and remove an underground four inch diameter welded steel high pressure natural gas main to run perpendicularly across the Authority's Moses-Willis and Barnhart-Plattsburgh Transmission easements and may also affect the Authority's off-right-of-way access road together with the necessary accessories and appurtenances thereto.	
Date Issued 7/8/2010	
Permit No. SLPP-10-1P	Permittee Greater Massena Chamber of Commerce
Type of Permit Special Use	
Purpose Use an area known as Hawkins Point for dog sled races, snowmobiles, trail groomers, and four wheelers to patrol the trail during said dog sled races, also known as the "Massena Dash."	
Date Issued 2/4/2010	
Permit No. SLPP-10-2P	Permittee Village of Massena

Type of Permit

Permit Requiring Insurance

Purpose

Clear and remove brush for a proposed hiking/walking/biking trail (Tom Grow Trail) together with the necessary accessories and appurtenances thereto on or across land owned by or under the jurisdiction of Authority.

Date Issued

7/23/2010

Permit No.

NPP-09-3P

Permittee

Killian Bulk Transport, Inc.

Type of Permit

Permit Agreement

Purpose

Joint use with the Authority of "Office Building" as shown in Area 1, the "Truck Repair Garage" as shown on Exhibit C to May 15, 2010, and the use of Areas 1 and 3 "Storage Area(s)" for the storage of trucks and other equipment until August 31, 2009.

Date Issued

5/15/2010

Permit No.

NPP-10-1P

Permittee

Niagara Falls Water Board

Type of Permit

Permit Requiring Insurance

Purpose

Construct a bulkhead within the easy bypass (sewer) pipe at the south side interceptor complete with relief valve, construction access, field office (one (1) office trailer), staging of materials and equipment, removal of sediment at manhole(s), adjacent to the Authority's pumping station on Royal Avenue and over the Authority's conduits, together with the necessary accessories and appurtenances thereto.

Date Issued

8/23/2010

Permit No.

NPP-10-2P

Permittee

Niagara Mohawk Power Corp DBA National Grid

Type of Permit

Special Use Permit

Purpose

Construct, maintain, use, and remove a temporary gravel stone access roadway for the purpose of performing refurbishment activities on Permittee's existing high voltage transmission lines and to permit the placement of jersey barriers and/or large boulders to restrict access by others to the temporary gravel stone access roadway.

Date Issued

2/23/2010

Permit No.

NPP-10-3P

Permittee

Concrete Applied Technologies Corp.

Type of Permit

Permit Requiring Insurance

Purpose

Construct and install communications infrastructure (fiber optic wires and conduits) together with the necessary accessories and appurtenances thereto.

Date Issued

7/13/2010

Permit No.

NPP-10-6P

Permittee

Niagara Falls Water Board

Type of Permit**Permit Requiring Insurance****Purpose**

Construct, widen, pave with asphalt, install, operate, maintain, repair, replace and remove an existing road called "A Street" which will be used as a detour for trucks to access, ingress, egress, and regress to and from Praxair facilities together with the necessary accessories and appurtenances thereto.

Date Issued

9/9/2010

Permit No.

NPP-10-7P

Permittee

URS Corporation - New York and Clark Rigging

Type of Permit**Special Use Permit****Purpose**

Access, removal and the staging of a crane to allow visual inspection of rock slopes adjacent to the Rainbow Bridge and the Lewiston-Queenston Bridge.

Date Issued

10/1/2010

Permit No.

CR-10-1P

Permittee

New York State Police, Electronics Surveillance

Type of Permit**Special Use****Purpose**

Mount a surveillance camera and associated equipment on Authority owned pole number NYPA 68. The said area is owned by or under the jurisdiction of the Authority.

Date Issued

5/26/2010

Permit No.

GF-08-1P

Permittee

NYSE&G

Type of Permit**Permit Requiring Insurance****Purpose**

Underground electric facilities

Date Issued

3/12/2010

Permit No.

MS-09-1P

Permittee

Ignazio Castiglia

Type of Permit**Special Use****Purpose**

Maintain and repair an existing driveway which is owned by or under the jurisdiction of the Authority.

Date Issued

1/18/2010

II. DISPOSITIONS

National Grid and Verizon – NYPA granted National Grid and Verizon easements across NYPA lands located at the Reservoir State Park in Niagara Falls for the construction of an electric distribution line and communications line in support of NYPA's construction of an enclosure to allow people using the Park to come in from the cold occasionally. There was no monetary consideration for this transaction.

National Grid – NYPA granted National Grid an easement over NYPA lands located at 100 Katherine Street in Buffalo for the construction of an electrical distribution line in support of NYPA's on-going use of the ice boom storage site. There was no monetary consideration for this transaction.

III. LEASING

Headquarters Leasing

The Authority maintains facilities which it leases out to various tenants. The available space in the building at 123 Main Street is essentially 100% leased. Our total inventory of landlord leases, which generates more than \$3.3M in revenue, is set out in the table below.

FACILITY	TENANT	PURPOSE	EXPIRATION	ANNUAL RENTAL
WPO	Bank of New York	Office Space	7/31/2011	\$705,624.00
WPO	Berman Bavero	Office Space	9/30/2014	\$201,211.00
WPO	Beacon	Office Space	3/31/2012	\$45,000.00
WPO	Danziger & Markhoff	Office Space	3/31/2017	\$431,070.00
WPO	The Parker Group, Inc.	Office Space	3/31/2012	\$66,450.00
WPO	Hodagaya Chemical	Office Space	5/31/2015	\$66,206.00
WPO	Federal Bar	Office Space	7/31/2016	\$63,817.00
WPO	Continental III, Inc.	Restaurant	2/28/2011	\$34,470.00
WPO	Arch Wireless	Beeper System (WPO Garage)	10/31/2011	\$5,400.00
WPO	Thomas M. Bona, PC	Office Space	12/31/2016	\$290,376.00
WPO	SKCG Group , Inc.	Office Space	1/31/2014	\$464,928.00
WPO	Community Mutual	Office Space	4/30/2015	\$173,491.00
WPO	Misys	Office Space	12/31/2016	\$705,600.00
WPO	Westchester Philharmonic	Office Space	12/31/2009	\$10,875.00
WPO	West. Co. Narcotics Initiative	Office Space (Permit for Temporary Use)	12/31/2011	\$45,780.00
WPO	West. Co. District Attorney	Office Space (Permit for Temporary Use)	12/31/2011	\$22,590.00
WPO	NY State Police	Office Space (Permit for Temporary Use)	12/31/2011	\$47,250.00
WPO	Empire State Development Corp.	Office Space (Permit for Temporary Use)	OPEN	\$5,361.00
WPO	NYS Retirement System	Office Space - part time	12/31/2011	\$6,900.00
		TOTAL ANNUAL REVENUES		\$3,392,399.00
Note: Annual rental amounts are based on the fixed rent excluding any abatements				
*Rent obligation through April.				

During this reporting period, the Authority entered into the following leases in support of our headquarters functions:

Hodagaya Chemical – White Plains Office

The Authority entered into a five-year extension with a long term tenant, Hodagaya Chemical, for space on the 9th floor at 123 Main Street. The terms of the lease are set forth below:

Annual

<u>Tenant</u>	<u>Space</u>	<u>Expiration</u>	<u>Rental</u>
Hodagaya Chemical	2,675 rsf on the 9 th floor of 123 Main Street	5/31/2015	\$69,817

Landmark Aviation – Westchester County Airport

The Authority renewed its office and hangar lease at the Westchester County Airport. This leased premises houses both NYPA's plane and its pilots. The terms of the renewal are as follows:

<u>Landlord</u>	<u>Space</u>	<u>Expiration</u>	<u>Annual Rental</u>
Landmark Aviation	Office & Hangar Space	4/30/2013	\$82,044

PS Associates – Albany Office

The Authority renewed and extended its office lease at 30 South Pearl in Albany. The purpose was to add additional space to accommodate Albany staff. The expansion will include an additional 3,860 rentable square feet, bringing the total amount to 12,620. The rental rate is continued at \$20 per rsf and the building will contribute approximately \$40,000 to the cost of the build-out of the new space at no cost to NYPA. The basic lease terms are as follows:

<u>Landlord</u>	<u>Space</u>	<u>Expiration</u>	<u>Annual Rental</u>
PS Associates	12,620 rsf on the 10 th floor of 30 South Pearl	approximately 7/1/2015	\$252,400

501 7th Avenue Associates – New York Office

The Authority entered into a Modification and Partial Surrender Agreement with 501 7th Avenue Associates. This agreement surrenders approximately 40,000 rsf which NYPA had been subleasing to the New York State OGS. This partial surrender will save the Authority approximately \$477K. In addition, the Authority extended its lease in much smaller space with the same Landlord on terms as set out below:

<u>Landlord</u>	<u>Space</u>	<u>Expiration</u>	<u>Annual Rental</u>
501 7 th Avenue Associates	7,185 rsf on the 9 th floor of 501 7 th Avenue, New York City	8/31/2011	\$276,622.60

Leasing Support for Operating Projects and Transmission Facilities

The following lease was renewed and extended during this reporting period.

Bartnick's Garage (as tenant) – The Authority extended its lease of private warehouse space in the City of Utica. This space is used to support the Marcy operation near Utica and terminates April 30, 2011 unless further extended. The annual rental for this facility is approximately \$27,300.

IV. ST. LAWRENCE RELICENSING

St. Lawrence Lands Program

On October 31, 2001, the Authority filed an application for a new license, pursuant to Sections 4(e) and 15 of the Federal Power Act for the continued operation and maintenance of the 912 megawatt (MW) St. Lawrence F.D.R. Power Project. On February 6, 2003, the Authority filed a "Comprehensive Accord" (Settlement Agreement). On October 23, 2003, the Federal Energy Regulation Commission (hereinafter "FERC") issued an "Order Approving Settlement Agreements, Dismissing Complaint and Issuing New License" in which FERC *inter alia* approved the Settlement Agreement.

As part of the Settlement Agreement, the Authority agreed to several changes to the Project boundary. These proposed changes removed approximately 1,340 acres from the Project. With these changes, the Authority intends to transfer jurisdiction over approximately 741 acres at Galop Island State Park and environmentally sensitive lands in Lisbon and Waddington to other state agencies. The remaining approximately 599 acres of removed lands are in the process of being conveyed either to the affected local municipality or to adjoining landowners, if interested. For all conveyed lands, the Authority would retain a flowage easement and access easements where appropriate to provide necessary rights to traverse conveyed lands for Project-related activities.

To date, of the 599 acres projected to be conveyed approximately 510 acres have been conveyed. The following chart sets out conveyances made during this reporting period.

NYPA Surplus Map No	NYPA Surplus Parcel No	Surplus Parcel Acres	Current Owners name	Appraisal Value	Deed Filed in County Clerk
1150C	8322	0.25	William Tiernan and Marcia Tiernan	\$ 100.00	1/8/2010
1151C	8321	0.01	William Tiernan and Marcia Tiernan	\$ 10.00	1/8/2010
1164C	8171	0.2	Tina Marie Page and John Jeffrey Page	\$ 2,400.00	1/8/2010
1147C	8213	0.14	Royal S. Lawrence and Jane E. Lawrence	\$ 2,500.00	1/29/2010
1185C	8672	0.38	G. CARL and HELEN L. ALVERSON	\$ 4,600.00	1/29/2010
1163C	8175	0.36	DEBRALEE A. ZYSIK and DAVID A. ZYSIK	\$ 4,300.00	1/29/2010
1164C	8172	0.05	David A. Zysik and Debralee A. Zysik	\$ 500.00	1/29/2010
1180C	8542	0.26	JOHN D. MACDONALD	\$ 3,900.00	1/29/2010
1147C	8211	0.07	James O. Locy and Dorothy H. Locy	\$ 1,300.00	1/29/2010
1177C	8501	0.23	Diane M. St. Onge and Gary J. St. Onge	\$ 3,450.00	1/29/2010
1164C	8173	0.08	DAVID A. ZYSIK and DEBRALEE A. ZYSIK	\$ 800.00	1/29/2010
1157C	8366	0.11	WILLIAM R. AND JANICE E. ARQUIETT	\$ 1,100.00	1/29/2010
1160C	8637	0.39	IRENE HANSON attn: Douglas Hanson	\$ 7,000.00	1/29/2010
1174C	8461	0.09	Robert F. Post and Judith L. Post	\$ 1,350.00	1/29/2010
1181C	8560	0.18	WILLIAM S. and JUDITH SPRIGGS	\$ 2,700.00	2/19/2010
1162C	8415	0.12	BARRY J. and ALLISON L. VERVILLE	\$ 250.00	2/19/2010
1181C	8561	0.22	WILLIAM S. and JUDITH A. SPRIGGS	\$ 3,300.00	2/19/2010

1182C	8677	0.4	Mary O'Horo Loomis and Scott R. Loomis	\$ 400.00	3/5/2010
1146C	8198	0.2	Robert and Kay Harriet Smith	\$ 3,600.00	4/1/2010
1146C	8208	0.12	Colin K. Grant, Jr. and Sandra J. Grant	\$ 2,200.00	4/1/2010
1180C	8546	0.17	DANIEL K. FREGOE and JUDY M. FREGOE	\$ 2,550.00	4/1/2010
1154C	8269	0.15	Ronald D. Penrose and Nancy C. Penrose	\$ 230.00	4/1/2010
1162C	8413	0.83	Michael Mertz and Mark Mertz	\$ 1,700.00	4/23/2010
1155C	8279	0.07	TIMOTHY and CYNTHIA ANNE PUENTE	\$ 100.00	4/23/2010
1146C	8199	0.11	Heritage Homes, Inc.	\$ 2,000.00	5/24/2010
1156C	8347	0.05	SHIRLEY G. BELGARDE	\$ 25.00	5/27/2010
1156C	8342	0.03	SHIRLEY G. BELGARDE	\$ 15.00	5/27/2010
1156C	8352	0.08	SHIRLEY G. BELGARDE	\$ 50.00	5/27/2010
1156C	8343	0.02	SHIRLEY G. BELGARDE	\$ 10.00	5/27/2010
1156C	8346	0.1	SHIRLEY G. BELGARDE	\$ 50.00	5/27/2010
1156C	8348	0.67	SHIRLEY G. BELGARDE	\$ 3,350.00	5/27/2010
1151C	8320	0.23	William Tiernan and Marcia Tiernan	\$ 100.00	6/9/2010
1150C	8324	0.04	William Tiernan and Marcia Tiernan	\$ 10.00	6/9/2010
1151C	8319	0.16	William Tiernan and Marcia Tiernan	\$ 100.00	6/9/2010
1146C	8200	0.07	Patricia B. Young	\$ 1,300.00	6/9/2010
1147C	8212	0.12	Steven R. and Nancy V. Lawrence	\$ 2,200.00	6/23/2010
1201C	8718	0.13	Ronald D. Penrose and Nancy C. Penrose	\$ 200.00	6/23/2010
1201C	8719	0.12	Ronald D. Penrose and Nancy C. Penrose	\$ 200.00	6/23/2010
1151C	8313	0.32	RICHARD H. GILMOUR	\$ 500.00	8/6/2010
1202C	8721	0.17	Kathleen Nelson	\$ 500.00	8/6/2010
1181C	8556	0.19	THOMAS C. and MARY L. HOWARD	\$ 2,850.00	8/6/2010
1177C	8496	0.14	WILLIAM J. MCGRATH, JR	\$ 2,100.00	8/6/2010
1180C	8552	0.16	ALEXANDER S. and CLAIRE KOZSAN	\$ 2,400.00	8/13/2010
1130C	8078	1.48	WILLIS E. and WILLARD H. LALONE	\$ 3,400.00	8/13/2010
1173C	8446	0.34	MARGARET M. MCDONALD	\$ 5,100.00	8/13/2010
1178C	8510	0.15	RICHARD J. RAKOCE	\$ 2,250.00	8/13/2010
1175C	8468	0.14	JOHN C. GREENE and BRENDA I. GREENE	\$ 2,100.00	8/25/2010
1166C	8180	0.49	E. John Eckman and Marguerite Giroux-Eckman	\$ 7,350.00	8/25/2010
1138C	8122	0.85	JOANNE C. SPERANZA	\$ 2,100.00	8/25/2010
1138C	8121	1.21	JOANNE C. SPERANZA	\$ 3,000.00	8/25/2010
1146C	8207	0.07	Phillip A. Schreier and Carol A. Schreier	\$ 1,300.00	9/13/2010
1179C	8576	0.49	James B. Moroney, Trustee	\$ 9,800.00	9/13/2010
1167C	8185	0.14	John E. Auringer and Eileen B. Auringer	\$ 2,400.00	9/13/2010
1146C	8205	0.14	Dana M. Smith and Louise C. Smith	\$ 2,500.00	9/13/2010
1146C	8206	0.07	Dana & Louise Smith; Philip & Carol Schreier	\$ 1,300.00	9/13/2010
1154C	8266	0.19	Robert J. Coulton and Karen P. Davis	\$ 300.00	10/19/2010
1154C	8267	0.2	Robert J. Coulton and Karen P. Davis	\$ 300.00	10/19/2010

1179C	8525	0.23	SANDRA C. LONG SQUIRES	\$ 3,450.00	10/19/2010
1176C	8489	0.14	Bill Lawrence	\$ 2,100.00	11/10/2010
1147C	8209	0.12	S. Joan Babcock	\$ 2,200.00	11/10/2010
1159C	8384	0.01	Douglas Mayette and Beverly Mayette	\$ 5.00	11/10/2010
1153C	8261	0.1	SPENCER FRANCIS THEW, JR.	\$ 150.00	11/10/2010
1137C	8111	0.33	NEIL FLEURY	\$ 800.00	12/10/2010
1161C	8401	0.98	SHERRIE L. RANSON	\$ 1,000.00	12/10/2010

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To date, the Authority has taken in nearly \$765,000 from the sales of these properties. The monies taken in by the Authority for the private land conveyances will be returned to the affected local municipalities to fund local public projects.

EXHIBIT 3.4

NEW YORK POWER AUTHORITY SUPPLIER DIVERSITY PROGRAM - - Fourth Quarter 2010

In the fourth fiscal quarter October – December 2010, NYPA awarded \$11.9 Million, or 13.6 % of our reportable expenditures, to New York State Certified Minority and Women-Owned Business Enterprises (M/WBEs). Through the fourth fiscal quarter, January – December 2010, the Authority awarded \$35.7 million or 11.7% of our reportable expenditures to NY State Certified M/WBEs. This includes both direct contracts and subcontracts, including construction-related work. NYPA's goal for 2010, as established with NYS Economic Development Corporation, is 6% of "Reportable Expenditures". Reportable expenditures exclude specialty procurements (such as transformers, circuit breakers, turbine runners and other major electrical generating equipment, and commodities such as natural gas, where no M/WBEs are available to provide such goods or services).

The new Deputy Director for Empire State Development Corp provided NYPA with the template for the submittal of our 2011-2012 agency goal plans, which is due March 21st 2011. This template incorporates new requirements set forth in the recent M/WBE legislation and the new Article 15-A regulations adopted on December 22, 2010. The goal plan is more extensive than past plans and will require substantially more work for its completion. A major component of this 2011-2012 goal plan is to increase the Authority's M/WBE annual goal to help meet the Governor's goal for minority and women-owned firms to account for 20 percent of the state's business. The Authority's new annual goal, as well as the other components of the goal plan, is currently being assessed.

Empire State Development Corporation amended M/WBE Guidelines and made them available in January of 2011. They were used to update NYPA's Appendices C and G, the Authority's M/WBE and EEO contract language respectively, as well as the Authority's procurement policies and procedures. The Guidelines also increased monitoring and reporting requirements to facilitate transparency in state procurement. Additional Guidelines with respect to the recent laws are expected in the coming weeks.

An inquiry was submitted to all agencies and authorities by the new Chief Diversity Office for New York State requesting specific information on the Authority's Supplier Diversity Program and practices. This information was prepared and submitted on 2/09/11.

It should also be noted that during calendar year 2010 seven (7) different NYS certified MBE financial dealers transacted over \$421 million or 27.6% in principal sales and purchases for the Authority.

EXHIBIT 3.5**INVENTORY STATISTICS**

As of December 31, 2010

Facility	2010	2009	2008
Niagara	\$16,684,198 *	\$18,077,437 **	\$20,260,469
St. Lawrence	11,227,811	11,401,217	11,860,158
Blenheim-Gilboa	7,032,491***	6,232,933	5,708,673
Clark Energy Center	4,350,188	4,363,802	4,230,223
Poletti Project	14,346,888	14,464,417	14,182,027
Flynn Project	13,286,358 ****	12,256,478	12,156,079
500 MW Project	20,093,475	19,498,486	19,475,156
Total Stock Value	\$87,021,409	\$86,294,770	\$87,872,785

* Includes \$1.6 million reduction for field poles issued to the NIA Rotor Poles Replacement project in Dec. 2010.

** Includes \$1.7 million reduction for field poles issued to the NIA Rotor Poles Replacement project in Feb. 2009.

*** Includes \$1.3 million for BG LEM spare materials purchases and transfers into inventory

**** Includes \$1.3 million for blades, rings and control valves

Note:

Construction of the new Niagara Warehouse, has been continuing to which will be designed to optimize the use of volume with modern racking and storage systems whenever possible. Construction is scheduled for completion for new Niagara Warehouse and Office Facility in July, 2011.

3. POWER AUTHORITY OF THE STATE OF NEW YORK
PROCUREMENT CONTRACTS
JANUARY THROUGH DECEMBER, 2010
PAL 2879-a

EXHIBIT 3.6

FACILITY: WPO FOSSIL FUELS

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	T Y E	M O A	R O A	N P A	O P A	W B E	B I D S	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2010	CONTRACT BALANCE	DATE OF CONTRACT	O / C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-2008-10	UNITED ENERGY TRADING, LLC 215 Union Blvd. Suite 425 Lakewood CO 80228	Natural Gas Purchase	E	B			F		26	\$18,103,570	\$18,103,570	\$12,605,333	\$0	11/19/2008	O	*	
FD-2008-11	ALLIED ENERGY RESOURCES CORPORATION 1330 Post Oak Blvd Suite 2200 Houston, TX 77056	Natural Gas Purchase	E	B			F	X	26	\$5,500,999	\$5,500,999	\$735,560	\$0	12/01/08	O	*	
FD-2007-09	ENJET, INC 5373 West Alabama- Suite 502 Houston, TX 77056	Natural Gas Purchase	E	B			F		26	\$127,792,336	\$127,792,336	\$16,636,188	\$0	3/21/2007	O	*	
FD-2001-23	SEMPRA 58 Commerce Road Stamford, CT 06902	Natural Gas Purchase	E	B			F		26	\$168,290,671	\$168,290,671	\$0	\$0	12/01/01	O	*	
FD-2009-03	nationalgrid -LI (Flynn) 100 E Old County Rd Hicksville, NY 11801	Balancing Service	E	S			O	F		\$2,200,000	\$2,200,000	\$1,100,000	\$0	01/01/09	O	12/31/14	
FD-2009-04	nationalgrid -LI (Flynn) 100 E Old County Rd Hicksville, NY 11801	Transport Service	E	S			O	F		\$4,661,378	\$4,661,378	\$2,122,590	\$0	01/01/09	O	12/31/14	
FD-2009-05	nationalgrid-NY(GKP) One Metrotech Center Brooklyn, NY 11201	Transport Service	E	S			O	F		\$2,653,302	\$2,653,302	\$1,902,647	\$0	03/01/09	O	03/31/14	
FD-2009-06	nationalgrid -LI(Brentwood) 100 E Old County Rd Hicksville, NY 11801	Transport Service	E	S			O	F		\$101,146	\$101,146	\$60,127	\$0	03/01/09	O	03/31/14	
FD-2009-07	CONOCO PHILLIPS COMPANY 600 North Dairy Ashford Houston, TX 77079	Natural Gas Purchase	E	B			F		26	\$7,486,325	\$7,486,325	\$7,486,325	\$0	05/01/09	O	*	
FD-2010-01	JLA ENERGY LLC Two Riverway, Suite 730 Houston, Tx 77056	Natural Gas Purchase	E	B			F		26	\$153,615	\$153,615	\$153,615	\$0	02/01/10	o	*	
FD-2010-02	IBERDROLA RENEWABLES 1125 N.W. Couch St. Suite 700 Portland, OR 97209	Natural Gas Purchase	E	B			F		26	\$4,399,200	\$4,399,200	\$4,399,200	\$0	08/09/10	o		

3. POWER AUTHORITY OF THE STATE OF NEW YORK
PROCUREMENT CONTRACTS
JANUARY THROUGH DECEMBER, 2010
PAL 2879-a

EXHIBIT 3.6

FACILITY: WPO FOSSIL FUELS

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	T P E	Y O A	M O A	R O A	O N A	P A A	M O W	B I D	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2010	CONTRACT BALANCE	DATE OF CONTRACT	O / C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-2002-11	PSEG ENERGY RESOURCES 80 Park Plaza Fl T19 Newark, NJ 07102	Natural Gas Purchase	E	B			F			26	\$11,017,721	\$11,017,721	\$0	\$0	11/01/02	O	*	
FD-2003-09	J. ARON 85 Broad Street New York, NY 10004	Natural Gas Purchase	E	B			F			26	\$83,241,402	\$83,241,402	\$0	\$0	04/22/03	O	*	
FD-2003-10	BP ENERGY COMPANY 501 WestLake Park Houston, TX 77253	Natural Gas Purchase	E	B			F			26	\$171,424,522	\$171,424,522	\$19,907,498	\$0	10/01/04	O	*	
FD-2003-12	CONSTELLATION POWER SOURCE 111 MARKET Place BALTIMORE, MD 21202	Natural Gas Purchase	E	B			F			26	\$55,860,651	\$55,860,651	\$0	\$0	06/09/03	O	*	
FD-2003-15	VIRGINIA POWER ENERGY MARKETING P. O. Box 25773 Richmond, VA 23360	Natural Gas Purchase	E	B			F			26	\$494,066,798	\$494,066,798	\$37,662,677	\$0	07/11/03	O	*	
FD-2004-08	SHELL ENERGY NA (formerly) CORAL ENERGY 909 Fannin Plaza Houston, TX 77010	Natural Gas Purchase	E	B			F			26	\$54,283,533	\$54,283,533	\$8,261,575	\$0	04/01/04	O	*	
FD-2004-09	SOUTHWEST ENERGY LP Two Greenway Plaza Houston, TX 77046	Natural Gas Purchase	E	B			F			26	\$179,461,649	\$179,461,649	\$0	\$0	06/01/04	O	*	
FD-2004-14	ONEOK ENERGY SERVICES CO. 100 West Fifth Street Tulsa, OK 74103	Natural Gas Purchase	E	B			F			26	\$94,754,910	\$94,754,910	\$11,923,001	\$0	11/01/04	O	*	
FD-2005-02	BOSS ENERGY LTD 20445 State Hwy 249 Houston, TX 77070	Natural Gas Purchase	E	B			F			26	\$73,472,446	\$73,472,446	\$551,891	\$0	01/25/05	O	*	
FD-2005-12	NJR ENERGY SERVICES CO. 1415 Wyckoff Road Wall, NJ 07719	Natural Gas Purchase	E	B			F			26	\$131,571,194	\$131,571,194	\$30,700,424	\$0	09/01/05	O	*	
FD-2006-03	UBS AG / UBS ENERGY LLC 677 Washington Blvd Stamford, CT 06901	Natural Gas Purchase	E	B			F			26	\$126,500,213	\$126,500,213	\$0	\$0	07/28/06	O	*	
FD-2006-05	PETROCOM VENTURES LTD 1616 S Voss Suite 945 Houston, TX 77057	Natural Gas Purchase	E	B			F			26	\$44,715,916	\$44,715,916	\$0	\$0	07/21/06	O	*	
FD-2006-07	TEXAS GAS TRANSMISSION 3800 Frederica Street Owensboro, KY 42301	Firm Gas Transport/Demand Agreement	S	S			F				\$16,446,562	\$16,446,562	\$3,335,807	\$0	07/01/06	O	10/31/17	
FD-2006-08	DOMINION TRANSMISSION 120 Tredegar Street Richmond, VA 23219	Firm Gas Transport/Demand Agreement	S	S			F				\$11,889,427	\$11,889,427	\$2,660,312	\$0	07/01/06	O	10/31/17	

3. POWER AUTHORITY OF THE STATE OF NEW YORK
PROCUREMENT CONTRACTS
JANUARY THROUGH DECEMBER, 2010
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EXHIBIT 3.6

FACILITY: WPO FOSSIL FUELS

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	T P E	Y O A	M O A	R O A	O N A	P O A	M O A	B O A	I O A	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2010	CONTRACT BALANCE	DATE OF CONTRACT	O / C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-2006-09	TRANSCONTINENTAL GAS PIPELINE (TGPL. 5316) 2800 Post Oak Blvd Houston, TX 77056	Firm Gas Transport/Demand Agreement	S	S			F					\$6,535,857	\$6,535,857	\$1,387,670	\$0	08/04/06	O	03/31/17	
FD-2006-12	TENASKA MARKETING VENTURES 11718 Nicholas Street Omaha, NE 68154	Natural Gas Purchase	E	B			F			26		\$8,554,167	\$8,554,167	\$0	\$0	10/01/06	O	*	
FD-2007-08	SPARK ENERGY GAS, LP (Formerly Utility Resources Solutions) 3010 Briorpark Dr. Suite 550 Houston, TX 77042	Natural Gas Purchase	E	B			F			26		\$84,000,523	\$84,000,523	\$7,953,652	\$0	02/14/07	O	*	
FD-2007-10	ASTORIA GENERATING COMPANY, LP 18-01 20th Avenue Astoria, New York 11105	Oil Delivery Labor Fees	S	S			F					\$34,302	\$34,302	\$0	\$0	7/17/2006	O	*	
FD-2008-01	eCORP ENERGY MARKETING TEN THOUSAND MEMORIAL Houston, TX 77024-3410	Natural Gas Purchase	E	B			F			26		\$72,450	\$72,450	\$0	\$0	02/01/08	O	*	
FD-2008-02	CIMA-ENERGY LTD. 1221 McKinney Houston, Tx 77010	Natural Gas Purchase	E	B			F			26		\$12,476,972	\$12,476,972	\$0	\$0	03/01/08	O	*	
FD-2008-05	SEQUENT ENERGY MGT 1200 Smith Street Houston, TX 77010	Natural Gas Purchase	E	B			F			26		\$36,029,220	\$36,029,220	\$2,870,229	\$0	03/01/08	O	*	
FD-1990-33	NORTHVILLE INDUSTRIES CORP (Formerly TOSCO PIPELINE COMPANY) 25 Melville Park Rd Melville, NY 11747	Oil Storage Agmt (SETAUKET)	E	S			F					\$11,433,873	\$11,433,873	\$496,600	\$0	04/01/94	O	09/30/13	
FD-1990-34	NORTHVILLE INDUSTRIES CORP (Formerly TOSCO PIPELINE COMPANY) 25 Melville Park Rd Melville, NY 11747	Oil Storage Agmt. (HOLTSVILLE)	E	S			F					\$3,680,876	\$3,680,876	\$123,793	\$0	10/01/93	O	09/30/13	

3. POWER AUTHORITY OF THE STATE OF NEW YORK
 PROCUREMENT CONTRACTS
 JANUARY THROUGH DECEMBER, 2010
 PAL 2879-a

EXHIBIT 3.6

FACILITY: WPO FOSSIL FUELS

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	T Y E	M O A	R O A	O N A	M P A	B I E	S	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2010	CONTRACT BALANCE	DATE OF CONTRACT	O / C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FS-1994-17	MERRILL LYNCH (Formerly ENTERGY-KOCH TRADING (FORMERLY KOCH)) 20 E Greenway Plaza Houston, TX 77046	Natural Gas Purchase	E	B		F			26	\$262,963,369	\$262,963,369	\$9,427,353	\$0	07/01/94	O	*	
FS-1997-22	COLONIAL ENERGY 2 Riverway Suite 2000 Houston, TX 77056	Natural Gas Purchase	E	B		F			26	\$405,864,945	\$405,864,945	\$11,826,317	\$0	05/01/97	O	*	
FD-2008-09	CON EDISON, INC. (Balancing & Demand) 4 Irving Place New York, NY 10003	Transport & Balancing Service	E	S		F				\$11,609,354	\$11,609,354	\$2,520,314	\$0	08/01/08	O	01/31/10	
FD-2008-06	MACQUARIE COOK ENERGY 10100 Santa Monica Blvd los Angeles, CA 90067	Natural Gas Purchase	E	B		F			26	\$26,817,023	\$26,817,023	\$14,185,065	\$0	07/01/08	O	*	
FD-2008-12	eSERVICES, LLC 4461 Cox Road, Suite 113, Glenn Allen, Virginia 23060	Natural Gas Purchase	E	B		F			26	\$520,725	\$520,725	\$0	\$0	12/01/08	O	*	
FD-2007-14	AMSPEC SERVICES LLC 360 East Elisabeth Avenue Linden, NJ 07036	Oil Inspectors	S	B		F				\$4,449	\$4,449	\$1,030	\$0	01/01/08	c	12/31/10	12/31/10
FD-2007-15	SAYBOLT LP Laboratories Windfern Rd, Houston Texas 77040	Oil Inspectors	S	B		F				\$19,852	\$19,852	\$10,024	\$0	01/01/08	c	12/31/10	12/31/10

FUELS TOTALS \$2,760,667,443 \$2,760,667,443 \$213,006,817

NOTE:

* Contract continues until terminated by NYPA or Counterparty upon specified notice

(1) Natural gas purchase transactions are effected, as needed, based on current prices and requirements, using the previously agreed upon general terms and conditions.

G:/EXCEL/Procurement
Contracts/2010

3/8/2011

POWER AUTHORITY OF THE STATE OF NEW YORK
 REPORT OF PROCUREMENT CONTRACTS AS OF 12/31/10
 REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879
 CORPORATE FINANCE ADDENDUM

EXHIBIT 3.7

CORPORATE FINANCE: WPO

PROVIDER NAME	CONTRACT DESCRIPTION	T Y P E	M A	R A	O A	W A	I E	M B D	TOTAL CONTRACT AMOUNT
Bank of New York (formely JPMorgan) 101 Barclay Street New York, NY 10286	Trustee/Paying Agent Services on Bonds	S	C	9	N				377,688
Bank of New York (formely JPMorgan) 101 Barclay Street New York, NY 10286	Trustee- ARTN	S	C	9	N				169,104
Bank of New York (formely JPMorgan) 101 Barclay Street New York, NY 10286	Trustee- Commercial Paper	S	S	9	N		1		72,119
Bank of Nova Scotia One Liberty Plaze, 26th Fl. New York, NY 10006	Revolving Line of Credit for ARTN	S	C	9	N		6		1,300,901
Barclays Capital (assigned from Lehman Bros.) ** 745 Seventh Avenue New York, NY 10019	Re-marketing Agent CP-1	S	C	9	N				987,790
Barclays Capital (assigned from Lehman Bros.) 745 Seventh Avenue New York, NY 10019	Re-marketing Agent CP-3	S	S	9	N		1		10,775
Citigroup 390 Greenwich Street New York, NY 10013	Re-marketing Agent CP-2	S	C	9	N				420,480
Fiduciary Communications / Source Media One Whitehall, 9th Floor New York, NY 10004	Bond Calls Printed in Wall St. Journal and Bond Buyer	S	C	9	N				310,797
Goldman, Sachs & Co. 85 Broad Street New York, NY 10004-2456	Re-marketing Agent CP-2 and 3	S	C	9	N				893,772
Goldman, Sachs & Co. 85 Broad Street New York, NY 10004-2456	Re-marketing EMCP	S	C	9	N				499,791
Goldman, Sachs & Co. ** 85 Broad Street New York, NY 10004-2456	ART Notes Remarketing	S	C	9	N				1,698,660

3/8/2011

POWER AUTHORITY OF THE STATE OF NEW YORK
 REPORT OF PROCUREMENT CONTRACTS AS OF 12/31/10
 REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879
 CORPORATE FINANCE ADDENDUM

EXHIBIT 3.7

CORPORATE FINANCE: WPO

PROVIDER NAME	CONTRACT DESCRIPTION	T Y P E	M A	R A	O A	W A	I E	M B D S	TOTAL CONTRACT AMOUNT
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Re-marketing Agent CP-2	S	C	9	N				166,951
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Re-marketing Agent CP-3	S	C	9	N				547,930
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Escrow Agent POCR/CASP & LMEI Funds	S	C	9	N				460,709
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Revolving Line of Credit 2008	S	C	9	N		2		4,365,000
Morgan Stanley 1221 Avenue of the Americas New York, NY 10020	Re-marketing Agent CP-1	S	C	9	N		7		61,061
RBC Capital Markets ** 1211 Avenue of the Americas New York, NY 10036	Re-marketing Agent CP-1	S	C	9	N				82,780
US Bank 60 Livingston Avenue St. Paul, MN 55107	Bond Trustee Fee	S	C	9	N				297,474
	Total Financial Service Agreements								12,723,783
	Total Number of Agreements								18

NOTES:

* Contract continues until terminated by NYPA or Counterparty upon specified notice

** Expense History only available from 1997

3/8/2011

CORPORATE FINANCE: WPO

POWER AUTHORITY OF THE STATE OF NEW YORK
REPORT OF PROCUREMENT CONTRACTS AS OF 12/31/10
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879
CORPORATE FINANCE ADDENDUM

EXHIBIT 3.7

TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 12/31/2010	DATE OF CONTRACT	O \ C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
377,688	72,777	2/24/1998	O	*	
169,104	21,147	9/2/2003	O	3/1/2020	
72,119	27,242	10/2/2006	O	*	
635,239	173,499	9/4/2007	O	9/1/2015	
987,790	199,591	7/14/1994	O	*	
10,775	-	6/26/2008	O	*	
420,480	20,224	12/4/1997	O	*	
310,797	11,884	11/24/2003	O	*	
893,772	38,530	12/4/1997	O	*	
499,791	157,235	3/4/2003	O	*	
1,698,660	132,585	5/15/1985	O	3/1/2020	

3/8/2011

CORPORATE FINANCE: WPO

POWER AUTHORITY OF THE STATE OF NEW YORK
REPORT OF PROCUREMENT CONTRACTS AS OF 12/31/10
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879
CORPORATE FINANCE ADDENDUM

EXHIBIT 3.7

TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 12/31/2010	DATE OF CONTRACT	O \ C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
166,951	34,517	6/28/2001	O	*	
547,930	24,584	12/4/1997	O	*	
460,709	22,228	5/30/1996	O	*	
4,278,750	1,180,972	1/7/2008	O	1/31/2011	
61,061	55,910	3/31/2009	O	*	
82,780	19,210	7/14/1994	O	*	
297,474	6,518	1/1/1999	O	*	
11,971,871	2,198,655				

To: Members of the Governance Committee
From: Joseph W. Gryzlo, Vice President and Chief Ethics & Compliance Officer
Date: March 14, 2011
Re: Recent Developments and Status of NYPA's Ethics & Compliance Program

I. ETHICS UPDATE

A. Case Management

1. Current Reporting Period—October 15, 2010 through March 1, 2011

The principal substantive issues arising under the Ethics laws and/or the Code of Conduct investigated or researched since the most recent Governance Committee report on October 26, 2010 include various requests to engage in outside employment and activities, appearances of impropriety or conflicts of interest concerns, post employment restriction considerations, gifts inquiries and questions related to potential unwarranted privileges.

Allegations	6
Appearance of Impropriety	2
Conflict of Interest	1
General Inquiries/Interpretations	2
Gifts	8
Outside Activities	1
Outside Employment	1
Political Inquiries	1
Post Employment	2
Securities	1
Unwarranted Privilege	6
Use of NYPA Assets	1

a. Case Load Summary--Current Reporting Period

The Ethics and Compliance Office referred an inquiry received by the Procurement Department from a staffing services contract vendor to

the Internal Audit Department. The vendor provided information and raised concerns that other contract staffing firms providing resources to NYPA may be engaged in payroll processing and reporting irregularities. The Internal Audit Department will review the applicable NYPA contracts for payroll compliance.

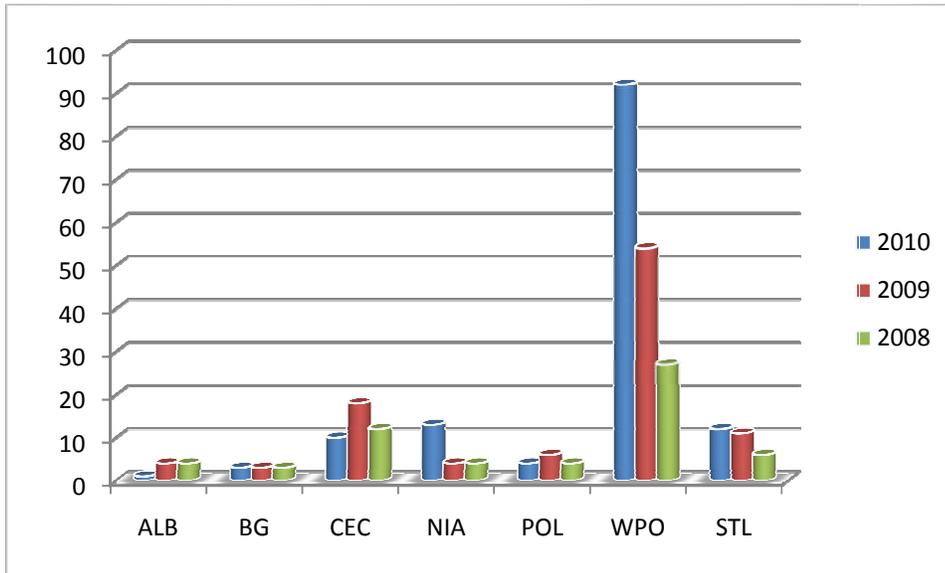
A NYPA employee preparing to voluntarily leave service contacted the Ethics & Compliance Office for guidance on pursuing post-NYPA employment career options. The employee was overseeing work with several vendors on NYPA projects. Certain vendors expressed interest in speaking with the employee about prospective post-NYPA work. The Ethics & Compliance Office advised the employee on the relevant NYS Public Officers Law post-employment restrictions, as well as NYS Commission on Public Integrity Advisory Opinion 06-01. This Opinion provides guidelines for state employees who may wish to communicate with vendors with whom they are working in their official state capacity relating to post government employment. In those instances, an employee cannot perform official public duties with vendors during a 30-day ‘cooling off’ period. The Ethics & Compliance Office assisted the employee in outlining the guidelines to his immediate supervisor who assisted the employee and his other staff in managing the employee’s transition during his remaining NYPA employment without violating applicable ethics laws and the NYPA Code of Conduct.

A NYPA facility manager inquired whether a local car dealership could provide a discount solely to NYPA employees at a particular NYPA location. This request was denied since doing so would provide a direct benefit to NYPA employees solely based upon their employment with NYPA and was not an offer that is generally available to a larger group of people in the geographic area.

2. Calendar Year 2010 Case Totals

Allegations	7
Appearance of Impropriety/Conflicts of Interest	23
Financial Disclosure	3 (26)
General Inquiries/Research	2
Gifts	31
Honoraria	1
Outside Activities	10
Outside Employment	24
Political Activities	3
Post Employment	14
Securities	2
Unwarranted Privilege	15

Cases by Location—Calendar Year 2010



As reflected in the location totals above, the majority of ethics inquiries arise out of headquarters in White Plains. This is largely attributable to the concentration of employees at headquarters and the location of the Ethics & Compliance Office. Notably, operating facilities in Niagara, St. Lawrence, and Central New York have experienced steady ethics inquiry increases in recent years, while inquiries arising out of Albany and Blenheim-Gilboa have remained relatively constant over time.

A total of 135 cases were logged in 2010 continuing the upward trend of cases in recent years. Case volume has increased by 125% compared to 2008 data when 60 cases were recorded. The increased volume is a consequence of enhanced communications and training outreach by the Ethics & Compliance Office, as well as a streamlined Code of Conduct.

3. Referrals from the New York State Inspector General’s Office

NYPA received two referrals from the New York State Inspector General’s Office in calendar year 2010. In both instances, anonymous letters were sent to the State Inspector General alleging improper behavior by one or more NYPA individuals. The Ethics & Compliance Office, working in conjunction with the Internal Audit Department investigated one allegation and found it to be without merit.

The second allegation was directed to the Human Resources Department which investigated the allegation and consulted with the Vice President of Ethics & Compliance. That investigation was also found to be without merit. In both instances, formal response letters were sent to the State Inspector General's Office to close each case.

4. Technology Improvements

Ethics cases are now recorded in a web-based application that provides enhanced functionality. The new platform was designed with the Enterprise Wide Risk Group and has many reporting capabilities. Staff will be able to provide detailed reports to business unit heads and the Governance Committee regarding the volume and type of cases by location and work group. As the case load continues to increase, it will allow us to provide targeted training within work groups if trend data shows a need to address recurring topics.

B. Matters Before the New York State Commission on Public Integrity

Financial Disclosure

The Ethics & Compliance Office submitted its mandatory Financial Disclosure staff report to the Commission on Public Integrity prior to the March 1, 2011 deadline. Included in the filing were 442 required filers and 217 employees holding current valid exemptions. The deadline for Trustees and employees' Financial Disclosure filings with the Commission is May 16, 2011. It is expected that employees will receive additional filing information via their NYPA email addresses. All employee email addresses previously on file with the Commission will be defaulted to NYPA email addresses to ensure that required filers received all notices from the CPI related to filing deadlines and requirements.

C. Training and Outreach

The Ethics & Compliance Office will issue its 2011 Ethics training during the second quarter. The topic will be "Outside Employment and Activities" and will address the legal and Code of Conduct guidelines relating to NYPA employees' engagement in outside endeavors. The training will be delivered electronically to all employees with dedicated computer access and will also be provided to bargaining unit employees without individual computer access in hard copy format via facility Human Resources managers. The training will include the 2011 Code of Conduct certification.

In December 2010, the Ethics & Compliance Office distributed a post employment guide to all facility Human Resources managers and headquarters

Human Resources staff detailing the pertinent regulations that employees leaving state service must abide by following their NYPA employment. This guidance is also provided to all employees during their exit interviews.

The “Ethics Challenge” is a recurring article in NYPA’s quarterly Currents magazine. An ethical scenario is posed and employees are encouraged to discuss the situation and any ethical challenges or issues that may be relevant to their NYPA employment. The purpose is to bring ethical concepts forward in employee’s minds so they are more alert to potential problems when they arise.

A new poster will be developed to recognize and heighten awareness during Ethics and Compliance Week which occurs in May this year.

II. COMPLIANCE UPDATE

A. NERC Reliability Compliance

NYPA is continuing its preparation for the upcoming NERC Reliability compliance audit to be conducted by the Northeast Power Coordinating Council, Inc. (NPCC). The audit will evaluate NYPA’s compliance with numerous NERC Reliability Standards and Requirements related to its registered status as a Generator Owner, Generator Operator and Transmission Owner. As previously reported to the Governance Committee, these Standards and Requirements were developed and are enforced to ensure the reliable operation of the bulk power system. Compliance evidence is being verified and secured so that it will be readily accessible to NPCC prior to the June and July scheduled audits. This initiative is being coordinated by the Reliability, Standards and Compliance group (Power Supply-Technical Compliance) with assistance from various NYPA subject matter experts, the Ethics and Compliance Office and the Internal Audit Department.

In January, NYPA entered into a settlement agreement with NPCC to resolve certain potential violations of NERC Standards which it had self-reported in 2010. These actions received favorable treatment as NYPA self-identified and reported the issues and developed and completed mitigation plans which were approved by NERC. They were included in NERC’s “Administrative Citation Notice of Penalty” and are now fully resolved. The aggregate penalty for these items was \$5,000. NYPA is working with NPCC to address additional pending self-reports of possible violations. Self- assessment, reporting and correction are encouraged by the regulators and result in the mitigation of penalties which would otherwise be assessed.

B. FERC Standards of Conduct

The Standards of Conduct (SOC) govern the relationship between regulated transmission providers and their affiliates engaged in the function of marketing electricity. NYPA must treat its transmission customers on a non-discriminatory basis and ensure the independent operation of its transmission and marketing function employees so that non-public transmission information is not improperly used.

During the recent reporting period, the Office of Ethics and Compliance received three FERC SOC compliance inquiries. After comprehensive reviews, it was determined that there were no reportable SOC violations. One instance involved an email request made by a NYPA Trader in the Energy Resource Management group to an employee in the Power Supply business unit seeking electronic access to electrical diagrams of NYPA's generating units (information showing how NYPA's generating assets are connected to the bulk electric system). After interviewing various NYPA subject matter experts, reviewing internal information and evaluating the FERC SOC provisions, it was determined that no violation occurred primarily because the information contained in the electrical diagrams did not meet the standard of non-public transmission information as defined in the SOC.

The Office of Ethics and Compliance and Law Department are developing NYPA's 2011 FERC SOC annual training which will be delivered to all Trustees and employees performing transmission and marketing functions as contemplated by the SOC. In response to various SOC compliance inquiries, additional targeted SOC training was recently provided to approximately 40 transmission employees at the Clark Energy Center and 12 marketing function employees within the Energy Resource Management group in headquarters.

C. Anti-Retaliation Policy

NYPA revised its corporate anti-retaliation policy in late 2010. This policy is an essential component of NYPA's overall compliance program. It contains NYPA's commitment to investigate complaints of Whistleblowing Events, including those involving fraud, misconduct, wrongdoing, non-compliance with NYPA's Code of Conduct, NYPA Policies and Procedures and applicable laws and regulations. The policy contains the options for employees to report Whistleblowing Events and includes NYPA's anti-retaliation hotline (1-877-TEL-NYPA). Employees reporting a Whistleblower Event in good faith, based upon a reasonable belief are protected from discrimination, harassment or retaliation of any kind for making the report. Employees are also protected if they provide information or participate in an investigation related to a Whistleblowing Event.