

**POWER AUTHORITY OF THE STATE OF NEW YORK**  
**2011 ANNUAL REPORT OF PROCUREMENT CONTRACTS**

**EXECUTIVE SUMMARY**

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

In 2011, the Authority continued a major effort to implement Energy Services and Technology ("EST") programs that include the installation of high-efficiency lighting, motors and controls; conversion to more efficient chiller and boiler plants and clean renewable distributed generation at customer sites statewide. Other efforts include an electric transportation program to promote the use of electric-drive vehicles (cars, pick-up trucks and buses) throughout the State.

The Authority requires the services of outside firms for accounting, engineering, legal, public relations, surveying and other work of a consulting, professional or technical nature to supplement its own staff, as well as to furnish varied goods and services and perform construction work. Many of these contracts are associated with the construction, maintenance and operation of the Authority's electric generating facilities and transmission lines, as well as for support of the energy efficiency projects noted above.

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

In compliance with the applicable provisions of § 2879 of the Public Authorities Law ("PAL"), as amended, the Authority has established comprehensive guidelines detailing its operative policy and instructions concerning the use, awarding, monitoring and reporting of procurement contracts. The Guidelines describe the Authority's process for soliciting proposals and awarding contracts. Topics detailed in the Guidelines include solicitation requirements, evaluation criteria, contract award process, contract provisions, change orders, Minority/Women-owned Business Enterprise ("M/WBE") requirements, employment of former officers and reporting requirements. These Guidelines, approved by the Authority's Trustees, were initially implemented on January 1, 1990, and have been amended as deemed advisable and necessary, and reviewed and approved annually since that date, most recently on March 29, 2011.

Staff has reviewed the Procurement Guidelines and recommends additional changes to make them more consistent with the law, to clarify or improve the Authority's procurement process,

and also to reflect titular or organizational changes in the Authority. The most significant of such changes are highlighted below:

- **NYS COMPTROLLER’S APPROVAL OR FILING OF CERTAIN CHANGE ORDERS (“CONTRACT AMENDMENTS”)**, as set forth below and in 8.C of the Procurement Guidelines, and as further set forth in the referenced law and regulations:

*Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain Change Orders to the New York State Comptroller for filing or approval where the aggregate value of the contract as amended is in excess of \$1 million and the original contract was awarded on the basis of a competitive procurement, but the modification was neither contemplated nor provided for in the solicitation for such competitive procurement. Accordingly, unless the Change Order is considered an “exempt contract amendment,” no such Change Orders will be processed or approved unless the proposed procurement of goods and/or services was contemplated or provided for in the original Request for Quotation / Proposal.*

- **PROHIBITIONS RELATING TO VENDOR PREPARATION OF SPECIFICATIONS** for procurements, as set forth below and in revised 7.C of the Procurement Guidelines, pursuant to New York State Finance Law § 163-a:

*If a vendor (firm, person or other entity) participates in the development or writing of the specifications for a procurement solicitation, such vendor shall not be permitted to bid on such procurement, either as a prime vendor or as a subcontractor at any level. Contracts for evaluation of offers for products or services shall not be awarded to a vendor that would then evaluate its own offers for products or services. The above restrictions shall not apply where:*

- 1. The vendor is the sole source or single source of the product or service;*
- 2. More than one vendor has been involved in preparing the specifications for a procurement proposal; or*
- 3. The originating Authority Business Unit determines in writing that the restrictions are not in the best interests of the Authority. Such originating Business Unit shall obtain the approval of the applicable Business Unit Head or equivalent(s), Vice President of Procurement or equivalent(s) or designee, Assistant General Counsel or equivalent(s) and President and Chief Executive Officer or designee or Chief Operating Officer or equivalent(s) to waive this restriction on a case-by-case basis.*

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

These amended Guidelines, as reviewed by the Governance Committee, will be presented to the full Board of Trustees for review and approval at the March 27, 2012 meeting. The approved Guidelines will become effective on March 31, 2012 and will be posted on the Authority’s

internet website. On or before the 31<sup>st</sup> day of March, such Guidelines will also be filed with the Director of the Division of the Budget, the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee, the Assembly Ways and Means Committee and the Authorities Budget Office.

## **ACCOMPLISHMENTS**

Major Procurement efforts in 2011 included purchase of goods, services and construction work in support of the Authority's operating projects and Headquarters facilities, Life Extension and Modernization ("LEM") Programs at Niagara, Lewiston, St. Lawrence and the Robert Moses Standardization, Transmission LEM Assessment and the EST Programs mentioned above. The Authority's Procurement Department is continuing efforts to enhance the SAP procurement and materials management system, as well as supporting the requirements of the Authority's operations and maintenance work, capital projects, ES&T programs and Headquarter operations.

### **Supplier Diversity Program ("SDP")**

In the fourth fiscal quarter, October – December 2011, NYPA awarded \$26.6 Million or 26.9 % of its reportable expenditures to New York State Certified Minority and Women-Owned Business Enterprises (M/WBEs). For the fiscal year, January – December 2011, the Authority awarded \$61.2 million or 18.6 % of its reportable expenditures to NY State Certified M/WBEs. This includes both direct contracts and subcontracts, in support of construction and energy efficiency related work. NYPA's goal for 2011, as established with NYS Economic Development Corporation, began at 6%. In support of the Governors M/WBE initiatives for New York State, NYPA increase its goal to 20 percent and through the 3<sup>rd</sup> fiscal quarter NYPA have achieved 19.8 percent of its goal "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 M/WBEs are not available to provide such goods or services). Attachment I illustrates the Authority's Supplier Diversity program history since 1991.

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 are being updated in accordance with changes to New York State statutes and the Governors M/WBE initiatives. NYPA continues to embrace the M/WBE requirements mandated for NYS Agencies and Authorities.

It should also be noted that during calendar year 2011, Treasury's transactions with four (4) different NYS certified M/WBE financial dealers were over \$421.8 million in principal sales and purchases for the Authority.

The Authority continues to actively participate in outreach programs with various M/WBE organizations and trade associations. A significant part of its outreach efforts include Annual Purchasing Exchange. The Authority's 21<sup>st</sup> exchange was held at its White Plains office in June 2011. Representatives from approximately 250 M/WBEs and approximately 40 New York State, New York City, local and corporate entities participated in the exchange.

## **ANNUAL REPORT – 2011 PROCUREMENT CONTRACTS (Exhibit “A-3”)**

The Annual Report includes specific details for procurements of \$5,000 or greater awarded since January 1, 1990 that were active in 2011. There were 2,093 such contracts with an estimated value of more than \$5.7 billion, which also includes fossil fuel and corporate finance expenditures. Total procurement expenditures in 2011 exceeded \$635 million. This amount included more than \$259 million for the purchase of fossil fuels and related services.

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

- 12% of these contracts are for Construction Services;
- 47% are for the purchase of Equipment and Commodities;
- 2% are for Architectural and Engineering Services;
- 10% are for Personal Service contracts such as professional consulting services;
- 2% are for Legal Services;
- 27% are for Other Services, such as maintenance, technicians, contracted personnel, maintenance and repairs.

Attachment III indicates that, based on the total value of the contracts included in the Annual Report, approximately 97% (including fuels and corporate finance) were for competitively bid contracts. Sole-source awards in 2011 included the purchase of spare parts and services from original equipment manufacturers (OEM), procurements from proprietary sources and procurements required on an emergency basis.