



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

March 31, 2020

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Minutes of the regular meeting of the New York Power Authority and Canal Corporation's Governance Committee held via videoconference at approximately 8:30 a.m.

The following Members of the Governance Committee were present:

Dennis Trainor, Chair
John Koelmel
Eugene L. Nicandri
Tracy McKibben
Michael Balboni

The following Member of the Governance Committee was excused:

Anthony Picente

Also in attendance were:

Gil Quiniones	President and Chief Executive Officer
Justin Driscoll	Executive Vice President and General Counsel
Joseph Kessler	Executive Vice President and Chief Operating Officer
Kristine Pizzo	Executive Vice President and Chief Human Resources and Administrative Officer
Adam Barsky	Executive Vice President and Chief Financial Officer
Sarah Salati	Executive Vice President and Chief Commercial Officer
Daniella Piper	Vice President – Digital Transformation Office and Chief of Staff
Yves Noel	Senior Vice President – Strategy & Corporate Development
Christina Reynolds	Treasurer
Soubhagya Parija	Senior Vice President and Chief Risk Officer
Angela Gonzalez	Senior Vice President - Internal Audit
Robert Piascik	Senior Vice President and Chief Information Officer
Karen Delince	Vice President and Corporate Secretary
Joseph Gryzlo	Vice President and Chief Ethics & Compliance Officer
Susan Craig	Director, Media Relations
Lorna Johnson	Senior Associate Corporate Secretary
Sheila Quatrocci	Associate Corporate Secretary
Lori DeMichele	Board Travel Specialist

Chair Trainor presided over the meeting. Corporate Secretary Delince kept the Minutes.

Introduction

Chair Trainor welcomed committee members and Authority senior staff to the meeting. He said that the meeting had been duly noticed as required by the Open Meetings Law and called the meeting to order pursuant to Section B(4) of the Governance Committee Charter.

1. **Adoption of the Proposed Meeting Agenda**

Upon motion made by Member Eugene Nicandri and seconded by Member Tracy McKibben, the Agenda was adopted.

2. **Motion to Conduct an Executive Session**

“Mr. Chairman, I move that the Governance Committee conduct an executive session to discuss the employment history of a particular person (pursuant to section 105 of the Public Officers Law).”

On motion made by member John Koelmel and seconded by member Tracy McKibben, the members held an executive session.

3. **Motion to Resume Meeting in Open Session**

“Mr. Chairman, I move to resume the meeting in Open Session.” On motion made by member Eugene Nicandri and seconded by member John Koelmel, the meeting resumed in Open Session.

Chairman Trainor said that no votes were taken during the Executive Session.

4. DISCUSSION AGENDA:

a. Ethics Office Update

Mr. Joseph Gryzlo, Vice President and Chief Ethics Officer provided a summary of the Ethics and Compliance Program. He said that the May 15 filing deadline for the annual Financial Disclosure Program Administered by the Joint Commission on Public Ethics (JCOPE) is still intact for 2020 and that, it has not been extended and it is not intended to be extended beyond that date.

Mr. Gryzlo said that JCOPE, in 2019, initiated a statewide review of all previously granted individual and title exemptions from filing financial disclosure. JCOPE requested NYPA's Ethics office to participate in that activity and were successful in significantly paring down the number of title exemptions. He noted the Power Authority's bargaining unit positions will still be exempt from filing the annual financial disclosure. He added that many of the previously granted exemptions for certain management positions have now been rescinded effective January 1st of this year and those individuals who previously held exemptions will have the opportunity to reapply for an individual exemption by the May 15th deadline.

Mr. Gryzlo reported that, the Ethics and Compliance mandatory and targeted live ethics trainings that occur on a regular basis will be postponed due to the current circumstances of the travel restrictions and employees working remotely. However, he will be exploring virtual training opportunities in the interim.

Mr. Gryzlo reported that, on the training front, he is now approved and certified, from the Joint Commission on Public Ethics and the New York State Education Department, to provide professional engineer ethics credits. He believes this will result in significant savings to the Power Authority. He added there are over 100 professional engineers throughout NYPA and he hopes this will streamline the process even further.

Human Resources has been a great partner with the Ethics Department on a number of fronts during the recruitment process in identifying candidates that may have ethics issues that need to be addressed. They have been very successful in evaluating potential conflicts of interest before hire so these folks can come on board and hit the ground running from the start.

Mr. Gryzlo stated that the Power Authority remains active with, not only the Joint Commission on Public Ethics, but the New York State Inspector General's Office in looking to detect and deter fraud, waste and abuse in government. He added that their portfolio of external investigations is low and the lowest it has been in some time. He stated that he believes it is a testament to the culture of ethics and compliance at the Power Authority and the leadership that it has to promote integrity in carrying out the mission.

5. CONSENT AGENDA:

On motion made by Member Michael Balboni and seconded by Member Tracy McKibben, the Consent Agenda and Reports provided by staff to members of the Governance Committee were approved.

a. **Approval of the Minutes of the Joint Meeting of the
New York Power Authority and Canal Corporation
Governance Committee held on January 29, 2020**

Upon motion made and seconded the Minutes of the meeting held on January 29, 2020
was adopted.

b. Procurement and Related Reports

The Vice President of Strategic Supply Management submitted the following report:

“SUMMARY

This report is to advise the Governance Committee of certain 2019 activities of the Strategic Supply Management Department, for NYPA and also the Canal Corporation where appropriate and applicable, including: procurement contract activity, Disposal of Personal Property, Supplier Diversity Program activities and plant inventory statistics; as well as fossil fuels activities conducted by the Fuel Planning and Operations Group; and Corporate Finance activities conducted by the Treasury Group.

BACKGROUND

Pursuant to Subsection C.5 of the Authority's Governance Committee Charter relating to Reports, the Vice President – Strategic Supply Management is required to report to the Committee at all regularly scheduled meetings and the Committee has the authority to require Procurement and other staff to prepare additional reports and to produce documents for Committee review.

The reported activities are governed by various State laws and regulations and are set forth in the attached Reports.

DISCUSSION

As more fully described in the individual reports attached hereto as NYPA Exhibits 5b i-A through 5b i-G, and Canal Corporation Exhibit 5b ii-A and 5b ii-B, the Procurement Contract Report summarizes activity for procurements of \$5,000 or greater that were active in 2019, as identified by the Authority's SAP Enterprise Resource Planning (“ERP”) system. The Disposal of Personal Property Report lists all personal property (including Fleet-related) disposal transactions over \$5,000 conducted during 2019. The Supplier Diversity Program Activity Report summarizes dollars awarded to New York State-certified Minority- and Women-owned Business Enterprises (“MWBEs”) as well as to Service-Disabled Veteran-Owned Businesses (“SDVOBs”) based on reportable expenditures. The Plant Inventory Analysis lists current stock value and compares it to that of the previous year, with a brief explanation for any significant increase or decrease, where applicable. The Fossil Fuels and Corporate Finance Reports list the fuel- and finance-related transactions conducted by the Fuel Planning and Operations and Treasury work groups, respectively. The Transfer of Interest in Personal Property to Canal Corporation lists and asset transfer activity between NYPA and the Canal Corporation conducted during 2019.

FISCAL INFORMATION

There will be no financial impact on the Authority or the Canal Corporation.

RECOMMENDATION

The Governance Committee is requested to review and approve the Procurement, Fossil Fuels and Corporate Finance Reports (attached hereto as NYPA Exhibits 5b i-A through 5b i-G, and Canal Corporation Exhibit 5b ii-A and 5b ii-B) and, if appropriate, to recommend adoption by the full Board at the annual meeting to be held on March 31, 2020.”

c. Annual Review for Approval of Guidelines for Procurement Contracts and, Guidelines for the Disposal of Personal Property

The Vice President of Strategic Supply Management submitted the following report:

"SUMMARY

This report is to request that the Governance Committee review and recommend for approval by the full Board of Trustees the revised NYPA and Canal Corporation Guidelines for Procurement Contracts and the Guidelines for the Disposal of Authority Personal Property, respectively.

BACKGROUND

Pursuant to Subsection C.5 of the Authority's Governance Committee Charter relating to Reports, the Vice President – Strategic Supply Management is required to report to the Committee at all regularly scheduled meetings and the Committee has the authority to require Procurement and other staff to prepare additional reports and to produce documents for Committee review.

For NYPA and the Canal Corporation, please note the following changes to the Guidelines for Procurement Contracts as fully detailed in Exhibits 5c i-A for NYPA and Exhibit 5c ii-A for Canal Corporation:

1. The correction of certain inconsistencies, grammatical and otherwise.
2. The update of certain definitions, including "Software" to facilitate the categorization of Software and Software-as-a-Service contracts appropriately as equipment contracts.
3. Address statutory change Economic Development Law § 143, such that the Authority shall submit an announcement of an intended contract for inclusion in the procurement opportunities newsletter at the time it enters into a contract.
4. Update the discretionary spend cap from \$200,000 to \$500,000 per Article 15-A of the Executive Law.

For the NYPA and the Canal Corporation Guidelines for the Disposal of Personal Property there was an update of certain organizational titles and the correction of certain inconsistencies, grammatical and otherwise, and Exhibit 5c i-B and 5c ii-B have been provided for review for approval.

The reported activities are governed by various State laws and regulations as set forth in the attached Reports.

DISCUSSION

Pursuant to the Authority's implementation of the Public Authorities Accountability Act of 2005 ("PAAA"), as amended, the respective Authority and Canal Corporation Governance Committee reviews the Guidelines for Procurement Contracts and the Guidelines for the Disposal of Authority Personal Property annually and approves any changes to such Guidelines. These Guidelines have been amended as deemed advisable and necessary.

FISCAL INFORMATION

There will be no financial impact on the Authority or the Canal Corporation.

RECOMMENDATION

The Governance Committee is requested to review the revisions to the respective Guidelines (as set forth in the copies attached hereto as Exhibits 5c i-A and 5c i-B for NYPA and Exhibits 5c ii-A and 5c ii-B for Canal Corporation) and, if appropriate, to recommend adoption by the full Board at the annual meeting to be held on March 31, 2020.”

d. Real Estate Reports

The Vice President of Enterprise Shared Services submitted the following report:

"SUMMARY"

This report is to advise the Governance Committee of certain 2019 activities of the Real Estate Division regarding the acquisition and disposal of real property.

The Trustees are requested to approve certain Authority policies as required by Section 2824 of the Public Authorities Law and Section 2 of Article II of the Authority's By-laws.

The Governance Committee is also requested to review and recommend for approval by the full Board of Trustees revised Guidelines and Procedures for the Disposal of Authority and Canal Corporation Real Property and Guidelines and Procedures for the Acquisition of Real Property by the Authority and the Canal Corporation.

BACKGROUND AND DISCUSSION

Pursuant to the Authority's implementation of the Public Authorities Accountability Act of 2005 ("PAAA"), as amended, the Authority's Governance Committee reviews the Guidelines and Procedures for the Disposal of Authority Real Property and the Guidelines and Procedures for the Acquisition of Real Property by the Authority annually, and approves any changes to such Guidelines. These Guidelines have been amended as deemed advisable and necessary, and reviewed and approved by the full Board of Trustees annually, most recently on March 26, 2019. There are no material changes to the 2020 Guidelines. The Governance Committee is requested to review the respective Guidelines (as set forth in the Exhibits attached hereto as (5d i-A, 5d i-B, 5d i-C, 5d ii-A, 5d ii-B, 5d ii-C) and, if appropriate, to recommend adoption by the full Board at the annual meeting to be held on March 31, 2020.

5d i-A Acquisition and Disposal of Real Property 2019

5d i-B Guidelines and Procedures for the Disposal of Real Property 2020

5d i-C Guidelines and Procedures for the Acquisition of Real Property 2020

5d ii-A Acquisition and Disposal of Canal Real Property 2019

5d ii-B Guidelines and Procedures for the Disposal of Real Property 2020

5d ii-C Guidelines and Procedures for the Acquisition of Real Property 2020

The reported activities are governed by various State laws and regulations and are set forth in the attached Reports.

RECOMMENDATION

It is recommended that the Governance Committee review and recommend Guidelines listed above to the full Board for adoption."

e. Annual Review and Approval of Certain Policies for New York Power Authority and Canal Corporation

The Executive Vice President and Chief Human Resources and Administrative Officer submitted the following report:

“SUMMARY

The Governance Committee are requested to approve certain policies for NYPA and Canal Corporation as required by Section 2824 of the Public Authorities Law and Section 2 of Article II of the Authority's and Canal Corporation's By-laws.

The Governance Committee are also requested to delegate to the President and Chief Executive Officer the authority to modify these policies, as necessary, except in the event that any powers, duties or obligations of the Governance Committee would be affected by such modification.

BACKGROUND AND DISCUSSION

Section 2824 of the Public Authorities Law requires the Authority's and Canal Corporation's Boards to, among other things, establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, the chief executive and senior management; and Section 2 of the Authority's and the Canal Corporation's By-laws requires the Governance Committee to review and approve annually, the policies and procedures governing: (i) the salary, (ii) compensation, (iii) benefits and (iv) time and attendance of the chief executive and senior management.

The Authority's policies relating to salary, compensation, benefits and time and attendance of its employees, inclusive of the chief executive and all senior management, are attached as Exhibits “5e i-A” through “5e i-L” and respectively entitled:

5e i-A	Consultant-Independent Contractor Engagement (E.P 1.11); last revised 02/21/2019
5e i-B	Contingent Worker Engagement (E.P 1.12); last revised 02/21/19
5e i-C	Transfer or Re-Employment in Public Service (E.P 1.9); last revised 04/29/19
5e i-D	Salary Administration (E.P 2.1) last revised 02/08/19
5e i-E	Education Assistance Program (E.P 3.6); last revised 08/06/19
5e i-F	Pro-3.6 Education Assistance Procedure; last revised 07/09/19
5e i-G	Termination Dispute Resolution (E.P 4.3); last revised 05/06/19
5e i-H	Attendance and Flexible Hours (E.P 4.6); last revised 10/08/19
5e i-I	Employee Personnel Records (E.P 5.1); last revised 04/02/19
5e i-J	Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy (CP 1-14)
5e i-K	Code of Conduct
5e i-L	Whistleblower CGP-2018-001

RECOMMENDATION

It is recommended that the Governance Committee approve the Authority's and Canal Corporation's policies related to salary, compensation, benefits and time and attendance, which are applicable to all Authority and Canal Corporation employees, including the chief executive and senior management. It is further recommended that the Governance Committee delegate to the President and Chief Executive Officer the authority to modify these policies, as necessary, except in the event that any powers, duties or obligations of the Governance Committee would be affected by such modification.”

f. 2019 New York Power Authority and Canal Corporation Annual Board Evaluation Pursuant to Sections 2800 and 2824 of the Public Authorities Law and Guidance of the Authorities Budget Office

The Chair of the Governance Committee submitted the following report:

SUMMARY

The Governance Committee is requested to recommend that the Authority Board of Trustees and the Canal Corporation Board of Directors approve the annual Board evaluation summary for 2019 and authorize the Corporate Secretary to submit the summary to the Governor, legislative leaders, the State Comptroller and the Authorities Budget Office (“ABO”) pursuant to Section 2800 of the Public Authorities Law, as amended by the Public Authorities Accountability Act of 2005 (“PAAA”), within 90 days of the close of the Authority’s fiscal year.

BACKGROUND

The 2009 Public Authorities Reform Act requires that the board of every state and local public authority conduct an annual evaluation of its performance. Board member comments are protected from disclosure under Article 6 of the Public Officers Law, but the results of the assessment are to be provided to the ABO. To the extent that the results of this evaluation demonstrate the need for the board to improve its performance, amend its practices or procedures, or clarify its expectations of board members, the board is expected to implement suitable corrective actions immediately.

FISCAL INFORMATION

There is no anticipated fiscal impact.

RECOMMENDATION

The Governance Committee is requested to recommend that the Authority Board of Trustees and the Canal Corporation Board of Directors approve the annual Board evaluation summary for 2019 (“Exhibit A”) and authorize the Corporate Secretary to submit the summary to the Governor, legislative leaders, the State Comptroller and the Authorities Budget Office (“ABO”) as required by Public Authorities Law Section 2800.”

g. New York Power Authority and Canal Corporation Ethics and Compliance Program and Enterprise Resilience Report

The Vice President and Chief Ethics & Compliance Officer and the Vice President of Technical Compliance submitted the following reports:

“ETHICS and COMPLIANCE

SUMMARY

The Office of Ethics and Compliance (“E&C Office”) advises NYPA’s and the Canal Corporation’s (“Canals”) trustees, directors, officers and employees on the legal, regulatory and NYPA Code of Conduct ethics and compliance standards relating to NYPA’s and Canals’ employees and operations. It coordinates the investigation of allegations and concerns involving NYPA’s and Canals’ assets and employees. This report highlights significant developments in the ethics and compliance program for the period March 26, 2019 through March 31, 2020.

BACKGROUND

The principal substantive issues arising under the NYS ethics laws and NYPA’s Code of Conduct investigated or researched since the most recent Governance Committee report include various requests to engage in outside activities and employment, conflicts of interest reviews, financial disclosure analyses, gifts disclosures and post-employment guidance. Additionally, the E&C Office participates in enterprise Internal Controls and Resiliency steering committees with various Business Units and departments to enhance the internal controls environment and support initiatives to enable NYPA to fulfill its mission.

The past twelve months has led to an expansion of the E&C program portfolio with ongoing individual and group interpretative and enforcement counsel, as well as emerging enterprise-wide advisory and strategic services to support the digital transformation and achievement of strategic initiatives. As NYPA develops new programs and initiatives, while collaborating with various public and private sector stakeholders, it is imperative that the NYS Public Officers Law and its guiding principles are factored into every action we take. To that end, the E&C Office has partnered with several key business units to identify and remediate existing gaps in our governance structure and to enhance our controls posture.

DISCUSSION

The E&C Office has responded to various issues raised involving the acquisition and management of consultants and contingent workers, which are engaged to provide technical expertise, strategic guidance and staff augmentation. The increased reliance on these and other third-party resources (i.e., suppliers) highlights NYPA’s previously identified enterprise Third Party risk that has been captured in the risk profile. Various processes are being developed to ensure the appropriate categorization and management of third party resources to mitigate risks. Among them, conflict of interest disclosures, authorized network and system access privileges, proper entity and role identification in electronic and stakeholder communications, managerial review of deliverables and time management are being evaluated.

Managing Access to Internal Resources

The E&C Office partnered with the Information Technology (IT) Department, Legal Affairs and Human Resources to more clearly identify and grant systems access to third party resources within the IT environment. External parties who require access to the NYPA or Canals IT

environments to perform contracted tasks may be provided a NYPA or Canals e-mail address with appropriate entity branding to be used for work related to these projects. This internally controlled e-mail system will restrict a third party's ability to send any NYPA or Canals related information outside of our control environment, while IT Cyber Security maintains the ability to monitor activity.

Concurrently, the Human Resources department developed HireWorks, a web-based requisitioning and on-boarding tool for managers to streamline the process of procuring staff augmentation services. The tool provides training and guidance to ensure that hiring managers understand the labor laws associated with the proper classification of contingent workers and consultants. Misclassification of these external resources exposes NYPA and Canals to legal risk. Embedded in the HireWorks tool, candidates will need to self-disclose any familial relationships with NYPA employees. Upon disclosure of a potential conflict, the conflict information is electronically routed directly to the E&C Office for review. If it is determined that the conflict can be managed, the candidate may move forward in the hiring process. If the conflict is insurmountable, the candidate will be informed that they have not been selected and the search for a replacement will begin.

Access to the IT environment for contingent labor and consultants is authorized through the HireWorks tool and is co-managed by HR staff and the hiring manager. The tool provides an electronic mechanism for the hiring manager to disable IT access for contingent labor and consultants at the conclusion of the task or project for which they were hired. It is the responsibility of the hiring manager to ensure that this internal control is implemented as a regular part of off-boarding external staffing resources.

The IT department has been tasked with creating identification signature lines that will include information identifying consultants and contingent workers as external parties. These identification tags will be controlled by the IT department. Consultants and contingent workers will not have the ability to alter the appearance of their NYPA/Canals e-mail address or signature line to mis-identify themselves as NYPA/Canals employees. This action will ensure that NYPA and Canals staff have heightened awareness that they are communicating with non-State employees and must refrain from providing access to any confidential, non-public or proprietary information to third party business partners.

Employment Considerations

The challenge to secure and maintain a qualified workforce to meet the needs of the evolving utility industry requires flexibility and innovation. As public sector employees subject to provisions of the NYS Public Officers Law, NYPA and Canals hiring managers have a greater challenge than their private sector counterparts in securing full-time government employees, as well as contingent labor staff. To maintain confidence that the hiring process is transparent and impartial, hiring managers must refrain from actively referring candidates or participating in the hiring process as it relates to relatives, friends or colleagues from prior employers.

State employees should not refer family, friends or acquaintances to contingent staffing firms for consideration for open positions. HireWorks was developed to ensure transparency during the procurement of staff augmentation resources and to end the process of employees 'flipping' candidates to third party search firms with contracts to provide NYPA and Canals with staff augmentation services.

Further, managers who seek to recruit consultants or members of NYPA and Canals' contingent labor resource pool to a position as a full-time state employee must be aware of the "reverse two-year" bar interpretation of the NYS Public Officers Law conflict of interest provisions. Under this interpretation, newly hired State employees, including consultants or contingent labor resources identified during the course of providing services to NYPA and/or Canals, are likely barred from interfacing with their former private sector employers for a period of two years after

becoming a State employee. While this labor pool provides a convenient trial period for prospective candidates to preview their capabilities to hiring managers, these candidates may be prevented from fulfilling roles they are currently providing if they would be required to interface with their former employer.

Conversely, consulting firms under contract and providing services for both NYPA and Canals value the experience and skillsets of those State employees with whom they work side-by-side. These business partners may be interested in securing those employees' services for their own firms. This scenario occurred several times in the preceding twelve months and involved retiring employees and current staff looking for opportunities in the private sector.

Recruiting State employees from consulting firms that provide a variety of services under multi-year master services agreements also provides organizational challenges. These newly recruited government employees who are barred from appearing before their former firm may encounter scenarios wherein employees from their former firm are providing services on a project they have been assigned at NYPA. The prohibition involves appearing before your former employer for a period of two years, not a prohibition against participation on a project. In this example, interacting with the new government employee's former colleagues for any official State business within the restricted two-year period may constitute an impermissible appearance under this rule.

Ongoing collaboration with Human Resources and hiring managers regarding these laws will ensure that employees do not unknowingly violate conflict of interest laws.

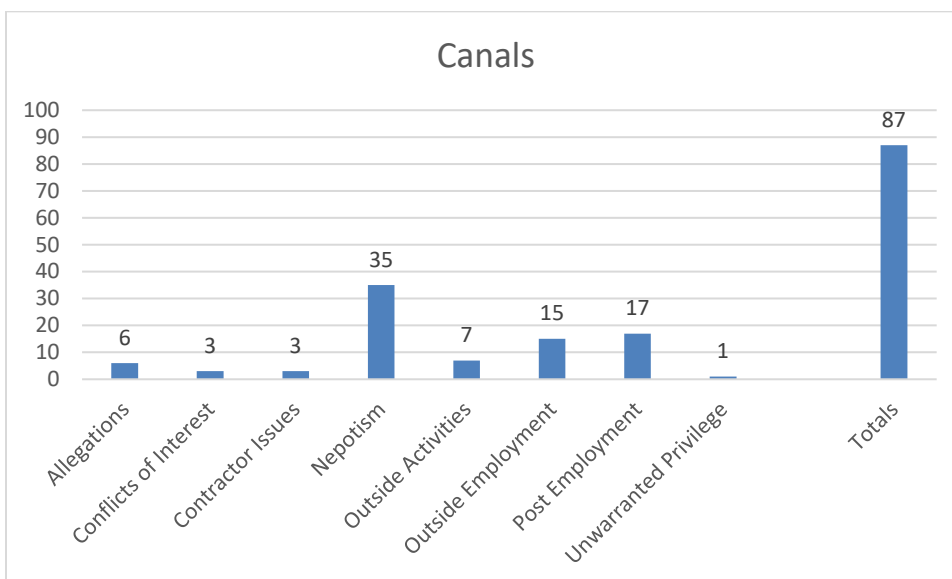
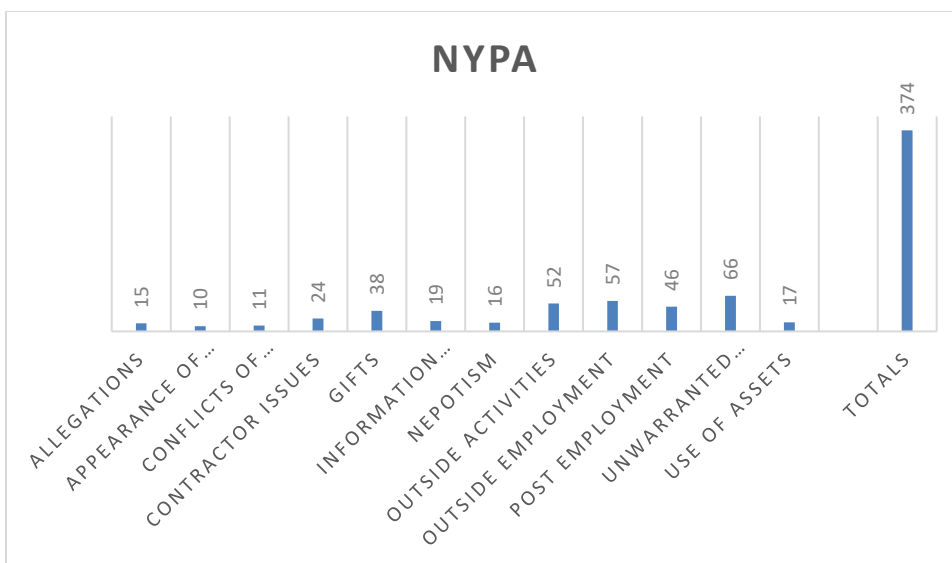
SSM Conflict of Interest Disclosure Form

To directly address conflicts of interest in the procurement process, the E&C Office drafted a bid evaluation team conflict of interest disclosure form. This form will be completed by all members of a bid evaluation team, including contingent workers and consultants assigned to the project. All participants must disclose any familial relationships, board affiliations, former employers and investments that could create a conflict of interest and violate the Public Officers Law, the respective Codes of Conduct for both NYPA and Canals, and the Procurement Guidelines. Further, consultants serving on these evaluation committees will have to complete the disclosure, which will require the individual to disclose any personal conflicts as well as certifying that an organizational conflict of interest review has been completed by their employers. Disclosure forms will become part of the procurement record and can be used to disqualify a participant and during contract termination proceedings.

Additionally, Legal Affairs has opined that consultants providing services to bid evaluation teams should only be providing technical guidance to NYPA and Canals' employees. They should not be provided unfettered access to the bid responses received. This is especially important when there is a mini-bid scenario in which an RFP is released to companies serving under a multi-year master services agreement. These firms are regularly competing against each other for opportunities limited to a select group of firms and are competing for multi-phased projects. Consultants also will not evaluate, rank, score or otherwise recommend bidder proposals for contract awards.

Case Management

The charts below illustrate the categories of inquiries and cases addressed in 2019. Cases were received from all NYPA locations and most Canals sections.



Financial Disclosure

Mandatory Financial Disclosure (“FDS”) profile updates were submitted to the New York State Joint Commission on Public Ethics (“JCOPE”) prior to the February 28 deadline. This project included review of all participants in the FDS titles, home and email addresses, phone numbers and filer designations for NYPA, the Economic Development Power Allocation Board, the Northern New York Power Proceeds Allocation Board, the Western New York Power Proceeds Allocation Board, as well as the Canal Corporation and the Canal Recreationway Commission.

The E&C Office will disseminate updated filing information to all participants in the FDS program. As previously reported, JCOPE reviewed all historically granted title exemptions during 2019. In February 2020, it provided NYPA with a list of approved title exemptions. The approved list dropped from 850+ exempt titles to approximately 35. The E&C Office has developed an internal PowerNet page detailing changes to this program and providing information for

employees whose filing exemptions have been rescinded and how they may re-apply for individual exemptions should they choose to do so. Targeted communications will be sent to all FDS participants providing updated guidance for all similarly categorized employees.

Employee ConcernsLine

Navex Global, the contracted Employee ConcernsLine vendor, recently transitioned its concerns intake service to include a web-based reporting tool. Individuals who have a concern or inquiry and who wish to remain anonymous will be able to submit their concerns electronically via the web or by using the previously established toll-free number (877-TEL-NYPA).

During this time of uncertainty regarding COVID-19, Navex Global communicated its business continuity plan to its customers. The Employee ConcernsLine call center operators are considered essential employees, and their business continuity plans call for fully staffed call centers, unless there are extraordinary circumstances that require employees to work from home. The business continuity plan calls for multiple locations across geographic areas to allow for shifting of calls to other regions if one or more sites are compromised and unable to provide services. If call volumes exceed their ability to answer each immediately, they have prepared recorded responses asking for patience, emphasizing that the web intake form remains available at all times.

Training and Outreach

The E&C Office conducts recurring JCOPE Comprehensive Ethics Training Course (CETC) sessions to new hires and employees who transfer into positions requiring financial disclosure. The last training cycle began in 2016 and came due again in 2019. Sessions have been well-attended and participants are actively engaged in the learning process. The E&C Office also provides targeted ethics training to individuals and groups in response to requests or where needs are identified based on inquiry/case trends. Project Sunlight and Procurement "Restricted Period" requirements are addressed at all training opportunities.

Professional Engineers requiring ethics continuing education credits are now eligible to apply the CETC to fulfill their ethics training requirements. The State Education Department, Division of Engineering and Land Surveying, and JCOPE have certified the CETC content for 1.5 hours of ethics related CEU's. This value-added service will save NYPA and Canals time and money by providing this training in-house and directly by the Chief Ethics and Compliance Officer.

The E&C Office is currently working with the Communications Department on multiple initiatives to refresh our messages. We will utilize the internal PowerNet, scrolling monitors, NYPA Newsroom and Canals Connects publications to emphasize important messages. Those in the queue currently include our enhanced Employee ConcernsLine web form, Project Sunlight reminders and information relating to the Financial Disclosure Statement changes.

Compliance Reporting

The E&C Office is assisting various departments with the preparation of statutorily mandated reports required to be filed with elected officials and posted to the Public Authorities Reporting Information System and the NYPA and Canals' websites. These reports comprise a comprehensive view into NYPA and Canals' finances, governance, organizational structure, operations and strategy. These and other mandatory reporting and training requirements are captured in NYPA's electronic Compliance Repository. It is anticipated that they will be entered into the Governance, Risk and Compliance tool and mapped to identified internal controls and organizational risks.

ENTERPRISE RESILIENCE

COVID-19 RESPONSE

NYPA and Canals are taking all necessary steps to ensure that we can perform our mission essential function of providing clean, reliable energy across the state, and safe navigable waters while keeping the health and safety of our employees at the forefront.

The COVID-19 Task Force, which was formed in January and comprised of members of Enterprise Resilience, Environmental, Health & Safety, Crisis Management & Physical Security, Law, Human Resources, and Risk will remain in place and is conferring regularly to answer any concerns of employees and to provide guidance and support to the Incident Command Structure (ICS). Beginning March 5, the ICS Team held daily briefings.

RELIABILITY STANDARDS COMPLIANCE (RSC)

BACKGROUND

Background information related to the origin of the North American Electric Reliability Corporation (NERC) mandatory standards for reliability and NYPA's obligations to demonstrate compliance with the standards has been presented in previous reports to the Governance Committee.

DISCUSSION

NERC Reliability Standards Compliance Enforcement Actions

During the reporting period, there were three (3) new potential noncompliance concerns of the NERC Reliability Standards reported to the Northeast Power Coordinating Council (NPCC).

1. PRC-005 Protection System, Automatic Reclosing, and Sudden Pressure Relaying Maintenance: identified a potential noncompliance concern (PNC) with required maintenance and testing (M&T) activities against a battery bank. As this is a specific test requirement under PRC-005, the investigation team determined that this event is a possible noncompliance.
2. CIP-007 Cyber Security - System Security Management: During a gathering of security evidence (Change control evidence) for a failed Serial-to-Ethernet convertor replacement, National Grid, per a Report of Understanding with NYPA for the Edic Cap Bank #1 located in the Edic 345kV Substation, discovered that the default passwords were not changed when Serial-to-Ethernet convertors were installed. CIP-007 R5.4 requires that these known default passwords be changed. Thus, the investigation team determined that this event is a possible noncompliance.
3. CIP-004-6 Cyber Security — Personnel & Training: Physical access was no longer needed and was not removed from an employee's access card by the end of the next calendar date after such access was no longer a business requirement. The investigation team considered the investigation fact-finding and determined this incident did result in an instance of noncompliance of NERC CIP Standard.

These possible instances of noncompliance were determined to be of minimal impact to the Bulk Electric System (BES). As such, RSC reported these to NPCC under the self-logging process and confirmed by NPCC. These minimal impact violations were processed as Compliance Exceptions and did not result in any penalties.

Investigations of Potential Noncompliance

During the reporting period, RSC reviewed eleven (11) investigations of potential noncompliance of the NERC Reliability Standards. Three (3) investigations resulted in a determination of potential noncompliance and submitted to NPCC as described above. Two (2) incidents resulted in an instance of noncompliance of NERC Standards and will be reported to NPCC in March 2020. Three (3) investigations resulted in a determination of no potential noncompliance of any NERC Standard. Three (3) investigations are under review and pending a final determination.

This internal process is viewed by the regulator as evidence that NYPA has a strong internal compliance program.

NERC Alerts

NERC disseminates information that it deems critical to ensuring the reliability of the bulk power system via “alerts” designed to provide concise, actionable information to the electric industry. During the reporting period, there were three (3) NERC alerts sent to industry.

In March 2020, NERC issued an alert regarding Coronavirus Disease (COVID-19) Pandemic Contingency Planning. In May 2019, an alert was issued for Loss of Solar Resources during Transmission Disturbances due to Inverter Settings, and in July 2019, an alert for Supply Chain Risk. All requesting NYPA to acknowledge receipt of the advisory, consider recommendations made to industry and review and complete reporting instructions. Response was required and provided.

Risk-Based Evidence Management Program

RSC implements a Risk-Based Evidence Management Program for identifying areas of risk and appropriate frequency for evaluation of and compliance evidence updates for the NERC Reliability Standards applicable to NYPA. This process ensures that NYPA's compliance program aligns with NERC's risk-based Compliance Monitoring and Enforcement Program and the NPCC guided self-certification process. In 2019, RSC reviewed and updated the evidence for eighteen (18) NERC Reliability Standards that are applicable to NYPA's NERC registrations and there were no findings of noncompliance.

In 2020, RSC will review and update the evidence for fourteen (14) NERC Reliability Standards that are applicable to NYPA's NERC registrations.

Self-Certification of Compliance

NYPA as a NPCC Full Member Functional Entity, on February 20, 2020, submitted a Self-Certification of Compliance with NPCC Regional Reliability Reference Directory #11 Disturbance Monitoring Equipment Criteria R1, R3 and R6. RSC determined that NYPA is in compliance with NPCC Directory #11 for the self-certification period. On May 20, 2019, NYPA submitted a Self-Certification with NPCC Directory # 4 Bulk Power System Protection. RSC

determined that NYPA was in noncompliance with NPCC Directory #4 for the self-certification period. Protection & Control Engineering and RSC have collaborated and completed mitigating activities that will enhance internal controls to prevent reoccurrence.

Bulk Electric System (BES) Definition

As stated in earlier reports, the Federal Energy Regulatory Commission (FERC) approved the new BES definition and that NYPA identified over 50 new BES elements that were subject to the NERC Reliability Standards in July 2016. The new definition applies essentially to any transmission assets operated at or above 100 kV.

As part of NERC's directive to NPCC in determining a Transmission Operator for the Moses-Alcoa 115 kV transmission lines, NPCC made a determination and is implementing a plan with Alcoa regarding their registration as TOP. NYPA has entered a formal agreement with Alcoa and NYISO to ensure our 'Transmission Operator' registration exposure is mitigated.

RSC team has conducted facility outreach meetings at all sites to raise compliance awareness and have open discussion with site staff on capital projects and O&M activities that support NYPAs compliance program. Based on discussion with staff from all regions, we have identified some key themes that came up at most of the sessions. RSC took the lead in working with relevant stakeholders in 2019 and will continue to address these items in early 2020.

RSC is working with the NYPA Business Development team to determine compliance scope for the new 'AC proceedings' and 'Battery Storage' projects. 'AC Proceedings' project has the potential to expand NYPA's NERC registered functions to include Transmission Operator (TOP). Discussions took place with NYISO in early 2019 and NYISO verbally agreed to assume TOP responsibilities for the proposed Segment A of AC transmission project. The TOP and Transmission Planning obligation will be formally documented (as part of existing MOUs between NYPA and NYISO) as the project progresses.

RSC is collaborating with Operations Portfolio Management group to better integrate compliance activities associated with new projects into its Utility Operations Project Portfolio (UOPP) process. This includes finalization of the site turnover checklist.

NERC Operations and Planning (O&P) Standards

During the reporting period, eight (8) O&P Standards [EOP-004-4, EOP-005-3, MOD-025-2, PRC-019-2, PRC-024-2, PRC-025-2, PRC-026-1 and TPL-007-3 R1, R2] became 100% effective. RSC performed a compliance evidence review of all eight (8) Standards and determined there were no findings of non-compliance.

In 2020, as part of NYPA's NERC registered function, four (4) O&P Standards [PER-006-1, PRC-002-2, PRC-026-1 and PRC-027-1] will become enforceable. RSC is working with NYPA business stakeholders to develop internal controls to ensure compliance for these newly enforceable Standards.

NERC Critical Infrastructure Protection (CIP) Standards

During the reporting period, CIP Low Impact Project implementation was successfully completed for the January 1, 2020 regulatory deadline. While the primary purpose of the project was to meet the regulatory requirements, the efforts undertaken have provided a solid foundation

and security program that will continue to address ever evolving cyber security risks and challenges. RSC continues to improve governance and management applications (AIMS/Maximo/CIMS) and engage the internal stakeholders to implement a work plan to establish a consistent and robust NERC CIP Compliance Program for NYPA's assets. The standardization of the program requires the implementation of certain controls that exceed, in some respects, the CIP requirements. Such an approach ensures program stability, enhances NYPA's security posture, and aligns with NYPA's enterprise-wide cyber security strategy.

RSC continues to initiate internal discussions on the new CIP-012 reliability standards with stakeholders. CIP-012-1 Cyber Security Control Center Communication Networks is intended to protect confidentiality and integrity of data transmitted between Control Centers required for reliable operation of the Bulk Electric System (BES).

RSC and Deloitte Consulting continue to review CIP-013 – Supply Chain Risk Management compliance requirements with SSM, Cyber Security and other internal stakeholders. The program implementation is in the final stages of preparation for NYPA's planned internal April 2020 go-live and NERC's subsequent July 1, 2020 enforcement date. Current efforts are focused on obtaining final approvals of new processes and the continued facilitation of broad communications, targeted trainings and organizational change management to educate NYPA personnel on forthcoming changes. Site outreach presentations are complete and additional rounds of in-person sessions will occur between April and July 2020. In addition, NYPA has identified the BES vendors and products subject to the new requirements and are completing required compliance activities in advance of the enforcement period to minimize potential operational disruptions post 7/1/2020.

In mid-February 2020, RSC presented NYPA's CIP-013 – Supply Chain Risk Management compliance program to NPCC. The program was highly received and NPCC provided supportive positive affirmation. As part of NYPA's external engagement, in mid-November 2019, RSC participated and presented at a Large Public Power Council workshop where CIP-013 preparation and lessons learned were shared amongst utility members.

Control Center Classification

In mid-2018, NPCC determined that for consistent Electric Reliability Organization (ERO)-wide implementation of the CIP standards, the BES Cyber Systems located at various NYPA control rooms that are currently categorized as Medium Impact should be categorized as High Impact BES Cyber Systems. NYPA will reassess its Bulk Electric Cyber Systems (BCS) located at Niagara, St. Lawrence and BG control rooms' as High Impact. NYPA and NPCC agreed to a phased in implementation plan to implement additional cyber security controls at these locations. The second milestone status update was submitted to NPCC for verification in December 2019 and full implementation by July 2020. This BCS re-categorization, at this time, will not impact NYPA's current registration with NERC and other Operations and Planning reliability standards. The 'High Impact' implementation plan will be reviewed with NYPA site staff.

Energy Security and Resilience Programs (ESRP)

The ESRP group is progressing with the establishment of the Enterprise Resilience Program with support from Accenture LLP/Davies Consulting. The ESRP team has been meeting regularly with representation from all business units as assigned by each EMC member and is progressing in its mission to support the development of a work plan. In January, a task force

team comprised of members from ESRP, Crisis Management, EH&S, Legal, Human Resources, Corporate Communications, and IT Resiliency has been formed to lead NYPA and Canals through the novel coronavirus (COVID-19) event. The team continues to meet and is continuously monitoring available coronavirus and flu resources provided by the Centers for Disease Control (CDC), World Health Organization and the New York State Department of Health.

During this reporting period, Extreme Weather has been added as a programmatic element in the “Going Beyond Traditional Resilience” campaign. Members of SSM, Sustainability, Energy Security and the VP of Enterprise Resilience met with members of the Argonne National Lab to evaluate assessment, modeling and asset strategy implementation planning tools. A scope of work with Argonne National Lab has been circulated to address Extreme Weather modeling impacts. This work is scheduled to begin in early 2020 and will continue into 2021.

Physical Security and Crisis Management

NYPA's Physical Security Team along with Cyber Security, OT and Enterprise Resilience evaluated the potential threat posed to NYPA based on the geopolitical situation in Iran and worked to develop and implement a comprehensive response. During the reporting period, Physical Security worked with the NERC EISAC and the NPCC Physical Security Working Group to support a training session on the NERC EISAC Design Basis Threat (DBT) Tool. This training was held at CEC and was open to utility security colleagues from partners in the NPCC Region. In 2019, Physical Security completed a number of security digitization efforts including; SAP form updated, Security Portal, Pre Employment Testing DB, System Outage Report and Contractor/Consultant badging requests.

In response to the Novel Coronavirus (COVID-19) outbreak Crisis Management, along with EH&S, Legal, HR and Enterprise Resilience collaborated to develop and implement a proactive and preventative NYPA response. A monitoring team, which Crisis Management is chairing has been established and weekly updates are being provided. The Crisis Management team ensured preparedness at both NYPA and Canals in preparation for a potentially impactful weather forecast the week of Jan 9, 2020. Crisis Management facilitated a call with NYSDHSES and NYPA / Canals SMEs during which our preparation efforts were clearly communicated and received by our external stakeholders. During the reporting period, Crisis Management worked with IT to facilitate NYPA's participation in the GridEx Exercise. Crisis Management also established an Incident Command Structure and facilitated the NYPA and NYSCC response to the October 31, 2019 weather event that occurred in Central NY and did impact NYPA / NYSCC operations.

Environmental Health & Safety Compliance Audit

In 2019, Environmental Health and Safety (EH&S) successfully conducted ten (10) compliance audits that are applicable to NYPA's Environmental Health and Safety program. In 2020, ten (10) EH&S compliance audits are scheduled to be conducted at the Clark Energy Center (CEC), Brentwood, 500mw and Blenheim-Gilboa (BG) Brentwood power plants.

During the reporting period, EH&S compliance audits were conducted at White Plains, Albany Offices, Pouch and Kent Gas Turbine Stations. No Level I (critical) findings were observed.

Code Compliance

The NY Department of State (DOS) Emergency Rule first issued on July 1, 2019 amending the NYS building Code has been made permanent in the NYS Uniform Code with minor changes. The code still allows for utility exemptions. However, Code Compliance will not provide a blanket exemption within our jurisdiction, rather utilize a risk-based approach to evaluate the exact requirements on a case by case basis.

Code Compliance continues to focus on a consistent interpretation and application of the Uniform Code across all projects at NYPA and Canals to improve compliance and reduce confusion for permit applicants. There has been a continued emphasis of compliance in Canals with increased engagement and support from Canals senior management that has improved the culture of compliance.

Beginning in 2020, the completion of the annual fire safety inspection and abatement of all violations at NYPA facilities will be reported as a Level 2 KPI with a target of 90% by the end of the year. The same measures will be tracked and monitored for the Canals, but not as a Level 2 KPI measure at this time.”

6. **Next Meeting**

Chair Trainor said that the next meeting of the Joint Governance Committee is to be held on September 23, 2020 at a time to be determined.

Closing

Upon motion made by member Michael Balboni and seconded by member John Koelmel, the meeting was adjourned by the Chair of the Committee at approximately 9:00 a.m.

Karen Delince

Karen Delince
Corporate Secretary

March 31, 2020

EXHIBITS

For

March 31, 2020

Joint Governance

Committee

Meeting Minutes

NYPA PROCUREMENT CONTRACTS SUMMARY **January - December 2019**

The Annual Report includes specific details for procurements with a value of \$5,000 or greater that were open, completed or awarded in 2019, including contracts that were extended into 2020 and beyond. There were 2,618 such contracts with an estimated value of approximately \$10.2 billion, which also includes fossil fuel and corporate finance expenditures and excluding Canal. Total procurement expenditures in 2019 were nearly \$786 million. This amount includes nearly \$127 million for the purchase of fossil fuels and related services.

The following is a breakdown of the total value of contracts including fuels and corporate finance by contract type:

- 2% Architectural and Engineering
- 43% Construction Services
- 38% Equipment and Commodities
- 2% Major Maintenance / Plant Outage services
- 5% Personal Services contracts such as professional including legal and IT consulting
- 9% Non-Personal Service contracts such as maintenance, repairs, and telecom services
- .5% Contingent Workforce Services
- .5% IT Hardware and Software

Approximately 98% of contract value was competitively bid. In 2019, approximately 2% of contracts (with a total contract value of \$168 million), were sole/single-source awards, which included over \$1.5 million in MWBE, SDVOB, and SBE contract awards. The sole/single-source awards included, but were not limited to, the purchase of spare parts and services from original equipment manufacturers (OEM), procurements from proprietary sources and procurements required on an emergency basis.

POWER AUTHORITY OF THE STATE OF NEW YORK

2019 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

DESCRIPTION	PURCHASER	SALE PRICE	PRICE RECEIVED by the Authority
R-22 REFRIGERANT	HUDSON TECHNOLOGIES	\$ 66,335.00	\$ 66,335.00
SUBTOTAL:		\$ 66,335.00	\$ 66,335.00

POWER AUTHORITY OF THE STATE OF NEW YORK

2019 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

FLEET OPERATIONS

DESCRIPTION	PURCHASER	SALE PRICE	Transportation and Other Fees	PRICE RECEIVED by the Authority
2012 CHEVROLET TAHOE	FREDERICK STOWELL	\$ 9,750.00	\$ 100.00	\$ 9,650.00
2010 CHEVROLET TAHOE	SEAN MCBRIDE	\$ 7,000.00	\$ 100.00	\$ 6,900.00
2015 CHEVROLET TAHOE	ARCIA SERVICES LLC	\$ 14,000.00	\$ 100.00	\$ 13,900.00
2015 CHEVROLET TAHOE	THE RESALE CENTER	\$ 13,500.00	\$ 100.00	\$ 13,400.00
2011 CHEVROLET TAHOE	UPSTATE AUTO SALES INC	\$ 7,250.00	\$ 100.00	\$ 7,150.00
2010 FORD ESCAPE	ANTHONY BURNETT	\$ 6,500.00	\$ 100.00	\$ 6,400.00
2008 FORD ESCAPE	COMMUNICATION SPECIALISTS INC	\$ 5,100.00	\$ 100.00	\$ 5,000.00
2008 FORD ESCAPE	COMMUNICATION SPECIALISTS INC	\$ 5,100.00	\$ 100.00	\$ 5,000.00
2010 FORD ESCAPE	CLAYCOMB AUTO SALES INC	\$ 6,000.00	\$ 100.00	\$ 5,900.00
2008 FORD F350 PICKUP	VAUGHN MOSER	\$ 6,000.00	\$ 100.00	\$ 5,900.00
2009 FORD F250 PICKUP	ICAR AUTO SALES	\$ 6,000.00	\$ 100.00	\$ 5,900.00
2009 FORD F250 PICKUP	ERIN SPERRY	\$ 10,250.00	\$ 100.00	\$ 10,150.00
2009 FORD F250 PICKUP	UPSTATE AUTO SALES INC	\$ 6,500.00	\$ 100.00	\$ 6,400.00
2008 FORD F350 PICKUP	AARON DAVIS	\$ 8,250.00	\$ 100.00	\$ 8,150.00
2009 FORD F250 PICKUP	UPSTATE AUTO SALES INC	\$ 8,500.00	\$ 100.00	\$ 8,400.00
2011 FORD F350 UTILITY	UPSTATE AUTO SALES INC	\$ 11,250.00	\$ 1,367.55	\$ 9,882.45
2008 FORD F550 UTILITY	JAMES MCCOY	\$ 8,000.00	\$ 100.00	\$ 7,900.00
2008 FORD F550 UTILITY	ACE EQUIPMENT NORTH	\$ 12,000.00	\$ 100.00	\$ 11,900.00
2008 FORD F550 DUMP	BRUCE M BELLACE INC PLUMBING AND HEATING	\$ 16,500.00	\$ 100.00	\$ 16,400.00
2005 FREIGHTLINER M2 106/2005 ELLIOTT L60R	DANIEL BURKE EC&I INC	\$ 55,000.00	\$ 100.00	\$ 54,900.00
2006 CAMOPLAST TROOPER	PETERSON EQUIPMENT COMPANY	\$ 20,000.00	\$ 100.00	\$ 19,900.00
2008 FORD F350	PATTERSON FARMS	\$ 10,500.00	\$ 100.00	\$ 10,400.00
2008 FORD F350	JOSEPH GUIDO	\$ 6,250.00	\$ 100.00	\$ 6,150.00

POWER AUTHORITY OF THE STATE OF NEW YORK

2019 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

FLEET OPERATIONS (CONTINUED)

DESCRIPTION	PURCHASER	SALE PRICE	Transportation and Other Fees	PRICE RECEIVED by the Authority
2008 FORD F350	UPSTATE AUTO SALES	\$ 9,000.00	\$ 100.00	\$ 8,900.00
2008 FORD F350	TODD CABLE CONSTRUCTION	\$ 8,000.00	\$ 100.00	\$ 7,900.00
2009 FORD F250	UPSTATE AUTO SALES	\$ 9,500.00	\$ 100.00	\$ 9,400.00
2009 FORD F150	ERIC RODRIGUEZ	\$ 6,250.00	\$ 100.00	\$ 6,150.00
2011 FORD F350	ICAR AUTO SALES	\$ 9,500.00	\$ 100.00	\$ 9,400.00
2011 FORD F350	KENN SCHL LLC	\$ 14,500.00	\$ 100.00	\$ 14,400.00
2008 FORD F350	G&C MARTIN LOGGING	\$ 10,500.00	\$ 100.00	\$ 10,400.00
2008 FORD F350	UPSTATE AUTO SALES	\$ 11,500.00	\$ 100.00	\$ 11,400.00
2010 FORD F350	MBC CONTRACTORS INC	\$ 14,000.00	\$ 100.00	\$ 13,900.00
2010 INTERNATIONAL 7500	WM BIRS INC	\$ 17,000.00	\$ 100.00	\$ 16,900.00
2005 FREIGHTLINER SEMI TRACTOR	BARBERTON TREE SERVICE	\$ 21,000.00	\$ 100.00	\$ 20,900.00
2008 AEBI TERRATRAC TT270	TODD CABLE CONSTRUCTION	\$ 45,500.00	\$ 100.00	\$ 45,400.00
2007 JLG 600SC	WM BIRS INC	\$ 32,000.00	\$ 100.00	\$ 31,900.00
2004 YALE GLP050TGEUAE086	MICHAEL HOUGHTON	\$ 6,500.00	\$ 100.00	\$ 6,400.00
2004 INGERSOLL RAND AIR COMPRESSOR	EXCEL CABLE SERVICES LLC	\$ 8,500.00	\$ 100.00	\$ 8,400.00
FLEET SUBTOTAL:		\$ 482,450.00	\$ 5,067.55	\$ 477,382.45
+ SUBTOTAL Page 1:		<u>\$ 66,335.00</u>	--	<u>\$ 66,335.00</u>
GRAND TOTAL:		<u>\$ 548,785.00</u>	\$ 5,067.55	<u>\$ 543,717.45</u>

SUPPLIER DIVERSITY PROGRAM (SDP)

January – December 2019

From January 1, 2019 to December 31, 2019 the Authority and the Canal Corporation expended \$126.3 million, or 26%, of its reportable expenditures to New York State-certified Minority-Women-owned Business Entities (“MWBEs”). This includes direct contracts and subcontracts, as well as construction and energy efficiency-related work. Additionally, Treasury transactions with NYS-certified MWBE financial dealers for the same period resulted in \$362.9 million, or 21.2%, in principal sales and purchases for the Authority.

Service-Disabled Veteran-Owned Business (“SDVOB”) utilization for the period January 1, 2019 to December 31, 2019 was approximately \$11.9 million, or 94%, of designated spend. Additionally, SDVOB financial dealers transacted over \$163.6 million, or 9.6%, in principal sales and purchases during the same period.

The Authority’s request for a more appropriate and attainable 2019 Goal Plan of 22% was again approved. Management continues to be confident that the new procurement model, proper procurement goal assessment, enhanced tracking and reporting of MWBEs and SDVOBs along with the revised approaches in determining MWBE goal participation collectively provides the Authority continued success in providing opportunities to diverse suppliers.

The Authority is diligent in its work with Empire State Development (“ESD”) and the Office of General Services to meet their respective legislative requirements. SDP management continues to work with ESD’s Business Development Unit to create a Mentor-Protégé Program and anticipates onboarding participants by Q3 2020.

In 2019 SDP hosted three (3) outreach events, a Supplier Expo in White Plains (September), Purchasing Exchanges at the Visitor’s Center in Niagara (August) and the Visitor’s Center in St. Lawrence (May). The Supplier Expo was by far the largest event with 14 state agency exhibitors and 25 vendors. The event included morning and afternoon workshops with panelists and moderators on topics that were impactful and educational for all participants. In addition, SDP also participated as an exhibitor in 9 outreach events throughout the state and served as a panelist at one event.

December 2019, NYPA was asked to present at the MWBE Monthly Authority Chamber Meeting in the Capital’s Blue Room on “MWBE Best Practices.” Victoria Daniels, Manager, Supplier Diversity and Eric Alemany, Director of Supplier Relationship Management attended the December 12th meeting and presented on NYPA’s behalf.

Please note that the rates and values in this summary were generated for internal tracking purposes based on NYPA’s calendar year reporting and may not be in alignment with approved NYS fiscal year measures.

INVENTORY STATISTICS
December 31, 2019

Facility	12/31/19	12/31/18	12/31/17
Niagara	17,825,021	17,698,911	18,549,218
St. Lawrence	15,962,016	15,708,193	15,629,282
Poletti Project	12,502,743	12,046,010	11,852,496
Flynn Project	8,507,130	8,123,546	8,014,664
Blenheim-Gilboa	11,102,091 ¹	9,974,296	9,195,166
500 MW Project	28,155,117	27,664,839	27,200,311
Clark Energy Center	6,633,768	6,573,108	6,517,035
Canal Corporation	813,099	785,235	740,687
Total Stock Value	\$ 101,500,985	\$ 98,574,138	\$ 97,698,859

¹ 2019 Includes spare parts to support new BG substation construction and operations

**POWER AUTHORITY OF THE STATE OF NEW YORK
FOSSIL FUELS ACTIVITY
JANUARY - DECEMBER 2019
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879**

**Exhibit 5b i-E
March 31, 2020**

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	Y E	M O	R A	O N	P A	M B	I D	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2019	CONTRACT BALANCE	DATE OF CONTRACT	O/C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-1990-33	Northville Industries Corp. NIC 25 Melville Park Road Melville NY 117470398	Oil Storage Agreement	E	1			N	N		\$16,556,528	\$16,556,528	\$609,734	\$0	4/1/1994	O	3/31/2024	
FD-1990-34	Northville Industries Corp. NIC 25 Melville Park Road Melville NY 117470398	Oil Storage Agreement	E	1			N	N		\$4,943,906	\$4,943,906	\$149,675	\$0	10/1/1993	O	3/31/2024	
FD-2002-11	PSEG EnergyResourcesTrade 80 Park Plaza Floor T-19 Newark NJ 07102	NAESB Agreement for Natural Gas	E	B			F	N	32	\$11,017,721	\$11,017,721	\$0	\$0	11/1/2002	O	*	
FD-2003-09	J. Aron and Company 85 Broad Street New York NY 10004	NAESB Agreement for Natural Gas	E	B			N	N	32	\$83,241,402	\$83,241,402	\$0	\$0	4/22/2003	O	*	
FD-2003-10	BP Energy Company 201 Helios Way Houston TX 77079	NAESB Agreement for Natural Gas	E	B			F	N	32	\$221,828,649	\$221,828,649	\$0	\$0	10/1/2004	O	*	
FD-2003-12	Exelon Generation Company, LLC 1310 Point Street Baltimore MD 21231	NAESB Agreement for Natural Gas	E	B			F	N	32	\$68,238,048	\$68,238,048	\$12,377,397	\$0	6/9/2003	O	*	
FD-2003-14	Colonial Energy Inc. 3975 Fair Ridge Drive Fairfax VA 22033	NAESB Agreement for Natural Gas	E	B			F	N	32	\$519,684,635	\$519,684,635	\$1,727,342	\$0	7/1/2003	O	*	
FD-2003-15	Virginia Power Energy Mktg P.O. Box 25773 Richmond VA 23260	NAESB Agreement for Natural Gas	E	B			F	N	32	\$629,265,426	\$629,265,426	\$0	\$0	7/11/2003	O	*	
FD-2004-08	Shell Energy North America (US), L.P. 1000 Main Street Houston TX 77002	NAESB Agreement for Natural Gas	E	B			F	N	32	\$84,192,427	\$84,192,427	\$0	\$0	4/1/2004	O	*	
FD-2005-12	NJR Energy Services Co 1415 Wyckoff Road Wall NJ 07719	NAESB Agreement for Natural Gas	E	B			F	N	32	\$482,759,842	\$482,759,842	\$10,310,277	\$0	9/1/2005	O	*	
FD-2007-10	Eastern Generation, LLC 18-01 20th Avenue Astoria NY 11105	Oil Delivery Labor Fees	E	1			N	N		\$60,771	\$60,771	\$0	\$0	7/1/2006	O	*	
FD-2008-05	Sequent Energy Mgmt LP 1200 Smith Street Houston TX 77002	NAESB Agreement for Natural Gas	E	B			F	N	32	\$38,772,712	\$38,772,712	\$669,870	\$0	3/1/2008	O	*	
FD-2008-06	Macquarie Energy LLC 500 Dallas Street Houston TX 77002	NAESB Agreement for Natural Gas	E	B			F	N	32	\$47,096,447	\$47,096,447	\$0	\$0	7/1/2008	O	*	
FD-2008-09	Con Edison 4 Irving Place New York NY 10003	LDC Agreement	E	1			N	N		\$26,855,155	\$26,855,155	\$30,574	\$0	8/1/2008	C		6/30/2019
FD-2019-07	Con Edison 4 Irving Place New York NY 10003	LDC Agreement	E	1			N	N		\$1,646,846	\$1,646,846	\$1,646,846	\$0	07/01/19	O	6/30/2022	

**POWER AUTHORITY OF THE STATE OF NEW YORK
FOSSIL FUELS ACTIVITY
JANUARY - DECEMBER 2019
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879**

**Exhibit 5b i-E
March 31, 2020**

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	Y E	M A	R A	O A	W A	I E	B S	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2019	CONTRACT BALANCE	DATE OF CONTRACT	O/C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-2008-10	United Energy Trading, LLC 215 Union Boulevard Lakewood CO 80228	NAESB Agreement for Natural Gas	E	B			F	N	32	\$159,002,299	\$159,002,299	\$0	\$0	11/19/2008	O	*	
FD-2019-02	Castleton Commodities Mercant Trading LP 2200, Atlantic Street, Stmford, CT 06902	NAESB Agreement for Natural Gas	E	B			F	N	32	\$14,062,604	\$14,062,604	\$14,062,604	\$0	02/08/19	O	*	
FD-2009-07	Conoco Phillips Company 600 North Dairy Ashford Houston TX 77079	NAESB Agreement for Natural Gas	E	1			F	N	32	\$45,794,016	\$45,794,016	\$869,438	\$0	5/1/2009	O	*	
FD-2009-08	NextEra Energy Power Marketing, LLC 700 Universe Blvd Juno Beach FL 33408	NAESB Agreement for Natural Gas	E	B			F	N	32	\$15,826,677	\$15,826,677	\$11,500	\$0	12/1/2009	O	*	
FD-2010-02	ENSTOR Energy Services, LLC 20329 State Highway 249 Houston TX 77070	NAESB Agreement for Natural Gas	E	B			F	N	32	\$37,442,338	\$37,442,338	\$2,536,026	\$0	8/9/2010	O	*	
FD-2011-06	EDF Trading North America, LLC 4700 West Sam Houston Houston TX 77041	NAESB Agreement for Natural Gas	E	B			F	N	32	\$201,981,926	\$201,981,926	\$1,372,278	\$0	6/1/2011	O	*	
FD-2018-13	Engie Energy Marketing NA, Inc. 1990 Post Oak Blvd Houston TX 77058	NAESB Agreement for Natural Gas	E	B			F	N	34	\$6,836,011	\$6,836,011	\$3,820,743	\$0	4/12/2018	O	*	
FD-2011-10	Tenaska Gas Storage, LLC 14302 FNB Parkway Omaha NE 68154	NAESB Agreement for Natural Gas	E	B			F	N	32	\$1,251,315	\$1,251,315	\$0	\$0	12/1/2011	O	*	
FD-2011-11	Statoil Natural Gas, LLC 120 Long Ridge Road Stamford CT 06902	NAESB Agreement for Natural Gas	E	B			F	N	32	\$18,684,302	\$18,684,302	\$0	\$0	4/18/2012	O	*	
FD-2012-02	Repsol Energy North America Corporation 2455 Technology Forest Rd The Woodlands TX 77381	NAESB Agreement for Natural Gas	E	B			F	N	32	\$40,814,917	\$40,814,917	\$1,796,848	\$0	11/13/2012	O	*	
FD-2013-06	Chesapeake Energy Marketing, LLC P.O. Box 18496 Oklahoma City OK 73154-0496	NAESB Agreement for Natural Gas	E	B			F	N	32	\$61,792,141	\$61,792,141	\$14,160,638	\$0	5/28/2013	O	*	
FD-2014-08	Spark Energy Gas, LLC 12140 Wickchester Lane Houston TX 77079	NAESB Agreement for Natural Gas	E	B			F	N	32	\$345,167,110	\$345,167,110	\$24,519,101	\$0	2/1/2014	O	*	
FD-2014-12	EQT Energy, LLC 625 Liberty Ave Pittsburgh PA 15222-3111	NAESB Agreement for Natural Gas	E	B			F	N	32	\$7,710,872	\$7,710,872	\$7,254,989	\$0	5/1/2014	O	*	
FD-2014-16	Pacific Summit Energy LLC 2010 Main Street Irvine CA 92614	NAESB Agreement for Natural Gas	E	B			F	N	32	\$63,666,380	\$63,666,380	\$283,457	\$0	8/11/2014	O	*	

**POWER AUTHORITY OF THE STATE OF NEW YORK
FOSSIL FUELS ACTIVITY
JANUARY - DECEMBER 2019
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879**

**Exhibit 5b i-E
March 31, 2020**

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	I Y E	M O A	R O A	O P A	M B E	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2019	CONTRACT BALANCE	DATE OF CONTRACT	O/C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-2015-03	Cabot Oil & Gas Corporation 840 Gessner Road Houston TX 77024-4152	NAESB Agreement for Natural Gas	E	B		F	N 32	\$2,439,304	\$2,439,304	\$0	\$0	3/2/2015	O	*	
FD-2015-05	DTE Energy Trading, Inc. 414 South Main Street Ann Arbor MI 48104	NAESB Agreement for Natural Gas	E	B		F	N 32	\$72,022,563	\$72,022,563	\$9,547,940	\$0	8/14/2015	O	*	
FD-2015-07	Definite Energy Group 575 Lexington Ave New York NY 10022	NAESB Agreement for Natural Gas	E	B		N	N 32	\$385,895	\$385,895	\$0	\$0	10/1/2015	O	*	
FD-2015-10	Direct Energy Business Marketing, LLC 194 Wood Ave South Iselin NJ 08830	NAESB Agreement for Natural Gas	E	B		F	3 32	\$2,387,858	\$2,387,858	\$1,061,150	\$0	12/14/2015	O	*	
FD-2016-01	Saybolt LP P.O. Box 844640 Dallas TX 752844640	Oil Inspection Agreement	P	B		N	N	\$35,952	\$35,952	\$16,120	\$0	1/1/2017	C		12/31/2019
FD-2018-12	Transco P.O. BOX 201371 Houston TX 77216	Firm Gas Transportation Agreement	E	1		F	N	\$3,329,141	\$3,329,141	\$737,501	\$0	05/01/18	C		5/31/2019
FD-2019-06	Transco P.O. BOX 201371 Houston TX 77216	Firm Gas Transportation Agreement	E	1		F	N	\$868,456	\$868,456	\$868,456	\$0	06/01/19	O	5/31/2020	
FD-2016-07	National Grid - LI 100 East Old Country Road Hicksville NY 11801	LDC Agreement (Flynn)	E	1		N	N	\$2,338,222	\$2,338,222	\$758,949	\$0	04/01/17	O	*	
FD-2018-16	National Grid - NY 1 Metrotech Centre Brooklyn NY 11201	LDC Agreement(G/K/P)	E	1		N	N	\$2,357,897	\$2,357,897	\$913,151	\$0	06/01/18	C		5/31/2019
FD-2019-04	National Grid - NY 1 Metrotech Centre Brooklyn NY 11201	LDC Agreement(G/K/P)	E	1		N	N	\$1,295,630	\$1,295,630	\$1,295,630	\$0	06/01/19	O	5/31/2020	
FD-2018-17	National Grid - LI 100 East Old Country Road Hicksville NY 11801	LDC Agreement (Brentwood)	E	1		N	N	\$1,311,819	\$1,311,819	\$537,300	\$0	06/01/18	C		5/31/2019
FD-2019-05	National Grid - LI 100 East Old Country Road Hicksville NY 11801	LDC Agreement (Brentwood)	E	1		N	N	\$192,009	\$192,009	\$192,009	\$0	06/01/19	O	5/31/2020	
FD-2003-13	Merrill Lynch Commodities, Inc. 20 East Greenway Plaza Houston TX 77046	NAESB Agreement for Natural Gas	E	B		F	N 32	\$2,538,965	\$2,538,965	\$0	\$0	11/1/2003	O	*	
FD-2018-21	Penn Oak Services, LLC 1815 Sudbury Rd NW Washington DC 20012	NAESB Agreement for Natural Gas	E	B		F	N 32	\$2,057,321	\$2,057,321	\$1,340,053	\$0	07/19/18	O	*	

**POWER AUTHORITY OF THE STATE OF NEW YORK
FOSSIL FUELS ACTIVITY
JANUARY - DECEMBER 2019
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879**

**Exhibit 5b i-E
March 31, 2020**

CONTRACT NUMBER	PROVIDER NAME	CONTRACT DESCRIPTION	I Y P E	M O A	R O A	O P A	M W E	B I S	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT EXPENDED 2019	CONTRACT BALANCE	DATE OF CONTRACT	O/C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
FD-2018-09	Twin Eagle Resource Management LLC 8847 West Sam Houston Houston TX 77040	NAESB Agreement for Natural Gas	E	B		F	N	32	\$0	\$0	\$0	\$0	07/10/18	O	*	
FD-2018-20	Freepoint Commodities LLC 58 Commerce Road Stamford CT 06902	NAESB Agreement for Natural Gas	E	B		F	N	32	\$4,685,670	\$4,685,670	\$3,024,860	\$0	6/28/2018	O	*	
FD-2019-01	Northville Industries Corp. NIC 25 Melville Park Road Melville NY 117470398	Oil Letter Contract & Spilltax Reimbursement	E	B		F	N	9	\$3,891,957	\$3,891,957	\$3,891,957	\$0	2/3/2019	C		2/3/2019
FD-2019-03	Spotlight energy LLC 950 Echo Lane Houston TX77024	NAESB Agreement for Natural Gas	E	B		F	N	32	\$4,262,130	\$4,262,130	\$4,262,130	\$0	4/18/2019	O	*	
FD-2018-19	Consolidated Edison Energy 100 Summit Lake Drive Valhalla NY 10595	NAESB Agreement for Natural Gas	E	B		F	N	32	\$144,975	\$144,975	\$144,975	\$0	2/19/2019	O	*	
FD-2018-07	Astoria Energy II LLC 1710 Steinway Street Astoria NY 11105	AEII Demand Charges	E	1		N	N		\$41,749	\$41,749	\$25,146	\$0	12/10/2018	C		4/30/2019
FD-2016-02	Astoria Energy II LLC 1710 Steinway Street Astoria NY 11105	AEII Spill Tax Reimbursement	E	1		N	N		\$32,550	\$32,550	\$2,514	\$0	5/1/2016	C		4/30/2019
FUELS TOTALS									\$3,362,813,485	\$3,362,813,485	\$126,829,178					

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

POWER AUTHORITY OF THE STATE OF NEW YORK
2019 ANNUAL REPORT OF PROCUREMENT CONTRACTS
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879

March 31, 2020
Exhibit 5b i-F

CORPORATE FINANCE ADDENDUM

PROVIDER NAME	CONTRACT DESCRIPTION	T Y P E	M O N E Y	R O A D	O P E R A T I O N S	M A I N T E N A N C E	B I D S	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	PROJECTED AMOUNT TO SPEND IN 2020	CONTRACT BALANCE	DATE OF CONTRACT	O C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
Public Financial Management	Capital Markets Financial Advisor	S	C	9	N			117,625	117,625	120,000			O		
Bank of New York (formerly JPMorgan) 101 Barclay Street New York, NY 10286	Trustee/Paying Agent Services on Bonds	S	C	9	N			567,245	567,245	30,000	-	2/24/1998	O	*	
Bank of New York (formerly JPMorgan) 101 Barclay Street New York, NY 10286	Trustee- Commercial Paper	S	C	9	N			254,001	254,001	15,000	-	10/2/2006	O	*	
Barclays Capital (assigned from Lehman Bros.) ** 745 Seventh Avenue New York, NY 10019	Re-marketing Agent CP-1	S	C	9	N			2,054,754	2,054,754	90,000	-	7/14/1994	O	*	
Barclays Capital (assigned from Lehman Bros.) 745 Seventh Avenue New York, NY 10019	Re-marketing Agent CP-3	S	C	9	N			10,775	10,775	-	-	6/26/2008	O	*	
Citigroup 390 Greenwich Street New York, NY 10013	Re-marketing Agent CP-2	S	C	9	N			1,202,063	1,202,063	55,000	-	12/4/1997	O	*	
Goldman, Sachs & Co. 85 Broad Street New York, NY 10004-2456	Re-marketing Agent CP-2 and 3	S	C	9	N			1,190,356	1,190,356	45,000	-	12/4/1997	O	*	

POWER AUTHORITY OF THE STATE OF NEW YORK
2019 ANNUAL REPORT OF PROCUREMENT CONTRACTS
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879

March 31, 2020
Exhibit 5b i-F

CORPORATE FINANCE ADDENDUM

PROVIDER NAME	CONTRACT DESCRIPTION	T Y P E	M O N E Y	R O A D	O P E R A T I O N S	M A I N T E N A N C E	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	PROJECTED AMOUNT TO SPEND IN 2020	CONTRACT BALANCE	DATE OF CONTRACT	O C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
Goldman, Sachs & Co. 85 Broad Street New York, NY 10004-2456	Re-marketing EMCP	S	C	9	N		952,498	952,498	5,500	-	3/4/2003	O	*	
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Re-marketing Agent CP-2	S	C	9	N		414,380	414,380	40,000	-	6/28/2001	O	*	
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Re-marketing Agent CP-3	S	C	9	N		677,934	677,934	30,000	-	12/4/1997	O	*	
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Escrow Agent POCR/CASP & LMEI Funds	S	C	9	N		588,646	588,646	15,000	-	5/30/1996	O	*	
JPMorgan Chase 270 Park Avenue New York, NY 10017-2070	Revolving Line of Credit 2019	S	C	9	N	2	11,793,666	11,793,666	2,380,000	-	1/19/2019	O	1/19/2019	

CORPORATE FINANCE: WPO

POWER AUTHORITY OF THE STATE OF NEW YORK
2019 ANNUAL REPORT OF PROCUREMENT CONTRACTS
REQUIRED BY N.Y. PUBLIC AUTHORITIES LAW, SECTION 2879

March 31, 2020
Exhibit 5b i-F

CORPORATE FINANCE ADDENDUM

PROVIDER NAME	CONTRACT DESCRIPTION	T Y P E	M O N E Y	R O W S	O P E R A T I O N S	M B I D S	TOTAL CONTRACT AMOUNT	TOTAL EXPENDED TO DATE	PROJECTED AMOUNT TO SPEND IN 2020	CONTRACT BALANCE	DATE OF CONTRACT	O C	PROJ COMPLETE DATE	DATE CONTRACT COMPLETE
Morgan Stanley 1221 Avenue of the Americas New York, NY 10020	Re-marketing Agent CP-1	S	C	8	N	7	510,431	510,431	30,000	-	3/31/2009	O	*	
RBC Capital Markets ** 1211 Avenue of the Americas New York, NY 10036	Re-marketing Agent CP-1	S	C	9	N		862,202	862,202	80,000	-	7/14/1994	O	*	

CORPORATE TREASURY TOTALS

21,196,575 21,196,575 2,935,500 -

NOTES:

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

** Expense History only available from 1997

TRANSFER OF INTEREST IN PERSONAL PROPERTY FROM NYPA AND CANAL CORPORATION

January – December 2019

January – December 2019 Report of Transfer of Interest in Personal Property to Canal Corporation

Effective January 1, 2017, management and administration of the New York State Canal Corporation is an additional corporate purpose of the Authority. New York Public Authorities Law § 1005-b (2) authorizes the Authority to “transfer to the Canal Corporation any moneys, real, personal, or mixed property or any personnel in order to carry out the purposes of this section...” to the extent that the Authority’s Trustees deem it feasible and advisable. Under Public Authorities Law Title 5-A Disposition of Property by Public Authorities, the Trustees annually designate a Contracting Officer as part of their approval of the Guidelines for the Disposal of New York Power Authority Personal Property.

The Trustees’ authorized, on January 31, 2017, the Authority’s personal property Contracting Officer to transfer any interest in Authority personal property to the Canal Corporation, as the Contracting Officer deems prudent after balancing the respective needs of the Authority and the Canal Corporation, will facilitate the Canal Corporation’s obligations to operate, maintain, construct, reconstruct, improve and develop the canal system. The Contracting Officer will authorize the transfer of Authority personal property or any interest therein only at the request of Canal Corporation. The Contracting Officer will authorize the transfer to Canal Corporation any interest in Authority personal property, valued at up to \$500,000 per transaction, in parity with the authorization level and signing authority set forth in the Guidelines for the Disposal of New York Power Authority Personal Property. Additionally, the Contracting Officer will report to the Trustees or committee thereof regarding such property transfers. To that end, the January to December 2019 Report of Transfer of Interest in Personal Property from NYPA and Canal Corporation less than \$500,000 in value is attached.

FLEET – January to December 2019 Activity Summary

In response to a Canal Corporation request for certain Fleet assets, and subsequent to the demonstrating a need for these assets, the Contracting Officer approved the transfer of twenty-four (24) Fleet vehicles, valued at \$382,571, as described in the attached report in furtherance of Canal Corporation’s operation, maintenance, construction, reconstruction, improvement and development of the canal system.

OTHER PERSONAL PROPERTY– January to December 2019 Activity Summary

In response to a Canal Corporation request for certain Marine Infrastructure assets, and subsequent to the demonstrating a need for these assets, the Contracting Officer approved the transfer of one (1) commercial tug boat (ice breaker), valued at \$115,000, as described in the attached report in furtherance of Canal Corporation’s operation, maintenance, construction, reconstruction, improvement and development of the canal system.

Grand Total as of 12/31/19

As summarized on the attached Report, the January through December 2019 Grand Total "Value of Interest in Personal Property Transferred from NYPA and Canal Corporation" for all Personal Property less than or equal to \$500,000 authorized by the Contracting Officer was \$497,571.

POWER AUTHORITY OF THE STATE OF NEW YORK

**JANUARY – DECEMBER 2019 REPORT OF TRANSFER OF INTEREST IN PERSONAL PROPERTY TO
CANAL CORPORATION LESS THAN OR EQUAL TO \$500,000**

FLEET OPERATIONS

DESCRIPTION	VIN	UNIT #	TRANSFER DATE	Transfer Value Recorded by the Authority
2009 FORD F250 PICKUP	1FTSW21579EA90650	09P112	4/11/2019	\$ 13,950.00
2011 FORD ESCAPE HYBRID	1FMCU5K37BKB85477	11H24	4/11/2019	\$ 5,250.00
2011 FORD F150 PICKUP	1FTFW1EF9BKD86999	11P2	4/11/2019	\$ 13,200.00
2011 KUBOTA RTV1100CW	A5KC1HDAVBG032100	11UA2	4/11/2019	\$ 14,500.00
2011 KUBOTA RTV1100CW	A5KC1HDAHBBG032098	11UA3	4/11/2019	\$ 14,500.00
2011 KUBOTA RTV1100CW	A5KC1HDACBGG032094	11UA4	4/11/2019	\$ 14,500.00
2007 ALTEC DC-1217 CHIPPER	5WDS415187S200970	XC67	4/11/2019	\$ 13,250.00
2007 ALTEC DC-1217 CHIPPER	5WDS4151X7S200971	XC72	4/11/2019	\$ 13,250.00
2009 DODGE DURANGO	1D8HB38P19F715350	09S425	10/21/2019	\$ 6,212.00
2010 FORD F450 DUMP TRUCK	1FDAF4HR0AEA26210	09T270	10/21/2019	\$ 21,950.00
2010 FORD F450 DUMP TRUCK	1FDAX4HR6AEA26211	09T40	10/21/2019	\$ 20,025.00
2011 CHEVROLET TAHOE	1GNSK2E06BR349077	11S97	10/21/2019	\$ 11,275.00
2013 FORD F150 PICKUP	1FTFX1EF1DKF06200	13P93	10/21/2019	\$ 10,725.00
2007 JLG 660SJ MANLIFT	0300116886	M278	10/21/2019	\$ 31,250.00
2008 FORD E350 CARGO VAN	1FTSS34PX8DA49089	V204	10/21/2019	\$ 8,412.00
2009 FORD F250 PICKUP	1FTSW21539EA90645	09P280	10/21/2019	\$ 12,700.00
SUBTOTAL FLEET:				\$ 224,949.00

POWER AUTHORITY OF THE STATE OF NEW YORK

JANUARY – DECEMBER 2019 REPORT OF TRANSFER OF INTEREST IN PERSONAL PROPERTY TO CANAL CORPORATION LESS THAN OR EQUAL TO \$500,000

FLEET OPERATIONS – CONTINUED

DESCRIPTION	VIN	UNIT #	TRANSFER DATE	Transfer Value Recorded by the Authority
2011 FORD F350 PICKUP	1FD8X3F62BEB15180	11T15	11/8/2019	\$ 11,625.00
2013 FORD F150 PICKUP	1FTFW1EF2DKF05978	13P15	11/8/2019	\$ 15,050.00
2008 JACOBSEN HR9016 MOWER	7052901908	08L258	11/8/2019	\$ 19,966.00
2014 CASE 590SN BACKHOE	JJGN59SNEEC711275	14XE78	11/8/2019	\$ 50,633.00
2007 ALTEC DC-1217 CHIPPER	5WDS415137S200973	XC30	11/8/2019	\$ 15,798.00
2008 FORD F350 PICKUP	1FTWF31R18EC78735	P4038	11/8/2019	\$ 14,450.00
2008 FORD F350 PICKUP	1FTWW31R08EC59464	P4165	11/8/2019	\$ 14,750.00
2008 FORD F350 PICKUP	1FDWF33R78EC83172	P476	11/8/2019	\$ 15,350.00
<hr/> SUBTOTAL FLEET:				\$ 157,622.00
+ SUBTOTAL FLEET – PAGE 1:				<u>\$ 224,949.00</u>
TOTAL FLEET:				<u>\$ 382,571.00</u>

POWER AUTHORITY OF THE STATE OF NEW YORK

JANUARY – DECEMBER 2019 REPORT OF TRANSFER OF INTEREST IN PERSONAL PROPERTY TO CANAL CORPORATION LESS THAN OR EQUAL TO \$500,000

OTHER PERSONAL PROPERTY

DESCRIPTION	IDENTIFICATION NUMBER	TRANSFER DATE	Transfer Value Recorded by the Authority
1979 COMMERCIAL TUGBOAT (ICE BREAKER)	613985	4/25/2019	\$ 115,000.00
TOTAL OTHER PERSONAL PROPERTY:			\$ 115,000.00
+ TOTAL FLEET:			<u>\$ 382,571.00</u>
GRAND TOTAL:			<u>\$ 497,571.00</u>

CANAL CORPORATION PROCUREMENT CONTRACTS SUMMARY **January - December 2019**

The full Annual Report of Procurement Contracts includes Authority, Canal, Fuel and Financial contracts, and the Canal Corporation portion has been provided here as Exhibit A-3. The Annual Report includes specific details for procurements with a value of \$5,000 or greater that were open, completed or awarded in 2019, including contracts that were extended into 2020 or beyond. There were 361 such Canal contracts with a value of nearly \$315 million, with a total procurement expenditure in 2019 exceeded \$87 million.

The following is a breakdown of the total value of active contracts:

- 10% Architectural and Engineering Services
- 60% Construction Services
- 9% Equipment and Commodities including IT Hardware and Software
- 14% Personal Service contracts such as professional consulting services
- 7% Non-Personal Service contracts such as maintenance, repairs, technicians and contingent workforce

Based on the total value of the contracts reported (\$315 million), approximately 99% of contracts awarded were competitively bid. In 2019, approximately 1% of contracts (with a total contract value of \$3.2 million) were sole/single-source awards which included over \$617 thousand in MWBE, SDVOB, and SBE contract awards. The sole/single-source awards included, but were not limited to, the purchase of spare parts and services from original equipment manufacturers (OEM), procurements from proprietary sources, procurements required on an emergency basis.

CANAL CORPORATION

2019 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

DESCRIPTION	PURCHASER	SALE PRICE	PRICE RECEIVED by Canal Corp.
REMANUFACTURED CAT 3306 DEISEL ENGINE	MICHAEL FERRUCCI REPAIR INC.	\$ 5,100.00	\$ 5,100.00
VARIOUS SCRAP ITEMS	ASSET RECOVERY ENG ASSOC.	\$ 14,600.00	\$ 14,600.00
1982 FMC 10 TON CRANE	SHEEHAN EQUIPMENT CORP.	\$ 25,100.00	\$ 25,100.00
1972 PETTIBONE 30 TON CRANE	McLOUGHLIN'S MFD HOME MOVING	\$ 9,400.00	\$ 9,400.00
1990 GROVE RT875CC 40 TON CRANE	BRIAN YOUNG	\$ 21,100.00	\$ 21,100.00
VARIETY SHEET METAL	RANDY RICHERS NY DRILLING SVCS.	\$ 23,100.00	\$ 23,100.00
2002 INTL / NAVISTAR 2574 DUMP TRUCK	LARRY FLECKENSTEIN	\$ 5,200.00	\$ 5,200.00
BERTSCH PLATE ROLL	PHILLIP ORTIZ MFG. CORP.	\$ 10,600.00	\$ 10,600.00
1976 P&H MT250 TELESCOPIC BOOM CRANE	DAVID SCHWALENBERG	\$ 5,600.00	\$ 5,600.00
	TOTAL:	\$ 119,800.00	\$ 119,800.00

CANAL CORPORATION

2019 ANNUAL REPORT OF DISPOSAL OF PERSONAL PROPERTY OVER \$5,000

FLEET OPERATIONS

DESCRIPTION	PURCHASER	SALE PRICE	Transportation and Other Fees	PRICE RECEIVED * by Canal Corp
2002 CHEV SILVERADO 3500 DUMP TRUCK	DAVID S. BROWN	\$ 6,400.00	\$ 0.00	\$ 6,400.00
FLEET SUBTOTAL:		\$ 6,400.00	\$ 0.00	\$ 6,400.00
+ SUBTOTAL Page 1:		<u>\$ 119,800.00</u>	--	<u>\$ 119,800.00</u>
GRAND TOTAL:		<u>\$ 126,200.00</u>	\$ 0.00	<u>\$ 126,200.00</u>

Company Policy Title:

Policy Number:



NYPA GUIDELINES FOR PROCUREMENT CONTRACTS

CP 3-1

Revision Date (For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
3/31/2020	2	Annual updates include definition of Software; update of circumstances for Law review; statutory updates for procurement announcements and the dollar cap for MWBE discretionary spend	Sections 2, 3, 6	Diane Gil, Senior Director, Procurement Governance & Analytics Center of Excellence
3/26/2019	1	Per PAL §2879, the Guidelines were adopted by resolution and are reviewed annually and approved (by the Trustees). Updates proposed for clarity, ease of use and include minor changes to reflect current regulatory and statutory changes.	Sections 1,2,3,4,6,7, 10 and 13	Diane Gil, Senior Director, Procurement Governance & Analytics Center of Excellence

Printed copies are not controlled.

For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

NYPA 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, Articles 15-A and 17-B 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 (as defined in Section 2.O. and 2. P., respectively), 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 under \$5,000, contracts for energy with or without environmental attributes included, capacity, renewable energy certificates, 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) or credit rating services; certain insurance and healthcare products that do not readily lend themselves to a competitive solicitation. 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. Procurement Contracts that include both equipment and services may be classified as Equipment,” where 60% or more of the total projected contract value will be for the purchase of equipment, material or supplies.
- E. “Software” includes on-premise applications as well as Software-as-a-Service (SaaS) which is defined as a software distribution model in which a third-party provider hosts application and makes access available to customers over the Internet. “Software” shall be considered “Equipment” where such term is used throughout these Guidelines.
- F. “Evaluation of Proposals,” as further set forth in Section 4 below, includes as evaluating factors the Authority’s consideration of a bidder’s skill, judgment and business integrity.
- G. “Contact” is 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 Authority’s conduct or decision regarding the procurement.
- H. “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. The term Relative may include, but is not limited to, 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.
- I. “Minority- and Women-owned Business Enterprise” (“MWBE”) 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.
- J. “Small Business” (or Small Business Enterprise, “SBE”), pursuant to Executive Law § 310 and as used in these Guidelines, unless otherwise indicated, is a business that has a significant business presence (as defined at 5 NYCRR 140.1) in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.
- K. “Single Source” is a procurement in which the Authority, upon written findings setting forth material and substantial reasons, may award a contract (or amendment to a contract) to one offeror over another that can supply the goods or services.

- L. “Sole Source” is a procurement in which only one offeror is capable of supplying the required goods or services.
- M. “Service-Disabled Veteran-Owned Business” (“SDVOB”) is a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is at least 51% owned by one or more service-disabled veterans; in which such ownership is real, substantial and continuing, and also has and exercises the authority to control independently the day-to-day business decisions of the enterprise; is a Small Business and is certified by the New York State Office of General Services, as further set forth in Article 17-B of the Executive Law.
- N. “Discretionary Purchase” is a procurement made below statutorily established monetary threshold amounts (e.g., not exceeding \$500,000 for the purchase of commodities and/or services from Small Business Enterprises or NYS-certified MWBE firms, and without a dollar cap for SDVOB firms as further set forth in Sections 3.D and 3.K.5-7) and at the discretion of the Authority, without the need for a formal competitive bid process. For the purpose of determining whether a purchase is within the discretionary thresholds, the aggregate amount of all purchases of the same commodities and/or services to be made within the 12-month period commencing on the date of purchase shall be considered. A change to or a renewal of a discretionary purchase shall not be permitted if the change or renewal would bring the reasonably expected aggregate amount of all purchases of the same commodities and/or services from the same provider within the 12-month period commencing on the date of the first purchase to an amount greater than \$500,000, pursuant to State Finance Law § 163.
- O. “Disadvantaged Business Enterprise” (DBE) is a for-profit small business concern (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it, pursuant to the definition found in 49 C.F.R Part 26.
- P. “Operation and Maintenance” (“O&M”) generally refers to the work or services necessary to keep the plants, transmission lines, and other equipment and facilities to include NYPA customers, where authorized, (collectively referred to generally as an “asset”) in optimal operating condition and/or to restore an asset to its productive capacity. This includes the cost of inspecting, testing, analyzing and reporting on the condition of the asset required to determine repairs or replacement, as well as costs associated with the normal operation and administration of NYPA’s production/transmission facilities and energy programs.
- Q. “Capital projects” generally refers to the acquisition or construction of new assets, the replacement and/or betterment of existing assets, equipment or property (including those of NYPA’s customers, where authorized). Betterment refers to an extension of the useful life or improvement in the efficiency and/or capacity of the asset, equipment or property.

3. SOLICITATION REQUIREMENTS

- A. Preparation of the solicitation of proposals for Procurement Contracts is the joint responsibility of the White Plains Strategic Supply Management (“SSM”) Department, or the facilities’ SSM 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 \$50,000 and a minimum of five providers and/or firms (if available) for purchases valued at \$50,000 and greater, commensurate with the magnitude and nature of the goods and/or services, and the schedule for performance.
- B. Prospective bidders on Procurement Contracts may be prequalified by invitation advertised in the same manner as an RFP/RFQ (referred to as a Request for Qualifications and/or Request for Information (“RFI”). In such cases, proposals are requested only from those providers and/or firms whose prequalification submittals demonstrate sufficient ability and competence (including, but not limited to, the bidder’s skill, judgment and business integrity) 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 (“MWBEs”), Service-Disabled Veteran-Owned Businesses (“SDVOBs”) and Small Business Enterprises (“SBEs”), the Authority will solicit offers from such firms 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 definitions of NYS-certified MWBE or SDVOB firms and SBEs are set forth in Sections 2.H, 2.L and 2.I, respectively.

To foster increased use of MWBEs and SBEs, a single proposal may be sought, negotiated and accepted for discretionary purchases of goods and/or services not exceeding \$500,000, in the aggregate including all amendments, from a NYS-certified MWBE or an SBE that offers a reasonable price for such goods and/or services. An SDVOB may be awarded on the basis of a single proposal that offers a reasonable price for such goods and/or services without a dollar cap. The award of such proposal requires the written approval of the Vice President, SSM. 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, SSM. Furthermore, the award of such Procurement Contracts will be noticed on the *Contract Reporter* website, as further set forth in Section 3.H.
- 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 specification forms of New York State manufacturers, producers and/or assemblers, as made available by the Commissioner of General Services, for any Procurement Contract for the purchase of goods.
- F. Certain goods and/or services may be procured pursuant to Procurement Contracts let by any department, agency, officer, political subdivision or instrumentality of the State (e.g., the New York State Office of General Services ("OGS")) or Federal government (e.g., General Services Administration ("GSA")) or any city or municipality where the White Plains SSM Department, or facility SSM 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.

Certain Procurement Contracts established by the OGS or GSA require that authorized users conduct a “mini bid” (i.e., an abbreviated supplemental competitive bid procurement process) among prequalified bidders identified in such established contracts. Certain other Procurement Contracts issued by the Authority (e.g., for on-call consulting or contracting services) may also utilize a mini bid process, typically, in cases of a multiple award, where a contract is awarded to more than one bidder that meets the Authority’s bid requirements, in order to satisfy multiple factors and needs as set forth in the bid document. Such mini bids shall be conducted by the Authority’s SSM staff (or on behalf of the Authority by an Implementation Contractor) where applicable and practicable. Within a said multiple award group, work may be assigned to a specific firm without conducting a mini bid, under certain circumstances, including but not limited to: where such firm possesses specialized expertise and is uniquely qualified to perform such work; where time constraints, emergency or other critical conditions exist or geographic location is of primary consideration in order to meet schedule requirements, respond to emergent issues or otherwise meet the Authority’s needs; or when the work scope is below a specified monetary threshold. The decision to assign work without conducting a mini bid shall typically be made jointly by SSM and the initiating departments and shall be documented for the Procurement Record.

- G. Solicitations will include a scope of work that defines the goods required and/or the services to be performed; evaluation criteria (as defined in Section 4.B); milestone dates; the Authority’s Supplier Diversity Program and SDVOB 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 less than \$50,000, 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. All solicitations made by telephone shall be documented and made part of the Procurement Record.
- H. For all Procurement Contracts with a value equal to or greater than \$50,000 (except for those contracts noted below), the Authority will, prior to soliciting proposals, submit all required information to the Commissioner of the DED to be included on the New York State *Contract Reporter* website, (www.nyscr.ny.gov) (unless such posting would serve no useful purpose). 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 15 business days after the date of publication of such notice on the *Contract Reporter* website, except where a shorter period is specifically authorized by law. For Procurement Contracts resulting from a Request for Proposal process, the Authority will submit the results of the bid opening, including the names of firms submitting proposals and the name/s of the awardee/s, for inclusion on the *Contract Reporter* website. For all other Procurement Contracts, the name of the awardee will be submitted.

This section 3.H 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. (See Article 4-C, Economic Development Law)

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, SSM, and/or the head of the initiating department that does not complete its procurements through the SSM 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.

Notwithstanding the foregoing, submittal of a notice / announcement of award for inclusion on the *Contract Reporter* website is required for Procurement Contracts with a value of \$50,000 or more awarded on a sole source or single source basis, including such discretionary contracts not exceeding \$500,000 awarded to Small Business Enterprises or NYS-certified MWBE firms, or for the purchase of goods and/or technology that are recycled or remanufactured, for discretionary awards on a single or sole source basis to SDVOB's, or for the purchase of food, including milk and milk products that are grown, produced or harvested in New York State, and certain other Procurement Contracts exempt from the general advertising requirement for Procurement Contract bidding opportunities, in accordance with the afore-referenced law. Such notice shall specify the name of the awardee.

- I. In order to further increase participation of service-disabled veterans in New York State's contracting opportunities, the Service-Disabled Veteran-Owned Business ("SDVOB") Act was signed into law on May 12, 2014. The SDVOB program provides for eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business. The Division of Service-Disabled Veterans' Business Development within the New York State Office of General Services ("OGS") is responsible for certifying eligible SDVOBs, assisting agencies and authorities in complying with the law, and promoting SDVOB participation in the state's procurement activities. Under this program, contracts may be awarded on a non-competitive basis to NYS-certified SDVOBs for discretionary purchases. Alternately, contracts may be competitively bid exclusively among NYS-certified SDVOBs regardless of value and advertised as such on the *Contract Reporter* website.
- J. 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 SSM Department or the appropriate facility SSM 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. 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 Enterprise or to a NYS-certified MWBE firm for discretionary purchases not exceeding \$500,000, pursuant to Section 3.D and as further set forth in Section 2.M
 6. The contract is awarded to a NYS-certified SDVOB for a discretionary purchase.
 7. The contract is for the discretionary purchase of goods and/or technology that are recycled or remanufactured, in an amount not exceeding \$500,000, as further set forth in Section 2.M and subject to the approvals stated in Section 3.D.
 8. The contract is for the discretionary purchase of commodities that are food, including milk and milk products, which are grown, produced or harvested in New York State, in an amount not exceeding \$500,000, as further set forth in Section 2.M and subject to the approvals stated in Section 3.D.
 9. 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.
- L. 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 in excess of \$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.
- M. 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.
- N. Whenever an initiating department determines that a Procurement Contract should be awarded on a Single Source, Sole Source, or an emergency basis, the department head or other authorized equivalent per the EAPs will provide a written statement explaining the compelling reasons therefor to the White Plains SSM Department or the appropriate facility SSM Department. The award of such Procurement Contracts, regardless of value, requires the written approval of the Vice President, SSM, except as noted in Section 3.H.
- O. 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 SSM Department.
- P. In furtherance of Public Authorities Law § 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, SSM or authorized designee.
- Q. 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 shall apply:

The "Restricted Period" is the period of time commencing with the earliest posting, on the Authority's website, in a newspaper of general circulation, or in the Procurement Opportunities Newsletter (i.e., New York State *Contract Reporter*) in accordance with Article 4-C of the Economic Development Law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from offerors (i.e., bidders/con- tractors) intending to result in a Procurement Contract with the Authority and ending with the final contract award and approval by the Authority and, where applicable, the State Comptroller. The "Restricted Period" also applies to a "mini-bid" process that may be utilized in certain established OGS, GSA or Authority multiple award contracts, as provided in Section 3.F.

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.

- R. In furtherance of the Authority's commitment to ensure transparency and accountability of its operations, every member, officer or employee of the Authority who is contacted by a lobbyist is required to make a contemporaneous record of such contact, pursuant to Public Authorities Law § 2987 and as further set forth in the Authority's Company Policy, Lobbying Contacts CP 9-2, regarding this matter.
- S. Project Sunlight (Chapter 399, Part A, Section 4 of the Laws of 2011) requires the Authority to record in a database maintained by the New York State Office of General Services certain appearances between the Authority and individuals, firms or other entities (excluding elected officials and representatives of federal, state and local agencies and authorities) relating to the procurement of a contract, with a value of \$25,000 or more, for real property, goods or services. Appearances are defined as an interaction through an in-person meeting or a video conference between covered individuals. Appearances related to emergency procurements and disposal of property through public auctions are excluded, as are appearances that take place during the formal "Restricted Period." Covered individuals at the Authority means an employee who has the power to exercise discretion in procurement matters or advises someone who exercises such discretion. A covered individual outside of the Authority means both "external" (e.g., a lobbyist) and "internal" (e.g., sales representative) representatives of an entity, individuals appearing on behalf of themselves, advocacy groups or organizations or entities representing the interests or concerns of the organization or entity or of its members. All such appearances must be promptly reported to the Authority's Ethics and Compliance Office for recording in the Project Sunlight database.

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 (including, but not limited to, the bidder's skill, judgment and business integrity), 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 SSM Department and/or the appropriate facility SSM 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, SSM 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; and overall, the bidder's skill, judgment and business integrity. 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.

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

- 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 for Goods (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. (See also Section 4.F regarding award to "other than low bidder".)

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

- E. Pursuant to § 139-k of the State Finance Law, the Authority shall not award a Procurement Contract (as defined in Subsection 3.Q.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-k 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 and SDVOB goals; and overall, the bidder's skill, judgment and business integrity.
- 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, as well as Supplier Diversity Program requirements, as applicable.

6. AWARD OF CONTRACT

- A. Services Contracts (which include contracts for Construction, Personal and Non-personal services, as defined in Section 2.C.) valued or estimated to be \$5,000 or greater 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.
- B. Extending a contract, previously approved by the Trustees, for 12 months or less ("grace period") requires approval by the Vice President of the requesting department or other authorized equivalent or designee in accordance with existing EAPs and concurrence by the Vice President, SSM.
- C. For Services Contracts valued or estimated to be \$5,000 or greater 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 term and value, such contract must be approved in writing 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.
- D. A contract or contract task valued or estimated to be \$5,000 or greater 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.
- E. The term of a Personal Services contract is limited to a maximum of five (5) years, including any extensions.
- F. Multiyear contracts for Goods (which include equipment, materials and supplies, as defined in Section 2.D) valued or estimated to be \$5,000 or greater are subject to the management approval thresholds established in the EAPs and require Trustee approval only once those thresholds are met.

- G. 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, SSM or equivalent(s) or designee, may authorize extending such contract, subject to the Trustees ratifying such action as soon as practicable.
- H. 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.
- I. 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, SSM or equivalent(s) or designee, may authorize in writing 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.
- J. The White Plains SSM Department or the facilities' SSM 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.
- K. Pursuant to Economic Development Law § 143, the Authority shall submit an announcement of the intended contract for inclusion in the procurement opportunities newsletter at the time it enters into a contract. Such announcement shall identify the contract, specify the date of the award of the contract and provide the name of and contact information for each recipient of the contract.
- L. 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 SSM Department: purchase order format (for standard procurements of goods and/or services); furnish-and-deliver format (for major equipment purchases); long form agreements (for consulting services) and maintenance agreement formats; 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 SSM Department, which, along with the facilities' SSM 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. MWBE requirements
19. SDVOB requirements
20. 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 (MWBE) Participation Goal Requirement)
6. Appendix "D" (Background Security Screening for Authority Contractors)
7. Appendix "E" (Omnibus Procurement Act of 1992 Requirements)
8. Appendix "F" (Computer Aided Design Requirements For New York Power Authority Drawings)
9. Appendix "G" (Equal Employment Opportunities Requirements)
10. Appendix "H" (Tax Law Requirements)
11. Appendix "I" (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) - inactive
14. Appendix "L" (DOE Federal Contract Provisions) - inactive
15. Appendix "M" (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology ("BART") for Heavy Duty Vehicles)
16. Appendix "N" (The New York State Iran Divestment Act of 2012 – Iranian Energy Sector Divestment)
17. Appendix "O" (Encouraging Use of New York State Businesses in Contract Performance) – inactive
18. Appendix "P" (Information Security Requirements for Vendors and External Partners)

- C. 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.

Furthermore, any firm, person or other entity retained by the Authority to provide conceptual studies, designs or specifications is prohibited from being awarded future phases of work, including implementation, related to the original work.

The above restrictions shall not apply where:

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;
3. There is no qualified response to the solicitation for future phases of work, including implementation; or

4. The originating Authority Business Unit determines in writing that the restrictions are not in the best interests of the Authority. Such originating Business Unit shall obtain the approval of the applicable Business Unit Head or equivalent(s), Vice President, SSM 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.

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.M 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 and SDVOB Program goals in accordance with Executive Law Articles 15-A and 17-B, respectively.
- 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.
- C. 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.

9. CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER EMPLOYEES

- A. Former Authority officers and employees may be eligible to be considered for direct engagement as contractors and/or consultants provided that they meet all criteria for contractors and/or consultants generally as specified in these Guidelines; their engagement is not barred by New York Public Officers Law § 73(8); they obtain an opinion by the New York State Joint Commission on Public Ethics that such engagement is permissible; and upon approval of the President and Chief Executive Officer, as well as the Chairman of the Board of Trustees.
- 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.
 3. Pursuant to the provisions of New York Public Officers Law § 73(8-b), notwithstanding the provisions of 1. and 2. above, a former Authority officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to the Authority, if, prior to engaging in such service, the Chairman of the Board of Trustees certifies in writing to the New York State Joint Commission on Public Ethics that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the Authority's needs and is otherwise unavailable at a comparable cost. Where approval of the contract is required under § 112 of the New York State Finance Law, the Comptroller shall review and consider the reasons for such certification. The New York State Joint Commission on Public Ethics must review and approve all such certifications.
- 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 process or decision: (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 in writing his or her supervisor and the Office of Ethics and Compliance of the relationship and must be recused from any and all discussions or decisions relating to the matter.
1. For purposes of this Section 9.E, the term "Relative" is defined in Definitions, Section 2.G of these Guidelines.

10. SUPPLIER DIVERSITY PROGRAM REQUIREMENTS

The Authority strives to continue to foster the development of business opportunities on Authority contracts for MWBEs. Article 15-A of the Executive Law established the NYS Office (now Division) of Minority and Women's Business Development ("DMWBD") that is responsible for developing rules and regulations for implementation of this statute, certifying MWBEs 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 MWBE is included in Section 2.H of these Guidelines. The Authority aims to solicit proposals from NYS-certified MWBEs 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 MWBEs as required by law. Bidders' proposals will include a completed preliminary Utilization Plan Form for MWBEs, as well as applicable EEO and Diversity Practices Forms, where required. 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. Final MWBE Utilization Plans for Construction contracts valued at more than \$100,000 shall be provided and posted on the Authority's 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 documents, the following guidelines apply:

1. Identify those areas or types of contracts for which MWBEs 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 MWBEs providing the types of services procured by the Authority.
3. Maintain lists of qualified NYS-certified MWBEs, 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 MWBEs maintained by the DED pursuant to Executive Law Article 15-A.
4. Establish appropriate goals for participation by MWBEs in Procurement Contracts awarded by the Authority and for the utilization of MWBEs 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 MWBEs 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 MWBEs.

11. SERVICE-DISABLED VETERAN-OWNED BUSINESS ("SDVOB") PROGRAM REQUIREMENTS

The Authority also strives to foster the development of business opportunities for NYS-certified SDVOBs and to further increase participation by SDVOBs in Authority contracts, as set forth in Sections 2.L and 3.I of these Guidelines and pursuant to Article 17-B of the Executive Law. One tool is the use of SDVOB discretionary purchasing, as further described in Sections 3.D, I and K of these Guidelines. Another tool authorized by the law is the use of set-asides, which permit the reservation in whole or in part of certain procurements by state agencies and authorities when more than one NYS-certified SDVOB is available and can provide the necessary goods or services to meet the Authority's form, function and utility. The same dollar limits apply to SDVOB contracts as those set forth for MWBEs in Article 10 of these Guidelines.

Pursuant to Article 17-B of the Executive Law, the following guidelines apply:

1. Identify contracts where SDVOBs may best perform and/or where SDVOB goals are practical, feasible and appropriate for the purpose of increasing the utilization of SDVOB participation on Authority contracts.
2. Submit regular reports with respect to SDVOB Program activity, including but not limited to, utilization reporting and contract monitoring and compliance.
3. Achieve an overall goal of six percent for SDVOB participation on Authority contracts.

12. DISADVANTAGED BUSINESS ENTERPRISE ("DBE") PROGRAM REQUIREMENTS ON PROJECTS THAT ARE FEDERALLY FUNDED

The Authority strives to foster the development of business opportunities for NYS certified DBEs and to further increase their participation in NYPA Federally funded contracts. The Authority aims to solicit proposals from DBEs for procurements that will be partially or fully federally funded. The Authority follows the DBE guidelines as set out by The Federal Department of Transportation ("DOT"). NYS DOT is tasked with certifying eligible small businesses as DBEs in New York State.

The Authority is committed to promoting participation of DBEs in NYPA contracting opportunities in accordance with federal law and regulations and seeks to achieve the following objectives:

1. To ensure nondiscrimination in the award and administration of Federally funded contracts;
2. To create a level playing field on which DBEs can compete fairly for Federally funded contracts;
3. To ensure that the Authority's DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this Federal eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in Federally funded contracts;

6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities.
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

13. PROCUREMENT RECORD AND REPORTING

A. Procurement Record

The White Plains SSM Department maintains records of Procurement Contracts. In addition to bid- and contract award-related documents for the goods provided and/or services performed, the Procurement Record includes, but is not limited to, documentation of the decisions made and the approach taken in the procurement process. Such records are transmitted to the Digital Warehouse for electronic storage and retrieval. At the facilities, such records are currently maintained and stored by the facilities' SSM Departments.

B. Procurement Report

After the end of each calendar year, the Vice President, SSM 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 MWBE 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 equal to or greater than \$50,000 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, and copies thereof 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 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").
- F. The Vice President, SSM or equivalent(s) will also prepare Annual Goal Plans for the MWBE and SDVOB programs and will submit them by January 15 of each year to Empire State Development - Division of Minority and Women Business Development and the New York State Office of General Services - Division of Service-Disabled Veterans' Business Development, respectively. Quarterly Utilization / Activity Reports for each program will also be prepared and submitted to the aforementioned respective state entities by the 15th day of July, October, January and April.

14. 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.

Company Policy Title:

Policy Number:



**NYPA Guidelines for the Disposal of Personal
Property**

CP 3-2

Revision Date (For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
3/31/2020	2	Update of certain organizational titles and the correction of certain inconsistencies, grammatical and otherwise	II A, V B-F, VI A-B, VIII B, XI A-B, XII - XIV	Kevin King, Director, Transactional Procurement
5/31/2019	1	Update definition of 'Related To'	IX B	Kevin King, Director, Transactional Procurement
5/31/2019	0	Converting approved 2018 NYPA Guidelines for the Disposal of Personal Property ("Guidelines") to e-Scribe format. Per PAL §§§ 2895, 2896 and 2897, the Guidelines were adopted by resolution and are reviewed annually and approved (by the Trustees).	N/A	Kevin King, Director, Transactional Procurement

Note: Revision # should be listed in descending order starting with most recent version at the top

Printed copies are not controlled.

For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

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I. PURPOSE

These Guidelines for the Disposal of New York Power Authority Personal Property (hereinafter “Guidelines”), which comply with Title 5-A, Article 9 of the Public Authorities Law, establish 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 – Strategic Supply Management, or equivalent(s). 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 regardless of value, 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, 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 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. The term Relative may include, but is not limited to, 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.

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 "Accounting for Materials and Supplies Inventory," and the Authority's procedures for the disposal of Property implementing these Guidelines.

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 or to Canal Corporation;
4. Disposal of natural gas that is subject to the Authority's Energy Resource Management Fuels Procedures.

V. DESIGNATION OF PROPERTY DISPOSAL COORDINATORS

- A. The Contracting Officer shall be responsible for the Authority's compliance with, and enforcement of, the Guidelines, including through development and implementation of internal controls (such as written procedures and supporting tools).
- B. The individual responsible for disposal of Property greater than \$5,000 at the Authority's facilities will be the Director – Transactional Procurement ("DTP") or equivalent. For purposes of Property disposal, the DTP reports directly to the Contracting Officer or authorized designee.
- C. The Manager - Purchasing/Warehouse at each facility acts as the local Property Disposal Coordinator, who is responsible for Property disposal less than or equal to \$5,000 and assists the DTP with all other disposals at his or her facility or location ("Facility PDC"). The Facility PDC reports to the DTP.
- D. The Contracting Officer or authorized designee will designate one or more individuals from the White Plains Office Strategic Supply Management ("SSM"), to be the Property Disposal Coordinator(s) for the White Plains and other 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 Regional Manager – Transmission or equivalent, or authorized designee.
- F. If appropriate, the responsible Facility PDC should confer (by oral or written communication) with the DTP 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 Facility or WPO PDC (collectively hereinafter referred to as “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. 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, 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 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 these guidelines and by the Bid Due Date included in the solicitation;
 - c) where the value of the Property exceeds \$5,000, all bid amounts shall be posted to the Authority's internet website or publicly disclosed at the time and place of the sale; 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. No Property in excess of five thousand dollars (\$5,000) owned or otherwise in the control of the Authority may be disposed 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 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 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.

- d) 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:
 - (1) a full description of the Property;
 - (2) 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;
 - (3) 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;
 - (4) a statement of the value to be received compared to the Fair Market Value;
 - (5) 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
 - (6) 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.
- e) 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 cases where a Disposal of Property in excess of five thousand dollars (\$5,000) is made without competitive bidding and where the proposed contract price for the Property disposed of is less than Fair Market Value, 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 DTP 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 disposable, 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 DTP 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 DTP 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 these Guidelines.

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) or designee, as hereinafter defined in Article XI, that such bid be accepted, and upon the written approval of the Responsible Officer(s) or designee, 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. (See Section XI.C.)
- C. If either (a) the responsible PDC determines that the highest bid is not reasonable or (b) the Responsible Officer(s) or designee 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) or designee, 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.

XI. AUTHORIZATION LEVELS AND SIGNING AUTHORITY

- A. For the purposes of these Guidelines, the Responsible Officer(s) or designee 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 or designee 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 Executive Vice President and Chief Financial Officer or equivalent(s), if the Fair Market Value of the Property is up to \$750,000; or
 4. For Fleet-related transactions, the Executive Vice President –Chief HR & Administrative Officer or equivalent(s), if the Fair Market Value of the Property is up to \$750,000; or
 5. The Vice President – Strategic Supply Management or equivalent(s), if the Fair Market Value of the Property is up to \$500,000; or
 6. For Fleet-related transactions, the Vice President – Enterprise Shared Services or equivalent(s), if the Fair Market Value of the Property is up to \$500,000; or
 7. The DTP, if the Fair Market Value of the Property is up to \$100,000; or
 8. For Fleet-related transactions, the Director – Fleet Operations, if the Fair Market Value of the Property is up to \$100,000; or
 9. The responsible PDC, 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 DTP 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 DTP may sign both fleet and non-fleet sales agreements.
 2. 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.

3. The foregoing provisions of this section shall not apply to the sale of energy and fuel. Such authorization shall be governed by the transaction authorization limits for energy and energy-related financial transactions, as adopted by the Authority's Board of Trustees.

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 DTP 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 DTP 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 having a FMV in excess of \$5,000 that was 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 for the Disposal of New York Power Authority 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. Staff from the Business Services Business Unit, or equivalent(s), prepare and present ongoing reports regarding disposals of personal property at regularly scheduled Board of Trustee Governance Committee meetings.

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 Buyer 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. Buyer 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 Buyer 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 Buyer 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, NY 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 Strategic Supply Management Department at the Corporate office or at one of the Authority facilities.

CANAL CORPORATION GUIDELINES FOR PROCUREMENT CONTRACTS

1. PURPOSE

These Guidelines for Procurement Contracts (“Guidelines”) set forth the policy of Canal Corporation 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, Articles 15-A and 17-B 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 Canal Corporation offices, facilities, operations and maintenance (“O&M”) and capital projects (as defined in Section 2.O. and 2. P., respectively), 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 valued under \$5,000, certain insurance and healthcare products that do not readily lend themselves to a competitive solicitation, contracts for the 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 Canal Corporation 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 Canal Corporation) 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 Canal Corporation) 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 Canal Corporation 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 Canal Corporation 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. Procurement Contracts that include both equipment and services may be classified as “Equipment” where 60% or more of the total projected contract value will be for the purchase of equipment, material or supplies.
- E. “Software” includes on-premise applications as well as Software-as-a-Service (SaaS) which is defined as a software distribution model in which a third-party provider hosts application and makes access available to customers over the Internet. “Software” shall be considered “Equipment” where such term is used throughout these Guidelines.
- F. “Evaluation of Proposals,” as further set forth in Section 4 below, includes as evaluating factors the Canal Corporation consideration of a bidder’s skill, judgment and business integrity.
- G. “Contact” is any oral, written or electronic communication with the Canal Corporation under circumstances where a reasonable person would infer that the communication was intended to influence the Canal Corporation conduct or decision regarding the procurement.
- H. “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. The term Relative may include, but is not limited to, 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.
- I. “Minority- and Women-owned Business Enterprise” (“MWBE”) 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 Canal Corporation Supplier Diversity Program Policy and Procedures and Executive Law Article 15-A, and pursuant to the definition found in Executive Law § 310.

- J. “Small Business” (or Small Business Enterprise, “SBE”), pursuant to Executive Law § 310 and as used in these Guidelines, unless otherwise indicated, is a business that has a significant business presence (as defined at 5 NYCRR 140.1) in New York State, is independently owned and operated, not dominant in its field and employs not more than 300 people.
- K. “Single Source” is a procurement in which the Canal Corporation, upon written findings setting forth material and substantial reasons, may award a contract (or amendment to a contract) to one offeror over another that can supply the goods or services.
- L. “Sole Source” is a procurement in which only one offeror is capable of supplying the required goods or services.
- M. “Service-Disabled Veteran-Owned Business” (“SDVOB”) is a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is at least 51% owned by one or more service-disabled veterans; in which such ownership is real, substantial and continuing, and also has and exercises the authority to control independently the day-to-day business decisions of the enterprise; is a Small Business and is certified by the New York State Office of General Services, as further set forth in Article 17-B of the Executive Law.
- N. “Discretionary Purchase” is a procurement made below statutorily established monetary threshold amounts (e.g., not exceeding \$500,000 for the purchase of commodities and/or services from Small Business Enterprises or NYS-certified MWBE firms, and without a dollar cap for SDVOB firms, as further set forth in Sections 3.D and 3.K.5-7) and at the discretion of the Canal Corporation, without the need for a formal competitive bid process. For the purpose of determining whether a purchase is within the discretionary thresholds, the aggregate amount of all purchases of the same commodities and/or services to be made within the 12-month period commencing on the date of purchase shall be considered. A change to or a renewal of a discretionary purchase shall not be permitted if the change or renewal would bring the reasonably expected aggregate amount of all purchases of the same commodities and/or services from the same provider within the 12-month period commencing on the date of the first purchase to an amount greater than \$500,000, pursuant to State Finance Law § 163.
- O. “Disadvantaged Business Enterprise” (DBE) is a for-profit small business concern (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it, pursuant to the definition found in 49 C.F.R Part 26.

- P. “Operation and Maintenance” (“O&M”) generally refers to the work or services necessary to keep the plants, transmission lines, and other equipment and facilities to include NYPA customers, where authorized, (collectively referred to generally as an “asset”) in optimal operating condition and/or to restore an asset to its productive capacity. This includes the cost of inspecting, testing, analyzing and reporting on the condition of the asset required to determine repairs or replacement, as well as costs associated with the normal operation and administration of NYPA’s production/transmission facilities and energy programs.
- Q. “Capital projects” generally refers to the acquisition or construction of new assets, the replacement and/or betterment of existing assets, equipment or property (including those of NYPA’s customers, where authorized). Betterment refers to an extension of the useful life or improvement in the efficiency and/or capacity of the asset, equipment or property.

3. SOLICITATION REQUIREMENTS

- A. Preparation of the solicitation of proposals for Procurement Contracts is the joint responsibility of the White Plains Strategic Supply Management (“SSM”) Department, or the Canal Corporation SSM Department, 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 \$50,000 and a minimum of five providers and/or firms (if available) for purchases valued at \$50,000 and greater, commensurate with the magnitude and nature of the goods and/or services, and the schedule for performance.
- B. Prospective bidders on Procurement Contracts may be prequalified by invitation advertised in the same manner as an RFP/RFQ (referred to as a Request for Qualifications and/or Request for Information (“RFI”). In such cases, proposals are requested only from those providers and/or firms whose prequalification submittals demonstrate sufficient ability and competence (including, but not limited to, the bidder’s skill, judgment and business integrity) to supply the particular goods and/or perform the particular services required.
- C. The Canal Corporation 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 Canal Corporation does so at its own cost or expense and will not be reimbursed by the Canal Corporation for the preparation of any responsive document, unless otherwise agreed to in writing and signed by an authorized Canal Corporation representative.
- D. In order to promote the use of Minority- and Women-owned Business Enterprises (“MWBEs”), Service-Disabled Veteran-Owned Businesses (“SDVOBs”) and Small

Business Enterprises (“SBEs”), the Canal Corporation will solicit offers from such firms 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 definitions of NYS-certified MWBE or SDVOB firms and SBEs are set forth in Sections 2.H, 2.L and 2.I, respectively.

To foster increased use of MWBEs and SBEs, a single proposal may be sought, negotiated and accepted for discretionary purchases of goods and/or services not exceeding \$500,000, in the aggregate including all amendments, from a NYS-certified MWBE or an SBE that offers a reasonable price for such goods and/or services. An SDVOB may be awarded on the basis of a single proposal that offers a reasonable price for such goods and/or services without a dollar cap. The award of such proposal requires the written approval of the Vice President, SSM. 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, SSM. Furthermore, the award of such Procurement Contracts will be noticed on the *Contract Reporter* website, as further set forth in Section 3.H.

- 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 Canal Corporation 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 Canal Corporation that are substantially manufactured, produced or assembled in New York State or services, excluding construction services, sought by the Canal Corporation 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 Canal Corporation that are substantially produced outside New York State, or services other than construction services, sought by the Canal Corporation 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 Canal Corporation 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 NYPA’s President and CEO if the CEO determines in writing that it is in the best interests of the Canal Corporation to do so, as further set forth in the above-referenced law.
 6. Pursuant to Public Authorities Law § 2879, the Canal Corporation will, where feasible, make use of the stock item specification forms of New York State manufacturers, producers and/or assemblers, as made available by the Commissioner of General Services, for any Procurement Contract for the purchase of goods.
- F. Certain goods and/or services may be procured pursuant to Procurement Contracts let by any department, agency, officer, political subdivision or instrumentality of the State (e.g., the New York State Office of General Services (“OGS”)) or Federal government (e.g., General Services Administration (“GSA”)) or any city or municipality where the White Plains SSM Department, or Canal Corporation SSM Department, and the initiating department determine that a reasonable potential exists for cost savings or other benefits to the Canal Corporation and have approved the specifications and proposed terms and conditions of such contract.

Certain Procurement Contracts established by the OGS or GSA require that authorized users conduct a “mini-bid” (i.e., an abbreviated supplemental competitive bid procurement process) among prequalified bidders identified in such established contracts. Certain other Procurement Contracts issued by the Canal Corporation (e.g., for on-call consulting or contracting services) may also utilize a mini-bid process, typically, in cases of a multiple award, where a contract is awarded to more than one bidder that meets the Canal Corporation bid requirements, in order to satisfy multiple factors and needs as set forth in the bid document. Such mini bids shall be conducted by the Canal’s Corporation SSM staff (or on behalf of the Canal Corporation by an Implementation Contractor) where applicable and practicable. Within a said multiple award group, work may be assigned to a specific firm without conducting a mini-bid, under certain

circumstances, including but not limited to: where such firm possesses specialized expertise and is uniquely qualified to perform such work; where time constraints, emergency or other critical conditions exist or geographic location is of primary consideration in order to meet schedule requirements, respond to emergent issues or otherwise meet the Canal's Corporation needs; or when the work scope is below a specified monetary threshold. The decision to assign work without conducting a mini bid shall typically be made jointly by the Canal Corporation SSM Department and initiating departments and shall be documented for the Procurement Record.

- G. Solicitations will include a scope of work that defines the goods required and/or the services to be performed; evaluation criteria (as defined in Section 4.B.); milestone dates; the Canal Corporation Supplier Diversity Program and SDVOB requirements, if applicable; all other applicable Canal Corporation requirements and any special methods or limitations that the Canal Corporation chooses to govern the work. Telephone solicitation, usually for procurements valued at less than \$50,000, 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. All solicitations made by telephone shall be documented and made part of the Procurement Record.
- H. For all Procurement Contracts with a value equal to or greater than \$50,000 (except for those contracts noted below), the Canal Corporation will, prior to soliciting proposals, submit all required information to the Commissioner of the DED to be included on the New York State *Contract Reporter* website, (www.nyscr.ny.gov) (unless such posting would serve no useful purpose). 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 15 business days after the date of publication of such notice on the *Contract Reporter* website, except where a shorter period is specifically authorized by law. For Procurement Contracts resulting from a Request for Proposal process, the Canal Corporation will submit the results of the bid opening, including the names of firms submitting proposals and the name/s of the awardee/s, for inclusion on the *Contract Reporter* website. For all other Procurement Contracts, the name of the awardee will be submitted.

This section 3.H 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. (See Article 4-C, Economic Development Law)

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 NYPA Vice President of Strategic Supply Management (SSM), and/or the head of the initiating department that does not complete its procurements through NYPA SSM or the Canal Corporation SSM 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 Canal Corporation.

Notwithstanding the foregoing, submittal of a notice / announcement of award for inclusion on the *Contract Reporter* website is required for Procurement Contracts with a value of \$50,000 or more awarded on a sole source or single source basis, including such discretionary contracts not exceeding \$500,000 awarded to Small Business Enterprises (SBEs) or MWBE firms, or for the purchase of goods and/or technology that are recycled or remanufactured, for discretionary awards on a single or sole source basis to SDVOB's, or for the purchase of food, including milk and milk products that are grown, produced or harvested in New York State, and certain other Procurement Contracts exempt from the general advertising requirement for Procurement Contract bidding opportunities, in accordance with the afore-referenced law. Such notice shall specify the name of the awardee.

- I. In order to further increase participation of service-disabled veterans in New York State's contracting opportunities, the Service-Disabled Veteran-Owned Business ("SDVOB") Act was signed into law on May 12, 2014. The SDVOB program provides for eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business. The Division of Service-Disabled Veterans' Business Development within the New York State Office of General Services ("OGS") is responsible for certifying eligible SDVOBs, assisting agencies and authorities in complying with the law, and promoting SDVOB participation in the state's procurement activities. Under this program, contracts may be awarded on a non-competitive basis to NYS-certified SDVOBs for discretionary purchases. Alternately, contracts may be competitively bid exclusively among NYS-certified SDVOBs regardless of value, and advertised as such on the *Contract Reporter* website.
- J. 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 a Canal Corporation 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 NYPA SSM Department or the Canal Corporation SSM Department staff 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. 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 Enterprise or to a NYS-certified MWBE firm for discretionary purchases not exceeding \$500,000, pursuant to Section 3.D and as further set forth in Section 2.M.
 6. The contract is awarded to a NYS-certified SDVOB for a discretionary purchase
 7. The contract is for the discretionary purchase of goods and/or technology that are recycled or remanufactured, in an amount not exceeding \$500,000, as further set forth in Section 2.M and subject to the approvals stated in Section 3.D.
 8. The contract is for the discretionary purchase of commodities that are food, including milk and milk products, which are grown, produced or harvested in New York State, in an amount not exceeding \$500,000, as further set forth in Section 2.M and subject to the approvals stated in Section 3.D.
 9. 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.
- L. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Canal Corporation 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 in excess of \$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.
- M. Subject to the Canal Corporation 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 Canal Corporation employees or workers.
 2. Proper functioning of the Canal Corporation facilities or construction or operating projects requires adherence to a schedule that does not permit time for an ordinary procurement solicitation.
- N. Whenever an initiating department determines that a Procurement Contract should be awarded on a Single Source, Sole Source, or an emergency basis, the department head or other authorized equivalent per the EAPs will provide a written statement explaining the compelling reasons therefor to the NYPA Vice President, SSM. The award of such Procurement Contracts, regardless of value, requires the written approval of the NYPA Vice President, SSM, except as noted in Section 3.H.
- O. Every potential Sole Source or Single Source contract with a value of \$1 million or more must be approved by the NYPA President and CEO or the COO prior to processing by the NYPA SSM Department or Canal Corporation SSM Department.
- P. In furtherance of Public Authorities Law § 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 NYPA Chief Executive Officer and Chief Financial Officer 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 NYPA Vice President, SSM or authorized designee.
- Q. It is the policy of New York State to discourage improper communications intended to influence a governmental procurement. The Canal Corporation 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 shall apply:

The “Restricted Period” is the period of time commencing with the earliest posting, on the Canal Corporation website, in a newspaper of general circulation, or in the

Procurement Opportunities Newsletter (i.e., New York State *Contract Reporter*) in accordance with Article 4-C of the Economic Development Law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from offerors (i.e., bidders/contractors) intending to result in a Procurement Contract with the Canal Corporation and ending with the final contract award and approval by the Canal Corporation and, where applicable, the State Comptroller. The “Restricted Period” also applies to a “mini-bid” process that may be utilized in certain established OGS, GSA or Canal Corporation multiple award contracts, as provided in Section 3.F.

The Canal Corporation shall designate a person or persons who may be contacted, with respect to each Canal Corporation procurement. The bidders/contractors or persons acting on their behalf, shall only contact the Canal Corporation’s designated person or persons where a reasonable person would infer that the communication was intended to influence the procurement during the Restricted Period.

- R. In furtherance of the Canal Corporation commitment to ensure transparency and accountability of its operations, every member, officer or employee of the Canal Corporation who is contacted by a lobbyist is required to make a contemporaneous record of such contact, pursuant to Public Authorities Law § 2987.
- S. Project Sunlight (Chapter 399, Part A, Section 4 of the Laws of 2011) requires the Canal Corporation to record in a database maintained by the New York State Office of General Services certain appearances between the Canal Corporation and individuals, firms or other entities (excluding elected officials and representatives of federal, state and local agencies and authorities) relating to the procurement of a contract, with a value of \$25,000 or more, for real property, goods or services. Appearances are defined as an interaction through an in-person meeting or a video conference between covered individuals. Appearances related to emergency procurements and disposal of property through public auctions are excluded, as are appearances that take place during the formal “Restricted Period.” Covered individuals at the Canal Corporation means an employee who has the power to exercise discretion in procurement matters or advises someone who exercises such discretion. A covered individual outside of the Canal Corporation means both “external” (e.g., a lobbyist) and “internal” (e.g., sales representative) representatives of an entity, individuals appearing on behalf of themselves, advocacy groups or organizations or entities representing the interests or concerns of the organization or entity or of its members. All such appearances must be promptly reported to the Canal Corporation Ethics and Compliance Office for recording in the Project Sunlight database.

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 (including, but not limited to, the bidder's skill, judgment and business integrity), 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 Canal Corporation SSM 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 NYPA Vice President, SSM 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 Canal Corporation work and the ability to provide any needed advanced techniques such as simulation and modeling; and overall, the bidder's skill, judgment and business integrity. 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.

Another factor to be considered in evaluating proposals may involve an assessment of the bidder's diversity practices, where applicable. Pursuant to Article 15-A of the Executive Law, diversity practices are the contractor's practices and policies with respect to utilizing NYS-certified MWBEs in contracts as subcontractors and suppliers, and entering into partnerships, joint ventures or other similar arrangements with NYS-certified MWBEs. A contractor's diversity practices may

be assessed when: (1) a procurement is awarded on the basis of “Best Value” as described in Section 4.D. (but *not* when a procurement is awarded based upon “lowest price”); (2) the anticipated award is \$250,000 or greater; and (3) such assessment is practicable, feasible and appropriate. Such assessment shall not permit the automatic rejection of a bid or Procurement Contract proposal based on lack of adherence to diversity practices.

- 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 for Goods (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. (See also Section 4.F regarding award to “other than low bidder”.)

As a best practice and pursuant to State Finance Law § 163, the Canal Corporation may award on a “Best Value” basis for awarding contracts to the offeror that optimizes quality, cost and efficiency, among responsive and responsible offerors. Such basis shall reflect, wherever possible, objective and quantifiable analysis and may also identify a quantitative factor for offerors that are Small Businesses or NYS-certified SDVOB or MWBE firms.

- E. Pursuant to § 139-k of the State Finance Law, the Canal Corporation shall not award a Procurement Contract (as defined in Subsection 3.Q.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 Canal Corporation 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-k 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 Canal Corporation 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 and SDVOB goals; and overall, the bidder's skill, judgment and business integrity.

- 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 Canal Corporation may diverge from the specifications of any solicitation if, after review of the proposals responsive to such solicitation, the Canal Corporation 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, as well as Supplier Diversity Program requirements, as applicable.

6. AWARD OF CONTRACT

- A. Services Contracts (which include contracts for Construction, Personal and Non-personal services, as defined in Section 2.C.) valued or estimated to be \$5,000 or greater to be performed for a period of more than 12 months are approved and reviewed annually by the Canal Corporation Board of Directors. 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 Canal Corporation Board of Directors at the request of the initiating department and will be reviewed by the Canal Corporation Board of Directors annually. Extending a contract for services, that has previously been approved by the Canal Corporation Board of Directors, for a cumulative term of more than 12 months requires further Canal Corporation Board of Director approval.
- B. Extending a contract, previously approved by the Canal Corporation Board of Directors, for 12 months or less (“grace period”) requires approval by the NYPA Vice President, SSM of the requesting department or other authorized equivalent or designee in accordance with existing EAPs and concurrence by the NYPA Vice President, SSM.
- C. For Services Contracts valued or estimated to be \$5,000 or greater to be performed for a period of more than 12 months that must be awarded prior to the next quarterly Canal Corporation Board of Directors meeting, the initial contract will be issued for the entire intended term of the contract. Based on its total term and value, such contract must be approved in writing by the appropriate management as set forth in the EAPs. Such contract is subject to the Canal Corporation Board of Directors’ approval, at the next quarterly Canal Corporation Board of Directors’ meeting. If such approval is not granted, the contract will be terminated immediately.
- D. A contract or contract task valued or estimated to be \$5,000 or greater 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 Canal Corporation Board of Directors-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.
- E. The term of a Personal Services contract is limited to a maximum of five (5) years, including any extensions.
- F. Multiyear contracts for Goods (which include equipment, materials and supplies, as defined in Section 2.D) valued or estimated to be \$5,000 or greater are subject to

the management approval thresholds established in the EAPs, and require Trustee approval only once those thresholds are exceeded.

- G. 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 Department Head, with the prior concurrence of the NYPA Vice President, SSM or equivalent(s) or designee, may authorize extending such contract, subject to the Canal Corporation Board of Directors ratifying such action as soon as practicable.
- H. 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 NYPA President and Chief Executive Officer or Chief Operating Officer or equivalent(s) or designee is required, subject to the Canal Corporation Board of Directors ratifying such action as soon as practicable.
- I. 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 NYPA Vice President, SSM or equivalent(s) or designee, may authorize in writing the commencement of such services. The initial compensation limitation may not exceed the authorization level for the NYPA 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 Canal Corporation Board of Directors approval, which will be solicited at their next scheduled Canal Corporation Board of Directors meeting.
- J. The NYPA SSM or the Canal Corporation SSM Department prepares the contract for execution by the Canal Corporation 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. Canal Corporation signatories of such letters must be authorized to approve contract awards pursuant to the EAPs.
- K. Pursuant to Economic Development Law § 143, the Authority shall submit an announcement of the intended contract for inclusion in the procurement opportunities newsletter at the time it enters into a contract. Such announcement shall identify the contract, specify the date of the award of the contract and provide the name of and contact information for each recipient of the contract.
- L. Pursuant to Public Authorities Law § 2879, the Canal Corporation 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 Canal Corporation 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 NYPA SSM Department or Canal Corporation SSM Department: purchase order format (for standard procurements of goods and/or services); furnish-and-deliver format (for major equipment purchases); long form agreements (for consulting services) and maintenance agreement formats; 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.

Canal Corporation 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 NYPA SSM Department and the Canal Corporation SSM Department, which are 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. MWBE requirements
19. SDVOB requirements
20. 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 (MWBE) Participation Goal Requirement)
6. Appendix “D” (Background Security Screening for Authority Contractors)
7. Appendix “E” (Omnibus Procurement Act of 1992 Requirements)
8. Appendix “F” (Computer Aided Design Requirements For New York Power Authority Drawings)
9. Appendix “G” (Equal Employment Opportunities Requirements)
10. Appendix “H” (Tax Law Requirements)
11. Appendix “I” (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) - inactive
14. Appendix “L” (DOE Federal Contract Provisions) - inactive
15. Appendix “M” (Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology (“BART”) for Heavy Duty Vehicles)
16. Appendix “N” (The New York State Iran Divestment Act of 2012 – Iranian Energy Sector Divestment)
17. Appendix “O” (Encouraging Use of New York State Businesses in Contract Performance) – inactive
18. Appendix “P” (Information Security Requirements for Vendors and External Partners)

- C. 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.

Furthermore, any firm, person or other entity retained by the Canal Corporation to provide conceptual studies, designs or specifications is prohibited from being awarded future phases of work, including implementation, related to the original work.

The above restrictions shall not apply where:

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;
3. There is no qualified response to the solicitation for future phases of work, including implementation; or
4. The originating Canal Corporation Department determines in writing that the restrictions are not in the best interests of the Canal Corporation. Such originating Department shall obtain the approval of the applicable Department Head or equivalent(s), NYPA Vice President, SSM or equivalent(s) or designee, NYPA Assistant General Counsel or equivalent(s) and NYPA President and Chief Executive Officer or designee or Chief Operating Officer or equivalent(s) 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.M 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 Canal Corporation customers; and
5. To meet the Canal Corporation Supplier Diversity and SDVOB Program goals in accordance with Executive Law Articles 15-A and 17-B, respectively.

- B. All Change Orders must be approved in accordance with the Canal Corporation EAPs, and should include specific schedules for completion of work at the earliest possible time.
- C. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Canal Corporation 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.

9. CONTRACTING DECISIONS INVOLVING CURRENT OR FORMER EMPLOYEES

- A. Former Canal Corporation officers and employees may be eligible to be considered for direct engagement as contractors and/or consultants provided that they meet all criteria for contractors and/or consultants generally as specified in these Guidelines; their engagement is not barred by New York Public Officers Law § 73(8); they obtain an opinion by the New York State Joint Commission on Public Ethics that such engagement is permissible; and upon approval of the NYPA President and Chief Executive Officer, as well as the Chairman of the Canal Corporation Board.
- B. Pursuant to the provisions of New York Public Officers Law § 73(8):
 - 1. No Canal Corporation officer or employee is eligible, within a period of two years after the termination of Canal Corporation service to appear or practice before the Canal Corporation 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 Canal Corporation.
 - 2. No Canal Corporation officer or employee is eligible, at any time after the termination of Canal Corporation service, to appear, practice, communicate or otherwise render services before the Canal Corporation 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.
 - 3. Pursuant to the provisions of New York Public Officers Law § 73(8-b), notwithstanding the provisions of 1. and 2. above, a former Canal Corporation officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to the Canal Corporation, if, prior to engaging in such service, the Chairman of the

Board of Directors certifies in writing to the New York State Joint Commission on Public Ethics that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the Canal Corporation needs and is otherwise unavailable at a comparable cost. Where approval of the contract is required under § 112 of the New York State Finance Law, the Comptroller shall review and consider the reasons for such certification. The New York State Joint Commission on Public Ethics must review and approve all such certifications.

- C. No Canal Corporation employee who is involved in the award of Canal Corporation 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 Canal Corporation 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 Canal Corporation employee may take part in any contracting process or decision: (i) to a Relative; or (ii) to any entity in which the Canal Corporation employee or a Relative of such Canal Corporation 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 in writing his or her supervisor and the Office of Ethics and Compliance of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
 - 1. For purposes of this Section 9.E, the term "Relative" is defined in Definitions, Section 2.G of these Guidelines.

10. SUPPLIER DIVERSITY PROGRAM REQUIREMENTS

The Canal Corporation strives to continue to foster the development of business opportunities on Canal Corporation contracts for MWBEs. Article 15-A of the Executive Law established the NYS Office (now Division) of Minority and Women's Business Development ("DMWBD") that is responsible for developing rules and regulations for implementation of this statute, certifying MWBEs 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 MWBE is included in Section 2.H of these Guidelines. The Canal Corporation aims to solicit proposals from NYS-certified MWBEs 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 MWBEs as required by law. Bidders' proposals will include a completed preliminary Utilization Plan Form for MWBEs, as well as applicable EEO and Diversity Practices Forms, where required. 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. Final MWBE Utilization Plans for Construction contracts valued at more than \$100,000 shall be provided and 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 Canal's Corporation Supplier Diversity Program documents, the following guidelines apply:

1. Identify those areas or types of contracts for which MWBEs 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 MWBEs providing the types of services procured by the Canal Corporation.
3. Maintain lists of qualified NYS-certified MWBEs, including professional firms that have expressed an interest in doing business with the Canal Corporation and ensuring that such lists are updated regularly. The Canal Corporation shall also consult the lists of NYS-certified MWBEs maintained by the DED pursuant to Executive Law Article 15-A.
4. Establish appropriate goals for participation by MWBEs in Procurement Contracts awarded by the Canal Corporation and for the utilization of MWBEs as subcontractors and suppliers by entities having Procurement Contracts with the Canal Corporation. Statewide numerical participation target goals shall be established by the Canal Corporation based on the criteria set forth in Public Authorities Law § 2879.
5. Conduct procurements in a manner that will enable the Canal Corporation to achieve the maximum feasible portion of the goals established pursuant to Subdivision 4 of this Section and that eliminates barriers to participation by MWBEs in the Canal's Corporation procurements.
6. Designate one or more senior staff of the Canal Corporation to oversee the Canal's Corporation programs established to promote and assist participation by and utilization of NYS-certified MWBEs.

11. SERVICE-DISABLED VETERAN-OWNED BUSINESS ("SDVOB") PROGRAM REQUIREMENTS

The Canal Corporation also strives to foster the development of business opportunities for NYS-certified SDVOBs and to further increase participation by SDVOBs in Canal Corporation contracts, as set forth in Sections 2.L and 3.I of these Guidelines and pursuant

to Article 17-B of the Executive Law. One tool is the use of SDVOB discretionary purchasing, as further described in Sections 3.D, I and K of these Guidelines. Another tool authorized by the law is the use of set-asides, which permit the reservation in whole or in part of certain procurements by state agencies and authorities when more than one NYS-certified SDVOB is available and can provide the necessary goods or services to meet the Canal Corporation form, function and utility. The same dollar limits apply to SDVOB contracts as those set forth for MWBEs in Article 10 of these Guidelines.

Pursuant to Article 17-B of the Executive Law, the following guidelines apply:

1. Identify contracts where SDVOBs may best perform and/or where SDVOB goals are practical, feasible and appropriate for the purpose of increasing the utilization of SDVOB participation on Canal Corporation contracts.
2. Submit regular reports with respect to SDVOB Program activity, including but not limited to, utilization reporting and contract monitoring and compliance.
3. Achieve an overall goal of six percent for SDVOB participation on Canal Corporation contracts.

12. DISADVANTAGED BUSINESS ENTERPRISE (“DBE”) PROGRAM
REQUIREMENTS ON PROJECTS THAT ARE FEDERALLY FUNDED

The Canal Corporation (“Canals”) strives to foster the development of business opportunities for NYS certified DBEs and to further increase their participation in Canals Federally funded contracts. The Canals aims to solicit proposals from DBEs for procurements that will be partially or fully federally funded. The Canals follows the DBE guidelines as set out by The Federal Department of Transportation (“DOT”). NYS DOT is tasked with certifying eligible small businesses as DBEs in New York State.

The Canals is committed to promoting participation of DBEs in Canals contracting opportunities in accordance with federal law and regulations and seeks to achieve the following objectives:

1. To ensure nondiscrimination in the award and administration of Federally funded contracts in the canals and waterways;
2. To create a level playing field on which DBEs can compete fairly for Federally funded contracts;
3. To ensure that the Canals’ DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this Federal eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in Federally funded contracts;

6. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.
7. To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
8. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

13. PROCUREMENT RECORD AND REPORTING

A. Procurement Record

The NYPA SSM Department or the Canal Corporation SSM Department maintains records of Procurement Contracts. In addition to bid- and contract award-related documents for the goods provided and/or services performed, the Procurement Record includes, but is not limited to, documentation of the decisions made and the approach taken in the procurement process. Such records may be transmitted to a digital warehouse for electronic storage and retrieval.

B. Procurement Report

After the end of each calendar year, the NYPA Vice President, SSM or equivalent(s) will prepare and submit an annual report to the Canal Corporation Board of Directors 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 MWBE 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 equal to or greater than \$50,000 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 Canal Corporation Board of Directors, shall be submitted to the New York State Division of the Budget within 90 days of the end of such calendar year, and copies thereof 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 Canal Corporation 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 Canal Corporation decision not to award a bidder/contractor the Procurement Contract must be included in the Procurement Record.
 2. The Canal Corporation 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 Record.
- E. The Canal Corporation 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 Canal Corporation's Budget Office through the Public Authorities Reporting Information System ("PARIS").
- F. The NYPA Vice President, SSM or equivalent(s) will also prepare Annual Goal Plans for the MWBE and SDVOB programs and will submit them by January 15 of each year to Empire State Development - Division of Minority and Women Business Development and the New York State Office of General Services - Division of Service-Disabled Veterans' Business Development, respectively. Quarterly Utilization / Activity Reports for each program will also be prepared and submitted to the aforementioned respective state entities by the 15th day of July, October, January and April.

14. THIRD PARTY RIGHTS: VALIDITY OF CONTRACTS

- A. These Guidelines are intended for the guidance of officers and employees of the Canal Corporation 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.

Title: Guidelines for the Disposal of Canal Corporation Personal Property

Document Type: Business Unit Policy

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Reviewer	Name	Title
This document has been reviewed by:	Eric Rotfeld	Principal Attorney II

Content Owner	Signature	Date
Name: Lisa Wright Title: Manager, Administrative Services		

Approver	Signature	Date
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Policy Title:
**Guidelines for the Disposal of Canal
Corporation Personal Property**

Guidelines for the Disposal of Canal Corporation Personal Property

Note: Revision # should be listed in descending order starting with most recent version at the top

Revision Date	Revision #	Description/Modification	Revision Section (s)	Author
3/31/2020	2	Update of certain organizational titles and the correction of certain inconsistencies, grammatical and otherwise	4.1 F-G, 4.7 2-3	Kevin King Director Transactional Procurement
12/1/18	1	Added Definition of Discarded Property; Added Personal Property Discarded by the Corporation; Revised Violations Section	3 4.6 5	Kevin King Director Transactional Procurement
11/15/2018	0	Original Issue	N/A	Kevin King Director Transactional Procurement

Guidelines for the Disposal of Canal Corporation Personal Property

1 PURPOSE AND SCOPE

This Policy for the disposal of Canal Corporation (“Corporation”) Personal Property, (“Policy”) which complies with Title 5-A, Article 9 of the Public Authorities Law, establishes the Corporation’s Policy and instructions regarding the use, award, monitoring and reporting of the disposal of personal property. In addition, the Policy designates a Contracting Officer who is responsible for the Corporation’s compliance with, and enforcement of, the Policy.

Powers and duties relating to the New York State Canal System, which were transferred to and merged with the New York Power Authority pursuant to Canal Law Article 1-A, may be exercised by the Authority directly or through the Corporation.

2 APPLICABILITY

This Policy applies to all New York State Canal Corporation employees, Initialisms (Acronyms) and Definitions

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Abandoned Motor Vehicles – a type of tangible Personal Property with special statutory and regulatory requirements for disposal and processing (see Section 5.2.A.).

Abandoned, Lost or Found Personal Property – Property that remains unclaimed after notification to an owner, if known, and/or after being held for the required holding periods as prescribed by law. This includes all lost or mislaid property found on Corporation property/premises, as well as property which is knowingly abandoned.

Authority – Power Authority of the State of New York

Contracting Officer – The Authority’s Vice President - Strategic Supply Management or his/her designee

Corporation – The Canal Corporation

Discarded Property – Personal Property of the Corporation, or other personal property that has come into the Corporation’s possession, that the Corporation has discarded, or designated to be discarded, as scrap or junk.

Disposals –The sale of Personal Property, the transfer of title or any beneficial interest in Personal Property in accordance with this Policy such as leases, and the exchange of Personal Property. Disposals do not include permits, licenses or temporary use documents that are otherwise revocable due to operational requirements or in the best interests of the Corporation.

Guidelines for the Disposal of Canal Corporation Personal Property

Consistent with prior Board action, permits do not convey or transfer a beneficial interest in the Personal Property.

Fair Market Value – 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.

PAL – Public Authorities Law

Personal Property – Property, other than Real Property, owned by the Corporation, regardless of value, 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. Property may include, but is not limited to, materials (Corporation warehouse controlled inventory and Corporation direct turnover materials), tools, equipment or vehicles.

Real Property – Real property, including land, tenements and inherited property owned by the Corporation, 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.

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. The term Relative may include, but is not limited to, 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.

Transactions – For purposes of this Policy, transactions shall include, but not be limited to, disposals and the issuance of permits, licenses and other temporary use documents for the use of Personal Property.

4 POLICY IMPLEMENTATION

4.1 General Principles

The Corporation shall maintain adequate inventory controls and accountability systems for all Personal Property under its control.

Guidelines for the Disposal of Canal Corporation Personal Property

- A. Personal Property that is 1) encroaching on real property under the jurisdiction of the Corporation; or 2) located on real property under the jurisdiction of the Corporation that is: (a) not authorized by the applicable permit, license or lease; or (b) left behind following the expiration, revocation or termination of a permit, license or lease; shall be handled in accordance with this Policy, the terms and conditions of the lease, license or permit regarding the removal of such property, and/or the Canal Law, if applicable.
- B. The Corporation may dispose of any Personal Property not necessary for its corporate purposes in whatever timeframe that either the Contracting Officer or the Corporation Board deems appropriate.
- C. The Corporation may authorize the use of Corporation Personal Property by an entity for any period or term using a temporary, revocable permit, license or other document that does not transfer a beneficial interest in the Personal Property. Such temporary, revocable use is not considered a Disposal for purposes of this Policy.
- D. Personal Property shall not be disposed of by the Corporation for less than fair market value, except in limited circumstances as set forth in Paragraph E, sections 1, 2 and 3 of this Section. Fair Market Value may be determined through the use of appraisals, requests for proposals, the bid or auction process, or other means.
- E. No asset owned, leased or otherwise in the control of the Corporation with a value in excess of \$5,000 may be sold, leased, or otherwise alienated for less than its fair market value except if:
 - 1. 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 asset will remain with the government or any other public entity;
 - 2. the purpose of the transfer is within the purpose, mission or governing statute of the Corporation; or
 - 3. in the event the Corporation seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the Corporation's mission, purpose or governing statutes, the Corporation 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 Corporation may effectuate such transfer.
- F. In the event there is a below fair market value asset transfer for property with a value over five thousand dollars (\$5,000) proposed, the following information must be provided by the

Guidelines for the Disposal of Canal Corporation Personal Property

Manager, Administrative Services as a trustee item for the Corporation Board at the next scheduled Trustee meeting and the public:

1. a full description of the asset;
 2. an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Corporation Board;
 3. 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 asset is situated as are required by the transfer;
 4. a statement of the value to be received compared to the fair market value;
 5. the names of any private parties participating in the transfer, and if different than the statement required by Subparagraph (4) of this Paragraph, a statement of the value to the private party; and
 6. the names of any other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.
- G. Before approving the disposal of property with a value over five thousand dollars (\$5,000) for less than fair market value, the Corporation Board shall consider the information described in Paragraph F of this Section 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.
- H. The Corporation must use a competitive process as required by the PAL and any related statutes, including public advertising for Disposals exceeding \$15,000 in value, except in limited circumstances. In order to dispose of Personal Property by negotiation or public auction without public advertising, but subject to obtaining competition as is feasible under the circumstances, one of the following must be met:
1. the Personal 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 Personal Property is to be sold in such quantity that, if it were disposed of by public advertising, 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 can be obtained by negotiation;
 2. the fair market value of the property does not exceed \$15,000;
 3. bid prices after advertising are not reasonable, either as to all or some part of the Personal Property, or have not been independently arrived at in open competition;
 4. the Disposal will be to the State or any political subdivision, and the estimated fair market value of the Personal Property and other satisfactory terms of disposal are obtained by negotiation;
 5. under those circumstances permitted by Section 5.1 (Paragraphs E, F, and G) of this Policy; or
 6. the action is otherwise authorized by law.

Guidelines for the Disposal of Canal Corporation Personal Property

- I. For Personal Property valued at over \$15,000 disposed of by negotiation, an explanatory statement is required. Not less than 90 days in advance of the Disposal, an explanatory statement shall be prepared and distributed by the Contracting Officer in accordance with PAL § 2897, detailing the circumstances of the Disposal including, but not limited to, the proposed price.
- J. The Corporation shall create a clear and comprehensive record for each Transaction that documents its compliance with this Policy. Such record shall be maintained in a manner and for a period consistent with the applicable document retention policy.

4.2 General Practices

- A. Abandoned Motor Vehicles - The handling and disposal of Abandoned Motor Vehicles is statutorily covered under Vehicle and Traffic Law and not under this Policy.
- B. Abandoned, Lost or Found Personal Property

Abandoned, Lost or Found Personal Property with a value over the statutory limits must, within ten days after the finding or acquisition by Corporation employees or the Corporation's related agents (for example, contractor), be turned over to the New York State Police for processing and forwarding to the Bureau of Office and Building Maintenance Services ("Office Services") at headquarters in Albany. Office Services will return the property to the owner, if known; if the owner of the property is not immediately known, then the property must be held until the statutory holding period has run. At that time, if the property has not been claimed by the true owner or someone with verifiable ownership rights, then Office Services shall return the property to the known independent finder. If the original finder was a Corporation employee or one of its related agents as defined above, ownership then vests in the Corporation and may be treated as other Corporation owned property.

- C. Special Abandoned Personal Property
 1. Personal Property purposely left behind on Corporation property after termination of a previously issued permit, license or lease shall be handled, removed or disposed of under the terms of the permit, license or lease, or if required, pursuant to the applicable provisions of the Canal Law governing encroachments.
 2. Abandoned Personal Property originally issued by the Corporation such as unclaimed wages or benefits, or unclaimed consumer balances shall be held for the required holding times as prescribed by the Personal Property Law and Abandoned Property Law, at which time the property vests in the Corporation.
 3. Other Personal Property such as unclaimed bonds, dividends, interest, securities, etc. owed to security holders shall be held for the required statutory periods by the Corporation's properly delegated trustees or other fiduciaries.
- D. Surplus Personal Property

The Manager, Administrative Services or his or her designee will provide the Executive

Guidelines for the Disposal of Canal Corporation Personal Property

Deputy Director or his or her designee with information on all items of Personal Property declared surplus.

4.3 Disposal Process

The Manager, Administrative Services or his or her designee will prepare a list of all Personal Property to be disposed of and prepare an internal estimate of the value of such property.

A. The method of disposal shall be based on the following Personal Property values:

1. Personal Property valued at less than \$1,000 may be sold or donated, or when having an estimated resale value less than the cost of handling and sale may be disposed of as scrap or junk. The provisions of Section 5.6 will apply to such property.
2. Solicitation via telephone, email, and/or direct mailings may be used where the estimated Fair Market Value of the Property to be disposed of does not exceed \$15,000. All bids must be submitted in writing on the Corporation generated forms or an appropriate substitute and in the manner prescribed by this Policy and by the date and time included in the solicitation.
3. Personal Property valued in excess of \$5,000 up to and including \$15,000 may be negotiated or made by public auction without publicly advertising for bids when approved by the Contracting Officer or, where required, by the Board, such as in Section 5.1 (Paragraphs E and F).
4. Personal Property valued in excess of \$15,000 shall be offered for sale by a formal competitive process that includes public advertising for bids unless one of the exceptions listed in Section 5.1.E is met. If such an exception exists, disposal may be by negotiation or public auction without public advertising, when approved by the Contracting Officer or, where required, by the Board, such as in Section 5.1.G.

Note: For Personal Property valued in excess of \$15,000 disposed of by negotiation, an explanatory statement is required as described in Section 5.1.I.

B. When public advertising is required for disposals, the following steps must be taken pursuant to PAL § 2897:

1. The advertisement 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 Personal Property;
2. All bids shall be publicly disclosed at the time and place stated in the advertisement; and
3. The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, in conformance with the solicitation, will be most advantageous to the Corporation, price and other factors considered, provided that any and all bids may be rejected when it is in the public interest to do so.

C. When property is sold by sealed bid, by public auction or by an electronic auction, sale prices are approved by the Manager, Administrative Services or his or her designee. If such person determines that property should be offered at an established or set price due

Guidelines for the Disposal of Canal Corporation Personal Property

to its unusual nature, or any other special conditions that would make competitive bidding impractical, Manager, Administrative Services or designee will recommend an acceptable price and a method of sale to the Contracting Officer for approval.

- D. If the Manager, Administrative Services or designee determines that the best interests of the Corporation are served by selling at public auction, the Manager, Administrative Services) or designee shall supervise the auction and may reject any and all bids considered to be unacceptable.
- E. Where permitted by law, Disposals may be performed by the Commissioner of General Services on behalf of the Corporation when the Corporation has entered into an agreement with the Commissioner of General Services pursuant to PAL and/or other applicable statutes.

4.4 Reports

The Corporation will annually develop and distribute reports regarding Personal Property having a Fair Market Value in excess of \$5,000 that was disposed of during the reporting period, including the full description, price (if any) received and the name of the purchaser for all such Personal Property disposed of by the Corporation during such period as required by law. The report shall be delivered to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services, the New York Legislature and the Authorities Budget Office.

4.5 Procurement of Surplus Personal Property by Employees

Corporation employees and relatives of such employees or third parties acting on behalf of such employees shall not have any personal interest in, or engage in, any activity, inclusive of bidding for the purchase of Canal Property that would create or appear to create a conflict with the proper discharge of their public duties and are prohibited from subsequently acquiring in any manner. It is important, even in the absence of any impropriety, that no appearance of impropriety is given. Therefore, pursuant to the Public Officers Law, all Corporation employees, their spouses and any children and stepchildren under age 18, stepparents, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, nephew, niece, mother in law, father in law, sister in law, brother in law, daughter in law, son in law are prohibited from procuring Corporation Surplus Personal Property or otherwise securing such property through the use of an agent or other third party.

In addition, Corporation employees, other than the Manager, Administrative Services or designee, shall not disclose to any non-employee any information that they obtain regarding such property due to the nature of their employment. Such disclosure by the Manager, Administrative Services or designee shall only be made in the course of the proper discharge of their official duties.

4.6 Personal Property Discarded by the Corporation

Corporation employees shall not, without written permission of the Executive Deputy Director: (1) retrieve or otherwise take possession of Discarded Property for their own use or for the use of other persons, even for purposes of donation; (2) give Discarded Property

Guidelines for the Disposal of Canal Corporation Personal Property

to other persons; or (3) sell Discarded Property. Any permissions granted pursuant to this section will be retained by the Manager, Administrative Services.

4.7 Signing Authority

1. The Board, if the Fair Market Value of the Property is greater than \$500,000 or if the Disposal is for less than Fair Market Value in accordance with Section 5 (paragraphs F and G).
2. The Contracting Officer if the Fair Market Value is up to \$500,000.
3. The Executive Deputy Director if the Fair Market Value is up to \$100,000.
4. The Manager, Administrative Services if the Fair market Value of the Property is \$5,000 or less.
5. For Fleet related transactions, the Vice President of the Authority's Enterprise Shared Services or equivalent(s), if the Fair Market Value of the Property is up to \$500,000.
6. For Fleet related transactions, the Director of the Authority's Fleet Operation, if the Fair Market Value of the Property is up to \$100,000.

- 4.8 At the request of the Executive Vice President and General Counsel, all Authority Business Units and Department Heads shall support and provide assistance in the coordination and administration of this Policy.

5 VIOLATIONS

Violations of this Policy and related policies and procedures by employees may result in disciplinary action up to and including termination. In addition, where the conduct engaged in is illegal, violators may be subject to prosecution under applicable federal, state or local laws.

6 REFERENCES

Abandoned Property Law
Canal Law
Personal Property Law
Public Authorities Law
Vehicle and Traffic Law

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision cycle : Every Year

9 ATTACHMENTS

Attachment 9.1: Sales Agreement

ATTACHMENT 9.1**PERSONAL PROPERTY
SALES AGREEMENT**

_____, the Buyer, and the New York State Canal Corp ("Canal Corp"), agree as follows:

1) The personal property identified herein is sold by the Canal Corp and purchased by Buyer "AS IS, WHERE IS" at the price(s) shown, plus any applicable sales tax.

2) THE CANAL CORP 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 Buyer warrants that he/she/it is not a current or former Canal Corp employee, is not related to a Canal Corp employee and did not bid on behalf of a Canal Corp employee. Buyer is aware that Canal Corp 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 Buyer 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 Canal Corp reserves the right to invoke any available legal or equitable remedy in the event of a breach by the Buyer 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 State of New York, New York Power Authority and the Canal Corp 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 State of New York, New York Power Authority and the Canal Corp 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.

Policy Title:

Guidelines for the Disposal of Canal Corporation Personal Property

5) Except for disposals by public auction, the Buyer shall remove the personal property from the Canal Corp premises by _____ at Buyer's expense. The Buyer shall make payment upon delivery by certified check payable to the New York State Canal Corporation.

Description of Personal Property:

Selling Price: _____

Executed this _____ day of _____, 20_____.

Buyer (Print or Type):

Seller:

New York State Canal Corporation
30 South Pearl Street
Albany, New York,

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 CANAL CORPORATION PROPERTY.

Guidelines for the Disposal of Canal Corporation Personal 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 New York State Canal Corporation in the sale of Canal Corp 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 Canal Corp.

This information will be maintained by the Strategic Supply Management Department at the New York State Canal Corp Corporate Office.

ACQUISITION AND DISPOSAL OF REAL PROPERTY

January 1– December 31, 2019

Section 2896 of the Public Authorities Law (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 – December 31, 2019.

I. ACQUISITIONS

1.) Acquisitions by Deed or Easement:

Noble Environmental Power LLC – On August 21, 2019, Authority acquired approximately 0.77 acres of land adjacent to the Ryan Substation from Noble Environmental Power LLC in the Town of Clinton, County of Clinton. There was no consideration for this transaction. The Quitclaim deed was filed in the Clinton County Clerk on September 11, 2019.

David P. Krenzer – Acquired a Permanent Easement jointly with Rochester Gas & Electric from David P. Krenzer for the purpose of providing alternate access to the right of way in conjunction with the Rochester Area Reliability Project in the Town of Chili, County of Monroe. The easement was recorded on October 15, 2019 in Liber 12254 Page 181 of deeds. There was no consideration for this transaction.

David P. Krenzer – Acquired a Permanent Easement from David P. Krenzer for the purpose of Power Transmission Right- of -Way and Danger Tree Clearing in conjunction with the Rochester Area Reliability Project in the Town of Chili, County of Monroe. The easement was recorded on October 15, 2019 in Liber 12254 Page 190 of deeds. There was no consideration for this transaction.

Rochester Gas & Electric - Acquired a Permanent Easement from Rochester Gas & Electric as part of the Rochester Area Reliability Project in the Town of Henrietta, County of Monroe. The easement was recorded on October 15, 2019 in Liber 12254 Page 233 of deeds. There was no consideration for this transaction.

2.) Danger Tree Permits:

During this reporting period, the Authority acquired 212 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, Moses-Willis, and Gilboa-New Scotland.

II. DISPOSITIONS

1.) Dispositions by Deed or Easement:

Grant of Easement to New York State Department of Transportation- As part of the Niagara Gorge Corridor Project, Authority granted a non-exclusive easement over and across certain lands in the City of Niagara Falls to the NYS Department of Transportation for the consideration of \$18,500.00. The easement was recorded in the Niagara County Clerk's office on February 12, 2019.

III. MISCELLANEOUS TRANSACTIONS

Drone Operation Protocol - During this reporting period, NYPA entered into an agreement with New York State Office of Parks Recreation and Historic Preservation for the operation of small-unmanned aircraft systems over and upon Authority property that is maintained and operated by OPRHP. This agreement was signed on January 31, 2019.

Empire Pipeline Inc. – On September 12, 2019, NYPA and Rochester Gas & Electric jointly entered into a Driveway Crossing and Encroachment Agreement with Empire Pipeline, Inc., which allows encroachment of transmission easements by both utilities on property owned by Empire Pipeline Inc. There was no consideration for this transaction. This agreement was filed in the Monroe County Clerk's office on October 15, 2019.

IV. LEASING

1) Landlord Leases:

Westchester Philharmonic – During this reporting period, tenants Westchester Philharmonic terminated a lease for office space on the 9th floor of Authority's 123 Main Street Building in White Plains, New York. The lease terminated on June 7, 2019.

Hodogaya Chemical (U.S.A.) Inc. – On November 13, 2019, Hodogaya Chemical (U.S.A.) Inc. executed a seventh amendment of lease to exercise their option to extend the Lease for an additional five years. The extension term will expire on August 31, 2025 and is for 2,202 square feet of office space on the 9th floor of Authority's 123 Main Street Building in White Plains, NY.

Assured Partners Northeast, LLC – On November 1, 2019, Assured Partners Northeast, LLC, successor in interest to Assured SKCG, Inc. executed an Agreement for Early Termination of Lease. The early termination date is for March 31, 2020 and is for approximately 21,372 square feet of office space on the 14th floor of Authority's 123

Main Street Building in White Plains, NY. This agreement was approved by the Trustees on July 30, 2019.

2) Tenant Leases:

American Towers LLC- On July 1, 2019, Authority entered into a first amendment to an existing Antenna Site Lease Agreement for use of space on a communications tower in Burlington Flats, NY. This amendment extends the term for a period of three years.

Horatio Street, Inc.- On January 25, 2019, Authority entered into a new lease with Horatio Street, Inc. for the rental of approximately 6,000 square feet of transmission maintenance storage space in Utica, New York. The Authority has leased the premises since 2001. The term of this lease is from January 1, 2019 to December 31, 2021 with the initial annual rent of \$27,846.00.

PS Associates L.P. – During this reporting period, Authority entered into a Fifth Amendment of Lease with PS Associates L.P. to add additional space on the 6th floor of the Albany Office at 30 South Pearl Street. The expansion space comprises of approximately 5,000 square feet of office space on the 6th floor. The Fifth Amendment commenced on July 31, 2019 and will expire on July 31, 2023. The Trustees approved this transaction at the October 2, 2018 meeting.

Louisville Landing LLC- On August 20, 2019, Authority entered into a new lease with Louisville Landing LLC for the lease of approximately 17 acres of vacant land in Massena, New York to serve as a space for laydown and storage during the Moses-Adirondack Smart Path Reliability Project. The term of this lease is from October 1, 2019- September 31, 2023 with one one-year option. The initial annual rent is \$36,000.00.

Ross Aviation – Westchester County Airport

During this reporting period, the Real Estate Department successfully negotiated and finalized the terms for renewal of pilot office and hangar space leases at the Westchester County Airport. An approval memo was executed for this transaction on November 25, 2019.

<u>Landlord</u>	<u>Space</u>	<u>Expiration</u>	<u>Annual Rental*</u>
Ross Aviation	Office Space	10/31/2021	\$15,600
Ross Aviation	Hangar Space	10/31/2021	\$90,000

*Subject to annual increases based on CPI, capped at 4%

V. ST. LAWRENCE RELICENSING

1.) 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/FDR 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. Approximately 599 acres of the removed lands are intended to be conveyed either to adjoining landowners or to the affected local municipality, if interested. For all conveyed lands, the Authority retains flowage and access easements, to provide necessary rights to traverse conveyed lands for Project-related activities.

DEEDS FILED						
NYPA Surplus Map No.	NYPA Surplus Parcel No.	Current Owner Name	Acreage	Appraisal Value	Filing Date	Town
1133C	8082	Andrew S. Johnson Sr. and Jan Johnson	3.84	\$7,700.00	2/4/2019	Lisbon

During this period, one deed was finalized and recorded in the County Clerk's office. To date, 539 of the 599 acres have been conveyed, comprising approximately 491 of the 520 parcels originally included in this program.

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 “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, Permit or Transfer of Jurisdiction.
- 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 “Permits” shall mean permits issued by the Authority that grant revocable privileges to use or access real property under the jurisdiction of the Authority. Permits may be issued where the real property is not presently required for Authority purposes, but held for future use in carrying out its corporate purposes. Permits do not transfer a beneficial interest in real property. Permits are revocable, in part to assure availability upon demand of the real property for Authority purposes.
- 2.5 “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.
- 2.6 “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.
- 2.7 “Transfers of Jurisdiction” shall mean transactions pursuant to Public Lands Law §3(4) and which are between the Authority and other State governmental entities where jurisdiction over Real Property is transferred and reassigned on such terms and conditions as the Authority and the New York State Office of General Services deem proper, but the title to the Real Property remains in the name of the People of the State of New York.

III. COMPLIANCE OVERVIEW

The Public Authorities Law (“PAL”) 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 PAL.
- 3.4 Prepare annual reports of Real Property Disposal transactions.

IV. DUTIES OF THE MANAGER CORPORATE REAL ESTATE

- 4.1 The Manager Corporate 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 Manager Corporate Real Estate or equivalent(s) or designee shall periodically 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 Manager Corporate 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 Manager Corporate 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 PAL 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 PAL. 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.b.2 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 PAL 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 PAL.
- 5.7 The Manager Corporate 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.
- 5.8 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.

- 5.9 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 5.8 above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- 5.10 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 Public Authorities Law Section 2879-a establishes a framework for the Office of the State Comptroller ("OSC") to review and approve certain Public Authority contracts.
- 5.11.1. Any contract in excess of \$1,000,000 that is to be awarded by a state authority 1) to a "single source" or "sole source", or pursuant to any other means of procurement that is not competitive, or 2) where the monies to be paid in whole or in part have been appropriated by the state to the state authority for such

contractual expenditure (“Eligible Contract”), must be reported in advance of execution to the OSC. Upon execution, all such Eligible Contracts must be filed with the OSC within 60 days.

5.11.2. If the OSC has previously identified a contract or category of contract as “reviewable” (“Reviewable Contract”), such Reviewable Contract must include language stating that it is subject to OSC approval and the executed Reviewable Contract must be submitted to the OSC for review. If the OSC does not act to disapprove the Reviewable Contract within 90 days, the contract is valid.

VI. AUTHORITY REAL PROPERTY REPORTS

6.1 The Manager Corporate 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 Manager Corporate 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 Manager Corporate 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 listing all real property of the Authority, which report shall include a list and description of all 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 PAL 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 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

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 Law (“PAL”).

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 MANAGER CORPORATE REAL ESTATE

- 4.1 The Manager Corporate 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 Manager Corporate 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 Manager Corporate 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 Manager Corporate 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.

4.6 Public Authorities Law Section 2879-a establishes a framework for the Office of the State Comptroller ("OSC") to review and approve certain Public Authority contracts.

4.6.1. Any contract in excess of \$1,000,000 that is to be awarded by a state authority 1) to a "single source" or "sole source", or pursuant to any other means of procurement that is not competitive, or 2) where the monies to be paid in whole or in part have been appropriated by the state to the state authority for such contractual expenditure ("Eligible Contract"), must be reported in advance of execution to the OSC. Upon execution, all such Eligible Contracts must be filed with the OSC within 60 days.

4.6.2. If the OSC has previously identified a contract or category of contract as "reviewable" ("Reviewable Contract"), such Reviewable Contract must include language stating that it is subject to OSC approval and the executed Reviewable Contract submitted to the OSC for review. If the OSC does not act to disapprove the contract within 90 days, the contract is valid.

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 Manager Corporate 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 Manager Corporate 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 PAL 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 HR and Enterprise Shared Services or the equivalent may, upon request, prepare and present ongoing reports regarding the Acquisition of Real Property.

2019 ACQUISITION AND DISPOSAL OF REAL PROPERTY

Section 2896 of the Public Authorities Law (PAL) requires a report setting out all real property transactions of the Corporation 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 Corporation and the name of the purchaser. There is no monetary threshold, so all disposals regardless of value need to be reported. In addition, acquisitions, leasing transactions, and transfers of jurisdiction are also included in this report. All acquisitions and dispositions reported herein were approved by the Board of Directors/or are consistent with the Corporation's Guidelines for the Disposal of Canal Corporation Real Property and the Guidelines for the Acquisition of Canal Corporation Real Property as adopted by the Board on March 26, 2019.

I. ACQUISITIONS

1.) Acquisitions by Deed or Easement:

There were no reportable transactions in 2019.

II. DISPOSITIONS

1.) Dispositions by Deed or Easement:

David and Phyllis Wagner – Conveyed via quit claim deed 1.6 acres of canal land (Property) located in the Town of Waterloo, Seneca County (Abandonment Map No. 987). This conveyance was consummated pursuant to authorization granted by the Board of Director's at its meeting held on September 26, 2017. The Property was sold on March 6, 2019, subject to a flowage easement, for \$6,500 to cure an encroachment of a portion of a home owned by the purchasers located thereon.

Sheila Lytle – Conveyed via quit claim deed 0.14 acre of canal land (Property) located in the Town of Perinton, Monroe County (Abandonment Map No. 981). This conveyance was consummated pursuant to the authorization granted by the Board of Director's at its meeting held on December 12, 2017. The Property was sold on March 6, 2019 for \$19,000 to cure an encroachment of a portion of a home owned by the purchaser located thereon.

Paul and Karen Zachman- Conveyed via quit claim deed 0.15 acre of canal land (Property) located in the Town of Perinton, Monroe County (Abandonment Map No. 988). This conveyance was consummated pursuant to the authorization granted to the Vice President- Enterprise Shared Services/ Real Estate Contracting Officer by the Board of Director's pursuant to Resolution No. 561, adopted at its meeting held on December 12, 2011. The Property was sold on May 1, 2019 for \$9,100 to cure an encroachment of a portion of a commercial building owned by the purchasers.

Donna Kelley and Joseph Sestito- Conveyance by quit claim deed 0.016 acre of canal land (Property) located in the Town of Lee, Oneida County (Abandonment Map No. 990). This conveyance was consummated pursuant to the authorization granted to the Vice President- Enterprise Shared Services/ Real Estate Contracting Officer by the Board of Director's pursuant

to Resolution No. 561, adopted at its meeting held on December 12, 2011. The Property was sold on June 5, 2019 for \$800 to cure an encroachment of a portion of the purchasers home located thereon.

Niagara Mohawk Power Corporation – Conveyed by quit claim deed 0.014 acre of canal land (Property) located in the City of Glens Falls, Warren County (Abandonment Map No. 950). This conveyance was authorized by the Board of Director's at its meeting held on May 2, 2017. The Property was sold on June 10, 2019 for \$1,800 to cure a minor encroachment located thereon.

Schenectady Yacht Club – Conveyance by quit claim deed approximately 0.68 acre of canal land (Property) located in the Town of Clifton Park, Saratoga County (Abandonment Map No. 968). This conveyance was authorized by the Board of Director's at its May 22, 2018 meeting. The Property was sold on September 5, 2019 for \$17,000 to cure the encroachments of portions of two building improvements located thereon.

2.) Disposition by Transfer of Jurisdiction

There were no reportable transactions in 2019.

3.) Disposition by Lease

There were no reportable transactions in 2019.

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Note: Revision # should be listed in descending order starting with most recent version at the top

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
[Revision Date]	1	Conversion to new Canal document template	All	Allison Renstrom Shea Special Counsel



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1 PURPOSE AND SCOPE

The purpose of these Guidelines 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 Canal Corporation’s (“Corporation”) policy and instructions regarding the disposal of real property. In addition, the Guidelines designate a Contracting Officer who is responsible for the Corporation’s compliance with, and enforcement of, the Guidelines.

The powers and duties relating to the New York State canal system, which were transferred to and merged with the Power Authority (“Power Authority”) pursuant to Canal Law Section 5, may be exercised by the Power Authority directly or through the Corporation on behalf of the people of the State of New York.

2 APPLICABILITY

This Policy applies to all New York State Canal Corporation employees who intend to Dispose of Real Property owned by or under the jurisdiction of the New York State Canal Corporation.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

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

Corporation – Canal Corporation

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, Permit or Transfer of Jurisdiction.

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.

OGS – NYS Office of General Services

PAL – Public Authorities Law

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Permits - shall mean permits issued by the Corporation that grant revocable privileges to use or access real property or structures under the jurisdiction of the Corporation and for the diversion of Canal waters for sanitary, farm or industrial purposes. Permits are revocable in part to assure availability of the real property for Corporation or public purposes. Permits do not transfer a beneficial interest in real property and may be issued when deemed to be advantageous to the Corporation for the purpose of cutting, gathering and hauling away ice from the canals or when the permitted use does not result in a detriment to canal navigation or damage to the banks or other structures thereof. Permits include Occupancy and Work Permits.

- a) **Occupancy Permit** - a revocable instrument that authorizes the temporary, restricted use of real property under the jurisdiction of the Corporation, including, temporary use of Canal lands or structures, and for the diversion of Canal waters for sanitary, farm or industrial purposes.
- b) **Work Permit** - a revocable instrument that authorizes construction, maintenance, inspection, survey, or other type of work or short term activity on real property under the jurisdiction of the Corporation.

Real Property - shall mean real property, including land, tenements and hereditaments owned by the Corporation, 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.

Relative - shall mean any person living in the same household as the Corporation employee or any person who is a direct descendant of the Corporation employee's grandparents or the spouse of such descendant.

Transfers of Jurisdiction - shall mean transactions pursuant to Public Lands Law §3(4) and which are between the Corporation and other State governmental entities where jurisdiction over Real Property is transferred and reassigned on such terms and conditions as the Corporation and the New York State Office of General Services deem proper, but the title to the Real Property remains in the name of the People of the State of New York.

4 RESPONSIBILITY

The Board shall adopt by resolution Guidelines for the Disposal of Canal Corporation Real Property regarding the use, awarding, monitoring and reporting of contracts for the disposal of

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Real Property and which designate a Contracting Officer who is responsible for compliance with and enforcement of, these Guidelines.

5 PROCEDURE IMPLEMENTATION

5.1 COMPLIANCE OVERVIEW

The Public Authorities Law ("PAL") requires the Corporation to establish policy guidelines to accomplish the following:

- 5.1.1 Ensure that the Corporation's contracting activities comply with Title 5-A, Article 9 of the Public Authorities Law, the Corporation's enabling statute, and any other applicable law pertaining to the Disposal of Real Property.
- 5.1.2 Maintain inventory controls and accountability systems for all Real Property under the Corporation's control.
- 5.1.3 Periodically inventory Corporation Real Property to determine which Real Property shall be disposed of.
- 5.1.4 Dispose of Corporation Real Property interests as promptly as possible in accordance with the PAL.
- 5.1.5 Prepare annual reports of Real Property Disposal transactions.

5.2 DISPOSITION OF CORPORATION REAL PROPERTY

- 5.2.1 The Corporation 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 PAL and as implemented by these Guidelines. Fair Market Value of the Corporation Real Property subject to Disposal shall be established by independent appraisal as appropriate and consistent with the intent of the PAL. Such appraisal documents shall be included in the record of the Real Property Disposal transaction.

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5.2.2 Except as set forth in Sections 5.2.3 and 5.2.4 herein of the Guidelines, any Disposal of Real Property shall only be made after publicly advertising for bids in accordance with the following:

- a) 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; and
- b) all bids shall be publicly disclosed at the time and place stated in the advertisement; and
- c) 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 Corporation, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

5.2.3 The Disposal of Corporation Real Property by Negotiation or Public Auction

- a) The Disposal of Corporation Real Property may be negotiated or made by public auction without regard to Section 5.2.2 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 5.2.4; or
 - 5. such action is otherwise authorized by law.
- b) The Disposal of Corporation Real Property may also be made by negotiated sale without regard to Section 5.2.2 but subject to obtaining such competition as is feasible under the circumstances, if ALL of the following conditions have been satisfied:
 - 1. the Corporation has determined that: such real property is no longer necessary or useful to the purposes of the Corporation; disposal of such real property

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complies with all applicable provisions of the canal law; and disposal of such real property is in the best interest of the Corporation; and

2. an appraisal of the fair market value of such property has been made by an independent appraiser and included in the record of the transaction; and
3. the fair market value of such real property is greater than fifteen thousand dollars (\$15,000.00) but not greater than seventy-five thousand dollars (\$75,000.00); and
4. such real property was improved prior to April 1, 1992 under a municipal permit or a permit issued pursuant to Section 100 of the Canal Law, thereby creating an encroachment on Corporation Real Property; and
5. the purchaser of such Real Property is, or will be, the owner of the improvement that either fully or partially encroaches on Corporation real property; and
6. the consideration paid for such real property will not be less than the fair market value of the real property exclusive of the value, fair market or otherwise, of the encroaching improvements.

5.2.4 Below Fair Market Value

- a) No Real Property owned, leased or otherwise in the control of the Corporation may be sold, leased, or otherwise alienated for less than its Fair Market Value except if:
 1. 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; or
 2. the purpose of the transfer is within the purpose, mission or governing statute of the Corporation; or
 3. in the event the Corporation 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 Corporation's mission, purpose or governing statutes, the Corporation 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 Corporation may effectuate such transfer.

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- b) In the event a below Fair Market Value Real Property transfer is proposed, the following information must be provided to the Corporation's Board of Trustees and the public:
 - 1. a full description of the Real Property; and
 - 2. an appraisal of the Fair Market Value of the Real Property and any other information establishing the Fair Market Value sought by the Corporation's Board of Trustees; and
 - 3. 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; and
 - 4. a statement of the value to be received compared to the Fair Market Value; and
 - 5. 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
 - 6. 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.

 - d) Before approving the Disposal of any Real Property for less than Fair Market Value, the Corporation's Board of Trustees shall consider the information described in Paragraph 5.2.4.b 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.
- 5.2.5 An explanatory statement detailing the Disposal by negotiation of Corporation Real Property subject to the PAL as set forth in Section 5.2.3.a shall be made for any Disposal of:
- a) 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 Paragraph 5.2.5.b of this Section 5.2.5; or

 - b) 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); or

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- c) 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.
- 5.2.6 Each explanatory statement prepared in accordance with Section 5.2.5 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 Corporation.
- 5.2.7 In the Corporation's discretion, when it shall be deemed advantageous to the Corporation and the State, the Corporation may enter into an agreement with the Office of the Commissioner of the Office of General Services ("OGS") under which OGS may Dispose of the Corporation's Real Property under terms and conditions agreed to by the Corporation and the OGS. In Disposing of any such Real Property of the Corporation, the OGS shall be bound by the relevant provisions of the PAL.
- 5.2.8 No Corporation employee who is involved in the award of Corporation 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.
- 5.2.9 No Corporation 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 5.2.8 above or (b) giving or withholding or neglecting to make any contribution of money, service or any other valuable thing for any political purpose.
- 5.2.10 No Corporation 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.
- 5.2.11 Public Authority Contracts
- a) Public Authorities Law Section 2879-a establishes a framework for the Office of the State Comptroller ("OSC") to review and approve certain Public Authority contracts.

Guidelines for the Disposal of Canal Corporation Real Property

- b) Any contract in excess of \$1,000,000 that is to be awarded by a state authority 1) to a “single source” or “sole source”, or pursuant to any other means of procurement that is not competitive, or 2) where the monies to be paid in whole or in part have been appropriated by the state to the state authority for such contractual expenditure (“Eligible Contract”), must be reported in advance of execution to the OSC. Upon execution, all such Eligible Contracts must be filed with the OSC within 60 days.
- c) If the OSC has previously identified a contract or category of contract as “reviewable” (“Reviewable Contract”), such contract must include language stating that it is subject to OSC approval and the executed Reviewable Contract must be submitted to the OSC for review. If the OSC does not act to disapprove the Reviewable Contract within 90 days, the contract is valid.

5.3 CORPORATION REAL PROPERTY REPORTS

5.3.1 The Corporation shall publish the following reports in accordance with these Guidelines:

- a) Pursuant to Section 2800 of the Public Authorities Law, the Corporation shall furnish a report for incorporation in the Corporation’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 Corporation 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 Power 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.
- b) Pursuant to Public Authorities Law § 2896(3), the Corporation 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 listing all real property of the Corporation, which report shall include a list and description of all Real Property Disposed of during the fiscal reporting period. Regarding Disposals, this annual report shall include the

Guidelines for the Disposal of Canal Corporation Real Property

price received by the Corporation and the name of the purchaser of the Real Property.

- 5.3.2 The Corporation may be called upon periodically to submit information regarding the Disposal of Real Property to organizations implementing the PAL or other statutes regulating the Disposal of Real Property.
- 5.3.3 The Canal Corporation's Governance Committee meets at least three times per year and Corporation staff may be required to prepare and present ongoing reports regarding the Disposal of Real Property.

5.4 APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD

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

6 VIOLATIONS

Violations of these Guidelines and related policies and procedures by employees may result in disciplinary action up to and including termination. In addition, where the conduct engaged in is illegal, violators may be subject to prosecution under applicable federal, state or local laws.

7 REFERENCES

Canal Law
Public Authorities Law

8 PROCEDURE REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision cycle: Every Year



Document Title:

Guidelines for the Disposal of Canal Corporation Real Property

Exhibit 4d ii- B
March 31, 2020

Document Number:
Real Pro Dis 1 - 2020
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9 ATTACHMENTS

N/A

Document Title:
**Guidelines and Procedures for the
Acquisition of Real Property by the Canal
Corporation**

**Exhibit 5d ii-C
March 31, 2020**

Document Number
Real Pro Acq 1 - 2020
Page:
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**Guidelines and Procedures for the Acquisition of Real Property by the Canal
Corporation**

Note: Revision # should be listed in descending order starting with most recent version at the top

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
6/6/2017	1	Conversion to new Canal document template	All	Allison Renstrom Shea Special Counsel

Document Title:
**Guidelines and Procedures for the
Acquisition of Real Property by the Canal
Corporation**

**Exhibit 4d ii-C
March 31, 2020**

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Real Pro Acq 1 - 2020
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Document Title:

Guidelines and Procedures for the Acquisition of Real Property by the Canal Corporation

Exhibit 4d ii-C
March 31, 2020

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1 PURPOSE AND SCOPE

These Guidelines 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 Canal Corporation’s (“Corporation”) policy and instructions regarding the acquisition of real property. In addition, the Guidelines designate a contracting officer who is responsible for the Corporation’s compliance with, and enforcement of, the Guidelines.

The powers and duties relating to the New York State canal system, which were transferred to and merged with the Power Authority of the State of New York (“Power Authority”) pursuant to Section 5 of the Canal Law, may be exercised by the Power Authority directly or through the Corporation on behalf of the people of the State of New York.

2 APPLICABILITY

These Guidelines apply to all New York State Canal Corporation employees who intend to Acquire Real Property for the New York State Canal Corporation.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Contracting Officer - shall mean the officer or employee appointed by resolution of the Corporation’s Trustees to be responsible for compliance with, and enforcement of, the Guidelines for the acquisition of real property. The “Contracting Officer” is hereby designated to be the Power Authority Vice President - Enterprise Shared Services, or the equivalent(s), or designee.

Corporation – Canal Corporation

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.

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.

OSC – Office of the State Comptroller

PAL – Public Authorities Law

PARIS – Public Authorities Reporting System

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Real Property – shall mean real property, including land, tenements and hereditaments owned by the Corporation, 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.

Relative – is any person living in the same household as the Corporation employee or any person who is a direct descendant of the Corporation employee's grandparents or the spouse of such descendant, as referred to in Article 5 of these Guidelines.

4 RESPONSIBILITY

The Board shall adopt by resolution Guidelines for the Acquisition of Canal Corporation Real Property and which designate a Contracting Officer who is responsible for compliance with and enforcement of, these Guidelines.

5 PROCEDURE IMPLEMENTATION

5.1 COMPLIANCE OVERVIEW

5.1.1 These Guidelines are being adopted consistent with the Public Authorities Law ("PAL").

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

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

5.2 DUTIES OF THE CORPORATION

5.2.1 The Corporation will maintain adequate inventory controls and accountability systems for all Real Property under the Corporation's control.

5.2.2 Real Property to be Acquired by the Corporation will be in support of existing facilities, operations or in support of new initiatives being pursued by the Corporation.

Guidelines and Procedures for the Acquisition of Real Property by the Canal Corporation

- 5.2.3 The compensation for and the procedure for such Acquisition must be consistent with these Guidelines and the Corporation's Real Estate Expenditure Authorization Procedures as amended.
- 5.2.4 The Corporation will arrange for the transfer or Acquisition of any Real Property identified for Acquisition in accordance with these Guidelines and the Corporation's Real Estate Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.
- 5.2.5 Public Authorities Law Section 2879-a establishes a framework for the Office of the State Comptroller ("OSC") to review and approve certain contracts.
- a) Any contract in excess of \$1,000,000 that is to be awarded by a state authority 1) to a "single source" or "sole source", or pursuant to any other means of procurement that is not competitive, or 2) where the monies to be paid in whole or in part have been appropriated by the state to the state authority for such contractual expenditure ("Eligible Contract"), must be reported in advance of execution to the OSC. Upon execution, all such Eligible Contracts must be filed with the OSC within 60 days.
 - b) If the OSC has previously identified a contract or category of contract as "reviewable" ("Reviewable Contract"), such Reviewable Contract must include language stating that it is subject to OSC approval and the executed Reviewable Contract must be submitted to the OSC for review. If the OSC does not act to disapprove the Reviewable Contract within 90 days, the contract is valid.

5.3 ETHICAL CONSIDERATIONS

- 5.3.1 No Corporation 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.
- 5.3.2 No Corporation 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

Guidelines and Procedures for the Acquisition of Real Property by the Canal Corporation

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.

5.4 ACQUISITION REPORTS BY THE CORPORATION

5.4.1 The Corporation shall publish the following reports in accordance with these Guidelines:

- a) Pursuant to Section 2800 of the Public Authorities Law, the Corporation shall furnish a report for incorporation in the Corporation'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 Corporation Acquired during such reporting period and the name of the seller of the Real Property and the price paid by the Corporation 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 Power 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.
- b) The Corporation may be called upon periodically to submit information regarding the Acquisition of Real Property to organizations implementing the PAL or other statutes regulating the Acquisition of Real Property, such as the Authority Budget Office through the Public Authorities Reporting System ("PARIS").
- c) The Corporation's Governance Committee meets at least three times per year and Corporation staff may be required to prepare and present ongoing reports regarding the Acquisition of Real Property.

6 VIOLATIONS

Violations of these Guidelines and related policies and procedures by employees may result in disciplinary action up to and including termination. In addition, where the conduct engaged in is illegal, violators may be subject to prosecution under applicable federal, state or local laws.

Document Title:

Guidelines and Procedures for the Acquisition of Real Property by the Canal Corporation

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7 REFERENCES

Public Authorities Law

8 PROCEDURE REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision cycle: Every Year

9 ATTACHMENTS

N/A



Policy Title:
Consultant-Independent Contractor Engagement

Policy Number:
EP 1.11

Page:
1 of 10

Title: Consultant-Independent Contractor Engagement

Document Type: Employee Policy

Document Number: EP 1.11

Revision Date: 2/13/2019

Final Approver: *Pizzo, Kristine*
SVP HR & Enterprise Shared Services

Executive Owner: Pizzo, Kristine
SVP HR & Enterprise Shared Services

Content Owner: Prendergast, Christine
Contingent Workforce Program Manager

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Policy Title:
**Consultant-Independent Contractor
Engagement**

Policy Number:
EP 1.11

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2 of 10

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
2/13/2019	0	Creation of a new policy governing NYPA's engagement of Consultants and Independent Contractors.	N/A	Christine Prendergast Policy Administrator

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Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS where you will find a statement which pertains to all Employee Policies including this one.**

1 PURPOSE AND SCOPE

NYPA often engages the professional services of Consultants/Independent Contractors for the provision of specialized services that are not necessarily available in-house or in support of a specific capital project, service, or project deliverable. The intent is to ensure that NYPA has a comprehensive and consistent process for engaging consulting or independent contractor services across its business units.

2 APPLICABILITY

The Consultant/Independent Contractor Policy applies to all NYPA business units.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

A Consultant and/or Independent Contractor (hereafter referred to as Consultant) provides non-personal services to NYPA. A consultant is one of the following: an individual, a group from a consulting firm, sole proprietorship (including 1099 status), or other large or small company providing on a limited basis, specialized expertise or a contractually defined deliverables to NYPA.

Consultants must meet applicable federal and state requirements for consulting or independent contractor status. Services are typically billed on a project or deliverable basis. Consultants offer their services to multiple clients, control the manner in which such services are provided, and use their own equipment. NYPA controls or directs only the result of the services performed by a consultant and not the means and methods of accomplishing the results. They are not engaged in NYPA's day-to-day work functions and, do not serve as temporary staff support or augmentation.

Defining attributes of Consultants include, but may not be limited to, the following:

- a) Consultants are expected to work independently and with little or no NYPA supervision;
- b) Consultants determine when, where and how to perform contracted work or deliverable;
- c) Consultants do not have established work hours;
- d) Consultants are not allowed overtime;
- e) Consultants' work can be and usually is performed off site;
- f) Consultants are paid pursuant to their contractual arrangement with NYPA as detailed in a Statement of Work (SOW) or task order, or completion schedule;

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Policy Title:
**Consultant-Independent Contractor
Engagement**

- g) Consultants are paid for work product and not individual performance;
- h) Consultants provide their own tools of trade to accomplish contracted work or deliverables (e.g., no assigned cell phones, laptops, desktops, or permanent office space);
- i) Consultants are not typically engaged in NYPA day-to-day work functions and do not serve as staff augmentation;
- j) Consultants may not have a standard NYPA-email address; they must use their company email;
- k) Consultants are not economically dependent on NYPA and they have other clients;
- l) Consultants have opportunity of profit or loss and invest in their business;
- m) Consultants have no permanence or extended working relationship with NYPA;
- n) Consultants usually have payment in accordance to contractual Statement of Work(s);
- o) Consultants are not contingent workers (often referred to as contractors) who are hired through Human Resources under Contingent Staffing Vendors and whose jobs are structured to be temporary;
- p) Consultants have distinctive badges which must be displayed at all times;
- q) Individual Consultants or Consulting firms are responsible for federal, state, and local taxes derived from their income and for the withholdings and /or payment of any federal, state, and local income and other payroll taxes, workers' compensation, disability, or other legal requirement applicable;
- r) Consultants cannot perform non-NYPA work at a NYPA site or use NYPA's assets for personal or other non-NYPA business usage, and
- s) Consultants cannot supervise NYPA employees or contingent workers.

Responsible Manager: NYPA employee who is responsible for obtaining the services of the consultant and for budgeting appropriately for such services. The Responsible Manager provides the consultant information and specifications for the project or deliverable, establishing time frame, parameters, and pay schedule. They are required to provide feedback on the quality of the work product, and carefully inspect before accepting the final deliverable. The manager is responsible for handling any issues that may arise relating to the deliverable. This manager is also required to be listed as the point of contact on the background screening application.

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Staffing Committee: This Committee is comprised of the Senior Vice President of Human Resources and Enterprise Shared Services (HR & ESS) or his/her representative, the Senior Director of Talent Acquisition, the HR Contingent Staffing Program Manager, General Counsel, and Assistant General Counsel of HR and Labor Relations and his/her representative.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with Human Resources unless otherwise noted herein. Responsibility for compliance with engagement and contract terms remains with the respective Responsible Managers and contract owners.

5 POLICY IMPLEMENTATION

5.1 Need for Engagement

NYPA often engages Consultants to support business operations such as the Capital Program, technology upgrades, other projects deliverables, or to engage in services or expertise in areas not readily available in NYPA's workforce. A business unit or department must demonstrate a business need to engage in consultation services and must demonstrate best efforts to plan for such engagement during the budget cycle.

5.2 Engagement

The Responsible Manager is responsible for obtaining necessary approvals prior to requesting proposals and procuring services of a consultant(s) in accordance with applicable NYPA policies as well as procurement guidelines, and budgetary/portfolio practices. Procurement's Expenditure Authorization Procedures (EAPs) provide the proper approval authorizations to procure such services.

- a) Under no circumstances can an individual who was engaged as a contingent worker under a temporary staffing contract be hired under a consulting contract unless there is prior written approval by Staffing Committee. Such a placement can be initiated by a written request to the Contingent Workforce Program Manager and Vice President, Chief Ethics & Compliance Officer.
- b) Consultants' selection must be an open and competitive process in accordance with NYPA procurement guidelines. Responsible Managers and those responsible for procuring services must conduct business according to the highest ethical standards of public service in accordance with the NYS Public Officers Law and NYPA's Code of Conduct.

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Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

Consultant-Independent Contractor Engagement

- c) Responsible Managers and employees responsible for engaging Consultants must disclose whether Consultants are related to them by kinship or marriage prior to NYPA's engagement of Consultants.
- d) Responsible Managers and employees responsible for engaging Consultants must disclose whether they have been previously employed by or otherwise engaged with Consultants. Such individuals must provide the details related of those engagements to the Vice President, Chief Ethics & Compliance Officer prior to NYPA's engagement of such Consultants.
- e) Consultants must disclose and provide the details related to any prior engagement with NYPA (i.e., employee, contractor, consultant, vendor) prior to NYPA's engagement of Consultants.
- f) Consultants must disclose the identity, job position and work location of any family members (by kinship or marriage) employed by NYPA.
- g) Consultants do not supervise any NYPA employees or contingent workers.
- h) Consultants are not eligible to attend or to participate in NYPA sponsored with the exception the Annual Holiday party. The time spent at this event shall not be billable.

5.3 Term and Scope of Work

A consultant should generally be engaged for a fixed period of time to complete the scope of work described in the contract. The business unit is responsible for the schedule that controls payments for those services to be delivered under the contract agreement and enforcing the contractual time period or term. Responsible Managers are expected to comply with all associated policies and procedures and budget portfolio approvals, relating to consultant engagement (scope, expenses, and timeframe).

5.4 On-boarding and Assignment and Termination

5.4.1 Background Check

Successful completion of NYPA's background check is a pre-requisite for obtaining physical or system access NYPA. Consultants must be cleared by Physical Infrastructure Security's required background check. All background checks must be initiated by the Responsible Manager. The consultant must list the NYPA approved vendor for which his/her contract is applicable as the employer, and the consultant must list a NYPA Responsible Manager as a point of contact.

Security notifies the Responsible Manager by email after a consultant has cleared his/her background screening.

5.4.2 Facility Access

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Security provides Consultants working at a NYPA project sites or headquarters with NYPA identification in the form of a badge for building and facility access with an assignment start and end date provided by the Responsible Manager. Badge activation cannot exceed one (1) year intervals within the Security Access Control System.

- a) At the White Plains Office, Consultants must tap their NYPA contractor badge at the security/badge reader turnstile in the lobby for all daily entrances.
- b) For all other sites, Consultants must sign in at the security desk daily.

5.4.3 Access to NYPA Network Systems (Active Directory and Application Access)

Responsible Managers typically request system access for Consultants to perform their projects either on or offsite. Requests to Cyber Security for system access can be initiated through an electronic portal located on the PowerNet under Contingent Central. Such applications may provide network access along with an active status on NYPA's Active Directory.

- c) Consultants may not have a standard NYPA email address. They are required use their company email.
- d) The Responsible Managers are required to notify Cyber Security (NYPACyberSecurityTeam@nypa.gov) when the engagement of a Consultant is terminated or provide a planned date when the engagement will terminate in advance to de-activate access in NYPA systems. Gaps between the termination of the engagement and system access deactivations are prohibited.

5.4.4 Daily NYPA Workstation

In general, Consultants work off site and at their company place of business. However, business units may require some Consultants to work at NYPA facilities or work sites (examples: White Plains office or the Niagara Power Project). For these Consultants that maintain a NYPA work station with daily facility access (i.e. work space with a desk, cube or office) and network system access, on site work must be indicated on electronic site under Contingent Staffing on the PowerNet. This does not apply to Consultants that do business periodically at NYPA sites (e.g.: trainers) without a designated worksite, but have network access.

5.4.5 Completion of Services

If an ID badge or system access is granted to a consultant, the Responsible Manager must inform Security and Cyber Security upon completion of services to

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ensure facility and IT system access has been blocked. Gaps between the termination of the engagement and facility access deactivations are prohibited.

5.4.6 Termination of Services

Contractually, NYPA engages consulting firms (as opposed to individuals) that may assign their employees to a particular project that may require working onsite. While NYPA has no control over the hiring and firing of the Consultant's employees, contractually NYPA has the right to request that the employee be removed from the project for any reason, and NYPA has the right to terminate the contract for convenience. NYPA has the obligation to act in good faith, but contractually NYPA is not limited to unsatisfactory performance as a basis for reassignment of the employee or termination of the contract. If a consultant performs poorly or fails to deliver scope or services based on the terms of the contract or for other requests to cease the engagement, termination must be coordinated with the Law Department and Strategic Supply Management.

5.7 Ethics

All NYPA employees, including Responsible Managers and those responsible for procuring and otherwise engaging consultants, must conduct business according to the highest ethical standards of public service in accordance with the NYS Public Officers Law and NYPA Code of Conduct. NYPA employees are prohibited from:

- a) Directly or indirectly advising Consultants in making a business decision or other decision utilizing confidential information acquired at NYPA, nor disclose any confidential information as a result of information obtained through NYPA employment.
- b) Participating in any decision or process to hire, promote, discharge, discipline or supervise a relative, domestic partner, or individual having a personal relationship.
- c) Using or attempting to use their official NYPA position to secure unwarranted privileges for themselves, their relatives or any other party, including monetary benefits, contracts and employment with NYPA; or
- d) Acting in any manner where they could be improperly influenced, give or be given preferential treatment or act in violation of the public trust.

5.8 Exceptions

Any Exceptions to this policy must be approved by the Staffing Committee.

6 VIOLATIONS

Violations of this policy and related policies and procedures by employees may result in disciplinary action up to and including termination, and/or denial of subsequent requests to engage Consultants in the future.

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

7 REFERENCES

- 7.1 New York Power Authority Code of Conduct
- 7.2 NYS Public Officers Law
- 7.3 NYPA Travel Policy
- 7.5 Expenditure Authorization Procedures
- 7.6 Ethics Disclosures.

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Year

9 ATTACHMENTS

Printed copies are not controlled.

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Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	2/13/2019
Executive Owner	Pizzo, Kristine	2/8/2019
Content Owner	Prendergast, Christine	2/8/2019

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Title: Contingent Worker Engagement

Document Type: Employee Policy

Document Number: E.1.12

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Final Approver: *Pizzo, Kristine*
SVP HR & Enterprise Shared Services

Executive Owner: Kalashian, Steven
VP HR & Organizational Development

Content Owner: Prendergast, Christine
Contingent Workforce Program Manager

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Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
2/21/2019	0	This policy replaces the Temporary Staff Augmentation Policy.	N/A	Christine Prendergast Policy Administrator
10/19/2015	0	Creation of policy for NYPA's Contingent Worker Engagement.	N/A	Christine Prendergast Policy Administrator

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Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS where you will find a statement which pertains to all Employee Policies including this one.**

1 PURPOSE AND SCOPE

The purpose of the Contingent Worker Engagement Policy is to provide written instruction to Management for engaging and managing contingent workers. The intent is to ensure that NYPA has a sound process for augmenting staff with temporary resources across its business units.

2 APPLICABILITY

This policy applies to all NYPA business units in the engagement of contingent workers.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Contingent Workers are hourly paid, W-2 employees sourced from an approved NYPA staffing agency vendor and serve as temporary staff augmentation. They are often referred to as contractors.

Contingent Workers have the following distinguishing attributes:

- a) contingent workers are not employed by NYPA; they are employees of their staffing agency vendor;
- b) contingent workers serve as staff augmentation and are hired through Human Resources via contingent staffing contracts;
- c) all contingent workers' compensation and fringe benefits are paid for by their staffing agency vendor;
- d) contingent workers are paid hourly and billed by staffing agency vendors for their actual hours and are not eligible for any NYPA benefits;
- e) contingent workers are not paid for sick leave, holidays, vacation, or site closings (e.g., inclement weather).
- f) contingent workers are supervised by NYPA management and given instruction on how to perform their assignments;
- g) contingent workers cannot supervise NYPA employees or other contingent workers;
- h) contingent workers must work at a NYPA site or other approved NYPA affiliated locations. Virtual sites, work-at-home, or telecommuting are prohibited;
- i) with the exception of cell phones, NYPA provides contingent workers with NYPA issued tools and equipment required to complete job-related tasks;

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- j) contingent workers have temporary assignments for no greater than two years with shorter terms being preferred. However, contingent workers hired under administrative or clerical assignments cannot have terms that exceed one year in duration;
- k) contingent workers cannot be placed in a different position where they are compensated at a different rate of pay during the term of their engagement;
- l) contingent workers' engagements cannot be re-engaged in a different position or one with higher earning capacity after the conclusion of their initial engagement;
- m) contingent workers can have NYPA email addresses, however their email signature blocks are required to state "(Contingent Worker)" after their title.
- n) contingent workers have distinctive badges that identify them as non-NYPA employees;
- o) contingent workers are not eligible to attend NYPA sponsored events and programs such as lectures, employee resource groups, volunteer activity groups;
- p) contingent workers are required to take state mandated training, regulatory training or site specific safety training, but they cannot take elective training such as technical, software, or other professional development courses that are paid for by NYPA or on NYPA's time.
- q) contingent workers cannot participate in conferences paid for by NYPA or on NYPA's time.
- r) contingent workers cannot perform non-NYPA work at a NYPA site or use NYPA's assets for personal or other non-NYPA business usage.

Purchase Order Release ("POR"): authorizes a release against a contract for procuring services or goods. The POR details the term, name of contingent worker, and both the labor and billing rate for that worker. The POR number is required for the vendor to be paid.

Responsible Manager: NYPA employee who is responsible for the daily direction and management of the contingent worker; this individual signs the contingent worker's time records and verifies the hourly billing is correct. This individual is required to be listed as the point of contact on the background screening application.

Staffing Agency Vendor ("Vendor"): employs contingent workers and performs all employment functions including, but not limited to, I-9 work authorization, employment recordkeeping, and payment of all wages, benefits, tax withholding, unemployment insurance, and workers' compensation insurance. The vendor has a contract with NYPA to provide contingent workers to NYPA through an open and competitive selection process among other pre-qualified vendors.

Staffing Committee: committee comprised of the Senior Vice President of Human Resources (HR) or his/her representative, Senior Director of Talent Acquisition, Contingent Workforce Program Manager, General Counsel, and Assistant General Counsel of HR and Labor Relations, and Principal Attorney of HR and Labor Relations.

Value Agreement: contracts that are awarded to selected Staffing Agency Vendors through a competitive bid process for the purpose of supplying contingent workers.

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4 RESPONSIBILITY

Responsibility and oversight of this policy and related procedures resides with the approver unless otherwise noted herein.

5 POLICY IMPLEMENTATION

NYPA selects vendors from contract awards through a competitive bid process. Selected vendors are awarded value agreements for the purpose of supplying contingent workers. NYPA is committed to engaging contingent workers under limited circumstances.

5.1 Need for Engagement

Contingent workers are engaged under certain circumstances to augment staffing on a temporary basis. A department or business unit must demonstrate a business need to engage a contingent worker and efforts must be made to allocate the work among existing staff before contingent workers are requested. Typical uses of contingent workers include:

- a. filling a NYPA employee position that is temporarily vacant due to an extended leave (e.g., Family or Medical Leave) or resignation;
- b. execute work where existing resources are not sufficient to meet temporary work demands.

The following are steps necessary for engaging contingent workers.

5.2 Job Request

Human Resources approves all initial requests and modifications for contingent worker assignments after the business unit internal approval process and their efforts to distribute work among existing staff prove ineffective.

- a. The Responsible Manager is required to complete a Contingent Worker Staffing request on the PowerNet to apply for contingent worker services. The manager's responsibility includes listing skillsets, experience, certifications, education, and safety requirements anticipated to be essential for the contingent worker's temporary assignment.
- b. HR reviews the job request and ensures that the Business Unit provides a business case for a contingent worker request pursuant to this policy.
- c. Job requests are forwarded to Strategic Supply Management (SSM) which electronically broadcasts the Job Request to all eligible vendors.

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5.3 Open and Competitive Selection Process

- a. Vendors respond to Job Requests by submitting their candidates via email to a designated NYPA electronic mailbox with both the required direct labor rate and billing rate.
- b. All NYPA employees including Responsible Managers or other business partners cannot refer or otherwise recommend candidates for consideration to staffing agency vendors.
- c. Responsible Managers review and consider the candidates' resumes that are submitted by approved vendors. A candidate cannot be considered unless he/she is submitted for consideration by vendors.
- d. In the event that a candidate is submitted by multiple vendors, the Responsible Manager must consider the vendor with the lowest rate for that individual.
- e. After the selection is made, the Responsible Manager notifies Human Resources and Procurement of the selected or preferred candidate pending a background check.
- f. Contingent workers' engagement must be an open and competitive process. Responsible Managers and those responsible for procuring contingent workers must conduct business according to the highest ethical standards of public service in accordance with the NYS Public Officers Law and NYPA Code of Conduct. Responsible Managers and those responsible for procuring contingent workers must disclose whether any contingent workers are related to them by kinship or marriage prior to NYPA's engagement of the contingent workers.
- g. Contingent workers must disclose whether they have been previously employed by NYPA in any capacity (i.e., employee, contractor, consultant, and vendor) and provide the details related to those engagements.
- h. Contingent workers must disclose the identity, job position and work location of any family members (by kinship or marriage) employed by NYPA.

5.4 On-boarding, Assignment, and Termination**5.4.1 Background Check**

After the vendor confirms availability of the preferred candidate, Physical Infrastructure Security performs a background check as directed by the Contractor Risk Assessment Program. The contingent worker must list his/her NYPA Responsible Manager as a NYPA point of contact and complete his/her own background screening application. Security notifies SSM, HR and the Responsible Manager by e-mail whether or not the contingent worker has cleared his/her background screening.

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5.4.2 Purchase Requisition

After a contingent worker is cleared, the Responsible Manager generates a purchase requisition. The Responsible Manager ensures the requisition is approved and signed by the appropriate NYPA personnel as specified in NYPA's Expenditure Authorization Procedures (EAP).

5.4.3 Purchase Order Release (POR)

SSM processes a POR through an approved requisition within the terms and conditions of the Value Agreement. HR in conjunction with Strategic Supply Management verifies whether the rates comply with the agreed upon compensation schedule. Each contingent worker has a unique POR number and any changes to the POR such as funding, extension, or termination are processed as change orders and documented on the POR. A contingent worker cannot begin a NYPA work assignment without a processed POR that is signed by both parties, NYPA and the vendor.

5.4.4 Contingent Worker Benefits Waiver Form and Ethics Disclosure Form

All contingent workers are required to sign a Benefits Waiver Form and an Ethics Disclosure within 5 days prior to on-boarding. The Benefits Waiver form validates that the contingent worker acknowledges that he/she is an employee of his/her staffing agency vendor and is not entitled to any NYPA benefits. The Ethics Disclosure form attest that the contingent worker will abide by NYPA's code of conduct and is submitted to DisclosuresCW@OfficeofEthics@nypa.gov within a week prior to starting his/her temporary assignment.

5.4.5 Badging and Facility Access

- a. Security provides contingent workers with NYPA identification in the form of a badge for building and facility access with an assignment start and end date provided by SSM or Human Resources. Badge activation cannot exceed one (1) year intervals within the Security Access Control System.
- b. At the White Plains Office (WPO), all contingent workers must tap their NYPA contractor badge in and out of the Security's badge reader located on the turnstiles in the lobby. This includes all daily entrances and exits within a work day at the WPO work location.
- c. For all other sites, contingent workers must sign in at the security desk daily and follow site protocol.
- d. Failure to comply may result in immediate revocation of building access up to and including termination.

5.4.6 Access to NYPA Network Systems (Active Directory and Application Access)

Responsible Managers typically request system access for non-NYPA personnel to perform their projects either on or offsite through Cyber Security. Such applications

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provide network and e-mail access along with an active status on NYPA's Active Directory.

- a. Contingent workers may not have a standard NYPA e-mail address; e-mail signature blocks are required to state "Contingent Worker" after their title to identify them as non-NYPA employees in their title.
- b. The Responsible Manager, at a minimum, is required to notify Human Resources, Physical Security, and Cyber Security (NYPA_CyberSecurityTeam@nypa.gov) when the engagement of a contingent worker is terminated or provide a planned date when the engagement will terminate in advance to de-activate access in NYPA systems. Gaps between the termination of the engagement and system access deactivations are prohibited.

5.4.7 Terms, Workforce Planning and Extensions

a. Terms

Contingent workers are engaged by NYPA to perform services for temporary and short term assignments. The maximum term is two years of service with shorter term being preferable. Upon termination of the two year period, the contingent worker's services must cease in most cases and the individual may not be reengaged as a contingent worker for NYPA.

b. Reviews and Planning

In general, Responsible Managers are tasked to assess their contingent worker's performance periodically throughout their planned engagement. At a minimum, Responsible Managers are tasked to review their contingent worker's performance and quality of work. Reviews need not be formalized provided that careful consideration is made.

c. Extensions

A Responsible Manager may request an extension of services for a particular contingent worker if a significant business need justifies a limited extension. After the business unit internal approval process, extensions must comply with the following:

- i. The Responsible Manager completes the workforce staffing for extensions and electronically routes the form to the HR Contingent Staffing mailbox for the Contingent Workforce Program Manager to review.
- ii. After approval, the Responsible Manager generates a requisition to SSM and SSM processes a change order to the POR.

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- iii. Human Resources informs Physical Security and IT of any changes to terms in order to keep the contingent worker's badge and system access active.
- iv. Any extension over 2 years of engagement must be approved in writing by the Contingent Workforce Staffing Committee and the Vice President, Chief Ethics & Compliance Officer.

5.4.8 Termination of Services

The engagement of a contingent worker may be terminated by the Responsible Manager at any time. Contingent workers may also elect to terminate their engagement at any time.

- a. If the Responsible Manager wishes to immediately terminate the engagement prior to the expiration of the intended term, he/she must initiate this process with the Contingent Workforce Program Manager or the Director of Employee Relations or site/facility Human Resource Manager.
- b. Human Resources will coordinate between Physical Security and the Staffing Agency Vendor. The Responsible Manager may not initiate the termination of the engagement independently with the contingent worker directly unless there is an emergency situation and in that extreme circumstance, must coordinate with Physical Security.
- c. At the end of service or the contingent worker's term, the Responsible Manager is required to formally notify Physical Security and Information Technology that the contingent worker departed to ensure that system access is de-activated and facility access is blocked.
- d. SSM will close out the contingent worker's POR in the SAP System and de-commit funding after final invoice, and update the electronic records.
- a. Contingent workers cannot be re-engaged to perform services through consulting contracts with a different labor classification without the approval of the Law Department, Ethics and Compliance Office and Human Resources.

5.4.9 Records

SSM processes the engagement package and sends records to an electronic folder on content server in the Digital Warehouse and copies HR on the releases (HRContingentStaffing@nypa.gov). Records per engagement include the following documents:

- a. Purchase Requisition
- b. Job Request
- c. Vendor e-mail submission of candidate with both labor and billing rates

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- d. Corporate Security clearance e-mail
- e. Purchase Order Release
- f. Resume
- g. HR Workforce Staffing Form
- h. Benefits Waiver Form
- i. Change Orders and extensions (if undertaken)

5.5 Compensation

5.5.1 Compensation

Contingent Workers are not NYPA employees. All wages, fringe benefits, etc. are paid by the Contingent Workers' Staffing Agency Vendor. Contingent workers are not eligible for NYPA fringe benefits (such as sick leave, vacation, paid holidays, flexible hours, salary increases, or shift differential pay) that full-time, regular employees may receive. Contingent workers are paid hourly and only paid for actual time worked and performed at approved NYPA work locations. In the event of a building closing, holiday or inclement weather, contingent workers are not paid. Responsible Managers are required to notify their contingent workers in the event of a closing or direct them to NYPA's main number at 914 681-6200 or sign up for inclement weather notifications.

5.5.2 Workweek

In general, work schedules mirror NYPA staffing schedules, however, Responsible Managers can set work schedules that are based on the needs of the business unit or operating department. Full-time contingent workers are scheduled to work a 37.5 hour workweek at NYPA's White Plains and Albany offices. Full-time contingent workers working at any of NYPA's site facilities can work up to a 40 hour workweek. All contingent workers are required to take a .5 hour unpaid lunch. Timesheets are available on the PowerNet under Human Resources. Contingent worker time records must identify actual start and end times worked and reflect all hours worked each day.

5.5.3 Overtime

- a. No contingent worker shall work more than forty (40) hours per week for NYPA, without prior written authorization from the responsible manager. Overtime authorization forms can be found on the Human Resource PowerNet site and can be submitted with the timesheets.
- b. The overtime labor rate for Fair Labor Standard Act (FLSA) non-exempt contingent workers is calculated by the straight time labor rate times the 1.5 premium multiplier. The overtime billing rate is calculated by straight time billing rate plus the .5 premium multiplier. The vendor cannot apply the markup to the .5 premium multiplier that is afforded to contingent worker after 40 hours of work.

5.5.4 Expenses

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- a. Per Diem is not permitted.
- b. Travel expenses should be itemized by category, such as hotel, meals, and travel mode and shall be in accordance with NYPA policies on meal and travel reimbursement. Supporting receipts must be provided in order to be reimbursed.

5.6 Travel

5.6.1 Travel Desk

NYPA reimburses contingent workers traveling on approved NYPA business for the actual and reasonable costs of travel and lodging. The contingent worker is required to use the NYPA Travel Desk at Travel.Desk@nypa.gov to arrange for business travel. If the contingent worker's travel arrangements are not booked by NYPA's Travel Desk, NYPA will only reimburse the vendor for NYPA's approved rates. Refer to contract language for travel requirements and restrictions or call the Travel Desk at (914) 287-3191 for assistance.

5.6.2 Official Work Location

The official work location of every contingent worker shall be clearly stated in the POR. Business travel expense reimbursement will be aligned with the contingent worker's work location.

5.6.3 Travel Time

Across normal business hours, time spent traveling on Authority business is considered compensable work time. Some portion (but not all) of travel time is usually compensable as work time for travel outside their normal work hours or overnight for Authority business purposes. If a contingent worker must travel to an airport for a flight, the travel time to the airport is treated as commuting time. Time spent traveling from home to work (commuting) is not considered "work hours" and is not paid.

5.6.4 Car Mileage

Business travel by private automobile will be reimbursed for NYPA business at the current rate established by IRS mileage reimbursement allowance (NYPA vehicles are not permitted for contingent worker's use). Tolls and reasonable parking fees will be reimbursed. Car mile reimbursement will apply only to mileage required for official NYPA business between different work locations. No transportation costs (including mileage, travel time or tolls) will be allowed between a contingent worker's residence and the contingent worker's primary work location. Gasoline cannot be reimbursed for personal car usage. Adequate supporting documentation for mileage expense must be provided with the invoice in order to receive reimbursement.

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5.7 Events and Special Programs

Contingent workers are not eligible to attend or to participate in NYPA sponsored:

- a. Events such as All Hands Meetings, Bring Your Child to Work, World Heritage; Health Fairs, art shows, cooking events, state fairs or similar external events,
- b. Programs such as lectures, Toastmasters, off site events or retreats;
- c. Employee resource groups such as Women in Power, LGBTQ +Allies, Eco team, Generations, Veteran or Multicultural groups;
- d. Seminars and conferences paid for by NYPA or taken on NYPA's time, and
- e. Volunteer activities or groups.

Contingent workers can attend the annual holiday party, but the time spent at this event is not billable hours.

5.8 Ethics

- a. All NYPA employees, including Responsible Managers and those responsible for engaging or procuring contingent workers, must conduct business according to the highest ethical standards of public service in accordance with the NYS Public Officers Law and NYPA Code of Conduct. NYPA employees are prohibited from:
 - i. participating in any decision or process to hire, promote, discharge, discipline, or supervise a relative, domestic partner, or individual having a personal relationship;
 - ii. using or attempting to use their official NYPA position to secure unwarranted privileges for themselves, their relatives or *any other party*, including monetary benefits, contracts, and employment with NYPA; or
 - iii. acting in any manner where they could be improperly influenced, give or be given preferential treatment, or act in violation of the public trust.
- b. NYPA is committed to engaging Contingent workers under limited circumstances pursuant to the restrictions detailed in this policy. Contingent workers are employed by the Staffing Agency Vendor which shall remain responsible for managing the terms and conditions of the workers' employment.
- c. The Responsible Manager is required to return a completed Disclosure form to the Ethics & Compliance Office for the purpose of disclosing any conflicts of interest or an appearance of a conflict of interest. Disclosure forms can be found on the Human Resource PowerNet site under Contingent Workers and must be submitted to the designated email box: Disclosures@OfficeofEthics@nypa.gov.

5.9 Exceptions

Any exceptions to this policy must be approved by the Staffing Committee.

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Violations of this policy by employees may result in disciplinary action, up to and including termination of employment. Violations of this policy by Contingent Workers may result in the termination of their engagement and inability to perform services for NYPA in the future.

6 REFERENCES

- 7.1** NYS Public Officers Law
- 7.2** NYPA's Code of Conduct
- 7.3** Expenditure Authorization Procedures
- 7.4** Forms: Contingent Worker Benefits Waiver, Overtime Approval, Workforce Planning forms for new hires and extensions, and Contingent Worker Ethics Disclosures.

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Year

9 ATTACHMENTS

N/A

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E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	2/21/2019
Executive Owner	Kalashian, Steven	2/15/2019
Content Owner	Prendergast, Christine	2/8/2019

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Title: Transfer or Re-Employment in Public Service

Document Type: Employee Policy

Document Number: EP 1.9

Revision Date: 4/24/2019

Final Approver: *Pizzo, Kristine*
EVP Chief HR & Administrative Officer

Executive Owner: Saslow, Karina
VP Total Compensation & HRIS

Content Owner: Verdesi, Brenda
Manager Benefits

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Policy Title:
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**Transfer or Re-Employment in Public
Service**

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
	9	Add Definition of Eligible Service Clarify transfer of Vacation/Sick Accruals and add Benefit Enrollment Eligibility Retitle from Transition to Direct Transfer Application and modify ability to apply for change in service date to any time Changed revision cycle to every other year	3 5.1 5.2 8	Brenda Verdesi, Manager, Benefits
4/24/2019	8	Add service credit provision for NYPA employees that separate and are immediately hired by the Canal Corporation.	Various	Brenda Verdesi, Manager, Benefits
5/4/2016	7	Change wording of Salaried to Management Contingent workers are not eligible Eliminated reference to retirees with 211 or 212	Various 2.2 5.0	Brenda Verdesi, Manager, Benefits
10/27/2015	6	Correction to Direct Transfer Retiree Benefits total years of eligible service	5.1	Karina Saslow Director, Total Compensation & HRIS
10/19/2015	5	Converting to new format. There were 4 prior revisions of this policy. Clarification of eligibility and new service requirements for retiree	N/A 2, 3, 5, 9	Brenda Verdesi Manager, Benefits

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Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements

Policy Title:

Transfer or Re-Employment in Public
Service

		benefits. Addition of application.		
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Policy Title:
**Transfer or Re-Employment in Public
Service**Policy Number:
EP 1.9Page:
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Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS where you will find a statement which pertains to all Employee Policies including this one.**

1 PURPOSE AND SCOPE

This policy provides guidelines pertaining to the potential transfer of vacation and sick leave accruals and retention of hire date for employees reemployed by New York Power Authority (NYPA) or who directly transfer from New York State service, as defined below.

2 APPLICABILITY

- 2.1** Eligible employees include any permanent or provisional, full-time or part-time, management employees, as defined in EP 3.1. This policy does not apply to Temporary Employees, as defined in EP 3.1.
- 2.2** Contingent workers whose compensation is paid directly by a third party, who are not paid directly through the NYPA's payroll system, or who are classified by NYPA as consultants and/or independent contractors, are not eligible for or entitled to participate in or receive benefits under any benefit plan, policy, or practice offered by NYPA, its affiliates, subsidiaries, or successors.
- 2.3** Eligible Service may be considered for employees who directly transfer from other eligible New York State Service within one year of their termination from such service (referred to as Direct Transfers), and participated in the New York State and Local Retirement System. Former NYPA employees who are re-employed by the Authority (referred to as Rehires) are eligible for service credit as stated in Section 5.0.
- 2.4** For purposes of service credit, this policy does not apply to the New York State and Local Retirement System or the Voluntary Defined Contribution Plan.
- 2.5** Employees that are hired by the Canal Corporation within one month of separation from NYPA, and then are subsequently rehired by NYPA within one month of separation from the Canal Corporation are eligible. Employees must be rehired by NYPA within three years of the initial transfer to the Canal Corporation.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Boards of Cooperative Educational Services (BOCES) – New York State shared educational programs and services that partner with districts to provide a broad range of services to help meet the evolving educational needs of students.

Civil Division – For the purpose of administering this policy, a civil division shall be a city, county, town, or village that participates in the New York State and Local Retirement Systems. A civil division shall not include a school district or BOCES.

Eligible Service – Prior New York State or NYPA employment service that may impact an eligible employees date of hire and accruals.

Management – non-bargaining unit NYPA employees.

New York State (NYS) Service – Includes Executive, Legislative, or Judicial branches, a Civil Division thereof, or a NYS Public Benefit Corporation service with respect to retirements.

NYS Public Benefit Corporation – For the purpose of administering this policy only, a NYS Public Benefit Corporation shall be limited to those identified in the OSC Guide to Financial Operations, Chapter XVI, Section 3.F.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the approver unless otherwise noted here in.

5 POLICY IMPLEMENTATION

5.1 Rehires/Direct Transfers

Vacation and sick leave accruals, service credit and retiree benefit eligibility will apply as stated in the following table:

Service Credit/ Employee Type	Rehired (less than 1 year)	Rehired (greater than 1 year)	Direct Transfer within 1 year	Direct Transfer from Canal Corporation*
Date of Hire	Retain original NYPA hire date	Reset to NYPA rehire date	Retain previous employer hire date	Retain most recent NYPA hire/rehire date if directly rehired within 3 years of transfer
Vacation/Sick Leave/Service Awards	Credit for prior NYPA service. Reinstate unpaid sick/vacation accruals.	No credit for prior NYPA service	Credit for previous employer service. Transfer unpaid sick/vacation accruals.	Credit for prior NYPA service and Canal service between NYPA service dates. Transfer unpaid sick/vacation accruals.
Benefit Enrollment Eligibility	Waiting Period waived	Waiting period required	Waiting Period waived	Waiting Period waived
Service Requirement for Retiree Benefits (Hired/rehired prior to January 1, 2016)	10 years of NYPA service	10 years of NYPA service; at least 5 must be since rehire date	10 years of eligible service; at least 3 must be with NYPA	10 years of eligible service; at least 3 must be with NYPA
Service Requirement for Retiree Benefits (Hired/rehired on/after January 1, 2016)	15 years of NYPA service; at least one year must be since rehire	15 years of NYPA service; at least 5 must be since rehire date	15 years of eligible service; at least 5 must be with NYPA	15 years of eligible service; at least 5 must be with NYPA; must return to NYPA for at least one year to be eligible for Retiree

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Policy Title:

Transfer or Re-Employment in Public
Service

	date			Benefits
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5.2 Direct Transfer Application

- a) Eligible Direct Transfer Employees have six months from their date of hire with the Authority to submit a Prior Service Request & Leave Accrual Form (located on the Powernet under Human Resources/Benefits/Benefits Forms/Miscellaneous) to Corporate Benefits in WPO, to have unpaid vacation and sick accruals transferred.
- b) Eligible Direct Transfer Employees, at any time, may submit a Prior Service Request Form (located on the Powernet under Human Resources/Benefits/Benefits Forms/Miscellaneous) to Corporate Benefits in WPO and apply for an adjustment in their date of employment providing credit to their vacation accruals going forward.
- c) Adjustment of benefits shall be made when applications are approved by the designated Benefits Department representative.

6 VIOLATIONS

N/A

7 REFERENCES

EP 3.1 Management Employee Categories and Eligibility for Benefits [Powernet → Quick Links → Policies and Procedures → Employee Policies and Procedures → EP 3.1]

OSC Guide to Financial Operations, Chapter XVI, Section 3.F.
[<https://www.osc.state.ny.us/agencies/guide/MyWebHelp/Default.htm>]

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Other Year

9 ATTACHMENTS

N/A

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E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	4/24/2019
Executive Owner	Saslow, Karina	4/10/2019
Content Owner	Verdesi, Brenda	4/5/2019

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Title: Salary Administration

Document Type: Employee Policy

Document Number: EP 2.1

Revision Date: 2/8/2019

Final Approver: *Pizzo, Kristine*
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Content Owner: McDonnell, Robyn
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Salary Administration

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
	20	<ul style="list-style-type: none"> • Updated reference to Performance rating scale and MOSAIC platform • Clarification of approvals • Clarification on "Below Expectations" increases • Clarification of timing of actions 	Through ut 4.1 & 4.2 5.1.3a 5.9.2 & 5.9.3	Karina Saslow VP Total Comp & HRIS
2/8/2019	19	<ul style="list-style-type: none"> • Use the term Management instead of Salaried for references to non-union employees for consistency with employee categories in EP 3.1 • Updated Merit Program timing • Replaced "in-place" promotion with "competency" promotion • Addition of Skill Adjustment • Reordering of Lateral & Demotion under Skill. Clarification lateral is element of Skill. • Clarification of timing of salary actions • Sign-On addition of requirements 	Through ut 5.1.4 5.2.3 5.3 5.4 / 5.5 5.9 5.10	Karina Saslow Dir. Total Comp & HRIS
07/07/2015	18	Updated document to the new format. This policy had 17 prior revisions under the old format. <ul style="list-style-type: none"> • New Organizational Roles updated (SVP, Human Resources) • Clarification of Lump Sum payments 	N/A Through ut 5.1.5	Christopher Gillard Compensation Specialist

		being pensionable		
		• Clarification of leave of absence and merit timing	5.1.6	
		• Update on in-place promotion requirements	5.2.3a	
		• Removal of compa-ratio limits and addition of guidance on positioning pay in range.	5.2.1	
		• Clarification of >10% increases and potential for spreading it over period of time.	5.2.2	
		• Expanded definition of market and equity adjustments	5.3.3 & 5.3.4	
		• Clarification of lateral moves.	5.5	
		• Addition of FLSA statement	6	

Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS where you will find a statement which pertains to all Employee Policies including this one.**

1 PURPOSE AND SCOPE

- 1.1** This policy governs salary administration for eligible management employees as defined in Section 2 below.
- 1.2** This policy describes the New York Power Authority's (NYPA) competitive pay program and provides guidelines in which to recognize and reward different degrees of performance through salary changes within budget limits.

2 APPLICABILITY

This policy applies to all permanent and provisional NYPA employees, as defined in the Management Employee Categories and Eligibility for Benefits policy (EP 3.1).

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Base Rate of Pay Bargaining Unit Employee - the negotiated hourly rate for the job, excluding any other payments granted to an employee such as premiums and overtime.

FLS - First Line Supervisor

Management - non-bargaining unit NYPA employees.

Permanent Employees – employed on full time or part time basis, paid directly by the Authority and have no pre-determined employment time limit. (See EP 3.1)

- a) **Transitional position** – Permanent employees who work full-time to fill an anticipated vacancy in another Authority position within a designated time-frame up to one year.

Provisional Employees – Work full-time for a specific project or assignment for a period that is expected to last at least one year, but not more than three years and who are paid directly by the Authority. (See EP 3.1)

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the approver unless otherwise noted here in.

- 4.1** All types of actions described in this policy, including the effective date of the salary action, require the approval of the Business Unit Head, the Senior Vice President Human Resources or his/her designee, and the President and CEO or his/her designee. Based on the immediate needs of the business, the SVP Human Resources may approve actions be processed in advance of the President and CEO's signature. All requests require a summary of the reason for selection, change in role and responsibilities, succession planning actions, and/or relevant information justifying

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the action.

- 4.2** Any salary action varying from the guidelines of this policy requires documentation, justification, and majority approval from the Compensation Committee and the President and CEO. The justification must contain a detailed explanation for the request. Requests that are insufficient will be returned for further justification or denied.
- a) The Compensation Committee requires a minimum of three participants. It is made up of the Business Unit Heads that report directly to the President and CEO. The Business Unit Head directly involved in the salary action request and the Senior Vice President Human Resources, who is required to approve all actions (see 4.1), shall not serve on the Compensation Committee.
- 4.3** Any action affecting the hiring of or promotion to Vice President or higher also requires notification to the Trustee's Governance Committee.
- 4.4** The Trustees and the Governance Committee will receive a quarterly report of all salary actions implemented in the prior quarter.

5 POLICY IMPLEMENTATION

5.1 Annual Merit Increase

- 5.1.1 Annual merit increases are intended to provide recognition and reward for performance within the parameters of NYPA's annual salary budget. However, neither an annual salary budget nor an annual performance assessment is a guarantee that a salary adjustment will occur.
- 5.1.2 An employee's performance rating summarizing his/her annual performance will be taken into consideration for annual merit purposes and ensures that an employee is considered for a salary adjustment.
- 5.1.3 Eligibility:
- a) Only employees who receive a performance rating of Meets Expectations or better (see Performance Instructions on the Mosaic Central page of the PowerNet for ratings definitions), are provided consideration for an annual merit increase. Increases provided to employees rated 'Below expectations' require justification.
- b) No annual merit increase will be given to employees who earn a performance rating of Does Not Meet Expectations.
- c) Employees whose date of hire is within the six months prior to the Annual Merit increase effective date will not be eligible for that year's increase.
- 5.1.4 Timing:

- a) Effective dates of annual merit increases are at the discretion of senior management and will be announced each year as business needs allow.
- b) In the case of employees on approved leaves of absence, the effective date of increases may be adjusted (see section 5.1.6).

5.1.5 General Guidelines:

- a) Base salaries of employees who earn a performance rating of Above Expectations or Meets Expectations can reach the maximum of the grade range for their job, but cannot exceed it. Should an employee's base salary reach the maximum of the grade range or beyond, recommendations to go over must have appropriate approvals as specified in section 4.2. If the maximum of the grade range is exceeded by the recommended salary increase, then the portion of the increase in excess of the maximum will be granted in the form of a pensionable lump sum payment which does not become part of base pay and must be re-earned each year.
- b) Base salaries of employees who earn a performance rating of Outstanding may exceed the maximum of the grade range by 4%. If the recommended salary increase exceeds 4% above maximum, then the portion of the increase in excess of the maximum will be granted in the form of a pensionable lump sum payment which does not become part of base pay and must be re-earned each year.
- c) If an employee is under the minimum of the grade range for his/her job and has a performance rating of Meets Expectations or better, an adjustment to minimum will be given prior to the Merit increase, unless a plan is already in place to progress the salary to the minimum of the range.

5.1.6 Approved Leaves of Absence:

- a) Performance Assessments - Annual performance assessments should be based on performance in the previous assessment year, regardless of the length of time the employee was on approved leave.
- b) Effective Date of Salary Increase - is determined upon the employee's return to work. If the employee returns from an approved leave of three months or less, the Merit increase will be effective retroactive to the common Merit Increase date. If the approved leave is longer than three months, the Merit Increase will be effective on the date the employee returns to work, unless proscribed by any other policy, state or federal law.
- c) In neither situation will the amount of the increase be affected by the leave.

5.2 Promotional Increases

- 5.2.1 Assignment of an employee to a position of one or more grades higher may be accompanied by an increase in salary of up to 10%. A current performance assessment needs to be on record for employees recommended for promotion. An employee's position in a grade range should reflect proficiency for the expectations of the level of the role. The lower third is entry range, people new to the field, less skilled performers. Median range is skilled performers/experienced for the level of work defined. Upper third range is consistent top performers and critical skill/experts.
- 5.2.2 When a 10% promotional increase does not bring the employee's salary to the minimum of the new grade range, or creates equity concerns (see section 5.8), the employee may receive a larger increase with approval of the Compensation Committee (see section 4.2). Increases over 10% may result in the increase being spread out over a defined period of time and based on continued performance of Meets Expectations or better.
- 5.2.3 Types of Promotions:
- a) Competency: Competency promotions are based on defined essential knowledge, skills, and abilities for a certain level of work. An individual needs to demonstrate their ability to meet these requirements and management needs to provide a business need for this level of work. A Job hierarchy needs to be in place for a competency promotion to be implemented. Competency promotions for the upcoming year will be planned for in the merit planning cycle. They will be implemented in the following year on common dates determined and announced at the beginning of the year.
 - b) Organizational Promotion (backfill or new role): Employee is assigned a different job in order to fill an open or newly created position with expanded responsibilities at a grade higher than the employee's current position. These will be implemented at the time a candidate is identified for the position.
 - c) Re-evaluated position: When a business need drives a change in work or a reorganization results in a job having expanded responsibilities and increased level of competency, a job analysis should be requested by the Business Unit Head and forwarded to the Human Resources Compensation Group in order to assess supporting a higher grade range (see section 5.6.3).

5.3 Skill Adjustments

- 5.3.1 A skill adjustment allows managers to recognize consistently demonstrated growth of an employee in a role and may include an increase in salary of up to 6%. An employee's position in a grade range should reflect proficiency for the expectations of the level of the role. The lower third is entry range, people new to the field, less skilled performers.

Median range is skilled performers/experienced for the level of work defined. Upper third range is consistent top performers and critical skill/experts.

- 5.3.2 Skill adjustments should not occur for an individual more than three times within a grade level.

5.4 Lateral Transfer

- 5.4.1 A lateral transfer occurs when an employee moves from one job to another which has the same grade level, but may be in a different pay structure (e.g. Support-I, Utility - U, Engineering/Science/Attorney - X).
- 5.4.2 In the case of lateral transfers, a skill adjustment may be considered based on the criteria in 5.3.1.
- 5.4.3 Moves that are part of a development plan or program or job changes that are part of a specific work project may be considered for a skill adjustment.

5.5 Demotions

- 5.5.1 A demotion may occur as the result of inadequate employee performance which leads to the employee being assigned to a new job that is one or more grades below the current grade and may include a reduction in salary.
- 5.5.2 Employees demoted and whose salaries are above the maximum of the new grade range may have their salaries reduced to no more than the maximum of the new grade range.

5.6 Job Descriptions

- 5.6.1 Each Business Unit head, or their designee, is responsible for ensuring that the management jobs in their organization have accurate and up-to-date descriptions on record with the Human Resources Compensation group. Substantive changes (increased or decreased) in the primary responsibilities, scope, and/or minimum qualifications must be communicated to the HR Business Partner and Compensation group. Based on the revised description, the Compensation group, with the input of management, reviews and evaluates the job against both the marketplace and internal comparable positions.
- 5.6.2 Recommendation for changes to any job based on the evaluation are coordinated with and approved by the respective Business Unit Head(s) for departments in which the job exists.
- 5.6.3 An evaluation may result in a change in grade. If a job is re-evaluated upward due to a significant change in job content, consideration may be given to granting a promotional increase as previously defined and outlined in Section 5.2.3 b.

- 5.6.4 Employees whose positions are re-evaluated and downgraded and whose salaries are greater than 4% above the maximum of the new grade range may have their salaries reduced to 4% above the maximum of the new grade range, otherwise salaries will not be adjusted based on a downgrade in the job.

5.7 First Line Supervisor (FLS) Differential

To prevent inequities between bargaining unit employees, or equivalent jobs in non-union facilities, and their supervisors, FLS jobs shall generally be paid a minimum of five percent (5%) above the annual base rate of pay of the highest paid supervised bargaining unit employee (or equivalent job). This differential applies only to those FLS who achieve an annual Performance Plus rating of Meets Expectations or better for their prior year's performance.

5.8 Market / Equity Adjustments

- 5.8.1 Upon the recommendation of the Human Resources Compensation group, an adjustment to base salary may be permitted to achieve internal and/or market equity.
- 5.8.2 Only employees who earn a performance rating of Meets Expectations or better are eligible for a market or equity adjustment.
- 5.8.3 External market adjustments are reviews of NYPA job grade ranges and average salaries to market rates. These are reviewed during the annual merit planning cycle. If a Business Unit head approves, a review may be conducted outside of the annual cycle to review a job hierarchy's positioning.
- 5.8.4 Internal equity adjustments are reviews of peer groups (e.g., same grade and geographic region or same grade, job family and geographic region) to review consideration of comparable pay. Overall, an equity review is conducted once a year after each annual salary cycle. Equity is also taken into consideration when making salary recommendations.

5.9 Timing of Salary Actions

- 5.9.1 With the exception of the annual merit increase, at least six months must elapse between any *other* salary actions, inclusive of date of hire.
- 5.9.2 The Compensation group, each year, will provide a calendar of common effective dates for skill adjustments, organizational and competency promotions, and job re-evaluations. These transactions will be frozen during the annual merit increase planning cycle.
- 5.9.3 Reorganizations, backfilling of positions, filling new positions and demotions will be acted upon at any time during the year. Unless specifically noted, effective dates of such actions will be on the first day of the pay period on or after final approval from the President & CEO, or their designee.

5.10 Sign-On & Retention

- 5.10.1 Special incentives for the purpose of attracting or retaining staff may be recommended for VP and above levels or Engineering, Environmental, Generation Resource Management Traders, Technical Compliance, and IT Utility positions (grade 07 and above).
- 5.10.2 Incentives may be offered up to 10% of the midpoint of the job grade and include a 2 year full repayment agreement in the event of voluntary resignation or termination for cause.
- 5.10.3 All special incentives within this section require the approvals specified in section 4.2. VP and above require the additional approval of the Governance Committee.

5.11 Incentive Pay

- 5.11.1 An incentive is a lump sum award paid in recognition of the extraordinary achievement of an individual or a group on special projects or in unique situations that are critical to NYPA.
- 5.11.2 An incentive plan may be developed upon the recommendation of the Business Unit Head accountable for the results, the Senior Vice President Human Resources, and the President and CEO or his/her designee.
- 5.11.3 An incentive plan may be developed:
 - a) Before the start of a project, based on a pre-determined set of measures associated with the project goals and announced to those employees who are eligible, or
 - b) After exemplary completion of an extraordinary project that evolved during a given year.
- 5.11.4 Criteria for such an award must include extraordinary tangible benefits to NYPA such as reduced costs or increased revenue.

6 VIOLATIONS

N/A

7 REFERENCES

EP: 3.1 Management Employee Categories and Eligibility for Benefits [Powernet – Quick Links – Employee Policies – EP 3.1]

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Year

9 ATTACHMENTS

N/A

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	2/8/2019
Executive Owner	Saslow, Karina	1/28/2019
Content Owner	McDonnell, Robyn	1/28/2019

Title: Education Assistance Program

Document Type: Employee Policy

Document Number: EP 3.6

Revision Date: 8/6/2019

Final Approver: *Pizzo, Kristine*
EVP Chief HR & Administrative Officer

Executive Owner: Kalashian, Steven
VP HR & Organizational Development

Content Owner: Nayyar, Pooja
Director Organizational & Talent Develop

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Education Assistance Program

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
8/6/2019	12	Revised scope to align to eligibility section, revised performance rating descriptors, clarified fee eligibility does not include penalty fees, clarified commitment period, clarified Tax Implications Section Annual Review: revision cycle changed from every year to every other year	1, 2, 5.13, 5.2, 5.3, 5.4 8	Pooja Nayyar Director, Organizational and Talent Development
5/13/16	11	Clarified which employees are eligible Added additional definitions and clarified eligible courses/institutions Clarified reimbursement for courses taken during FMLA Medical Leave Allow employees to receive 100% reimbursement for education relating to any NYPA career field. Reimbursement limit no longer based on seasons, reimbursement allotment now has calendar year maximum; reimbursement allowed for individual course or courses that lead to a degree program	2, 5.1 3 5.1.5 5.2	Helene Raps-Beckerman Employee Development Manager

Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS** where you will find a statement which pertains to all Employee Policies including this one.

1 PURPOSE AND SCOPE

The Authority is committed to helping its Management Employees pursue professional growth and development. It encourages the use of the Education Assistance Program for courses leading to an undergraduate or graduate degree or a certificate program that is of mutual benefit to employees and the Authority for a current / future position or assignment.

2 APPLICABILITY

This policy applies to all eligible full-time or part-time Management Authority employees and Management transitional employees who have been employed by NYPA for 6 months; and who maintain a performance rating of "meets expectations" or better. Generally, employees who receive a performance rating of "below expectations" or "does not meet expectations", or are on personal leave are not eligible to receive benefits under this program.

Provisional employees, temporary employees, interns, cooperative employees, contingent workers, consultants, independent contractors, and 1099 workers are not eligible for the Education Assistance Program. (See EP: 3.1, Salaried Employees' Eligibility for Benefits, for definitions of employee categories.)

This policy does not apply to education or certifications paid for through an employee's respective department.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Certificate Program – A certificate program means an advanced program sponsored by a college or university leading to the award of a specialized certificate. It does not include stand-alone courses such as Dale Carnegie and others.

CLEP – College Level Examination Program

Management Employee – a salaried non-bargaining unit employee

FMLA – Family and Medical Leave Act

Commitment Period – the continuous time period during which an employee must maintain employment with the Authority after participating in the education assistance program. This commitment period is at least one year for undergraduate degree programs, two years for graduate programs, and 6 months for certificate programs.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the approver unless otherwise noted herein.

5 POLICY IMPLEMENTATION

5.1 Eligibility

In order to be eligible to receive the benefits of the Education Assistance Program, the degree or certificate/certification program must be obtained from an institution accredited by the Department of Education. Courses that are not part of a degree or certificate program are not covered by the Education Assistance Program; those costs may be covered by approved individual Business Unit budgets. Education assistance from an institution accredited by the Department of Education must either support or improve

skills required for:

- (1) the employee's current position; or
- (2) a potential future assignment with the Authority.

- 5.1.2 An employee is not eligible to be reimbursed for education assistance if the classes end after the employee is terminated. An employee must be a NYPA employee before the class or program begins and must be employed on the last day of the approved class or program.
- 5.1.3 All course work and class attendance must be outside an employee's normal working hours. Generally, employees are not eligible for reimbursement for courses started after they receive a performance rating of "below expectations" or "does not meet expectations". Courses started prior to receiving a rating of "below expectations" or "does not meet expectations" will be reimbursed. Employees will be eligible for reimbursement once again for courses started after they achieve and maintain a performance rating of at least "meets expectations" or in instances when supervisors determine that the performance of employees with a rating of "below expectations" has sufficiently improved.
- 5.1.4 Courses started prior to an employee's employment date, or while on a non-FMLA medical leave or a personal leave without pay, are not eligible for reimbursement. Courses that are completed after an employee's termination, or while on a non-FMLA medical leave or personal leave without pay, are not eligible for reimbursement.
- 5.1.5 Courses started prior to an approved FMLA medical leave are eligible for reimbursement at the discretion of an employee's immediate supervisor, Human Resources, and the Law Department. Approval for courses started during an approved FMLA medical leave will not be unreasonably denied.

5.2 Reimbursement for Expenses

- 5.2.1 Employees are responsible for payment of tuition and required fees when registering for courses at eligible institutions. Tuition and eligible fees will be reimbursed only after successful completion of the course(s) at a minimum grade level of "C" or its equivalent or a "P" in a pass/fail course (pass/fail reimbursement is limited to two courses per degree curriculum). If requested, Human Resources will provide a school with verification of an employee's eligibility for the program. For employees that are approved for Education Assistance as of the effective date of this policy, reimbursements are based on a calendar year maximum as follows:
 - 1. Certificate/Certification programs \$5,000
 - 2. Undergraduate programs \$10,000
 - 3. Graduate Programs \$15,000
- 5.2.2 For all eligible courses, the Authority will reimburse 100% of tuition, books, lab and computer fees, and mandatory course registration fees up to the maximum annual reimbursement. Note that late registration fees or other penalties will not be reimbursed. Employees who receive financial aid, such as a scholarship, grant or reimbursement

from any alternate source are required to report it and the amount on the Education Assistance Program Reimbursement Request Form. This amount will be deducted before computing the allowable reimbursement.

5.3 Reimbursement to the Authority

All benefits under this Policy are dependent upon the employee maintaining employment with the Authority for the education assistance commitment period. This commitment period is a continuous period of at least one year for undergraduate degree programs, two years for graduate programs, and 6 months for certificate programs. The commitment period will commence at the end of the program. If the employee leaves the Authority's employment before the end of the commitment period (for a reason other than a reduction in force), the employee must repay in full all monies expended by the Authority on behalf of the employee in connection with this policy for the applicable degree or certificate program.

5.4 Tax Consequences

- 5.4.1 For undergraduate and graduate level courses and certificate/certification, the IRS allows the first \$5,250 in employer- reimbursed education assistance in a calendar year to be considered as non-taxable income. Education assistance above \$5,250 per year may qualify for "favorable tax treatment" as a working condition fringe benefit, as defined in IRS Publication 15-B Employer's Tax Guide to Fringe Benefits. Requests for favorable tax treatment will be forwarded to the Law Department, which when necessary, will confer with the Accounting Department to determine if the education assistance qualifies for exclusion as a working condition benefit.
- 5.4.2 While the Authority may initially determine that an employee's education assistance reimbursement is not taxable income, the Internal Revenue Service's decision is controlling in such circumstances, and the Authority disclaims any responsibility for additional taxes, assessments, fines, or penalties imposed by the IRS. Employees are advised to consult with their own qualified tax professional.
- 5.4.3 Note that any tax consequences listed above are subject to changes in tax laws.

6 VIOLATIONS

Employees who fail to report amounts of financial aid or any other type of reimbursement on the reimbursement form, will be liable for return of the reimbursement award, and face possible exclusion from future Education Assistance Program eligibility.

Any falsification or misrepresentation of information will result in the denial of education assistance or liability for reimbursing any amounts awarded by the Authority.

Employees who knowingly fail to report amounts of financial aid or otherwise misrepresent or fail to include required information on the Education Assistance Program Reimbursement Request Form will be subject to performance consequences, including disciplinary action up to termination of employment.

7 REFERENCES

7.1 [IRS Publication 15-B Employer's Tax Guide to Fringe Benefits](#)

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7.2 [Education Assistance Procedure EP-Pro 3.6](#)

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Other Year

9 ATTACHMENTS

N/A

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	8/6/2019
Executive Owner	Kalashian, Steven	7/9/2019
Content Owner	Nayyar, Pooja	6/25/2019

Title: Education Assistance Procedure

Document Type: Procedure

Document Number: EP-Pro 3.6

Revision Date: 7/9/2019

Final Approver: *Kalashian, Steven*
VP HR & Organizational Development

Content Owner: Nayyar, Pooja
Director Organizational & Talent Develop

Education Assistance Procedure

Note: Revision # should be listed in descending order starting with most recent version at the top

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
7/9/2019	1	Added definition for "reimbursement" clarified fee eligibility does not include penalty fees, and included timeline for reimbursement of 2 pay periods	3, 5.2	Pooja Nayyar Director Organizational & Talent Development
5/16/2016	0	Original Issue	N/A	Helen Raps-Beckerman

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1 PURPOSE AND SCOPE

This procedure establishes the education assistance process as defined in the Education Assistance Program EP 3.6.

2 APPLICABILITY

This procedure applies to eligible employees described in the Education Assistance Program 3.6

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Reimbursements – Amount refunded for costs incurred related to the degree or certificate program in question.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the approver unless otherwise noted herein.

5 PROCEDURE IMPLEMENTATION

5.1 Approval

- 5.1.1 Approval for the degree or certificate program must first be obtained by an employee's immediate supervisor by completing the "Pre-Approval Application-Education Assistance Program" form prior to the start of the course. Approved requests should be forwarded to Human Resources by the facility Human Resources Representative for final determination of eligibility for the Education Assistance Program.
- 5.1.2 Approval for education assistance is contingent upon review that the degree or certificate program supports or improves skills required for (1) the employee's current position or (2) a potential future assignment with the Authority. Supervisors who approve an education assistance program application should include the skills the employee will learn in the degree or certificate program in the Developmental Plan section of the employee's performance review.
- 5.1.3 All Site HR Managers may discuss all education reimbursement matters with their Regional Manager prior to approval, however, formal approval is not required.
- 5.1.4 Completion of a degree or certificate program is not a guarantee that there is an available position for the employee.
- 5.1.5 Rejected requests will be returned with the reason for disapproval.
- 5.1.6 If the application is approved, employees will receive their reimbursement in a subsequent paycheck following the completion of the course.

5.2 Reimbursement Process

5.2.1 If the degree or certificate program is approved and to receive reimbursement, a completed Education Assistance Program Request for Reimbursement Form must be submitted to Human Resources, along with the following items, no later than thirty (30) working days following receipt of evidence of satisfactory course completion: (all related forms can be found on the PowerNet)

- a. an itemized bursar's receipt for tuition and eligible fees paid (note that late registration fees / other penalty fees will not be reimbursed);
- b. a grade report, official transcript or certification of completion of the course(s) documenting a grade of "C" or better, or a "P" in a pass/fail course(s);
- c. a sales receipt with book titles and prices itemized by the bookstore (not including shipping fees);
- d. original documentation indicating completion of a review course, if applicable;
- e. original documentation from school itemizing necessary supplies for a graduate level thesis/dissertation and an original sales receipt for the supplies, if applicable;
- f. copy of degree / certificate after completion of course curriculum.

5.2.2 If an employee transfers to a new school or to a new degree or certificate program, a new Application for Education Assistance must be approved.

5.2.3 Please allow up to two (2) pay periods for reimbursement

6 VIOLATIONS

Violations of this procedure and related policies and procedures by employees may result in disciplinary action up to and including termination. Violations of this procedure by contractors and other authorized third parties may result in the revocation of such party's access to NYPA's premises and/or electronic access to its systems, and the termination of such party's contract for services. In addition, where the conduct engaged in is illegal, violators may be subject to prosecution under applicable federal, state or local laws.

7 REFERENCES

- 7.1 [Education Assistance Program EP 3.6](#)
- 7.2 [Pre-Approval Application-Education Assistance Program form](#)
- 7.3 [Education Assistance Program Reimbursement Request form](#)

8 PROCEDURE REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision cycle: Every Other Year

9 ATTACHMENTS

N/A

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Kalashian, Steven	7/9/2019
Content Owner	Nayyar, Pooja	6/25/2019

Policy Title:
Termination Dispute ResolutionPolicy Number:
EP 4.3Page:
1 of 6**Title: Termination Dispute Resolution**

Document Type: Employee Policy

Document Number: EP 4.3

Revision Date: 5/6/2019

Final Approver: *Pizzo, Kristine*
EVP Chief HR & Administrative Officer

Executive Owner: Pollack, Rani
Director HR & Employee Relations

Content Owner: Bodolato, Diana
Employee Relations Specialist

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

Termination Dispute Resolution

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
	11	Added "Authority-initiated" termination Updated Applicability section Removed irrelevant definitions Clarified that review committee's written determination will be forwarded Deleted irrelevant references	1 2 3 5.1.2 7	Rani Pollack Director, HR & Employee Relations
5/6/2019	10	Uploaded information to a new format. This policy had nine (9) revisions under the old format. Changed title to "Termination Dispute Resolution" from "Dispute Resolution" Deleted- dispute resolution option for policy and performance review concerns which can be addressed through EP 4.2, Performance Improvement or with Human Resources Added- the Committee may reach out via a scheduled telephone conference call to the former employee if they have questions or additional detail is	N/A N/A Multiple sections 5.1.2	Rani Pollack Director, HR & Employee Relations

For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

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Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS** where you will find a statement which pertains to all Employee Policies including this one.

1 PURPOSE AND SCOPE

Termination Dispute Resolution is an internal process that Management employees may use to appeal their Authority-initiated, for cause terminations of employment.

2 APPLICABILITY

This Policy applies to all Management Authority employees below the level of Vice President whose employment has ended due to an Authority-initiated, for cause termination. This policy does not apply to Temporary employees.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

EMC- Executive Management Committee

Management- non-union employees

Temporary Employees- Employed for a period of not more than one year (from date of hire) unless approval to extend employment for an additional period is received from various management employees, including the Human Resources Department Head and the Budget Department.

For Cause Termination- Terminations due to reasons such as poor performance, misconduct, violation of policy or NYPA's Code of Conduct.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the approver unless otherwise noted here in.

5 POLICY IMPLEMENTATION

5.1 Termination Dispute Resolution

- 5.1.1 If a terminated employee wishes to appeal that decision, he/she must submit a detailed written description and any supporting documentation explaining the issue(s) to the EVP, Human Resources no later than five business days following notification of termination. This submission must be received, or have a postmark date, by the 5th business day subsequent to the termination date.
- 5.1.2 For termination dispute resolution, a Review Committee will be convened consisting of three EMC members as selected by the President or designee and will not include the EVP, Human Resources or any EMC member that is involved in the termination decision. The Committee will review the former employee's submission, as well as any other documents relevant to the decision to terminate the employee. If the Committee has questions for the former employee, the Committee will reach out to the former employee via a scheduled telephone conference call. Thereafter, the Review

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Committee's written determination will be forwarded to the former employee, regarding the outcome of the dispute resolution process.

- 5.1.3 The Review Committee's decision is final and will conclude the Authority's review of the termination.

6 VIOLATIONS

N/A

7 REFERENCES

N/A

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Other Year

9 ATTACHMENTS

N/A

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	5/6/2019
Executive Owner	Pollack, Rani	5/3/2019
Content Owner	Bodolato, Diana	5/3/2019

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

Title: Attendance and Flexible Hours

Document Type: Employee Policy

Document Number: EP 4.6

Revision Date: 10/8/2019

Final Approver: *Pizzo, Kristine*
EVP Chief HR & Administrative Officer

Executive Owner: Pollack, Rani
Director HR & Employee Relations

Content Owner: Bodolato, Diana
Senior Employee Relations Specialist

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

Attendance and Flexible Hours

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
10/8/2019	12	<p>Added- only under extraordinary situations will the transmission and generation facilities be closed</p> <p>Added- emergency notification system phone number</p> <p>Added - employees should update emergency contact information in MyPageNYPA as needed</p> <p>Added- how/when emergency closures will be determined and communicated</p> <p>Clarified- employees are required to use paid time off if they had a pre-scheduled absence on the day of an emergency closing</p> <p>Added- employees should use good judgment when deciding to travel to work in adverse conditions.</p>	5.4	Rani Pollack Director, HR & Employee Relations

11/1/2016	11	All employees maintaining a “meets expectations” or better performance review rating are eligible, at management’s discretion, for flex time schedule participation unless an employee’s grade/title falls within the established exceptions.	5.3	Rani Pollack Director, HR & Employee Relations
		Clarified- More than one absence in a pay period disqualifies flex time schedule participation during that pay period.	5.3	
		Work from home section added with associated parameters	5.5	
3/18/2016	10	Uploaded information to a new format. This policy had nine (9) revisions under the old format.	N/A	Rani Pollack Director, HR & Employee Relations
		Defined- flexible hours and flex time schedules	3	
		Deleted- section requiring employees to be present on their last day of work. This verbiage is duplicated in the “Separation from Service” policy.	5.2	
		Clarified- In order to participate in flex time schedules during a given pay period, employees must not be absent two days or more in a given payroll period.	5.3	
		Added- Employees’ participation in the flex time schedule is contingent on satisfactory job performance and is at managers’ discretion.	5.3	
		Added- Employees’ pre-scheduled absence on the day of an emergency closing will remain as planned when requested off.	5.4	

Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS** where you will find a statement which pertains to all Employee Policies including this one.

1 PURPOSE AND SCOPE

To ensure an efficient and productive work environment, this policy establishes hours of daily work, workweek, flexible hours, punctuality guidelines, and guidelines for reporting to work in the event of inclement weather, transportation or other emergency situations for Management employees. The work hours, workweek and lunch schedules may vary at different NYPA work locations.

2 APPLICABILITY

This policy applies to all Management employees. NYPA expects all employees, regardless of location, to assume responsibility for their attendance and promptness, and to begin work no later than their designated start time. Employees should anticipate that NYPA work locations will be open every workday.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

EAP- Employee Assistance Program

EMC- Executive Management Committee

FLSA- Fair Labor Standards Act

Flexible hours- The daily hours of work may vary based on department needs. The typical workday may begin anytime between 7:00am and 9:30am.

Flex time schedules- A pre-arranged work schedule approved by management allowing an employee to take one day or a half day off within the pay period when an employee works their required hours within that same pay period.

Management- Non-union employees

Non-exempt employee- One whose job duties do not meet the established tests for exemption under certain wage and hour laws of the Fair Labor Standards Act, as enforced by the U.S. Department of Labor.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the EVP Chief Human Resources and Administrative Officer unless otherwise noted herein.

Printed copies are not controlled.

For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

5 POLICY IMPLEMENTATION

5.1 Work Hours and Workweek

5.1.1 If an employee works in the White Plains or Albany Office:

- a) The daily hours of work may vary based on department needs. This is defined as "flexible hours." The typical workday may begin anytime between 7:00am and 9:30am.
- b) The workweek shall consist of five workdays (in a seven-day period) of seven and a half hours each day, exclusive of mealtime.
- c) A lunch period is normally provided between the hours of 12:00 pm and 2:00 pm, unless adjusted by an employee's supervisor, and generally ranges between 30-60 minutes.

5.1.2 If an employee works at a location where NYPA generation or transmission facilities are operated or maintained and the normal workweek is 40 hours, the following shall apply:

- a) For Management employees, the daily hours of work shall be determined by the Regional Manager or the person otherwise responsible for the work location. The typical workday may begin anytime between 7:00am and 9:00am.
- b) The workweek shall consist of five workdays, (in a seven-day period) of eight hours each, exclusive of mealtime, and shall be determined by the Regional Manager or the person otherwise responsible for the work location.
- c) Management employees' mealtime shall be determined by the Regional Manager or the person otherwise responsible for the work location.

5.1.3 Management employees who work in areas requiring 24/7 coverage may be on 12 hour shift rotations, with schedules based on 2,080 hours for the year.

- a) Schedules will be determined by the requirements of the department at the location and approved by the Regional Manager (sites) or Department Head.
- b) Various schedule rotations will result in an average of 40 hours per week over the course of the rotation (e.g. a 5 week rotation of: 48-36-36-48-32 hours per week for a total of 200 hours) and exempt employees are paid a base 80 hours per pay period, regardless of the scheduled hours in the period. Non-exempt employees are paid for the hours they worked.
- c) Pay for exempt employees scheduled hours is at straight time inclusive of Holiday, Sick, Vacation, etc. [See EP 2.4 Management Non-Exempt and Facility-

Based Exempt Overtime for additional information regarding hours outside of scheduled shift.]

- d) Holidays, including floating holidays, are included in the 2,080 work hours in the year. For exempt employees on a 12 hour shift, holidays are adjusted to the equivalent hours based on the 12 hour days. [e.g. if there are 14 eight-hour holidays in the holiday schedule, Management employees on 12 hour shift will be adjusted to 9 twelve-hour holidays and 1 eight-hour floater.]
- e) Holidays that do not fall on a scheduled day in the rotation are moved to the nearest scheduled day. It is at supervisor's discretion as to whether or not the employee has to work this day or take the holiday based on available coverage.

5.1.4 The payroll period for a workweek at some locations may be Thursday through the following Wednesday, or Sunday through the following Saturday.

5.2 Guidelines

- 5.2.1 Employees are expected to report for and remain at work during the daily hours as established by the applicable employing department or location except for meal periods.
- 5.2.2 Adherence to the flexible hours schedule will be enforced by the manager or supervisor. An employee may not switch his/her flexible hours schedule without prior approval by his/her manager or supervisor.
- 5.2.3 When an employee is late, he/she is required to communicate with his/her supervisor to discuss the reason for the tardiness in advance of start time if possible. Lateness is not charged against sick, vacation, or floating holidays unless a half day or more is taken.
- 5.2.4 If the tardiness is not excusable, the employee's supervisor should document the occurrence. Specific guidelines for dealing with performance problems are established in EP 4.2, Performance Improvement. Documented cases of excessive absenteeism, tardiness, or requests to leave early may result in the application of vacation time for such events and/or disciplinary action in accordance with EP 4.2.

5.3 Flex Time Schedules

In an effort to offer employees work-life balance solutions, NYPA offers flex time schedules to allow one day or a half day off within a two week pay period as follows:

- a) All employees maintaining a "meets expectations" performance review rating or better are eligible, with management's discretion, for flex time schedule participation except employees in grades 12 and above.
- b) Employees can only take one full day or one half day off within the pay period when an employee works their required hours within that same pay period. All flex days must be recorded in the time and attendance system.

- c) Employees requesting participation in the program must submit a schedule indicating the hours to be worked as well as his/her flex time period to his/her manager for pre-approval, reference and planning. If the flex schedule is approved, every attempt must be made to adhere to that schedule (any deviations must be pre-approved by the employee's supervisor).
- d) Flex time schedules are not guaranteed and may be altered as necessary to accommodate the business needs of each Business Group/Unit and/or department. Employees' participation in the flex time schedule is contingent on satisfactory job performance and is at managers' discretion.
- e) The work schedule of an employee holding a position designated as non-exempt under the FLSA cannot exceed 40 hours in any given week as a result of an employee working an approved flex time schedule. If overtime is incurred **as a result of working flex time**, the employee's flex time privileges may be suspended or revoked at management's discretion. Employees must obtain prior approval before working overtime (see EP 2.4).
- f) All employees, including those working a flex time schedule must take at least a half hour lunch period.
- g) Total hours worked within a given pay period must be no less than 75 hours or 80 hours (whichever is applicable) and must correspond to a two week pay period (Monday-Friday).
- h) Employees who participate in a flex time schedule may have one absence from work (such as sick, vacation, floating holiday, holiday, jury duty, FMLA, etc.) during a pay period. More than one absence in a pay period disqualifies flex time schedule participation during that pay period.
- i) An employee's participation in this program may be discontinued at any time at the discretion of the employee's supervisor, manager, or Business Unit head.

5.4 Office Closing Due to Inclement Weather or Emergencies

5.4.1 Unless notified otherwise, employees should anticipate that NYPA offices will be open. Only under extreme weather conditions or other emergency situations would the White Plains Office, Albany Office, and/or administrative offices at the sites be closed. Only in extraordinary circumstances would a generation or transmission facility be closed.

5.4.2 Office closings will be announced generally during non-working hours via the NYPA emergency notification system (email, text, call) or an employee may call 914-681-6200 and choose Option 6.

5.4.3 To ensure employee contact information is up to date, employees should visit MyPageNYPA to update personal contact information as needed in order to receive phone, text, and email office closing notifications.

5.4.4 If conditions at either the White Plains or Albany Office warrant closing, the Human Resources Department Head, after consultation with Emergency Management and the President and Chief Executive Officer or designee, will contact the EMC members to advise of the decision to close. EMC members should then notify their respective staff. Managers should ensure that their staff is aware of the office closing.

5.4.5 If conditions at administrative offices at one or more sites (Generation or Transmission), warrant closing, the Chief Operating Officer with the President and CEO or designee, and Emergency Management, will contact the EMC members to advise of the decision to close. EMC members should then notify their respective staffs. Managers should ensure that their staff is aware of the office closing.

5.4.6 Employees with a pre-scheduled absence on the day of an emergency closing will be required to use time off as planned.

5.4.7 Safety is NYPA's priority and employees should use good judgment when deciding to travel to work in adverse conditions. If an employee expects to be late due to inclement weather, difficult transportation conditions or any other reason, he/she must notify his/her supervisor of the delay and expected arrival time as soon as possible.

5.4.8 If an employee decides not to come to work due to inclement weather, his/her immediate supervisor must be notified as soon as possible. In that instance, the absence must be charged to an employee's accumulated vacation time or floating holidays (accumulated sick time cannot be charged).

5.5. Work from Home

Work from home instances may be considered in certain circumstances, on a limited basis, such as when a manager requests it based on business needs, travel arrangements or mutually agreed upon by an employee and his/her department manager; or mandated by an approved reasonable accommodation request (see CP 1-4).

5.6 Records of Attendance

Records of attendance shall be maintained for all employees at all NYPA locations through completion of a time report, which is documented through NYPA's time and attendance tracking system. Supervisors or their designees must review and approve all time entries before such entries are transmitted to Payroll.

6 VIOLATIONS

Falsification of any records of attendance or failure to enter or approve exception time may result in disciplinary action up to and including termination.

7 REFERENCES

- 7.1 EP 2.4 Management Non-Exempt and Facility-Based Exempt Overtime - PowerNet → Quick Links → Policies & Procedures → Employee Policies and Procedures
- 7.2 EP 4.2 Performance Improvement - PowerNet → Quick Links → Policies & Procedures → Employee Policies and Procedures
- 7.3 CP 1-4 Reasonable Accommodation in Programs and Services for People with Disabilities - PowerNet → Quick Links → Policies & Procedures → Company Policies

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Other Year

9 ATTACHMENTS

N/A

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	10/8/2019
Executive Owner	Pollack, Rani	9/16/2019
Content Owner	Bodolato, Diana	9/16/2019

Title: Employee Personnel Records

Document Type: Employee Policy

Document Number: EP 5.1

Revision Date: 4/2/2019

Final Approver: *Pizzo, Kristine*
SVP HR & Enterprise Shared Services

Executive Owner: Saslow, Karina
VP Total Compensation & HRIS

Content Owner: Saslow, Karina
VP Total Compensation & HRIS

Employee Personnel Records

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
4/2/2019	4	Clarification of types of document format and history File path to release authorization	5.1 5.2.4 & 7	Karina Saslow VP Total Compensation & HRIS
3/4/2016	3	Converting to new format, there were two (2) prior revisions of this Procedure Clarified Responsibilities Streamlined content of descriptions, added reference to electronic sources of data Clarified history of management performance reviews and added Written Disciplinary Letter to list of documents. Clarified confidentiality/access to records	N/A 4 5.1.4 5.1.4f 5.2.1	Lilla Archer Manager HRIS

Please refer to Employee Policy EP 0.0 NYPA **DISCLAIMERS** where you will find a statement which pertains to all Employee Policies including this one.

1 PURPOSE AND SCOPE

- 1.1** This policy establishes guidelines for the preparation, maintenance, updating, and accessing of all employee personnel records.
- 1.2** It is the policy of the Authority to preserve the privacy of each employee and former employee through proper maintenance, use, and release of information contained in these records. This information is considered confidential business records, and is the property of the Authority. All records are maintained in accordance with applicable New York State and Federal Laws.

2 APPLICABILITY

This policy applies to all employees of the New York Power Authority.

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

HIPAA – Health Insurance Portability and Accountability Act

HRIS – Human Resources Information Systems

Management Employees – non-bargaining unit NYPA employees.

MyPageNYPA – Refers to a NYPA secure web-based intranet portal to the employee's own digital record in NYPA's official employee database.

MOSAIC – The Authority's cloud-based Talent Management system.

SAP - The Authority's on premise HR information system.

4 RESPONSIBILITY

Responsibility and oversight of this policy resides with the SVP, Human Resources unless otherwise noted here in.

HRIS owns the overall management guidelines for employee personnel records.

Facility HR and HRIS for White Plains are responsible for maintaining employee personnel records and access.

5 POLICY IMPLEMENTATION

5.1 Employee Personnel Records

- 5.1.1** Once an individual has been hired, an employee personnel record is established and maintained by the Human Resources Department.
- 5.1.2** The employee personnel record contains information about an employee's service with the Authority. This information may be contained in a combination of electronic and paper form.

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements

5.1.3 Over the course of employment, an employee is responsible for notifying Human Resources of changes in name, address, phone number, marital status, and/or emergency contacts. Access to review and change name, address, contact information, and notification in case of emergency is available to employees via MyPageNYPA – Personal Information.

5.1.4 Employee personnel records include:

- a) Employee Contact Information – contains name, address, contact information, and identifies who to notify in case of emergency. This is retained in SAP and can be updated via MyPageNYPA (see section 5.1.3).
- b) Employee Profile
 - Employment history summary sheet
- c) Employee History
 - Hire documentation – resume, application, offer letter, written copy of verification of prior employment history if applicable and education verification of educational attainment
 - Employee status change forms affecting promotion, demotion, transfer, changes in compensation including annual salary program
 - Resignation letter
 - Exit interview and checklist if available
 - Any union Apprentice agreements and step progression communications
 - Leave of Absence – a copy of email notification with leave of absence start and/or end date.
 - Access to current salary information is also available to employees via MyPageNYPA – Career and Job/Employee Profile
- d) Education
 - Certificates of course completion
 - Degrees
 - Licenses
 - Access to current education/certification information is also available to employees via MyPageNYPA – Career and Job
 - As of 2015, full training records are available to employees via MOSAIC – Learning module
- e) Retirement:
 - Retirement enrollment form

- Retirement system communications (Tier change letters, etc...)
- Benefits Confirmation Statement showing benefits elections is available to employees via MyPageNYPA.

f) Miscellaneous

- Orientation Checklist
- Employee Invention Agreement
- General safety rule declaration

g) Performance Reviews

- For management employees, performance documents after 2014 are in MOSAIC's performance module and are accessible to employees at any time. 2014 and prior performance documents are retained in the employee's file. Prior to revision 13 of the Corporate Records Retention Schedule, dated 8/7/2009, only the most recent three Performance Documents were maintained.
- Recognition letters.
- Performance award letters
- Any union evaluations
- Written disciplinary letters approved by Employee Relations Unit for management employees or in accordance with the collective bargaining agreements at the sites for union employees. Should documentation have an expiration, files should be monitored to ensure such documents are promptly removed upon expiration and employees appropriately notified.

5.1.5 Employee Personnel Records do not include information such as employee relations matters, immigration, Employee Assistance Program information, or any medical documentation.

5.1.6 An employee's benefits plan utilization data is available only from the respective Benefit Vendors on a need to know basis under HIPAA

5.1.7 I-9 Employment Eligibility Verification forms and any other immigration related documents or communications are maintained as a separate record.

5.2 Confidentiality

5.2.1 Employee personnel records are confidential business records and access is restricted to supervisory, human resources, Affirmative Action Officers, and legal personnel on an as needed basis, consistent with business necessity. Employees may request access as described in sections 5.2.3 through 5.2.5 below.

5.2.2 All employee personnel records must be secured from unauthorized access.

- 5.2.3 The Authority will release information in its Employee Records only in response to legitimate authorized inquiries as described in sections 5.2.4 and 5.2.5 of this policy. All verifications and requests for information are handled by Human Resources Employee Services in White Plains or the Facility HR and Facility Labor Relations Representatives in HR at the sites who will work with HRIS, Payroll and other interested parties to respond to the request.
- 5.2.4 Unless otherwise required by law, employees must authorize in writing the release of the following information [release request available at Powernet → Quick Links → Forms → Human Resources → Authorization to Release Employment Information or by contacting HR.Services@nypa.gov]:
- a) employee's current status (active or inactive, last date of employment)
 - b) date of hire
 - c) job title
 - d) salary
 - e) location
- 5.2.5 In the following instances, disclosure of information may exceed that outlined above:
- a) In response to a legitimate request by a properly identified law enforcement authority;
 - b) Pursuant to a statute or regulation requiring such disclosure;
 - c) In response to a lawfully issued summons, judicial order, search warrant, discovery request, subpoena, or written authorization from the employee;
 - d) Pursuant to a collective bargaining agreement providing for disclosure to the individual bargaining representative.

5.3 File Review

- 5.3.1 If an active employee wants to review any portion of their personnel records then he/she should contact the Director Compensation & HRIS at headquarters or the Facility HR Managers or Facility Labor Relations Representative in HR at the site. Upon request, employees will be given the opportunity to review their Employee Records. The Director Compensation & HRIS at headquarters or the Facility HR Managers or Facility Labor Relations Representative in HR at the site should acknowledge and grant requests within a reasonable period of time.
- 5.3.2 Employee Records will be reviewed in the presence of the Director Compensation & HRIS, the Facility HR or Facility Labor Relations Representatives in HR at the site or their designees.

- 5.3.3 The examination of records should be at a time and place mutually agreeable to the employee and the Human Resources representative. The records must remain in the possession of the Human Resources representative and will be reviewed jointly with the employee. Employees may obtain copies of any portion of their Employee Records, but may not alter, modify, or remove any original items contained in the file. Employees may provide a written request to the Director Compensation & HRIS at headquarters or the Facility HR Managers or Facility Labor Relations Representative in HR at the site to have their record amended or corrected in whole or in part. Review of their employment files by Bargaining Unit employees should follow the process negotiated in the contract. If an employee's request to amend/correct his/her personnel record is denied, an employee may appeal the decision in writing to the Authority's General Counsel.

5.4 Departmental Employee Files

- 5.4.1 A Department manager may only maintain within the Department those record copies that may be necessary to perform supervisory functions.
- 5.4.2 With the exception of sections 5.2.4 and 5.2.5, access to such departmental employee files should be strictly limited so that those without authorized access or "need to know" are not able to access these records. This is the responsibility of the personnel record holder.

5.5 Retention of Information

- 5.5.1 Retention is governed by the Corporate Records Retention Schedule. At the end of each year, physical Employee Records of individuals who are no longer employed by the Authority must be forwarded to the Digital Warehouse. Electronic files are moved to the 'Separated' electronic folder of Content Server. The items contained in such files are limited to the items listed in Section 5.1.4 of this policy. Facility HR or Facility Labor Relations Representatives in HR at the site and HRIS personnel are to review such files for their respective locations to ensure conformity to Corporate Records Retention Schedule and bargaining unit retention schedule for disciplinary letters before sending them to the Digital Warehouse for archiving. HR personnel should seek guidance from the Human Resources Department Head, or designee, for the proper disposition of any other personal information that they may have of a separated employee.
- 5.5.2 Employee Records must be retained in accordance with the applicable Corporate Records Retention Schedule.
- 5.5.3 In compliance with CP 1-9, CS-POL-IAM, and CS-POL-DP employee records will be secured and managed in a manner that maintains confidentiality of Personal Identifying Information.

6 VIOLATIONS

N/A

7 REFERENCES

CP 1-9 Personal Identifying Information Privacy Policy [Powernet → Quick Links → Policies & Procedures → Company Policies → CP 1-9]

CS-POL-IAM Identity and Access Management Policy [Powernet → Quick Links → Policies & Procedures → Cyber Security Policies & Procedures → CS-POL-IAM]

CS-POL-DP Data Protection [Powernet → Quick Links → Policies & Procedures → Cyber Security Policies & Procedures → CS-POL-DP]

Corporate Records Retention Schedule – maintained by the Digital Warehouse and available on the Powernet

Authorization to Release Employment Information [Powernet → Quick Links → Forms → Human Resources]

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision Cycle: Every Other Year

9 ATTACHMENTS

N/A

E-Signature Approval History

Role	Name	Approved Date
Final Approver	Pizzo, Kristine	4/2/2019
Executive Owner	Saslow, Karina	4/1/2019
Content Owner	Saslow, Karina	4/1/2019

Company Policy Title:
**Equal Employment Opportunity, Anti-
Harassment and Anti-Discrimination Policy**

Title: Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

Document Type: Company Policy

Document Number: CP 1-14

Revision Date: 6/29/2018

President: *Quiniones, Gil*
President & CEO

Executive Owner: Pizzo, Kristine
SVP HR & Enterprise Shared Services

Content Owner: Harvey, Nancy
Dir Office of Civil Rights & Inclusion

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For the latest revision of this document, refer to the Policy and Procedure PowerNet Site.

Records will be retained in accordance with NYPA's approved records retention schedules and/or in compliance with all applicable legal requirements pertaining to NYPA.

Company Policy Title:
**Equal Employment Opportunity, Anti-
Harassment and Anti-Discrimination Policy**

Company Policy Number:
CP 1-14

Page:
2 of 10

**Equal Employment Opportunity, Anti-Harassment
and Anti-Discrimination Policy**

Note: Revision # should be listed in descending order starting with most recent version at the top.

Revision Date(For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
6/29/2018	2	Converting to e-Scribe format	N/A	Nancy S. Harvey, Director Office of Civil Rights & Inclusion
		Inserted definition of Director Civil Rights & Inclusion	3	
		Deleted reference to 10 Step Process	7.3 & 5.4	
		References to Affirmative Action Officer replaced with Director, Civil Rights & Inclusion	5.4, 5.6 & 5.8	
		Updated the name of the Complaint Form	9	
	1	Reformatted references	3 & 7.2	Nancy S. Harvey, Affirmative Action Officer II
		Modified the definition of "Retaliation"	3	
		Included "Chief Ethics & Compliance Officer" as an Authority Official	5.6	
		Deletion of extraneous text from prior version	6	
	0	Converting to new format, combining the Equal Employment Opportunity employee policy and the Anti-Harassment and Anti-Discrimination employee policy and changing them from Employee Policies to one new Company Policy	N/A	Nancy S. Harvey, Affirmative Action Officer II

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Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

1 PURPOSE AND SCOPE

1.1 Equal Employment Opportunity

- 1.1.1 The Equal Employment Opportunity (EEO) Act of 1972 established the Equal Employment Opportunity program, which was designed to guarantee fair treatment to all parts of American society without regard to race, religion, age, color, national origin, or sex. The act was aimed at removing all discrimination when it applied to employment.
- 1.1.2 The Authority is dedicated to diversity in the workforce, which includes equal opportunity and treatment, maximizing outreach to and recruitment from diverse communities, broadening the pool of candidates considered for job openings and promotional opportunities, examining diversity recruitment and retention issues, and encouraging diversity in all activities of the Authority.
- 1.1.3 The Authority further recognizes that a person's opportunity to obtain, maintain, or achieve advancement in employment with the Authority bears no relation to a person's actual or perceived protected status.

1.2 Anti-Harassment and Anti-Discrimination

- 1.2.1 Unlawful employee harassment or discrimination is strictly prohibited and illegal under federal, state and local laws. It is the Authority's policy that all employees are responsible for assuring that the workplace is free from unlawful harassment and discrimination. The Authority is committed to providing each employee with a professional atmosphere that promotes equal opportunity and access and is free of discrimination and harassment in accordance with all applicable federal, state and local laws in every location in which the Authority has offices or facilities.
 - 1.2.2 NYPA is committed to preventing discrimination based on a protected status and to taking appropriate action with respect to any and all employees and business partners who engage in discriminatory conduct, as well as executive, supervisory, and managerial personnel who knowingly allow such conduct to continue.
 - 1.2.3 This Policy shall reaffirm that no person employed by the Authority shall discriminate against or harass another person in any matter affecting the hiring, promotion, or termination of employment, potential employment, or the terms or conditions of employment, because of their actual or perceived protected status on the basis of such status.
 - 1.2.4 This Policy also prohibits retaliation for reporting or opposing discrimination, or cooperating with an investigation of a discrimination complaint.
- 1.3 It is also NYPA's Policy to provide reasonable accommodations when appropriate to individuals with disabilities and individuals observing religious practices. **The Reasonable Accommodation Policies can be found on the Powernet → Quick**

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Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

Links → Policies & Procedures → Company Policies → 1-11 or 1-12

- 1.4** Accordingly, NYPA established this Policy to promote diversity and prohibit employment discrimination in its workplace.

2 APPLICABILITY

This Policy applies to all applicants, employees and Business Partners whether related to conduct engaged in by fellow employees or someone connected to Authority business (e.g., an outside vendor, consultant or customer).

3 INITIALISMS (ACRONYMS) AND DEFINITIONS

Business partners - any and all volunteers, vendors, customers, contractors, consultants or other business or person providing goods or services to NYPA.

Protected status - an individual's actual or perceived age, sex, race, religion, creed, color, national origin, alienage or citizenship status, sexual orientation, gender identity, military status, disability, genetic predisposition or carrier status, marital or partnership status, or domestic violence victim status. A discussion of each protected status can be found in the handbook: Equal Employment Opportunity Rights and Responsibilities, A Handbook for Employees of New York State Agencies. **The handbook can be found at the Governor's Office of Employee Relations Website → State Employee Resources → Employee Handbook**

Discrimination - treating an individual differently or less favorably because of his or her protected characteristics—such as race, color, religion, gender, national origin, or any of the other bases is prohibited by this Policy.

Harassment - verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her status protected by law that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

Sexual Harassment - constitutes discrimination and is illegal under federal, state and local laws. Sexual harassment may include a range of obvious and subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to:

- a) unwanted sexual advances;
- b) subtle or overt pressure\requests for sexual favors;
- c) other verbal or physical conduct of a harassing nature;
- d) display in the workplace of sexually suggestive objects or pictures; and
- e) other physical, verbal or visual conduct of a sexual nature.

NYPA or Authority - the New York Power Authority.

Director, Civil Rights & Inclusion – also serves as the Affirmative Action Officer.

Retaliation - the adverse treatment of an individual because he or she made a discrimination or harassment complaint, opposed discrimination or harassment, or cooperated with an investigation of a discrimination or harassment complaint.

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Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

4 RESPONSIBILITY

- 4.1** All executives, managers and supervisors have ultimate responsibility for overseeing compliance with this Policy at their respective business units and shall act to ensure that access to services and employment opportunities within the Authority are made available to applicants and employees without regard to actual or perceived protected status.
- 4.2** All executives, managers and supervisors shall provide an atmosphere free of harassment and discrimination and must act promptly to eliminate any discrimination or harassment which exists in their area of responsibilities or of which they become aware in accordance with this Policy.
- 4.3** All employees and business partners are responsible for complying with this Policy at all times.

5 POLICY IMPLEMENTATION

- 5.1** NYPA shall conduct mandatory annual training and other programs to inform, educate and train employees about inappropriate workplace behavior and how to avoid such conduct.
- 5.2** This Policy shall be circulated and made available to all job applicants and employees on the PowerNet, by hand, via email and by posting in common areas, as applicable.
- 5.3** All employees and business partners shall be required to comply with this Policy.
- 5.4** NYPA is committed to addressing discrimination and sexual harassment complaints promptly, consistently and fairly. All complaints will be investigated by the Director, Civil Rights & Inclusion promptly and thoroughly

. Confidentiality will be maintained to the extent possible.

- 5.5** The Authority shall take appropriate corrective action, including disciplinary measures to remedy violations of this Policy. Responsive action may include, for example, training, referral to counseling and/or disciplinary action, such as warnings, reprimands, withholding of a promotion or merit increase, reassignment, temporary suspension without pay, demotion, fines and/or termination.
- 5.6** Any applicant, employee, or business partner who observes or experiences discriminatory treatment, workplace harassment or retaliation at NYPA, including by coworkers, or visitors should, as soon as possible, report the matter to the Director, Civil Rights & Inclusion or any other Authority official, e.g., a supervisor, Business Group Head, Business Unit/Department Head, VP and Chief Ethics & Compliance Officer, Regional/Plant Manager, Facility Labor Relations Manager or Manager-Human Resources and/or a representative of the Employee Relations Unit in the White Plains Office and complete the attached complaint form. The Authority encourages employees

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Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

to report all perceived incidents of unlawful harassment or discrimination, regardless of who the offender may be.

- 5.7** Anonymous or identifiable complaints may be reported by calling the Authority's confidential Hotline at **1-877-TEL-NYPA**.
- 5.8** If supervisors or managers receive a complaint of, or observe conduct that may constitute a violation of this Policy (i.e. harassment or discrimination), they shall promptly report such complaint or observation to the Director, Civil Rights & Inclusion.
- 5.9** All employees are required to cooperate fully with any investigation of alleged violations of this Policy. Any employee who fails to cooperate with an investigation, obstructs an investigation, or obstructs the administration of any remedial or disciplinary action taken as a result of such investigation, shall be subject to discipline, up to and including termination.
- 5.10** No person employed by NYPA shall be discharged, disciplined, discriminated against or otherwise subjected to an adverse employment action on the ground that such person filed a complaint in good faith, testified, provided information, or otherwise assisted any investigation of alleged violations of this Policy.
- 5.11** Conduct prohibited by this Policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

6 VIOLATIONS

- 6.1** Employees found to be in violation of this Policy shall be subject to disciplinary action, up to and including termination. Business partners found to be in violation of this Policy shall be subject to appropriate action at the sole discretion of the Authority, up to and including termination of any business relationship.
- 6.2** Any employee who is found to have knowingly made a false accusation of harassment, discrimination, or retaliation, or knowingly provided false information may be subject to appropriate disciplinary action up to and including termination.
- 6.3** Retaliation against any complainant, witness or cooperating individual is both illegal and a violation of this Policy, as well as the Authority's Anti-Retaliation Policy (see CP 1-7). Any person employed by the Authority who engages in such conduct is subject to disciplinary action, up to and including termination, and any other consequences that the law may provide.

7 REFERENCES

- 7.1** Authority's Anti-Retaliation Policy (see CP 1-7). **This Policy can be found on the PowerNet → Quick Links → Policies & Procedures → Company Policies → 1-7**

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- 7.2** Rights and Responsibilities, A Handbook for Employees of New York State Agencies.
**The handbook can be found on the NYS Governor's Office of Employee Relations
Website → State Employee Resources → Employee Handbook**

8 POLICY REVIEW AND EXPIRATION

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

Revision cycle: Every Year

9 ATTACHMENTS

Attachment 9.1: Office of Civil Rights & Inclusion (formerly the Affirmative Action Office)
Complaint Form

Changes to attachments necessitate a revision to the document

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Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

NEW YORK POWER AUTHORITY
OFFICE OF CIVIL RIGHTS & INCLUSION
(formerly the Affirmative Action Office)

Complaint Form

This form is to be used to file an internal claim of discrimination based on RACE, COLOR, NATIONAL ORIGIN, CREED/RELIGION, AGE, SEX/SEXUAL HARASSMENT, MARITAL/FAMILY STATUS, DISABILITY, ARREST RECORD, CRIMINAL CONVICTION(S), GENDER IDENTITY, SEXUAL ORIENTATION, PREDISPOSING GENETIC CHARACTERISTICS, MILITARY STATUS, DOMESTIC-VIOLENCE-VICTIM STATUS and/or RETALIATION.

Please submit this form to the Director, Civil Rights & Inclusion (CRI) (formerly the Affirmative Action Officer); you may find contact information for CRI on the PowerNet.

COMPLAINANT INFORMATION

Name: _____ Region/Facility: _____
Home Address: _____ Work Address: _____

Home Phone: _____ Work Phone: _____
Job Title: _____
Work Schedule (hours and days of the week): _____

SUPERVISORY INFORMATION

Immediate Supervisor's Name: _____
Title: _____
Work Phone: _____
Work Address: _____

2nd Level Supervisor's Name: _____
Title: _____
Work Phone: _____
Work Address: _____

DETAILS OF CLAIM

1. Your claim of discrimination is based on: (Please check all that apply)
- | | | |
|--|--|---|
| <input type="checkbox"/> Race | <input type="checkbox"/> Age | <input type="checkbox"/> Arrest Record |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Color | <input type="checkbox"/> Sex/Sexual Harassment |
| <input type="checkbox"/> Criminal Conviction | <input type="checkbox"/> Military Status | <input type="checkbox"/> National Origin |
| <input type="checkbox"/> Marital/Family Status | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Domestic-Violence-Victim Status |
| <input type="checkbox"/> Creed/Religion | <input type="checkbox"/> Disability | <input type="checkbox"/> Predisposing Genetic Characteristics |
| <input type="checkbox"/> Retaliation | | |

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Equal Employment Opportunity, Anti-Harassment and Anti-Discrimination Policy

2. Your claim of discrimination is made against:

Name:

Title:

Relationship to you: ☐ Supervisor ☐ Subordinate

☐ Co-Worker ☐ Other

Work Address:

Work Phone:

3. Date(s) discrimination occurred:

Is the discrimination continuing? Yes ☐ No ☐

4. Please describe briefly the alleged discriminatory conduct and your reasons for concluding that the conduct was discriminatory. Please include the names of witnesses, if any, and attach supporting data, if available. Please use additional sheets of paper, if necessary.

5. A. Have you filed a claim regarding this complaint with a federal, state or local government agency? Yes ☐ No ☐

B. Have you instituted a legal suit or court action regarding this complaint?

Yes ☐ No ☐

C. Have you hired an attorney with respect to the allegations in the complaint?

Yes ☐ No ☐

6. This complaint form was completed by: CRI ☐ Complainant ☐ Date _____

Company Policy Title:
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E-Signature Approval History

Role	Name	Approved Date
President	Quiniones, Gil	6/29/2018
General Counsel	Driscoll, Justin	6/19/2018
Chief Operation Officer	Kessler, Joseph	6/19/2018
Chief of Executive Staff	Pizzo, Kristine	6/19/2018
Executive Owner	Pizzo, Kristine	6/19/2018
Content Owner	Harvey, Nancy	5/17/2018

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**NY Power
Authority**

Think Twice Act Once

NYPA'S

CODE OF CONDUCT

in the workplace

NYPA's Ethics & Compliance Office

The Ethics & Compliance Office provides guidance to NYPA's Trustees and employees to enable sound business decisions grounded in current ethics and compliance, legal, regulatory and policy standards. We achieve this by serving as a resource to and educating the Trustees, executive management and employees on the applicable standards and their impacts on them individually and NYPA as a public authority.

Joseph W. Gryzlo

Vice President and Chief Ethics & Compliance Officer
WPO ext. 6939 (914) 681-6939

Louise Nestler,

Lead Ethics Officer, WPO ext. 3724 (914) 287-3724

Alicia Baly-Hughes,

Compliance Officer, WPO ext. 3495 (914) 287-3495

NYPA EMPLOYEE CONCERNS LINE

1-877-TEL-NYPA

New York Power Authority

123 Main Street
White Plains, NY 10601
Ethics@nypa.gov

Think Twice Act Once

I. STANDARDS OF CONDUCT

New York Power Authority employees, officers and trustees shall perform their duties with integrity and:

1. Refrain from engaging in outside activities, including other employment and financial interests, which could impair their independence of judgment or prevent the proper exercise of their official NYPA duties. All outside employment and publicly elected or appointed positions held or being sought must be reported to your supervisor, department or business unit head and the Office of Ethics and Compliance for evaluation to ensure the absence of conflicts of interest. Individuals serving in “policy-making” positions must also obtain the approval of the NYS Joint Commission on Public Ethics.
2. Conduct themselves at all times in a manner that avoids any appearance of or situation where they could be either improperly influenced, give or be given preferential treatment to or by any person or entity or act in violation of the public trust. This includes the requirement to (i) disclose any and all possible professional and personal conflicts of interest to your supervisor, department or business unit head and the Office of Ethics and Compliance, and your subsequent recusal from engaging in any NYPA business activity where the conflict appears or exists; and (ii) refrain from seeking or accepting a monetary loan from any employee under one’s direct or indirect supervisory authority, or providing a monetary loan to your immediate supervisor and anyone to whom that individual reports, up to and including the Board of Trustees.
3. Not use or attempt to use their official position to secure unwarranted privileges for themselves, their relatives or any other party, including contracts and employment with NYPA.
4. Not participate in any decision or process to hire, promote, discharge, discipline or supervise a relative. (See Employee Policy 1.2 “Recruitment and Job Posting”)
5. Not endorse the products or services of other entities or individuals as a representative of NYPA, including appearing in publications advertising, endorsing or selling products or services of third parties.

6. Not engage in any NYPA transaction or work assignment (including contract development, solicitation, evaluations, awards) involving another business in which they or a relative have a direct or indirect financial interest. This provision does not apply to ownership of shares of stock commonly owned in a mutual fund. It does include personally owned and directed stock of any corporation traded on a recognized stock exchange, where there is an ownership interest greater than or equal to 10% in the corporation.
7. Not supply NYPA with any goods and/or services (individually or through another business entity) except in the performance of their official position. Relatives of NYPA employees are also subject to this prohibition in accordance with NYPA's applicable Procurement Guidelines.
8. Not use NYPA property, including but not limited to, equipment, vehicles, staff and other assets or resources in a manner inconsistent with applicable laws, NYPA's policies and mission.
9. Not accept, receive or solicit any gift or gratuities of more than nominal value where the circumstances would infer that (a) the gift is intended to influence the individual in the performance of official business or (b) the gift represents a tip, reward or sign of appreciation for any official act. Gifts include any form of financial discounts and payments, services, loans, travel reimbursements, lodging, meals, entertainment or promise from any entity doing business with or seeking to do business with NYPA. Gifts from disqualified sources (consultants, contractors, vendors, customers) are prohibited.
10. Not directly or indirectly advise or assist any person in making a financial investment or other decision utilizing confidential information acquired at NYPA, nor disclose any confidential information as a result of information obtained through NYPA employment. (See Company Policy 6-1 "Securities Trading and Use of Confidential Information")
11. Refrain from acquiring and trading in the securities of electric and gas utility corporations doing business within New York State (other than shares owned in a mutual fund). (See Company Policy 6-1 "Securities Trading and Use of Confidential Information")
12. Prohibit the appearance of elected government officials and candidates in advertisements or promotions paid with public funds.
13. Not use one's official position to compel or induce any other state officer or employee to make or promise to make any political contribution, nor

inquire about a prospective or current employee's political party affiliation, contributions or voting record. (See Employee Policy 1.2 "Recruitment and Job Posting")

14. Not appear or practice before or receive compensation from NYPA or other entities where the former employee will be involved in providing goods or services to NYPA for two (2) years following one's NYPA employment. This does not preclude "re-employment" by NYPA subject to any applicable statutory cap on earnings. The Office of Ethics and Compliance must be consulted prior to the re-employment in any manner of any former NYPA employee for evaluation to ensure consistency with the post-employment restrictions contained in the Public Officers Law.
15. Not appear or practice before or receive compensation from NYPA or other entities where the former employee will be involved in providing goods or services to NYPA at any time following one's NYPA employment relating to matters on which one personally worked for NYPA. This does not preclude "re-employment" by NYPA subject to any applicable statutory cap on earnings. The Office of Ethics and Compliance must be consulted prior to the re-employment in any manner of any former NYPA employee for evaluation to ensure consistency with the post-employment restrictions contained in the Public Officers Law.

The term "Relative" as used in this Code of Conduct means any person living in the same household as the NYPA employee, officer or trustee and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant.

These Standards of Conduct do not replace and are in addition to the requirements of all applicable laws and regulations, including but not limited to, NYS Public Officers Law Sections 73, 73-a, 73-b and 74 and Title 19 NYCRR Parts 930, 932.

II. CERTIFICATION AND IMPLEMENTATION OF THE CODE OF CONDUCT

This Code of Conduct shall be provided to all employees, officers and trustees upon commencement of employment or appointment.

Employees, officers and trustees will be requested to certify annually that they have read the Code of Conduct and that they comply with its standards.

The Chief Ethics and Compliance Officer will provide periodic reports to NYPA's Governance Committee of the Board of Trustees about the status and disposition of concerns and issues raised under the Code of Conduct.

III. REMEDIES FOR BREACHES OF THE CODE OF CONDUCT

In addition to any penalty contained in any other provision of law, a NYPA employee, officer or trustee who violates the Code of Conduct may be disciplined upon findings and recommendations prepared by the Chief Ethics and Compliance Officer in consultation with the Executive Vice President and General Counsel. Remedies and disciplinary action may include one or more of the following actions:

- Issuance of job performance counseling and written warnings
- Direction of written corrective action to eliminate a conflict of interest
- Restitution
- Adverse salaried employee performance assessments
- Changes in assigned job duties
- Suspension or termination of employment

Any disciplinary action arising out of violations of this Code of Conduct affecting NYPA's bargaining unit employees will be administered in accordance with the applicable collective bargaining agreement.

The concurrence of the President and CEO and Chief Operating Officer is required for any suspension or termination of employment solely arising out of violations of the Code of Conduct.

Former NYPA employees, officers and trustees who are later found to have violated the Code of Conduct during their NYPA employment may also be precluded from doing business with NYPA.

IV. REPORTING UNETHICAL BEHAVIOR

Trustees, officers and employees are required to report any unethical behavior or any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse to the Office of Ethics and Compliance, your NYPA business unit or department, Human Resources-Employee Relations or Facility Human Resources Managers. You are also encouraged to utilize NYPA's toll-free Employee Concerns Line (1-877-TEL-NYPA). It is accessible 24 hours a day, 7 days a week. Calls may be made anonymously.

Anyone reporting an ethical concern in good faith or participating in the investigation of a reported concern is protected from retaliation by NYPA's policies and the law. (See Company Policy 1-7 "Anti-Retaliation Policy")

CODE_{OF} CONDUCT HISTORY

Adopted	January 28, 1988
Amended	June 28, 1994
Amended	June 30, 1998
Amended	September 29, 2009
Amended	March 21, 2013





Whistleblower

Note: Revision # should be listed in descending order starting with the most recent version at the top.

Revision Date (For BCG Use Only)	Revision #	Description/Modification	Revision Section (s)	Author
2/27/2018	0	Removed references to Thruway Authority and inserted correct titles and contact information	N/A	Lisa Wright Manager, Administrative Services



  Manager, Administrative Services 3-6-18 DATE	NUMBER: CGP-2018-011
	SECTION TITLE: POLICY - PERSONNEL
	SUBJECT: WHISTLEBLOWER

This bulletin supersedes NYS Thruway/Canal Corporation General Policy 25-2-26

I. INTRODUCTION

It is the policy of the Canal Corporation (Corporation) to afford certain protections to individuals who in good faith report violations of the Corporation's CODE OF ETHICS (ASB -2018-015) or other instances of potential wrongdoing within the Corporation. This Policy is intended to encourage and enable Corporation employees to raise concerns of potential wrongdoing in good faith within the Corporation and without fear of retaliation.

This policy establishes the protection for whistleblowers and the procedures for reporting potential wrongdoing within the Corporation.

II. DEFINITIONS

For the purposes of this Policy, the following definitions shall apply:

- A. "Employee" – all Board Members, Officers and Staff employed at the Corporation whether full-time, part-time, employed pursuant to contract, employees on probation and/or temporary employees.
- B. "Good Faith" – Information concerning potential wrongdoing is disclosed in "good faith" when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.
- C. "Personnel action" – Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.
- D. "Whistleblower" – Any employee who in good faith discloses information concerning the business of the Corporation itself.



- E. "Wrongdoing" – Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by an employee that relates to the Corporation.

III. REPORTING WRONGDOING

All employees who discover or have knowledge of potential wrongdoing concerning employees of the Corporation; a person having business dealings with the Corporation; or the Corporation itself, shall report such activity in accordance with the following procedures.

- A. All employees who discover or have knowledge of wrongdoing shall promptly disclose information concerning such wrongdoing in a written or oral report to his or her immediate supervisor, Section Superintendent, Division Engineer, Director, Deputy Director, Office of Employee Relations, or as outlined below, the Office of Civil Rights and Inclusion or the Office of Ethics and Compliance.
- Office of Civil Rights and Inclusion at accessibility@nypa.gov for wrongdoing involving discrimination based on protected class status.
 - Office of Ethics and Compliance at ethics@nypa.gov for wrongdoing involving ethics, waste, fraud or abuse.

Written disclosures are preferred where appropriate.

- B. The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.
- C. The individual(s) to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include, but not be limited to, referring such information to the appropriate Corporation office, New York State Office of the Inspector General, Joint Commission on Public Ethics, or other appropriate law enforcement agency.
- D. Should an employee believe in good faith that disclosing information within the Corporation pursuant to Section III. A. would likely subject him or her to adverse personnel action or be wholly ineffective, the employee may instead disclose the information to the New York State Office of the Inspector General, New York State Division of Human Rights, U.S. Equal Employment Opportunity Commission, Joint Commission on Public Ethics, or an appropriate law enforcement agency, if applicable.

IV. NO RETALIATION OR INTERFERENCE



No employee shall retaliate against any whistleblower for the good faith disclosure of potential wrongdoing, whether through adverse personnel action, harassment, threats, coercion, or abuse of authority; and, no employee shall interfere with the right of any other employee by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited. All allegations of retaliation against a whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by the Corporation. Any employee who retaliates against or has attempted to interfere with any individual for having in good faith disclosed potential wrongdoing may be subject to discipline or other administrative action, which may include termination of employment. Any allegation of retaliation or interference will be treated as a separate matter and treated seriously irrespective of the outcome of the initial complaint.

V. OTHER LEGAL RIGHTS NOT IMPAIRED

Nothing in this Policy shall be deemed to diminish or impair the rights of an employee or the Corporation under any law, rule, regulation or collectively negotiated agreement or to prohibit any personnel action which otherwise would have been taken regardless of any disclosure of information.

Specifically, this Policy is not intended to limit any rights or remedies than an individual may have under the laws of the United States and the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).

With respect to any rights or remedies that an individual may have pursuant to Civil Rights Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b [2] [b]; Labor Law § 740 [3]).

2019 Confidential Evaluation of NYPA/Canal Board Performance

Criteria	Agree	Somewhat Agree	Somewhat Disagree	Disagree
1. Board members have a shared understanding of the mission and purpose of:				
a. the Authority.	6	0		
b. Canal Corporation.	5	1		
2. The policies, practices and decisions of the Board are always consistent with the mission and purpose of:				
a. the Authority.	5	1		
b. Canal Corporation.	4	2		
3. Board members comprehend their role and fiduciary responsibilities and hold themselves and each other to these principles.	6	0		
4. The Board adopts and reviews annually policies, by-laws, and practices for the effective governance, management and operations of:				
a. the Authority.	6	0		
b. Canal Corporation.	6	0		
5. The Board sets clear and measurable performance goals that contribute to accomplishing its mission for the Authority:				
a. the Authority.	6	0		
b. Canal Corporation.	5	1		
6. The decisions made by Board members are arrived at through independent judgment and deliberation, free of political influence, pressure or self-interest.	5	1		
7. Individual Board members communicate effectively with executive staff so as to be well informed on the status of all important issues.	6	0		
8. Board members are knowledgeable about the programs, financial statements, reporting requirements, and other transactions of:				
a. the Authority.	5	1		
b. Canal Corporation.	5	1		
9. The Board meets to review and approve, where required by law, all documents and reports prior to public release and is confident that the information being presented is accurate and complete on behalf of:				
a. the Authority.	6	0		
b. Canal Corporation.	6	0		
10. The Board knows the statutory obligations and compliance status with laws applicable to:				
a. the Authority.	5	1		
b. Canal Corporation.	5	1		
11. Board and committee meetings facilitate open, deliberate and thorough discussion, and the active participation of members.	6	0		
12. Board members have sufficient opportunity to research, discuss, question and prepare before decisions are made and votes taken.	6	0		
13. Individual Board members feel empowered to delay votes, defer agenda items, or table actions if they feel additional information or discussion is required.	6	0		
14. The Board exercises appropriate oversight of the CEO and other executive staff, including setting performance expectations and reviewing performance annually.	6	0		
15. The Board has identified the areas of most risk and works to implement risk mitigation strategies before problems occur with management of:				
a. the Authority.	6	0		
b. Canal Corporation	6	0		
16. Board members demonstrate leadership and vision and work respectfully with each other.	6	0		

Date Completed: 3/31/2020