



Kathy Hochul, Governor

**Homes and  
Community Renewal**

RuthAnne Visnauskas, Commissioner/CEO

# Annual Procurement Report Fiscal Year 2022 - 2023

January 25, 2024

For the Period Commencing November 1, 2022 and Ending October 31, 2023<sup>1</sup>

***NEW YORK STATE HOUSING FINANCE AGENCY  
STATE OF NEW YORK MORTGAGE AGENCY  
NEW YORK STATE AFFORDABLE HOUSING CORPORATION  
STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY  
TOBACCO SETTLEMENT FINANCING CORPORATION***

641 Lexington Avenue  
New York, New York 10022  
[www.hcr.ny.gov](http://www.hcr.ny.gov)

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<sup>1</sup> Although AHC's fiscal year runs from April 1st through March 31st, for purposes of this consolidated Report, AHC's procurement activity is reported using a November 1, 2022 - October 31, 2023 period, which conforms to the fiscal period shared by four of the five Agencies.



# Annual Procurement Report

For the Period Commencing November 1, 2022 and Ending October 31, 2023

## Annual Procurement Report Index

<b><u>SECTION</u></b>	<b><u>TAB</u></b>
Agencies' Listing of Pre-qualified Panels.....	1
Summary of the Agencies' Procurement Activities.....	2
MWBE Analysis for Procurement Contracts and Purchase Orders.....	3
Agencies' Consolidated Procurement and Contract Guidelines as amended January 26, 2023.....	4
Agencies' Consolidated Procurement and Contract Guidelines as amended September 12, 2013.....	4
Explanation of the Agencies' Procurement and Contract Guidelines.....	5

# TAB 1

## Agencies' Listing of Pre-qualified Panels



## Agencies' Listing of Pre-Qualified Panels 2022-2023

### *Arbitrage Rebate Services Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Municipal Bond Bank Agency
- ▶ Tobacco Settlement Financing Corporation
  - BLX Group LLC
  - Hawkins, Delafield & Wood LLP
  - Omnicap Group LLC
- ▶ State of New York Mortgage Agency
  - Hawkins, Delafield & Wood LLP

### *Audit Services Pre-qualified Panel of the:*

- ▶ New York State Affordable Housing Corporation
  - Accounting Firm of Susan Rich, CPA d/b/a Long Island Financial Management Services<sup>2</sup>
  - BCA Watson Rice<sup>1</sup>
  - Cohn Reznick LLP
  - EFPR Group, LLP (*formerly known as Toski & Co., CPAs*)
  - Les S. Thompson & Co., LLP<sup>1</sup>
  - Lumsden & McCormick LLP
  - Padilla and Company LLP
  - RSM US (*formerly known as McGladrey LLP*)
  - Tabriztchi & Co., CPA, P.C.
  - Wei Wei & Co., LLP<sup>1</sup>

<sup>1</sup>Minority-Owned Business Enterprise

<sup>2</sup>Women-Owned Business Enterprise

<sup>3</sup>Minority and Women-Owned Business Enterprise



## Agencies' Listing of Pre-Qualified Panels 2022-2023

### *Davis Bacon Prevailing Wage Monitoring Consultant Services Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
  - A1 Works-in-Progress Associates, LLC<sup>2</sup>
  - Armand Corporation<sup>3</sup>
  - Contractor Compliance and Monitoring, Inc.
  - Crescent Consulting Associates, Inc.<sup>1</sup>
  - Loewke Brill Consulting Group, Inc.
  - MPACT Strategic Consulting LLC<sup>1</sup>
  - Penda Aiken, Inc.<sup>3</sup>
  - Ruzow & Associates, Inc.<sup>2</sup>
  - The McKissack Group, Inc. d/b/a McKissack & McKissack<sup>3</sup>

### *Financial and Swap Advisor Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Mortgage Agency
- ▶ State of New York Municipal Bond Bank Agency
- ▶ Tobacco Settlement Financing Corporation
  - Acacia Financial Group, Inc.<sup>2</sup>
  - Caine Mitter & Associates Incorporated
  - CSG Advisors Incorporated
  - Mohanty Gargiulo LLC<sup>3</sup>
  - Public Resources Advisory Group, Inc.
  -

<sup>1</sup>Minority-Owned Business Enterprise

<sup>2</sup>Women-Owned Business Enterprise

<sup>3</sup>Minority and Women-Owned Business Enterprise



## *Agencies' Listing of Pre-Qualified Panels 2022-2023*

### *Information Technology Temporary Staffing Consultant Services Pre-qualified Panel:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Mortgage Agency
  - Currier, McCabe and Associates d/b/a CMA Consulting Services <sup>2</sup>
  - Computer Aid, Inc.
  - Edwards Daniels Group, Inc. <sup>2</sup>
  - InfoPeople Corporation<sup>1</sup>
  - Infosys International, Inc. <sup>1</sup>
  - InnoSoul, Inc. <sup>3</sup>
  - Mindlance Inc. \*
  - Novisync Inc. <sup>1</sup>
  - Quantilus, Inc. <sup>1</sup>
  - Resourcesys Inc. <sup>3</sup>
  - Spruce Technology, Inc. <sup>1</sup>
  - Systems Application Information Network, Inc. d/b/a Computer Resources of America, Inc. ("CRA") <sup>1</sup>
  - Tech Valley Talent, LLC <sup>2</sup>
  - Unique Comp, Inc. <sup>3</sup>

### *Outside Bond Counsel Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Municipal Bond Bank Agency
- ▶ Tobacco Settlement Financing Corporation
  - Ballard Spahr, LLP
  - Barclay Damon, LLP
  - Harris Beach LLP
  - Hawkins, Delafield & Wood LLP
  - McCarter & English, LLP
  - Mintz Levin Cohn Ferris Glovsky and Popeo, P.C.
  - Nixon Peabody LLP
  - Orrick Herrington & Sutcliffe LLP

<sup>1</sup>Minority-Owned Business Enterprise

<sup>2</sup>Women-Owned Business Enterprise

<sup>3</sup>Minority and Women-Owned Business Enterprise



## Agencies' Listing of Pre-Qualified Panels 2022-2023

- ▶ State of New York Mortgage Agency
  - Hawkins Delafield & Wood LLP

### *Outside Co-Bond Counsel Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Mortgage Agency
- ▶ State of New York Municipal Bond Bank Agency
- ▶ Tobacco Settlement Financing Corporation
- Ahmad Zaffarese, LLC<sup>1</sup>
- Divitta Alexander PLLC<sup>3</sup>
- D. Seaton and Associates, P.A.<sup>1</sup>
- Hardwick Law Firm, LLC<sup>1</sup>
- McGlashan Law Firm, P.C.<sup>1</sup>
- Paparone Law PLLC<sup>2</sup>
- Pearlman & Miranda, LLC<sup>3</sup>
- Tiber Hudson LLC<sup>1</sup>
- Weaver Mancusa Brightman PLLC<sup>2</sup>

### *Outside Non-Bond Counsel Pre-qualified Panel firms for legal services other than those pertaining to municipal finance matters of the:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Mortgage Agency
- ▶ New York State Affordable Housing Corporation
- ▶ State of New York Municipal Bond Bank Agency
- ▶ Tobacco Settlement Financing Corporation

#### PANEL A – MAJORITY FIRMS

- Anderson Kill & Olick, P.C.
- Arent Fox LLP
- Boylan, Brown, Code, Vigdor & Wilson, LLP
- Day Pitney LLP
- Dentons (US) LLP
- Edwards Wildman Palmer LLP
- Golenbock Eisman Assor Bell & Peskoe LLP
- Harris Beach, PLLC

<sup>1</sup>Minority-Owned Business Enterprise

<sup>2</sup>Women-Owned Business Enterprise

<sup>3</sup>Minority and Women-Owned Business Enterprise



## Agencies' Listing of Pre-Qualified Panels 2022-2023

- Holland & Knight, LLP
- Jaspan Schlesinger Hoffman, LLP
- Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.
- Nixon Peabody, LLP
- Seyfarth Shaw LLP
- Sive Paget & Reisel, PC
- Squire, Sanders & Dempsey, LLP
- Venable, LLP

### PANEL A – M/WBE FIRMS

- Bryant Rabbino LLP<sup>1</sup>
- Brown & Hutchinson LLP<sup>1</sup>
- Drohan Lee, LLP<sup>1</sup>
- Hoguet Newman Regal & Kenney LLP<sup>2</sup>
- Love & Long LLP<sup>3</sup>
- McGlashan Law Firm P.C.<sup>1</sup>
- Morris, Duffy, Alonso & Faley<sup>3</sup>
- Pacheco & Lugo, PLLC<sup>3</sup>
- Schoeman Updike Kaufman Stern & Ascher LLP<sup>2</sup>
- Wilson & Chan LLP<sup>1</sup>
- Younkins & Schector LLP<sup>2</sup>

### *Planning & Development Consultant Services Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
  - CSD Housing, LLC
  - IN/EX Architecture P.C.
  - MM Development Advisors, Inc.<sup>2</sup>

### *Professional Temporary Staffing Consultant Services Pre-qualified Panel of the:*

- ▶ New York State Housing Finance Agency
- ▶ State of New York Mortgage Agency
- ▶ New York State Affordable Housing Corporation
  - 22nd Century Technologies, Inc.<sup>1</sup>
  - ALS Staffing, Inc. d/b/a All About People, Inc.
  - COGO Sourcing, LLC d/b/a COGO Partners<sup>1</sup>
  - Datrose, Inc.<sup>1</sup>
  - Diamond Personnel, LLC

<sup>1</sup>Minority-Owned Business Enterprise

<sup>2</sup>Women-Owned Business Enterprise

<sup>3</sup>Minority and Women-Owned Business Enterprise





## *Agencies' Listing of Pre-Qualified Panels 2022-2023*

- LanceSoft, Inc.
- Mindlance Inc.
- MP Engineers, P.C. <sup>1</sup>
- New Wave People, Inc. <sup>3</sup>
- Nexus Staffing, Inc. <sup>1</sup>
- Penda Aiken, Inc. <sup>3</sup>
- Special Counsel Inc.
- TemPositions, Inc.
- The Execu-Search Group
- Yorkson Legal for Staffing Services <sup>2</sup>

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<sup>1</sup>Minority-Owned Business Enterprise

<sup>2</sup>Women-Owned Business Enterprise

<sup>3</sup>Minority and Women-Owned Business Enterprise

# TAB 2

## Summary of the Agencies' Procurement Activities

Run Date: 01/18/2024

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
Audit and Accounting Services														
AHC	Automatic Data Processing, Inc. # 1 ADP Blvd Roseland NJ 07068	PAYROLL SERVICES	6100001974	10/1/05 / / Upon Notice	Single Source & 2/1/94	1	N	18,737	1%		99%			228,817
AHC	Ernst & Young LLP # 200 Plaza Drive Secaucus NJ 07094	AUDIT SERVICES	6100003103	9/16/15 To 9/15/23	Request for Proposals & 3/3/15	6	N	10,650			100%			101,004
HFA SONYMA AHC	Benefit Resource, Inc. # PO Box 360995 Pittsburgh PA 15251-6995	MAINTENANCE OF QUALIFIED TRANSPORTATION EXPENSE PLAN	6100001872	5/5/05 / / Upon Notice	Competitive Bid & 3/3/05	5	N	15,999	52%	48%				202,424
HFA SONYMA AHC	Edward Daniels Group, Inc. # 132 East 43rd St. # 630 New York NY 10017 ++	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003377	9/15/21 To 9/14/24	Critical Contract & 8/23/21	1	N	146,504	50%	50%				211,942
TSFC	Ernst & Young LLP # 200 Plaza Drive Secaucus NJ 07094	AUDIT SERVICES	6100003102	9/16/15 To 9/15/23	Request for Proposals & 3/3/15	6	N	16,700					100%	137,175
SONYMA	Automatic Data Processing, Inc. # 1 ADP Blvd Roseland NJ 07068	PAYROLL SERVICES	6100001973	10/1/05 / / Upon Notice	Single Source & 2/1/94	1	N	26,783		87%	13%			308,963
SONYMA	Ernst & Young LLP # 200 Plaza Drive Secaucus NJ 07094	AUDIT SERVICES	6100003086	9/16/15 To 9/15/23	Request for Proposals & 3/3/15	6	N	159,900		100%				1,324,805
HFA	Automatic Data Processing, Inc. # 1 ADP Blvd Roseland NJ 07068	PAYROLL SERVICES	6100001972	10/1/05 / / Upon Notice	Single Source & 2/1/94	1	N	18,961	66%	21%	13%			172,043
HFA	Ernst & Young LLP # 200 Plaza Drive Secaucus NJ 07094	AUDIT SERVICES	6100003085	9/16/15 To 9/15/23	Request for Proposals & 3/3/15	6	N	222,175	100%					1,780,528
MBBA	Ernst & Young LLP # 200 Plaza Drive Secaucus NJ 07094	AUDIT SERVICES	6100003101	9/16/15 To 9/15/23	Request for Proposals & 3/3/15	6	N	19,200				100%		140,140
Communications/Marketing Services														
SONYMA	Dixon Schwabi Advertising, Inc. # 1595 Moseley Road Victor NY 14564 ++	ADVERTISING CONSULTANT SERVICES	6100003310	6/3/19 To 10/31/24	RFP Prequalified List & 7/13/17	10	N	246,473	20%	80%				1,160,883
Debt Issuance Services														
HFA SONYMA AHC MBBA TSFC	Digital Assurance Certification LLC # 315 E. Robinson St Suite 300 Orlando FL 32801	DISCLOSURE COMPLIANCE AND DISSEMINATION AGENT SERVICES	6100003340	3/17/20 To 3/16/25	Single Source & 12/5/19	1	N	25,000	25%	25%		25%	25%	100,000

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
SONYMA	Caine Mitter & Associates Inc # 225 West 35th Street Suite 900 New York NY 10001	COMPUTATIONAL SERVICES AGREEMENT	6100003367	3/1/21 To 2/29/24	Request for Proposals & 9/23/20	3		N	126,250	12%	88%			280,000
SONYMA	Cfx Incorporated # 55 Broadway Suite 2608 New York NY 10006	COMPUTATIONAL ANALYTIC SERVICES	6100003360	1/1/21 To 12/31/23	Request for Proposals & 9/23/20	3		N	637,500		100%			2,155,000
HFA SONYMA	Bondlink Inc. # PO Box 325 Boston MA 02127	ELECTRONIC PLATFORM FOR SERVICES RELATING TO INVESTOR RELATIONS	6100003298	1/29/19 / / Upon Notice	Single Source	1		N	106,717	60%	40%			509,916
HFA SONYMA	Caine Mitter & Associates Inc # 225 West 35th Street Suite 900 New York NY 10001	FINANCIAL ADVISORY SERVICES	6100003152	12/10/15 To 12/9/23	RFP Prequalified List & 8/17/15	11		N	181,000	100%				817,000
HFA SONYMA	CSG ADVISORS INCORPORATED # 41 Perimeter Center East, Suite 615 Atlanta GA 30346	FINANCIAL ADVISORY SERVICES	6100003123	12/10/15 To 12/9/23	RFP Prequalified List & 8/17/15	11		N	87,500		100%			579,500
HFA SONYMA	ImageMaster LLC # 1182 Oak Valley Drive Ann Arbor MI 48108	FINANCIAL PRINTING	6100003100	9/10/15 To 9/9/23	Request for Proposals & 4/20/15	1		N	16,300	58%	42%			199,016
HFA SONYMA	Mohanly Gargiulo LLC # 230 Park Ave - 3rd Fl New York NY 10169	SWAP ADVISORY SERVICES	6100003125	12/10/15 To 12/9/23	RFP Prequalified List & 8/17/15	11		N	175,500	56%	44%			793,000
HFA	Caine Mitter & Associates Inc # 225 West 35th Street Suite 900 New York NY 10001	COMPUTATIONAL ANALYTIC SERVICES	6100003304	1/1/19 To 12/31/23	Request for Proposals & 9/27/18	4		N	277,500	100%				1,485,227
<b>Facilities &amp; Administrative Services</b>														
HFA SONYMA	CASO Document Management d/b/a # 134 W 29th St, Unit 306-310 New York NY 10001	ELECTRONIC RECORD MANAGEMENT SYSTEM	6100003253	2/28/18 To 2/27/25	Request for Proposals & 10/18/17	9		N	477,053	100%				5,248,032
HFA SONYMA	Deluxe Delivery Systems, Inc. d/b/a # 64 West 48th Street 4th Fl New York NY 10036	OFF SITE STORAGE AND RETRIEVAL ACCESS SERVICES	6100002771	8/1/12 To 7/31/23	Single Source & 1/1/12	2		N	48,552	50%	50%			733,993
<b>Financial Services</b>														
SONYMA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	DEPOSITORY SERVICES	6100003327	12/11/19 / / Upon Notice	Request for Proposals & 7/31/18	3		N	16,060		100%			128,226
HFA SONYMA	Bloomberg, L.P. # 499 Park Ave. New York NY 10022	DATA LICENSE AGREEMENT	6100003371	7/9/21 / / Upon Notice	Single Source	1		N	38,683	50%	50%			50,771
HFA SONYMA	Bloomberg, L.P. # 499 Park Ave. New York NY 10022	ELECTRONIC INFO SERVICES - LEASE OF DATA DISTRIBUTION	6100000173	5/1/03 / / Upon Notice	Sole Source	1		N	3,105	50%	50%			500,334
HFA SONYMA	Hawkins, Delafield, & Wood # 28 Liberty Street -42nd Fl New York NY 10005	ARBITRAGE REBATE CALCULATIONS	6100003061	3/4/15 To 6/9/22	Request for Proposals & 4/9/14	4		N	3,800	100%				435,410

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA	BLX Group LLC # P.O. Box 848066 Los Angeles CA 90084-8066	ARBITRAGE REBATE CALCULATIONS	6100003029	9/9/14 To 6/9/22	Request for Proposals & 4/9/14	4		N	2,350	100%				305,950
HFA	Omnicap Group LLC # 437 Madison Ave- 18th Fl New York NY 10022	ARBITRAGE REBATE CALCULATIONS	6100003057	3/4/15 To 6/9/22	Request for Proposals & 4/9/14	4		N	1,500	100%				221,375
HFA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	DEPOSITORY SERVICES	6100003326	12/11/19 / / Upon Notice	Request for Proposals & 7/31/18	3		N	17,418	100%				32,354
HFA MBBA TSFC	% BLX Group LLC # P.O. Box 848066 Los Angeles CA 90084-8066	ARBITRAGE REBATE SERVICES	4400000031	6/9/22 To 6/8/27	RFP Prequalified List & 1/7/22	3		N	41,450	100%				48,800
HFA MBBA TSFC	% Omnicap Group LLC # 437 Madison Ave- 18th Fl New York NY 10022	ARBITRAGE REBATE SERVICES	4400000030	6/9/22 To 6/8/27	RFP Prequalified List & 1/7/22	3		N	43,050	100%				45,350
HFA SONYMA MBBA TSFC	Hawkins, Delafeld, & Wood # 28 Liberty Street -42nd Fl New York NY 10005	ARBITRAGE REBATE SERVICES	4400000020	6/9/22 To 6/8/27	RFP Prequalified List & 1/7/22	3		N	89,850	99%			1%	93,500
HFA SONYMA MBBA TSFC	Joseph C. Reid, P.A. # 230 Park Avenue, 3rd Fl West New York NY 10169	ARBITRAGE REBATE CALCULATIONS	6100003128	3/4/15 To 6/9/22	Request for Proposals & 4/9/14	4		N	1,200	100%				91,640
MBBA TSFC	Hawkins, Delafeld, & Wood # 28 Liberty Street -42nd Fl New York NY 10005	ARBITRAGE REBATE CALCULATIONS	6100003062	3/4/15 To 6/9/22	Request for Proposals & 4/9/14	4		N	2,600			100%		87,350
<b>Information Technology Services</b>														
HFA SONYMA	TierPoint New York, LLC # P.O. Box 82670 Lincoln NE 68501-2670	DISASTER RECOVERY SERVICES	6100003209	6/1/15 To 2/23/25	Request for Proposals & 7/19/11	5		N	54,909	50%	50%			356,529
HFA SONYMA	Edward Daniels Group, Inc. # 132 East 43rd St. # 630 New York NY 10017	IT TEMPORARY STAFFING CONSULTANT SERVICES	6100003273	8/20/18 To 12/14/23	RFP Prequalified List & 2/3/16	66		N	47,580	100%				26,046,512
HFA SONYMA	Tech Valley Talent, LLC # 1360 Kania road Amsterdam NY 12010	IT TEMPORARY STAFFING CONSULTANT SERVICES	6100003213	6/26/17 To 12/14/24	RFP Prequalified List & 2/3/16	66		N	413,957	50%	50%			8,094,679
HFA SONYMA	Innosoul Inc. # 24 Fairfield Ave Albany NY 12205	IT TEMPORARY STAFFING CONSULTANT SERVICES	6100003342	4/9/20 To 12/14/24	RFP Prequalified List & 2/3/16	66		N	232,000	100%				416,250
HFA	Amazon Web Services, Inc. # PO BOX 84023 Seattle WA 98124-8423	HOSTING SERVICES	6100003177	9/21/16 / / Upon Notice	Request for Proposals & 6/15/15	7		N	1,037,458	44%	56%			3,871,729
HFA	Compiricus, Inc. # 75 State Street, Suite 100 Boston MA 02109	Software Services	6100003363	6/23/21 / / Upon Notice	Critical Contract & 4/29/21	1		N	273,159	100%				400,209
HFA	Prolink Solutions, Inc. # 98 Inverness Drive East Englewood CO 80112	HOSTED TECHLOGY SERVICES	6100003380	8/8/21 To 12/12/28	Request for Proposals & 6/15/21	7		N	414,435	100%				816,800

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA	SecureWorks, Inc. # One Concourse Pkwy Ste 500 Atlanta GA 30328-5346	SECURITY CONSULTING SERVICES	6100003357	1/14/21 To 1/13/24	Critical Contract & 11/13/20	1	N	269,375	50%	50%				845,979
HFA +	Sierra Digital Inc. # 6001 Savoy Dr. Houston TX 77036	Implementation and Application Management Services	6100003350	10/20/20 To 10/19/23	Request for Proposals & 6/15/20	8	N	3,868,864	100%					11,998,251
<b>Insurance Services</b>														
HFA SONYMA +	E.G. Bowman Co., Inc. # 97 Wall Street New York NY 10005	INSURANCE BROKERAGE SERVICES	6100003036	5/3/14 To 5/2/24	Request for Proposals & 3/13/14	6	N	896,797	50%	50%				4,271,011
HFA	Insurance Advisors LLC # 1200 High Ridge Road, Suite 211 Stamford CT 06905	INSURANCE CONSULTING SERVICES	6100003336	9/8/19 To 9/7/24	RFP Prequalified List & 5/2/19	2	N	28,550	100%					74,050
<b>Legal – Bond Counsel Services</b>														
SONYMA	Hawkins, Delafield, & Wood # 28 Liberty Street -42nd Fl New York NY 10005	BOND COUNSEL	6100003390	4/1/22 To 3/31/27	RFP Prequalified List & 1/11/21	18	N	558,860		100%				715,522
HFA SONYMA +	McGlashan Law Firm, P.C. # "733 3rd Avenue, suite 1512" New York NY 10017	CO-BOND COUNSEL SERVICES	6100003133	1/29/16 To 6/17/23	RFP Prequalified List & 12/15/15	28	N	100,000	100%					558,006
HFA SONYMA ++	Pearlman & Miranda LLC # 101 Edison Place, Suite 301 Newark NJ 07102	CO-BOND COUNSEL	4400000071	6/1/22 To 3/31/27	RFP Prequalified List & 1/11/21	18	N	249,040	46%	54%				249,040
HFA	Barclay Damon, LLP # 80 State Street Albany NY 12207	BOND COUNSEL	6100003392	4/1/22 To 3/31/27	RFP Prequalified List & 1/11/21	18	N	362,739	100%					362,739
HFA	Barclay Damon, LLP # 80 State Street Albany NY 12207	BOND COUNSEL SERVICES	6100003084	6/1/15 To 3/31/22	RFP Prequalified List & 4/16/13	28	N	167,670	100%					1,898,660
HFA	Hawkins, Delafield, & Wood # 28 Liberty Street -42nd Fl New York NY 10005	BOND COUNSEL	6100003389	4/1/22 To 3/31/27	RFP Prequalified List & 1/11/21	18	N	1,047,951	100%					1,047,951
HFA	Nixon Peabody, LLP # 437 Madison Avenue New York NY 10022	BOND COUNSEL	6100003391	4/1/22 To 3/31/27	RFP Prequalified List & 1/11/21	18	N	37,793	100%					37,793
HFA	Nixon Peabody, LLP # 437 Madison Avenue New York NY 10022	BOND COUNSEL SERVICES	6100003013	1/29/14 To 1/28/22	RFP Prequalified List & 4/16/13	28	N	8,405	100%					1,218,169
<b>Legal – Other Outside Counsel Services</b>														
HFA SONYMA AHC ++	Hoguet Newman Regal & Kerney, LLP # One Grand Central Pl - 60 East 42nd St. New York NY 10165	NON-BOND COUNSEL SERVICES	6100003028	1/29/13 To 12/31/23	RFP Prequalified List & 8/24/12	36	N	16,298	100%					180,092
HFA SONYMA	Holland & Knight LLP # 31 West 52nd Street New York NY 10019	NON-BOND COUNSEL SERVICES	6100002906	1/29/13 To 12/31/23	RFP Prequalified List & 8/24/12	36	N	270,000	100%					753,216

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA SONYMA	Venable LLP # 1270 Avenue of the Americas New York NY 10020	NON-BOND COUNSEL SERVICES	6100002976	12/20/13 To 12/31/23	RFP Prequalified List & 8/24/12	36	N	156,047	73%	27%				1,880,072
HFA SONYMA	Schoeman Updike Kaufman Gerber LLP # 551 Fifth Ave New York NY 10176  ++ AA	NON-BOND COUNSEL SERVICES	6100003312	11/1/18 To 12/31/23	RFP Prequalified List & 7/10/13	36	N	7,452	50%	50%				314,683
<b>Legal – Research, Library Services</b>														
HFA	CQ Roll Call # 1255 22nd St NW Washington DC 20037	ELECTRONIC LICENSES FOR FEDERAL LEGISLATIVE TRACKING	4400000072	4/1/23 To 3/31/25	Single Source	2	N	14,750	50%	50%				29,500
<b>MIF Services</b>														
SONYMA	Enact Financial Services, Inc. # P.O. Box 277231 Atlanta GA 30384-7231	ADMINISTRATIVE & UNDERWRITING SERVICES	6100002415	2/1/05 To 12/31/24	Request for Proposals & 6/16/04	1	N	68,275		100%				824,513
<b>Non Procurement Services</b>														
HFA SONYMA AHC	Guardian Life Insurance Company of # 7 Hanover Square New York NY 10004	DENTAL AND LONG-TERM DISABILITY INSURANCE SERVICES	6100003260	6/1/18 To 5/31/24	Competitive Bid	1	N	1,050,513	48%	52%				4,951,886
SONYMA	Guardian Life Insurance Company of # 7 Hanover Square New York NY 10004	EMPLOYEE HEALTH INSURANCE - SONYMA	6100001961	11/1/04 // Upon Notice	Board Resolution	1	N	2,655		100%				47,250,024
SONYMA	State Of New York # P.O. Box 645481 Cincinnati OH 45264-5481	EMPLOYEE HEALTH INSURANCE - SONYMA	6100001961	11/1/04 // Upon Notice	Board Resolution	1	N	4,773,368	7%	93%				46,575,886
HFA SONYMA	First Lexington Corp. c/o Rudin Manageme # 345 Park Avenue New York NY 10154-0101	*RENEWAL OF LEASE FOR 641 LEXINGTON AVENUE, NY, NY"	6100003297	12/6/18 To 7/31/40	Board Resolution	1	N	5,986,457	50%	50%				21,846,955
HFA	ISKALO DEVELOPMENT CORP. # 5166 Main Street Williamsville NY 14221	*OFFICE LEASE FOR 535 WASHINGTON ST, BUFFALO, NY"	6100002438	5/11/09 To 10/31/24	Board Resolution	1	N	34,253	99%	1%				424,708
HFA	Natural Heritage Trust # PO Box 189 Waterford NY 12188	PROJECT HISTORIC RESOURCES REVIEW	6100003144	4/1/16 To 3/31/24	Sole Source	1	N	20,764	100%					133,246
HFA	Barbara D. Brenner # 2 Brookdale Lane Chappaqua NY 10514	CONSULTANT LEGAL SERVICES	4400000070	12/19/22 To 10/31/23	Single Source	1	N	55,877	98%	2%				55,877
HFA	State Of New York # P.O. Box 645481 Cincinnati OH 45264-5481	EMPLOYEE HEALTH INSURANCE- HFA	6100001960	11/1/04 // Upon Notice	Board Resolution	1	N	3,928,213	92%	8%				43,348,212
<b>Other Services</b>														
HFA SONYMA AHC	22nd Century Technologies, Inc. # 8251 Greensboro Drive Suite 900 Mclean VA 22102	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003381	10/18/21 To 7/13/25	RFP Prequalified List & 3/4/16	21	N	124,129	67%	33%				399,617
HFA SONYMA AHC	ADO Professional Solutions, Inc. # LOCKBOX: Dept CH 14031 Palatine IL 60055-4031	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003388	3/28/22 To 7/13/23	RFP Prequalified List & 3/4/16	21	N	149,577	8%	92%				224,320

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA SONYMA AHC	Diamond Personnel LLC # 225W 34th St, Suite 403 New York NY 10122	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003292	10/22/18 To 7/13/23	RFP Prequalified List & 3/4/16	21	N	20,088	50%	50%				112,816
HFA SONYMA AHC	Tandym Group Holdings, LLC # 675 Third Ave, 5th FL New York NY 10017	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003314	7/10/19 To 7/13/25	Request for Proposals & 3/4/16	21	N	149,893	98%	2%				627,352
HFA SONYMA AHC	Penda Aiken, Inc. # 330 Livingston Street, 2nd Floor Brooklyn NY 11217	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003173	12/31/16 To 7/13/25	RFP Prequalified List & 3/4/16	21	N	115,635	52%	48%				483,604
HFA SONYMA AHC	LanceSoft Inc. # 2121 Cooperative Way, Suite 130 Herndon VA 20171	PROFESSIONAL TEMPORARY STAFFING CONSULTANT SERVICES	6100003293	10/15/18 To 7/13/25	RFP Prequalified List & 3/4/16	21	N	144,690	59%	41%				345,659
HFA	Global Background Screening, Inc # 20900 NE 30 Avenue, Ste 843 Aventura FL 33180	BACKGROUND SCREENING & REPORT SERVICES	6100003384	3/2/22 To 3/1/25	Request for Bids & 9/17/21	2	N	8,930	50%	50%				14,884
HFA	Peter Thomas Madden # 189 Schermerhorn Street #5M Brooklyn NY 11201	CONSULTANT SERVICES	6100003387	3/28/22 To 3/27/23	Single Source & 3/3/22	1	N	10,313	100%					13,350
HFA	Peter Thomas Madden # 189 Schermerhorn Street #5M Brooklyn NY 11201	CONSULTANT SERVICES relating to Broadband Expansion Services	4400000040	10/19/22 To 10/18/23	Single Source & 10/5/22	1	N	4,875	100%					4,875
HFA	AXI Systems, Inc. # "Broadway, 23rd Floor" New York NY 10006	MWBE/SDVOB GOAL SETTING SOFTWARE	6100003386	3/31/22 To 3/30/25	Discretionary Spend & 10/28/21	6	N	175,000	100%					319,000
<b>Single Family Services</b>														
SONYMA	Conduent Mortgage Services, Inc. # 101 Yorkshire Boulevard Lexington KY 40509	IMAGING SERVICES	6100003228	3/1/17 / / Upon Notice	Single Source & 5/13/11	1	N	93,462		100%				515,723
SONYMA	Hsin-Hua Alice Chen # 13205 Valley Drive Rockville MD 20850	IT CONSULTANT SERVICES FOR SONYMA EXPRESS	6100003089	10/12/15 To 5/11/24	Sole Source	1	N	160,000		100%				1,196,201
SONYMA	Emphasys Software # PO Box 7247-6503 Philadelphia PA 19170-0001	SOFTWARE AGREEMENT	6100003351	10/14/20 To 10/13/25	Single Source & 3/10/20	1	N	208,250		100%				298,360
<b>Trustee Services</b>														
TSFC	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100001426	5/29/03 / / Upon Notice	Request for Proposals	1	N	3,000					100%	340,892
SONYMA	Bank Of New York Mellon # 101 Barclay Street Floor 7W New York NY 10286	CUSTODY SERVICES	6100002050	6/1/99 / / Upon Notice	Request for Proposals	1	N	8,500		100%				203,205
SONYMA	Bank Of New York Mellon # 101 Barclay Street Floor 7W New York NY 10286	TRUSTEE	6100001883	10/15/97 / / Upon Notice	Request for Proposals	1	N	202,100	1%	99%				4,449,186



Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
SONYMA	Bank Of New York Mellon # 101 Barclay Street Floor 7W New York NY 10286	TRUSTEE SERVICES	6100003355	3/3/21 // Upon Notice	RFP Prequalified List & 7/31/18	1	N	19,250		100%				65,000
SONYMA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100002940	10/30/09 // Upon Notice	Request for Proposals	6	N	1,700		100%				14,300
SONYMA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE	6100002948	9/27/11 // Upon Notice	Request for Proposals	1	N	4,157		100%				136,307
HFA	Bank Of New York Mellon # 101 Barclay Street Floor 7W New York NY 10286	TRUSTEE SERVICES	6100003275	7/21/17 // Upon Notice	Request for Proposals	4	N	23,500	100%					33,500
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003011	10/7/14 // Upon Notice	Request for Proposals	2	N	6,000	100%					67,033
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003066	6/5/15 // Upon Notice	Request for Proposals & 5/1/15	2	N	8,000	100%					104,017
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003067	6/5/15 // Upon Notice	Request for Proposals & 5/8/15	2	N	2,000	100%					23,500
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003070	6/11/13 // Upon Notice	Request for Proposals	3	N	1,200	100%					10,800
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003087	10/28/15 // Upon Notice	Request for Proposals & 10/8/15	3	N	6,000	100%					37,055
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003160	12/9/16 // Upon Notice	Request for Proposals & 10/7/16	2	N	33,000	100%					233,636
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100001403	4/5/04 // Upon Notice	Request for Proposals	1	N	80	100%					6,537
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100001428	12/29/03 // Upon Notice	Request for Proposals	1	N	4,000	100%					41,904
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100001429	5/14/04 // Upon Notice	Request for Proposals	1	N	80	100%					21,577
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100001453	12/29/03 // Upon Notice	Request for Proposals	1	N	2,000	100%					43,581
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100001455	11/29/04 // Upon Notice	Request for Proposals	1	N	40	100%					7,497
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002086	9/29/06 // Upon Notice	Request for Proposals	3	N	80	100%					4,787

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002087	9/5/06 // Upon Notice	Request for Proposals	5	N	80	100%					4,826
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002238	10/14/07 // Upon Notice	Request for Proposals	3	N	18,000	100%					41,250
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002273	6/8/08 // Upon Notice	Request for Proposals	3	N	8,000	100%					45,080
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002507	9/1/91 // Upon Notice	Request for Proposals	1	N	11,580	100%					16,424
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002550	12/4/97 // Upon Notice	Request for Proposals	1	N	750	100%					1,270
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002625	6/1/11 // Upon Notice	Request for Proposals	4	N	750	100%					9,250
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002726	3/22/12 // Upon Notice	Request for Proposals & 3/22/12	3	N	6,000	100%					74,500
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002797	10/11/12 // Upon Notice	Request for Proposals & 10/11/12	2	N	9,080	100%					108,310
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002898	9/13/13 // Upon Notice	Request for Proposals	3	N	3,000	100%					50,500
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002918	12/5/13 // Upon Notice	Request for Proposals	3	N	3,000	100%					29,400
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002919	12/5/13 // Upon Notice	Request for Proposals	3	N	9,500	100%					68,500
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002983	5/14/14 // Upon Notice	Request for Proposals & 5/14/14	3	N	5,750	100%					41,500
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003015	10/10/14 // Upon Notice	Request for Proposals & 10/10/14	3	N	11,500	100%					103,500
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003042	11/25/14 // Upon Notice	Request for Proposals & 11/19/14	1	N	24,000	100%					218,535
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003065	5/22/15 // Upon Notice	Request for Proposals & 4/30/15	1	N	7,975	100%					117,295
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003071	7/7/15 // Upon Notice	Request for Proposals & 6/19/15	2	N	1,540	100%					24,840

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003081	9/23/15 // Upon Notice	Request for Proposals & 9/11/15	1	N	15,000	100%					140,000
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003095	10/28/15 // Upon Notice	Request for Proposals & 10/8/15	2	N	1,500	100%					36,100
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003138	7/28/16 // Upon Notice	Request for Proposals & 7/15/16	2	N	6,120	100%					35,900
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003172	10/12/16 // Upon Notice	Request for Proposals & 10/7/16	3	N	4,000	100%					36,500
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003207	4/21/17 // Upon Notice	Request for Proposals	1	N	124,425	100%					449,470
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE SERVICES	6100003284	7/21/17 // Upon Notice	Request for Proposals	4	N	4,000	100%					22,000
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE SERVICES	6100003285	7/21/17 // Upon Notice	Request for Proposals	4	N	2,000	100%					10,000
HFA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE SERVICES	6100002769	6/26/12 // Upon Notice	Request for Proposals	4	N	6,000	100%					6,000
HFA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE	6100002865	6/30/13 // Upon Notice	Request for Proposals	3	N	3,250	100%					27,250
HFA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE	6100002933	8/23/13 // Upon Notice	Request for Proposals	1	N	6,000	100%					33,705
HFA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE	6100003250	1/25/18 // Upon Notice	Request for Proposals & 1/19/18	2	N	5,750	100%					22,750
HFA	Wells Fargo Bank, NA # "One Boston Place, 18th Fl" Boston MA 02108	TRUSTEE	6100002400	3/24/09 // Upon Notice	Request for Proposals & 12/11/08	5	N	8,750	100%					35,500
MBBA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003090	3/12/09 // Upon Notice	Request for Proposals & 12/11/08	1	N	1,000				100%		8,000
MBBA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100002579	12/16/10 // Upon Notice	Request for Proposals	5	N	12,040				100%		68,734
HFA MBBA TSFC	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE SERVICES	6100003356	12/2/20 // Upon Notice	RFP Prequalified List & 7/31/18	5	N	30,750	100%					208,400

Agency(s)	Vendor Name and Address	Scope of Services	Contract Number	Contract Dates	Method Of Selection & Date	Bids	NYS	Amount Paid	Allocation of Payment For The Period Of: 11/1/2022 - 10/31/2023					Life of Contract Amount Paid
									HFA	SONYMA	AHC	MBBA	TSFC	
HFA MBBA TSFC	U.S. Bank National Association # 100 Wal Street- Suite 1600 New York NY 10005	TRUSTEE SERVICES	6100003352	4/1/20 / / Upon Notice	RFP Prequalified List & 7/31/18	5	N	19,500	100%					66,750
HFA SONYMA MBBA TSFC	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE SERVICES	6100003359	3/25/21 / / Upon Notice	RFP Prequalified List & 7/31/18	5	N	12,000	100%					34,500
% Subcontracting with a MBE and/or % Subcontracting with a WBE %% Subcontracting with an SDVOB + Minority-Owned Business Enterprise ++ Women-Owned Business Enterprise ^ Service Disabled Veteran Owned Business ^^ Small Business Enterprise NYD indicates Not Yet Determined. Unavailable data at this time as Agencies are in the process of updating their files.														

New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of  
New York Municipal Bond Bank Agency, Tobacco Settlement Financing Corporation

Run Date: 01/11

END NOTE For Procurement Contract For:11/1/2022 - 10/31/2023

Agency	Vendor Name and Address	Scope of Services	Contract Number	Contract Date	END NOTE
SONYMA	Automatic Data Processing, Inc. # 1 ADP Blvd Roseland NJ 07068	PAYROLL SERVICES	6100001973	10/1/05 // Upon Notice	AGENCY SINGLE SOURCE CONTRACT DETERMINATION MADE ON 2/26/2014.
SONYMA	Bank Of New York Mellon # 101 Barclay Street Floor 7W New York NY 10286	TRUSTEE	6100001883	10/15/97 // Upon Notice	CONTRACT # 1883 AND CONTRACT # 2144 ARE ONE AND THE SAME CONTRACT.
SONYMA	Conduent Mortgage Services, Inc. # 101 Yorkshire Boulevard Lexington KY 40509	IMAGING SERVICES	6100003228	3/1/17 // Upon Notice	"DUE TO LEGAL NAME CHANGE FROM XEROX MORTGAGE SERVICES, INC., CONTRACT #2795 AND THIS CONTRACT ARE THE SAME CONTRACT."
SONYMA	Guardian Life Insurance Company of # 7 Hanover Square New York NY 10004	EMPLOYEE HEALTH INSURANCE -SONYMA	6100001961	11/1/04 // Upon Notice	Fringe benefit allocations across all Agencies based on SONYMA payroll allocations.
SONYMA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100002940	10/30/09 // Upon Notice	# 2940 ARE THE SAME CONTRACT.
SONYMA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100002940	10/30/09 // Upon Notice	DUE TO NAME CHANGE FROM M & T BANK TO MANUFACTURERS & TRADERS TRUST COMPANY D/B/A WILMINGTON TRUST ; CONRACT # 2588 AND CONTRACT# 2940 ARE THE SAME CONTRACT.
SONYMA	State Of New York # P.O. Box 645481 Cincinnati OH 45264-5481	EMPLOYEE HEALTH INSURANCE -SONYMA	6100001961	11/1/04 // Upon Notice	Fringe benefit allocations across all Agencies based on SONYMA payroll allocations.
SONYMA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE	6100002948	9/27/11 // Upon Notice	"CONTRACT # 2948 -FORMERLY CONTRACT #1912 (HSBC) , U.S. BANK IS SUCESSOR TRUSTEE AND ACQUIRED ACCOUNTS FROM HSBC."
HFA SONYMA	Hawkins, Delafield, & Wood # 28 Liberty Street -42nd Fl New York NY 10005	ARBITRAGE REBATE CALCULATIONS	6100003061	3/4/15 To 6/9/22	"HAWKINS IS PARTNERING WITH THE LAW OFFICES OF JOSEPH C. REID, AN MBE FOR LEGAL SERVICES UNDER CONTRACT #3128."
HFA SONYMA	TierPoint New York, LLC # P.O. Box 82670 Lincoln NE 68501-2670	DISASTER RECOVERY SERVICES	6100003209	6/1/15 To 2/23/25	"DUE TO NAME CHANGE FROM XAND CORPORATION, THIS CONTRACT AND CONTRACT . 2727 ARE THE SAME CONTRACT."
HFA	Automatic Data Processing, Inc. # 1 ADP Blvd Roseland NJ 07068	PAYROLL SERVICES	6100001972	10/1/05 // Upon Notice	AGENCY SINGLE SOURCE CONTRACT DETERMINATION MADE ON 2/26/2014.
HFA	Barclay Damon, LLP # 80 State Street Albany NY 12207	BOND COUNSEL SERVICES	6100003084	6/1/15 To 3/31/22	DUE TO NAME CHANGE FROM HISCOCK & BARCLAY LLP TO BARCLAY & DAMON LLP; CONTRACT 3012 AND CONTRACT 3084 ARE THE SAME CONTRACT.
HFA	BLX Group LLC # P.O. Box 848066 Los Angeles CA 90084-8066	ARBITRAGE REBATE CALCULATIONS	6100003029	9/9/14 To 6/9/22	AGENCY HAS RECEIVED AN WAIVER OF MWBE PARTICIPATION FOR ARBITRAGE REBATE CALCULATIONS FROM THE CHAMBER. BLX IS SUBCONTRACTINGWITH BRYANT RABBI FOR LEGAL SERVICES.
HFA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003070	6/11/13 // Upon Notice	# 3070 ARE THE SAME CONTRACT.
HFA	Omnicap Group LLC # 437 Madison Ave- 18th Fl New York NY 10022	ARBITRAGE REBATE CALCULATIONS	6100003057	3/4/15 To 6/9/22	AGENCY HAS RECEIVED AN WAIVER OF MWBE PARTICIPATION FOR ARBITRAGE REBATE CALCULATIONS FROM THE CHAMBER. OMNICAP IS SUBCONTRACTINGWITH HARDWICK LAW FIRM FOR LEGAL SERVICES.
HFA	The Bank Of New York Mellon # 111 Sanders Creek Parkway East Syracuse NY 13057	TRUSTEE	6100003207	4/21/17 // Upon Notice	THIS TRUSTEE SERVICES CONTRACT WAS FOR AN AFFORDABLE DEAL AND DID NOT UNDERGO A COMPETITIVE PROCESS.

Agency	Vendor Name and Address	Scope of Services	Contract Number	Contract Date	END NOTE
HFA	U.S. Bank National Association # 100 Wall Street- Suite 1600 New York NY 10005	TRUSTEE	6100002933	8/23/13 / / Upon Notice	CONTRACT #1420 AND CONTRACT # 2933 ARE THE SAME CONTRACT. US BANK NATIONAL IS SUCCESSOR TRUSTEE.
MBBA	Manufacturers & Traders Trust Company # P. O. Box 22900 Rochester NY 14692-2900	TRUSTEE	6100003090	3/12/09 / / Upon Notice	DUE TO NAME CHANGE FROM M & T BANK TO MANUFACTURERS & TRADERS TRUST COMPANY D/B/A WILMINGTON TRUST ; CONTRACT # 2459 AND CONTRACT# 3090 ARE THE SAME CONTRACT.
HFA MBBA TSFC	BLX Group LLC # P.O. Box 848066 Los Angeles CA 90084-8066	ARBITRAGE REBATE SERVICES	4400000031	6/9/22 To 6/8/27	SUBCONTRACTING WITH BRYANT RABBINO LLP.
HFA MBBA TSFC	Omnicap Group LLC # 437 Madison Ave- 18th Fl New York NY 10022	ARBITRAGE REBATE SERVICES	4400000030	6/9/22 To 6/8/27	SUBCONTRACTING WITH THE HARDWICK LAW FIRM LLC.



New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency, Tobacco Settlement Financing Corporation

Report: Procurement Purchase Order Report

Procurement Purchase Order

Page 1

( 11/1/2022 - 10/31/2023 )

Run Date: 0'

Agency	Vendor	Subject Matter	Method of Selection	NYS	Desig	Goods/Services	Current Payment	HFA	SONYMA	AHC	MBBA	TSFC	Payments to Date
HFA SONYMA	136 East 55th Street Garage LLC 545 Fifth Avenue Suite 600 New York NY 10017	AUTO EXPENSES	Single Source	NYD	Exempt	G	12,408	50%	50%				12,408
HFA SONYMA	136 East 55th Street Garage LLC 545 Fifth Avenue Suite 600 New York NY 10017	AUTO EXPENSES	Single Source	NYD	Exempt	G	1,034	50%	50%				1,034
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	Other	NYD	Exempt	G	840	50%	50%				840
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	Competitive Bid	NYD	Exempt	G	2,460	50%	50%				2,460
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	State Contract	NYD	Exempt	G	38,266	50%	50%				38,266
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	Single Source	NYD	Exempt	G	905	50%	50%				905
HFA SONYMA	Bishop House Consulting, Inc. P.O. Box 489 Burnt Hills NY 12027	EDUCATION-AGENCY DIRECT	Other	NYD	Exempt	G	14,952	50%	50%				14,952
HFA SONYMA	Carahsoft Technology Corporation 11493 Sunset Hills Road, Suite 100 Reston VA 20190	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	Exempt	G	11	46%	46%				11
HFA SONYMA	Carahsoft Technology Corporation 11493 Sunset Hills Road, Suite 100 Reston VA 20190	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	Exempt	S	16,007	50%	50%				16,007
HFA SONYMA	Carahsoft Technology Corporation 11493 Sunset Hills Road, Suite 100 Reston VA 20190	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	MWBE	S	48,022	50%	50%				48,022
HFA SONYMA	CDW Government Inc. 75 Remittance Drive, Suite 1515 Chicago IL 60675-1515	INFO TECHNOLOGY-ACQUISITION	Other	NYD	Exempt	G	2,093	50%	50%				2,093
HFA SONYMA	CDW Government Inc. 75 Remittance Drive, Suite 1515 Chicago IL 60675-1515	INFO TECHNOLOGY-ACQUISITION	Competitive Bid	NYD	Exempt	S	1,282	50%	50%				1,282
HFA SONYMA	CDW Government Inc. 75 Remittance Drive, Suite 1515 Chicago IL 60675-1515	INFO TECHNOLOGY-ACQUISITION	State Contract	NYD	Exempt	G	24,383	50%	50%				24,383
HFA	Cellico Partnership P.O. Box 408 Newark NJ 07101-0408	COMMUNICATIONS	State Contract	NYD	Exempt	S	54,217	50%	50%				54,217
HFA SONYMA	Cellico Partnership P.O. Box 408 Newark NJ 07101-0408	COMMUNICATIONS	State Contract	NYD	Exempt	G	4,966	50%	50%				4,966

Agency	Vendor	Subject Matter	Method of Selection	NYS	Desig	Goods/Services	Current Payment	HFA	SONYMA	AHC	MBBA	TSFC	Payments to Date
HFA SONYMA	Central Security Integration Solutions 345 Park Avenue Level B New York NY 10154	CLEANING & MAINTENANCE	Single Source	NYD	Exempt	G	9,002	50%	50%				9,002
HFA SONYMA	Citizens Housing & Planning 42 Broadway, Suite 2010 New York NY 10004	SPONSORSHIP FEES	Other	NYD	Exempt	G	5,000	50%	50%				5,000
HFA SONYMA	Compulink Technologies, Inc. 260 West 39th Street, Suite 302 New York NY 10018	+ INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	MWBE	G	56,007	50%	50%				56,007
SONYMA	Conduent Mortgage Services, Inc. 101 Yorkshire Boulevard Lexington KY 40509	MISC FINANCING EXPENSES	Other	NYD	Excluded	S	46,510		100%				46,510
HFA SONYMA	De Lage Landen Financial Services, Inc PO Box 41602 Philadelphia PA 19101-1602	RENTAL OF OFFICE EQUIPMENT	State Contract	NYD	Exempt	G	11,690	50%	50%				11,690
HFA SONYMA	De Lage Landen Financial Services, Inc PO Box 41602 Philadelphia PA 19101-1602	RENTAL OF OFFICE EQUIPMENT	State Contract	NYD	Exempt	S	64,781	50%	50%				64,781
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	G	146,994	50%	50%				146,994
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	S	313,038	50%	50%				313,038
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY-ACQUISITION	Competitive Bid	NYD	Exempt	G	8,719	50%	50%				8,719
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY-ACQUISITION	State Contract	NYD	Exempt	G	113,948	50%	50%				113,948
HFA SONYMA	Derive Technologies, LLC 40 Wall Street, 20th Floor New York NY 10005	+ INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	MWBE	G	34,142	50%	50%				34,142
HFA SONYMA	EasyVista, Inc. 3 Columbus Circle, Suite 1532 New York NY 10019	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	S	11,525	50%	50%				11,525
HFA SONYMA	EasyVista, Inc. 3 Columbus Circle, Suite 1532 New York NY 10019	INFO TECHNOLOGY-ACQUISITION	State Contract	NYD	Exempt	G	510	50%	50%				510
HFA	EMC Corporation 176 South Street Hopkinton MA 01748	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	G	38,644	100%					38,644
HFA SONYMA	EMC Corporation 176 South Street Hopkinton MA 01748	INFO TECHNOLOGY- MAINTENANCE	Other	NYD	Exempt	G	5,323	50%	50%				5,323
HFA SONYMA	Escal Institute of Advanced Technologies P.O. Box 419108 Boston MA 02241-9108	EDUCATION-AGENCY DIRECT	Other	NYD	Exempt	G	8,305	50%	50%				8,305
HFA	Federal Express Corp. P.O. Box 371461 Pittsburgh PA 15250-7461	COURIER SERVICES	State Contract	NYD	Exempt	G	12,522	52%	48%				12,522
HFA SONYMA	Federal Express Corp. P.O. Box 371461 Pittsburgh PA 15250-7461	COURIER SERVICES	State Contract	NYD	Exempt	S	2,277	50%	50%				2,277



Agency	Vendor	Subject Matter	Method of Selection	NYS	Desig	Goods/Services	Current Payment	HFA	SONYMA	AHC	MBBA	TSFC	Payments to Date
HFA SONYMA	Federal Express Corp. P.O. Box 371461 Pittsburgh PA 15250-7461	POSTAGE	State Contract	NYD	Exempt	G	522	50%	50%				522
HFA	Fund for the City of New York, Inc. P.O. Box 20094 PABT New York NY 10018	TRAVEL-CONF & SEMINARS	Other	NYD	Exempt	G	8,500	79%	21%				8,500
HFA SONYMA	Gartner, Inc. "291 Broadway, 9th Floor" New York NY 10007	INFO TECHNOLOGY-ACQUISITION	Competitive Bid	NYD	Excluded	S	42,301	50%	50%				42,301
HFA SONYMA	HOSELTON CHEVROLET INC. 909 Fairport Road East Rochester NY 14445	AUTO EXPENSES	Competitive Bid	NYD	Exempt	G	2,270	50%	50%				2,270
HFA SONYMA	HOSELTON CHEVROLET INC. 909 Fairport Road East Rochester NY 14445	AUTO EXPENSES	State Contract	NYD	Exempt	G	10,215	50%	50%				10,215
HFA	Housing Trust Fund Corp Hampton Plaza 38-40 State St Albany NY 12207	MARKETING FEES	Other	NYD	Exempt	S	8,284	100%					8,284
HFA SONYMA	Housing Trust Fund Corp Hampton Plaza 38-40 State St Albany NY 12207	MISCELLANEOUS-PERSONNEL	Other	NYD	Exempt	S	706	50%	50%				706
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Other	NYD	Exempt	G	2,075	50%	50%				2,075
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Other	NYD	Exempt	S	11,970	50%	50%				11,970
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Competitive Bid	NYD	Exempt	G	8,623	50%	50%				8,623
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Competitive Bid	NYD	Exempt	S	2,060	50%	50%				2,060
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Single Source	NYD	Exempt	S	4,767	50%	50%				4,767
SONYMA	JP Morgan Chase Bank P.O. Box 4475 Carol Stream IL 60197-4475	FEES & EXP - TRUSTEE	Sole Source	NYD	Exempt	S	46,312	44%	56%				46,312
SONYMA	Long Island Housing Partnership, Inc "Harriman Hall, SUNY Harriman Hall, S.u.n.y." Stony Brook NY 11794	SPONSORSHIP FEES	Single Source	NYD	Exempt	S	5,000		100%				5,000
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	OFFICE SUPPLIES	Single Source	NYD	Exempt	G	209	50%	50%				209
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	INFO TECHNOLOGY-ACQUISITION	Competitive Bid	NYD	Exempt	G	234	50%	50%				234
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	CLEANING & MAINTENANCE	Other	NYD	Exempt	G	30	50%	50%				30
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	CLEANING & MAINTENANCE	Competitive Bid	NYD	Exempt	G	92	50%	50%				92

Agency	Vendor	Subject Matter	Method of Selection	NYS	Desig	Goods/Services	Current Payment	HFA	SONYMA	AHC	MBBA	TSFC	Payments to Date
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	FURNITURE AND FIXTURES	Other	NYD	Exempt	G	940	50%	50%				940
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	KITCHEN EXPENSES	Other	NYD	Exempt	G	2,413	50%	50%				2,413
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	KITCHEN EXPENSES	Single Source	NYD	Exempt	G	186	50%	50%				186
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	PURCHASE OF OFFICE EQUIPMENT	Competitive Bid	NYD	Exempt	G	1,990	50%	50%				1,990
SONYMA	MICRO FOCUS (US), INC. 700 King Farm Boulevard, Suite 125 Rockville MD 20850	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	Exempt	S	4,273		100%				4,273
SONYMA	MICRO FOCUS (US), INC. 700 King Farm Boulevard, Suite 125 Rockville MD 20850	INFO TECHNOLOGY- MAINTENANCE	Single Source	NYD	Exempt	G	8,328		100%				8,328
HFA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	TRAVEL-CONF & SEMINARS	Single Source	NYD	Exempt	G	1,875	100%					1,875
HFA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	MEMBERSHIP FEES	Sole Source	NYD	Exempt	G	35,529	100%					35,529
HFA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	TRAVEL-OUT-OF-STATE C&S	Other	NYD	Exempt	G	4,275	82%	18%				4,275
HFA SONYMA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	TRAVEL-OUT-OF-STATE C&S	Sole Source	NYD	Exempt	G	250	50%	50%				250
SONYMA	Neighborhood Housing Services of 60-20 Woodside Avenue - Lower Level Woodside NY 11377	SPONSORSHIP FEES	Single Source	NYD	Exempt	S	5,000		100%				5,000
HFA SONYMA	New York Housing Conference "247 West 37th Street, 4th Fl" New York NY 10018	SPONSORSHIP FEES	Competitive Bid	NYD	Exempt	G	8,000	50%	50%				8,000
HFA	Pitney Bowes, Inc. 430 New Karner Road Albany NY 12205	OFFICE SUPPLIES	State Contract	NYD	Exempt	G	802	100%					802
HFA	Pitney Bowes, Inc. 430 New Karner Road Albany NY 12205	RENTAL OF OFFICE EQUIPMENT	State Contract	NYD	Exempt	G	774	57%	43%				774
HFA	Pitney Bowes, Inc. 430 New Karner Road Albany NY 12205	RENTAL OF OFFICE EQUIPMENT	State Contract	NYD	Exempt	S	54	100%					54
HFA	Pitney Bowes, Inc. 430 New Karner Road Albany NY 12205	RENTAL OF OFFICE EQUIPMENT	Single Source	NYD	Exempt	G	276	60%	40%				276
HFA SONYMA	Pitney Bowes, Inc. 430 New Karner Road Albany NY 12205	POSTAGE	State Contract	NYD	Exempt	G	21,583	50%	50%				21,583
HFA SONYMA	Pitney Bowes, Inc. 430 New Karner Road Albany NY 12205	POSTAGE	Single Source	NYD	Exempt	G	10,000	50%	50%				10,000

Agency	Vendor	Subject Matter	Method of Selection	NYS	Desig	Goods/Services	Current Payment	HFA	SONYMA	AHC	MBBA	TSFC	Payments to Date
HFA SONYMA	P.J. Mechanical Service & Maintenance 551 5th Ave, 9th Fl New York NY 10176	CLEANING & MAINTENANCE	Single Source	NYD	Exempt	G	17,745	50%	50%				17,745
HFA SONYMA	P.J. Mechanical Service & Maintenance 551 5th Ave, 9th Fl New York NY 10176	CLEANING & MAINTENANCE	Single Source	NYD	Exempt	S	3,439	50%	50%				3,439
HFA SONYMA	P.J. Mechanical Service & Maintenance 551 5th Ave, 9th Fl New York NY 10176	CLEANING & MAINTENANCE	Sole Source	NYD	Exempt	G	750	50%	50%				750
HFA	Rapid Refill 1858 Colvin Blvd. Tonawanda NY 14150	OFFICE SUPPLIES	Competitive Bid	NYD	Exempt	G	18,619	64%	36%				18,619
HFA	Reed Elsevier, Inc. P.O. Box 9584 New York NY 10087-4584	ELECTRONIC INFO. SERVICES	State Contract	NYD	Exempt	G	21,555	55%	45%				21,555
HFA SONYMA	Reed Elsevier, Inc. P.O. Box 9584 New York NY 10087-4584	ELECTRONIC INFO. SERVICES	State Contract	NYD	Exempt	S	4,620	50%	50%				4,620
HFA SONYMA	Reed Elsevier, Inc. P.O. Box 9584 New York NY 10087-4584	ELECTRONIC INFO. SERVICES	State Contract	NYD	Exempt	G	1,950	50%	50%				1,950
HFA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	+ TRAVEL-CONF & SEMINARS	Other	NYD	MWBE	G	917	100%					917
HFA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	+ TRAVEL-CONF & SEMINARS	Competitive Bid	NYD	MWBE	G	5,986	100%					5,986
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	+ MARKETING FEES	Competitive Bid	NYD	MWBE	S	1,078		100%				1,078
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	+ MARKETING FEES	Competitive Bid	NYD	MWBE	G	9,989		100%				9,989
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	+ MARKETING FEES	Competitive Bid	NYD	MWBE	S	17,962		100%				17,962
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	+ MARKETING FEES	Competitive Bid	NYD	MWBE	S	552		100%				552
HFA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	Single Source	NYD	Exempt	S	2,257	100%					2,257
HFA SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	Other	NYD	Exempt	G	3,816	50%	50%				3,816
HFA SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	G	12,025	50%	50%				12,025
HFA SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	G	9,488	50%	50%				9,488
SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	State Contract	NYD	Exempt	S	10,364		100%				10,364

Agency	Vendor	Subject Matter	Method of Selection	NYS	Desig	Goods/Services	Current Payment	HFA	SONYMA	AHC	MBBA	TSFC	Payments to Date
HFA SONYMA	Specops Software USA Inc. 123 South Broad Street, Suite 2530 Philadelphia PA 19109	INFO TECHNOLOGY- MAINTENANCE	Single Source	NYD	Exempt	G	6,257	50%	50%				6,257
HFA SONYMA	Staples Contract & Commercial Inc. PO Box 70242 Philadelphia PA 19176	OFFICE SUPPLIES	State Contract	NYD	Exempt	G	7,111	50%	50%				7,111
HFA SONYMA	Staples Contract & Commercial Inc. PO Box 70242 Philadelphia PA 19176	OFFICE SUPPLIES	State Contract	NYD	Exempt	G	233	50%	50%				233
HFA SONYMA	Syxsense Inc. 65 Enterprise Aliso Viejo CA 92656	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	MWBE	G	33,264	50%	50%				33,264
HFA SONYMA	Trisec Group, Inc. 100 White Plains Road, Ste 2N Tarrytown NY 10591	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	Exempt	G	5,158	50%	50%				5,158
HFA SONYMA	Veritiv Operating Company 7472 Collection Center Drive Chicago IL 60693	OFFICE SUPPLIES	State Contract	NYD	Exempt	G	6,620	50%	50%				6,620
HFA	Verizon Business PO Box 15124 Albany NY 12212-5124	COMMUNICATIONS	State Contract	NYD	Exempt	G	130,757	50%	50%				130,757
HFA	Verizon Business PO Box 15124 Albany NY 12212-5124	COMMUNICATIONS	State Contract	NYD	Exempt	S	559,475	51%	49%				559,475
HFA	Verizon Business PO Box 15124 Albany NY 12212-5124	COMMUNICATIONS	State Contract	NYD	Exempt	S	5,236	53%	47%				5,236
HFA SONYMA	W.B. Mason Co., Inc. PO BOX 981101 BOSTON MA 02298-1101	OFFICE SUPPLIES	Competitive Bid	NYD	Exempt	G	6,066	50%	50%				6,066
HFA SONYMA	ZOHO Corporation P.O. Box 894926 Los Angeles CA 90189-4926	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	NYD	Exempt	G	21,595	50%	50%				21,595

+ Minority-Owned Business Enterprise\*\* Women-Owned Business Enterprise^ Service Disabled Veteran Owned Business^^ Small Business EnterpriseNYD Indicates Not Yet Determined. Unavailable data at this time as Agencies are in the pr

# TAB 3

## MWBE Analysis for Procurement Contracts and Purchase Orders

HFA, SONYMA, AHC, MBBA, TSFC  
MWBE Procurement Contract Report  
Period: November 1, 2022 to October 31, 2023

Agency(s)	Vendor	MBE (#), WBE(+), MBE & WBE (#+)	Contract No	Scope of Services	Selection Method	Begin Date	End Date	Amount	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Life To Date	MBE	WBE	Goods/Ser vices	Subcontractin g
HFA	22nd Century Technologies, Inc.		6100003381	Professional Temp Staffing Consultant Services	RFP Prequalified List	10/18/2021	7/13/2025	124,129	124,129				399,617				S
SONYMA	ADO Professional Solutions, Inc.		6100003388	Professional Temp Staffing Consultant Services	RFP Prequalified List	3/28/2022	7/13/2023	149,577	149,577				224,320				S
SONYMA	Amazon Web Services, Inc.		6100003177	Hosting Services	Request for Proposals	9/21/2016	Upon Notice	1,037,458		1,037,458		Full Waiver	3,871,729				S
AHC	Automatic Data Processing, Inc.		6100001974	Payroll Processing Services	Single Source	10/1/2005	Upon Notice	18,737		18,737		Full Waiver	228,817				S
HFA	Automatic Data Processing, Inc.		6100001972	Payroll Processing Services	Single Source	10/1/2005	Upon Notice	18,961		18,961		Full Waiver	172,043				S
SONYMA	Automatic Data Processing, Inc.		6100001973	Payroll Processing Services	Single Source	10/1/2005	Upon Notice	26,783		26,783		Full Waiver	308,963				S
HFA	AXI Systems, Inc.		6100003386	MWBE/ SDVOB Goal Setting Software	Discretionary Spend	3/31/2022	3/30/2025	175,000		175,000		Discretionary Spend	319,000				S
HFA	Bank Of New York Mellon		6100003275	Trustee Services	Request for Proposals	7/21/2017	Upon Notice	23,500		23,500		Bank	33,500				S
SONYMA	Bank Of New York Mellon		6100001883	Trustee Services	Request for Proposals	10/15/1997	Upon Notice	202,100		202,100		Bank	4,449,186				S
SONYMA	Bank Of New York Mellon		6100002050	Custody Services	Request for Proposals	6/1/1999	Upon Notice	8,500		8,500		Bank	203,205				S
SONYMA	Bank Of New York Mellon		6100003355	Trustee Services	RFP Prequalified List	3/3/2021	Upon Notice	19,250			19,250	Bank	65,000				S
HFA	Barclay Damon, LLP		6100003084	Bond Counsel Services	RFP Prequalified List	6/1/2015	3/31/2022	167,670	167,670				1,898,660				S
HFA	Barclay Damon, LLP		6100003392	Bond Counsel Services	RFP Prequalified List	4/1/2022	3/31/2027	362,739	362,739				362,739				S
HFA	Benefit Resource, Inc.		6100001872	Maintenance of qualified transportation expense plan	Competitive Bid	5/5/2005	Upon Notice	15,999		15,999			202,424				S
HFA SONYMA	Bloomberg, L.P.		6100003371	Data License Agreement	Single Source	7/9/2021	Upon Notice	38,683			38,683	Proprietary Software	50,771				S
HFA	BLX Group LLC		4400000031	Arbitrage Rebate Services	RFP Prequalified List	6/9/2022	6/8/2027	41,450		41,450		Full Waiver	48,800				S
HFA	Bondlink Inc.		6100003298	Electronic Platform for Services relating to investor relations	Single Source	1/29/2019	Upon Notice	106,717		106,717		Full Waiver	509,916				S
HFA	Caine Mitter & Associates Inc		6100003152	Financial Advisory Services	RFP Prequalified List	12/10/2015	12/9/2023	181,000	181,000				817,000				S
HFA	Caine Mitter & Associates Inc		6100003304	Computational Analytic Services	Request for Proposals	1/1/2019	12/31/2023	277,500		277,500		Full Waiver	1,485,227				S

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HFA, SONYMA, AHC, MBBA, TSFC  
MWBE Procurement Contract Report  
Period: November 1, 2022 to October 31, 2023

Agency(s)	Vendor	MBE (#), WBE(+), MBE & WBE (#+)	Contract No	Scope of Services	Selection Method	Begin Date	End Date	Amount	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Life To Date	MBE	WBE	Goods/Ser vices	Subcontractin g
SONYMA	Caine Mitter & Associates Inc		6100003367	Computational Analytic Services	Request for Proposals	3/1/2021	2/29/2024	126,250		126,250		Full Waiver	280,000				S
HFA	CASO Document Management d/b/a		6100003253	Electronic Record Management System	Request for Proposals	2/28/2018	2/27/2025	477,053	477,053				5,248,032				S X
SONYMA	Cfx Incorporated		6100003360	Computational Analytic Services	Request for Proposals	1/1/2021	12/31/2023	637,500		637,500		Full Waiver	2,155,000				S
HFA	Compircus, Inc.		6100003363	Software Services	Critical Contract	6/23/2021	Upon Notice	273,159		273,159		Full Waiver	400,209				S
SONYMA	Conduent Mortgage Services, Inc.		6100003228	Imaging Services	Single Source	3/1/2017	Upon Notice	93,462		93,462			515,723				S
HFA SONYMA	CQ Roll Call		4400000072	Electronic Licenses for Federal Legislative Tracking	Single Source	4/1/2023	3/31/2025	14,750		14,750		Proprietary Software	29,500				S
SONYMA	CSG ADVISORS INCORPORATED		6100003123	Financial Advisory Services	RFP Prequalified List	12/10/2015	12/9/2023	87,500	87,500				579,500				S
HFA SONYMA	Deluxe Delivery Systems, Inc. d/b/a	#	6100002771	Off Site Storage & Retrieval Access Services	Single Source	8/1/2012	7/31/2023	48,552	48,552				733,993	48,552			S
HFA SONYMA	Diamond Personnel LLC		6100003292	Professional Temp Staffing Consultant Services	RFP Prequalified List	10/22/2018	7/13/2023	20,088	20,088				112,816				S
HFA SONYMA MBBA TSFC	Digital Assurance Certification LLC		6100003340	Disclosure Compliance and Dissemninatin Agent Services	Single Source	3/17/2020	3/16/2025	25,000		25,000		Full Waiver	100,000				S
SONYMA	Dixon Schwabl Advertising, Inc.	+	6100003310	Advertising Consultant Services	RFP Prequalified List	6/3/2019	10/31/2024	246,473	246,473				1,160,883		246,473		S X
HFA	Edward Daniels Group, Inc.	+	6100003273	IT Temporary Staffing Consultant Services	RFP Prequalified List	8/20/2018	12/14/2023	47,580	47,580				26,046,512		47,580		S
HFA SONYMA	Edward Daniels Group, Inc.	+	6100003377	Professional Temp Staffing Consultant Services	Critical Contract	9/15/2021	9/14/2024	146,504	146,504				211,942		146,504		S
HFA SONYMA	E.G. Bowman Co., Inc.	#	6100003036	Insurance Policies	Request for Proposals	5/3/2014	5/2/2024	775,729			775,729	Insurance Company Premiums	3,694,425				S
HFA SONYMA	E.G. Bowman Co., Inc.	#	6100003036	Insurance Policy Commission Fees	Request for Proposals	5/3/2014	5/2/2024	121,068	121,068				576,586	121,068			S
SONYMA	Emphasys Software		6100003351	Software Services	Single Source	10/14/2020	10/13/2025	208,250			208,250	Proprietary Software	298,360				S
SONYMA	Enact Financial Services, Inc.		6100002415	Administrative & Underwriting Services	Request for Proposals	2/1/2005	12/31/2024	68,275		68,275		Full Waiver	824,513				S
AHC	Ernst & Young LLP		6100003103	Independent Audit Services	Request for Proposals	9/16/2015	9/15/2023	10,650	10,650				101,004				S X
HFA	Ernst & Young LLP		6100003085	Independent Audit Services	Request for Proposals	9/16/2015	9/15/2023	222,175	222,175				1,780,528				S X

HFA, SONYMA, AHC, MBBA, TSFC  
MWBE Procurement Contract Report  
Period: November 1, 2022 to October 31, 2023

Agency(s)	Vendor	MBE (#), WBE(+), MBE & WBE (#+)	Contract No	Scope of Services	Selection Method	Begin Date	End Date	Amount	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Life To Date	MBE	WBE	Goods/Ser vices	Subcontractin g
MBBA	Ernst & Young LLP		6100003101	Independent Audit Services	Request for Proposals	9/16/2015	9/15/2023	19,200	19,200				140,140				X
SONYMA	Ernst & Young LLP		6100003086	Independent Audit Services	Request for Proposals	9/16/2015	9/15/2023	159,900	159,900				1,324,805			S	X
TSFC	Ernst & Young LLP		6100003102	Independent Audit Services	Request for Proposals	9/16/2015	9/15/2023	16,700	16,700				137,175			S	X
HFA SONYMA	Global Background Screening, Inc		6100003384	Background Screening & Report Services	Request for Bids	3/2/2022	3/1/2025	8,930			8,930	<=25K	14,884			S	
HFA	Hawkins, Delafield, & Wood		4400000020	Arbitrage Rebate Services	RFP Prequalified List	6/9/2022	6/8/2027	89,850		89,850		Full Waiver	110,900			S	
HFA	Hawkins, Delafield, & Wood		6100003389	Bond Counsel Services	RFP Prequalified List	4/1/2022	3/31/2027	1,047,951	1,047,951				1,047,951			S	
SONYMA	Hawkins, Delafield, & Wood		6100003390	Bond Counsel Services	RFP Prequalified List	4/1/2022	3/31/2027	558,860	558,860				715,522			S	
HFA	Hoguet Newman Regal & Kenney, LLP	+	6100003028	Non-Bond Counsel Services	RFP Prequalified List	1/29/2013	12/31/2023	16,298	16,298				180,092		16,298	S	
HFA	Holland & Knight LLP		6100002906	Non-Bond Counsel Services	RFP Prequalified List	1/29/2013	12/31/2023	270,000	270,000				753,216			S	
SONYMA	Hsin-Hua Alice Chen		6100003089	IT Consultant Services for SONYMA Express	Sole Source	10/12/2015	5/11/2024	160,000			160,000	Sole Source Contract	1,196,201			S	
HFA	ImageMaster LLC		6100003100	Financial Printing Services	Request for Proposals	9/10/2015	9/9/2023	16,300		16,300		Full Waiver	199,016			S	
HFA	Innosoul Inc.	#+	6100003342	IT Temporary Staffing Consultant Services	RFP Prequalified List	4/9/2020	12/14/2024	232,000	232,000				435,313			S	
HFA	Insurance Advisors LLC		6100003336	Insurance Consulting Services	RFP Prequalified List	9/8/2019	9/7/2024	28,550	28,550				74,050			S	
HFA	LanceSoft Inc.	#	6100003293	Professional Temp Staffing Consultant Services	RFP Prequalified List	10/15/2018	7/13/2025	144,690	144,690				345,659			S	
HFA	Manufacturers & Traders Trust Company		6100003011	Trustee Services	Request for Proposals	10/7/2014	Upon Notice	6,000		6,000		Bank	67,033			S	
HFA	Manufacturers & Traders Trust Company		6100003066	Trustee Services	Request for Proposals	6/5/2015	Upon Notice	8,000		8,000		Bank	104,017			S	
HFA	Manufacturers & Traders Trust Company		6100003087	Trustee Services	Request for Proposals	10/28/2015	Upon Notice	6,000		6,000		Bank	37,055			S	
HFA	Manufacturers & Traders Trust Company		6100003160	Trustee Services	Request for Proposals	12/9/2016	Upon Notice	33,000		33,000		Bank	233,636			S	
HFA	Manufacturers & Traders Trust Company		6100003359	Trustee Services	RFP Prequalified List	3/25/2021	Upon Notice	12,000		12,000		Bank	34,500			S	



HFA, SONYMA, AHC, MBBA, TSFC  
MWBE Procurement Contract Report  
Period: November 1, 2022 to October 31, 2023

Agency(s)	Vendor	MBE (#), WBE(+), MBE & WBE (#+)	Contract No	Scope of Services	Selection Method	Begin Date	End Date	Amount	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Life To Date	MBE	WBE	Goods/Ser vices	Subcontractin g
HFA	McGlashan Law Firm, P.C.	#	6100003133	Co-Bond Counsel Services	RFP Prequalified List	1/29/2016	6/17/2023	100,000	100,000				558,006	100,000			S
HFA	Mohanty Gargiulo LLC	#+	6100003125	Swap Advisory Services	RFP Prequalified List	12/10/2015	12/9/2023	175,500	175,500				793,000	175,500			S
HFA	Nixon Peabody, LLP		6100003013	Bond Counsel Services	RFP Prequalified List	1/29/2014	1/28/2022	8,405	8,405				1,218,169				S
HFA	Nixon Peabody, LLP		6100003391	Bond Counsel Services	RFP Prequalified List	4/1/2022	3/31/2027	37,793	37,793				37,793				S
HFA	Omnicap Group LLC		4400000030	Arbitrage Rebate Services	RFP Prequalified List	6/9/2022	6/8/2027	43,050		43,050		Full Waiver	45,350				S X
SONYMA	Pearlman & Miranda LLC	#+	4400000071	Co-Bond Counsel Services	RFP Prequalified List	6/1/2022	3/31/2027	249,040	249,040				249,040	249,040			S
HFA	Penda Aiken, Inc.	+	6100003173	Professional Temp Staffing Consultant Services	RFP Prequalified List	12/31/2016	7/13/2025	115,635	115,635				483,604	115,635			S
HFA	Peter Thomas Madden		6100003387	Consultant Services	Single Source	3/28/2022	3/27/2023	10,313			10,313	<=25K	13,350				S
HFA	Prolink Solutions, Inc.		6100003380	Hosted Technology Services	Request for Proposals	8/8/2021	12/12/2028	414,435			414,435	Proprietary Software	816,800				S
HFA SONYMA	Schoeman Updike Kaufman Gerber LLP	+	6100003312	Non-Bond Counsel Services	RFP Prequalified List	11/1/2018	12/31/2023	7,452	7,452				314,683		7,452		S
HFA SONYMA	SecureWorks, Inc.		6100003357	Security Consulting Services	Critical Contract	1/14/2021	1/13/2024	269,375		269,375		Full Waiver	845,979				S
HFA	Sierra Digital Inc.	#	6100003350	Application Management Services	Request for Proposals	10/20/2020	10/19/2023	3,868,864	3,868,864				11,998,251	3,868,864			S X
HFA	Tandym Group Holdings, LLC		6100003314	Professional Temp Staffing Consultant Services	Request for Proposals	7/10/2019	7/13/2025	149,893	149,893				627,352				S
HFA	Tech Valley Talent, LLC	+	6100003213	IT Temporary Staffing Consultant Services	RFP Prequalified List	8/26/2017	12/14/2024	413,957	413,957				8,094,679		413,957		S
HFA	The Bank Of New York Mellon		6100002238	Trustee Services	Request for Proposals	10/14/2007	Upon Notice	18,000		18,000		Bank	41,250				S
HFA	The Bank Of New York Mellon		6100002273	Trustee Services	Request for Proposals	6/8/2008	Upon Notice	8,000		8,000		Bank	45,080				S
HFA	The Bank Of New York Mellon		6100002507	Trustee Services	Request for Proposals	9/1/1991	Upon Notice	11,580			11,580	<=25K	16,424				S
HFA	The Bank Of New York Mellon		6100002726	Trustee Services	Request for Proposals	3/22/2012	Upon Notice	6,000		6,000		Bank	74,500				S
HFA	The Bank Of New York Mellon		6100002797	Trustee Services	Request for Proposals	10/11/2012	Upon Notice	9,080		9,080		Bank	108,310				S

HFA, SONYMA, AHC, MBBA, TSFC  
MWBE Procurement Contract Report  
Period: November 1, 2022 to October 31, 2023

Agency(s)	Vendor	MBE (#), WBE(+), MBE & WBE (#+)	Contract No	Scope of Services	Selection Method	Begin Date	End Date	Amount	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Life To Date	MBE	WBE	Goods/Services	Subcontracting
HFA	The Bank Of New York Mellon		6100002919	Trustee Services	Request for Proposals	12/5/2013	Upon Notice	9,500		9,500		Bank	68,500				S
HFA	The Bank Of New York Mellon		6100002983	Trustee Services	Request for Proposals	5/14/2014	Upon Notice	5,750		5,750		Bank	41,500				S
HFA	The Bank Of New York Mellon		6100003015	Trustee Services	Request for Proposals	10/10/2014	Upon Notice	11,500		11,500		Bank	103,500				S
HFA	The Bank Of New York Mellon		6100003042	Trustee Services	Request for Proposals	11/25/2014	Upon Notice	24,000		24,000		Bank	218,535				S
HFA	The Bank Of New York Mellon		6100003065	Trustee Services	Request for Proposals	5/22/2015	Upon Notice	7,975		7,975		Bank	117,295				S
HFA	The Bank Of New York Mellon		6100003081	Trustee Services	Request for Proposals	9/23/2015	Upon Notice	15,000		15,000		Bank	140,000				S
HFA	The Bank Of New York Mellon		6100003138	Trustee Services	Request for Proposals	7/28/2016	Upon Notice	6,120		6,120		Bank	35,900				S
HFA	The Bank Of New York Mellon		6100003207	Trustee Services	Request for Proposals	4/21/2017	Upon Notice	124,425		124,425		Bank	449,470				S
HFA	The Bank Of New York Mellon		6100003356	Trustee Services	RFP Prequalified List	12/2/2020	Upon Notice	30,750		30,750		Bank	208,400				S
MBBA	The Bank Of New York Mellon		6100002579	Trustee Services	Request for Proposals	12/16/2010	Upon Notice	12,040		12,040		Bank	68,734				S
HFA SONYMA	TierPoint New York, LLC		6100003209	Disaster Recovery Services	Request for Proposals	6/1/2015	2/23/2025	54,909		54,909		Full Waiver	356,529				S
HFA	U.S. Bank National Association		6100002769	Trustee Services	Request for Proposals	6/26/2012	Upon Notice	6,000			6,000	<=25K	6,000				S
HFA	U.S. Bank National Association		6100002933	Trustee Services	Request for Proposals	8/23/2013	Upon Notice	6,000		6,000		Bank	33,705				S
HFA	U.S. Bank National Association		6100003250	Trustee Services	Request for Proposals	1/25/2018	Upon Notice	5,750			5,750	<=25K	22,750				S
HFA	U.S. Bank National Association		6100003326	Depository Services	Request for Proposals	12/11/2019	Upon Notice	17,418		17,418		Bank	32,354				S
HFA	U.S. Bank National Association		6100003352	Trustee Services	RFP Prequalified List	4/1/2020	Upon Notice	19,500		19,500		Bank	66,750				S
SONYMA	U.S. Bank National Association		6100003327	Depository Services	Request for Proposals	12/11/2019	Upon Notice	16,060		16,060		Bank	126,226				S
HFA	Venable LLP		6100002976	Non-Bond Counsel Services	RFP Prequalified List	12/20/2013	12/31/2023	156,047	156,047				1,880,072				S

HFA, SONYMA, AHC, MBBA, TSFC  
MWBE Procurement Contract Report  
Period: November 1, 2022 to October 31, 2023

Agency(s)	Vendor	MBE (#), WBE(+), MBE & WBE (#+)	Contract No	Scope of Services	Selection Method	Begin Date	End Date	Amount	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Life To Date	MBE	WBE	Goods/ Service	Sub- Contract
HFA	Wells Fargo Bank, NA		6100002400	Trustee Services	Request for Proposals	3/24/2009	Upon Notice	8,750		8,750		Bank	35,500				S
Totals - Contracts								15,933,862	10,189,492	4,085,451	1,658,919			4,678,659	878,263		
Percentage of Total - Contract									63.95%	25.64%	10.41%			45.92%	8.62%		54.5400%
Count - Contracts								95	36	48	11			7	6		
Percentage of Total Count – Contracts									37.89%	50.52%	11.58%			19.44%	16.67%		
Totals – Purchase Orders								2,296,381	207,918	88,811	1,999,652			126,632	0		
Percentage of Total – Purchase Orders									9.05%	3.87%	87.08%			60.90%	0%		60.9000%
Count – Purchase Orders								98	10	2	86			3	0		
Percentage of Total Count – Purchase Orders									10.20%	2.04%	87.76%			60.00%	0.00%		
Totals – Purchase Orders and Contracts								18,230,243	10,397,410	4,174,262	3,658,571			4,805,291	878,263		
Percentage of Total – Purchase Orders and Contracts									57.03%	22.90%	20.07%			46.22%	8.45%		54.6700%
Count – Purchase Orders and Contracts								193	46	50	97			10	6.00%		
Percentage of Total Count – Purchase Orders and Contracts									23.83%	25.91%	50.26%			21.74%	13.04%		



New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency, Tobacco Settlement Financing Corporation

**MWBE Procurement Purchase Order Report**  
November 1, 2022 to October 31, 2023

Page 1

Agency	Vendor	Subject Matter	Method of Selection	Desig	Goods/Services	Current Payment	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Payments to Date	MBE	IWBE
HFA SONYMA	136 East 55th Street Garage LLC 545 Fifth Avenue Suite 600 New York NY 10017	AUTO EXPENSES	Single Source	Exempt	G	12,408			12,408	<=25K	12,408		
HFA SONYMA	136 East 55th Street Garage LLC 545 Fifth Avenue Suite 600 New York NY 10017	AUTO EXPENSES	Single Source	Exempt	G	1,034			1,034	<=25K	1,034		
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	Other	Exempt	G	840			840	<=25K	840		
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	Competitive Bid	Exempt	G	2,460			2,460	<=25K	2,460		
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	State Contract	Exempt	G	38,266			38,266	State Contract	38,266		
HFA SONYMA	Arctic Falls Spring Water, Inc. 58 Sand Park Road Cedar Grove NJ 07009	KITCHEN EXPENSES	Single Source	Exempt	G	905			905	<=25K	905		
HFA SONYMA	Bishop House Consulting, Inc. P.O. Box 489 Burnt Hills NY 12027	EDUCATION-AGENCY DIRECT	Other	Exempt	G	14,952			14,952	<=25K	14,952		
HFA SONYMA	Carahsoft Technology Corporation 11493 Sunset Hills Road, Suite 100 Reston VA 20190	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	Exempt	G	11			11	<=25K	11		
HFA SONYMA	Carahsoft Technology Corporation 11493 Sunset Hills Road, Suite 100 Reston VA 20190	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	Exempt	S	16,007			16,007	<=25K	16,007		
HFA SONYMA	Carahsoft Technology Corporation 11493 Sunset Hills Road, Suite 100 Reston VA 20190	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	MWBE	S	48,022	48,022				48,022		
HFA SONYMA	CDW Government Inc. 75 Remittance Drive, Suite 1515 Chicago IL 60675-1515	INFO TECHNOLOGY- ACQUISITION	Other	Exempt	G	2,093			2,093	<=25K	2,093		
HFA SONYMA	CDW Government Inc. 75 Remittance Drive, Suite 1515 Chicago IL 60675-1515	INFO TECHNOLOGY- ACQUISITION	Competitive Bid	Exempt	S	1,282			1,282	<=25K	1,282		
HFA SONYMA	CDW Government Inc. 75 Remittance Drive, Suite 1515 Chicago IL 60675-1515	INFO TECHNOLOGY- ACQUISITION	State Contract	Exempt	G	24,383			24,383	State Contract	24,383		
HFA	Cellico Partnership P.O. Box 408 Newark NJ 07101-0408	COMMUNICATIONS	State Contract	Exempt	S	54,217			54,217	State Contract	54,217		
HFA SONYMA	Cellico Partnership P.O. Box 408 Newark NJ 07101-0408	COMMUNICATIONS	State Contract	Exempt	G	4,966			4,966	State Contract	4,966		
HFA SONYMA	Central Security Integration Solutions 345 Park Avenue Level B New York NY 10154	CLEANING & MAINTENANCE	Single Source	Exempt	G	9,002			9,002	<=25K	9,002		
HFA SONYMA	Citizens Housing & Planning 42 Broadway, Suite 2010 New York NY 10004	SPONSORSHIP FEES	Other	Exempt	G	5,000			5,000	<=25K	5,000		

Agency	Vendor	Subject Matter	Method of Selection	Desig	Goods/Services	Current Payment	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Payments to Date	MBE	WBE
HFA SONYMA	Compulink Technologies, Inc. 260 West 39th Street, Suite 302 New York NY 10018	* INFO TECHNOLOGY- MAINTENANCE	State Contract	MWBE	G	56,007	56,007				56,007	56,007	
SONYMA	Conduent Mortgage Services, Inc. 101 Yorkshire Boulevard Lexington KY 40509	MISC FINANCING EXPENSES	Other	Excluded	S	46,510		46,510			46,510		
HFA SONYMA	De Lage Landen Financial Services, Inc PO Box 41602 Philadelphia PA 19101-1602	RENTAL OF OFFICE EQUIPMENT	State Contract	Exempt	G	11,690			11,690	State Contract	11,690		
HFA SONYMA	De Lage Landen Financial Services, Inc PO Box 41602 Philadelphia PA 19101-1602	RENTAL OF OFFICE EQUIPMENT	State Contract	Exempt	S	64,781			64,781	State Contract	64,781		
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	G	146,994			146,994	State Contract	146,994		
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	S	313,038			313,038	State Contract	313,038		
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY- ACQUISITION	Competitive Bid	Exempt	G	8,719			8,719	<=25K	8,719		
HFA SONYMA	Dell Marketing L.P. PO Box 643561 Pittsburgh PA 15264-3561	INFO TECHNOLOGY- ACQUISITION	State Contract	Exempt	G	113,948			113,948	State Contract	113,948		
HFA SONYMA	Derive Technologies, LLC 40 Wall Street, 20th Floor New York NY 10005	* INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	MWBE	G	34,142	34,142				34,142	34,142	
HFA SONYMA	EasyVista, Inc. 3 Columbus Circle, Suite 1532 New York NY 10019	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	S	11,525			11,525	State Contract	11,525		
HFA SONYMA	EasyVista, Inc. 3 Columbus Circle, Suite 1532 New York NY 10019	INFO TECHNOLOGY- ACQUISITION	State Contract	Exempt	G	510			510	State Contract	510		
HFA	EMC Corporation 176 South Street Hopkinton MA 01748	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	G	38,644			38,644	State Contract	38,644		
HFA SONYMA	EMC Corporation 176 South Street Hopkinton MA 01748	INFO TECHNOLOGY- MAINTENANCE	Other	Exempt	G	5,323			5,323	<=25K	5,323		
HFA SONYMA	Escal Institute of Advanced Technologies P.O. Box 419108 Boston MA 02241-9108	EDUCATION-AGENCY DIRECT	Other	Exempt	G	8,305			8,305	<=25K	8,305		
HFA	Federal Express Corp. P.O. Box 371461 Pittsburgh PA 15250-7461	COURIER SERVICES	State Contract	Exempt	G	12,522			12,522	State Contract	12,522		
HFA SONYMA	Federal Express Corp. P.O. Box 371461 Pittsburgh PA 15250-7461	COURIER SERVICES	State Contract	Exempt	S	2,277			2,277	State Contract	2,277		
HFA SONYMA	Federal Express Corp. P.O. Box 371461 Pittsburgh PA 15250-7461	POSTAGE	State Contract	Exempt	G	522			522	State Contract	522		
HFA	Fund for the City of New York, Inc. P.O. Box 20094 PABT New York NY 10018	TRAVEL-CONF & SEMINARS	Other	Exempt	G	8,500			8,500	<=25K	8,500		
HFA SONYMA	Gartner, Inc. "291 Broadway, 9th Floor" New York NY 10007	INFO TECHNOLOGY- ACQUISITION	Competitive Bid	Excluded	S	42,301		42,301			42,301		
HFA SONYMA	HOSELTON CHEVROLET INC. 909 Fairport Road East Rochester NY 14445	AUTO EXPENSES	Competitive Bid	Exempt	G	2,270			2,270	<=25K	2,270		

Agency	Vendor	Subject Matter	Method of Selection	Desig	Goods/Services	Current Payment	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Payments to Date	MBE	WBE
HFA SONYMA	HOSELTON CHEVROLET INC. 909 Fairport Road East Rochester NY 14445	AUTO EXPENSES	State Contract	Exempt	G	10,215			10,215	State Contract	10,215		
HFA	Housing Trust Fund Corp Hampton Plaza 38-40 State St Albany NY 12207	MARKETING FEES	Other	Exempt	S	8,284			8,284	<=25K	8,284		
HFA SONYMA	Housing Trust Fund Corp Hampton Plaza 38-40 State St Albany NY 12207	MISCELLANEOUS-PERSONNEL	Other	Exempt	S	706			706	<=25K	706		
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Other	Exempt	G	2,075			2,075	<=25K	2,075		
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Other	Exempt	S	11,970			11,970	<=25K	11,970		
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Competitive Bid	Exempt	G	8,623			8,623	<=25K	8,623		
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Competitive Bid	Exempt	S	2,060			2,060	<=25K	2,060		
HFA SONYMA	International Architectural Partitions 450 7th Avenue, 36th Floor New York NY 10123	CLEANING & MAINTENANCE	Single Source	Exempt	S	4,767			4,767	<=25K	4,767		
SONYMA	JP Morgan Chase Bank P.O. Box 4475 Carol Stream IL 60197-4475	FEES & EXP - TRUSTEE	Sole Source	Exempt	S	46,312			46,312	Sole Source	46,312		
SONYMA	Long Island Housing Partnership, Inc "Harriman Hall, SUNY Harriman Hall, S.u.n.y." Stony Brook NY 11794	SPONSORSHIP FEES	Single Source	Exempt	S	5,000			5,000	<=25K	5,000		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	OFFICE SUPPLIES	Single Source	Exempt	G	209			209	<=25K	209		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	INFO TECHNOLOGY- ACQUISITION	Competitive Bid	Exempt	G	234			234	<=25K	234		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	CLEANING & MAINTENANCE	Other	Exempt	G	30			30	<=25K	30		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	CLEANING & MAINTENANCE	Competitive Bid	Exempt	G	92			92	<=25K	92		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	FURNITURE AND FIXTURES	Other	Exempt	G	940			940	<=25K	940		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	KITCHEN EXPENSES	Other	Exempt	G	2,413			2,413	<=25K	2,413		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	KITCHEN EXPENSES	Single Source	Exempt	G	186			186	<=25K	186		
HFA SONYMA	Metropolitan Office & Computer 250 Park Ave 18th Fl New York NY 10177	PURCHASE OF OFFICE EQUIPMENT	Competitive Bid	Exempt	G	1,990			1,990	<=25K	1,990		
SONYMA	MICRO FOCUS (US), INC. 700 King Farm Boulevard, Suite 125 Rockville MD 20850	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	Exempt	S	4,273			4,273	<=25K	4,273		
SONYMA	MICRO FOCUS (US), INC. 700 King Farm Boulevard, Suite 125 Rockville MD 20850	INFO TECHNOLOGY- MAINTENANCE	Single Source	Exempt	G	8,328			8,328	<=25K	8,328		

Agency	Vendor	Subject Matter	Method of Selection	Desig	Goods/Services	Current Payment	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Payments to Date	MBE	WBE
HFA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	TRAVEL-CONF & SEMINARS	Single Source	Exempt	G	1,875			1,875	<=25K	1,875		
HFA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	MEMBERSHIP FEES	Sole Source	Exempt	G	35,529			35,529	Sole Source	35,529		
HFA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	TRAVEL-OUT-OF-STATE C&S	Other	Exempt	G	4,275			4,275	<=25K	4,275		
HFA SONYMA	NCSHA 444 North Capitol Street, NW, Suite 438 Washington DC 20001	TRAVEL-OUT-OF-STATE C&S	Sole Source	Exempt	G	250			250	Sole Source	250		
SONYMA	Neighborhood Housing Services of 60-20 Woodside Avenue - Lower Level Woodside NY 11377	SPONSORSHIP FEES	Single Source	Exempt	S	5,000			5,000	<=25K	5,000		
HFA SONYMA	New York Housing Conference "247 West 37th Street, 4th Fl" New York NY 10018	SPONSORSHIP FEES	Competitive Bid	Exempt	G	8,000			8,000	<=25K	8,000		
HFA	Pitney Bowes, Inc. 430 New Kamber Road Albany NY 12205	OFFICE SUPPLIES	State Contract	Exempt	G	802			802	State Contract	802		
HFA	Pitney Bowes, Inc. 430 New Kamber Road Albany NY 12205	RENTAL OF OFFICE EQUIPMENT	State Contract	Exempt	G	774			774	State Contract	774		
HFA	Pitney Bowes, Inc. 430 New Kamber Road Albany NY 12205	RENTAL OF OFFICE EQUIPMENT	State Contract	Exempt	S	54			54	State Contract	54		
HFA	Pitney Bowes, Inc. 430 New Kamber Road Albany NY 12205	RENTAL OF OFFICE EQUIPMENT	Single Source	Exempt	G	276			276	<=25K	276		
HFA SONYMA	Pitney Bowes, Inc. 430 New Kamber Road Albany NY 12205	POSTAGE	State Contract	Exempt	G	21,583			21,583	State Contract	21,583		
HFA SONYMA	Pitney Bowes, Inc. 430 New Kamber Road Albany NY 12205	POSTAGE	Single Source	Exempt	G	10,000			10,000	<=25K	10,000		
HFA SONYMA	P.J. Mechanical Service & Maintenance 551 5th Ave, 9th Fl New York NY 10176	CLEANING & MAINTENANCE	Single Source	Exempt	G	17,745			17,745	<=25K	17,745		
HFA SONYMA	P.J. Mechanical Service & Maintenance 551 5th Ave, 9th Fl New York NY 10176	CLEANING & MAINTENANCE	Single Source	Exempt	S	3,439			3,439	<=25K	3,439		
HFA SONYMA	P.J. Mechanical Service & Maintenance 551 5th Ave, 9th Fl New York NY 10176	CLEANING & MAINTENANCE	Sole Source	Exempt	G	750			750	Sole Source	750		
HFA	Rapid Refill 1858 Colvin Blvd. Tonawanda NY 14150	OFFICE SUPPLIES	Competitive Bid	Exempt	G	18,619			18,619	<=25K	18,619		
HFA	Reed Elsevier, Inc. P.O. Box 9584 New York NY 10087-4584	ELECTRONIC INFO. SERVICES	State Contract	Exempt	G	21,555			21,555	State Contract	21,555		
HFA SONYMA	Reed Elsevier, Inc. P.O. Box 9584 New York NY 10087-4584	ELECTRONIC INFO. SERVICES	State Contract	Exempt	S	4,620			4,620	State Contract	4,620		
HFA SONYMA	Reed Elsevier, Inc. P.O. Box 9584 New York NY 10087-4584	ELECTRONIC INFO. SERVICES	State Contract	Exempt	G	1,950			1,950	State Contract	1,950		
HFA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	TRAVEL-CONF & SEMINARS	Other	MWBE	G	917	917				917	917	

Agency	Vendor	Subject Matter	Method of Selection	Desig	Goods/Services	Current Payment	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Payments to Date	MBE	WBE
HFA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	* TRAVEL-CONF & SEMINARS	Competitive Bid	MWBE	G	5,986	5,986				5,986	5,986	
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	* MARKETING FEES	Competitive Bid	MWBE	S	1,078	1,078				1,078	1,078	
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	* MARKETING FEES	Competitive Bid	MWBE	G	9,989	9,989				9,989	9,989	
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	* MARKETING FEES	Competitive Bid	MWBE	S	17,962	17,962				17,962	17,962	
SONYMA	Royal Marketing 50 PARK PLACE, SUITE 810 NEWARK NJ 07102	* MARKETING FEES	Competitive Bid	MWBE	S	552	552				552	552	
HFA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	Single Source	Exempt	S	2,257			2,257	<=25K	2,257		
HFA SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	Other	Exempt	G	3,816			3,816	<=25K	3,816		
HFA SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	G	12,025			12,025	State Contract	12,025		
HFA SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	G	9,488			9,488	State Contract	9,488		
SONYMA	SHI International Corp. 290 Davidson Ave Somerset NJ 08873	INFO TECHNOLOGY- MAINTENANCE	State Contract	Exempt	S	10,364			10,364	State Contract	10,364		
HFA SONYMA	Specops Software USA Inc. 123 South Broad Street, Suite 2530 Philadelphia PA 19109	INFO TECHNOLOGY- MAINTENANCE	Single Source	Exempt	G	6,257			6,257	<=25K	6,257		
HFA SONYMA	Staples Contract & Commercial Inc. PO Box 70242 Philadelphia PA 19176	OFFICE SUPPLIES	State Contract	Exempt	G	7,111			7,111	State Contract	7,111		
HFA SONYMA	Staples Contract & Commercial Inc. PO Box 70242 Philadelphia PA 19176	OFFICE SUPPLIES	State Contract	Exempt	G	233			233	State Contract	233		
HFA SONYMA	Syxsense Inc. 65 Enterprise Aliso Viejo CA 92656	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	MWBE	G	33,264	33,264				33,264		
HFA SONYMA	Trisec Group, Inc. 100 White Plains Road, Ste 2N Tarrytown NY 10591	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	Exempt	G	5,158			5,158	<=25K	5,158		
HFA SONYMA	Vertiv Operating Company 7472 Collection Center Drive Chicago IL 60693	OFFICE SUPPLIES	State Contract	Exempt	G	6,620			6,620	State Contract	6,620		
HFA	Verizon Business PO Box 15124 Albany NY 12212-5124	COMMUNICATIONS	State Contract	Exempt	G	130,757			130,757	State Contract	130,757		
HFA	Verizon Business PO Box 15124 Albany NY 12212-5124	COMMUNICATIONS	State Contract	Exempt	S	559,475			559,475	State Contract	559,475		
HFA	Verizon Business PO Box 15124 Albany NY 12212-5124	COMMUNICATIONS	State Contract	Exempt	S	5,236			5,236	State Contract	5,236		
HFA SONYMA	W.B. Mason Co., Inc. PO BOX 981101 BOSTON MA 02298-1101	OFFICE SUPPLIES	Competitive Bid	Exempt	G	6,066			6,066	<=25K	6,066		



Agency	Vendor	Subject Matter	Method of Selection	Desig	Goods/Services	Current Payment	MWBE Availability	MWBE Exclusion	MWBE Exemption	MWBE Justification	Payments to Date	MBE	WBE
HFA SONYMA	ZOHO Corporation P.O. Box 894926 Los Angeles CA 90189-4926	INFO TECHNOLOGY- MAINTENANCE	Competitive Bid	Exempt	G	21,595			21,595	<=25K	21,595		
Totals – Purchae Orders						2,296,381	207,918	88,811	1,999,652			126,632	0
Percentage of Total – Purchase Orders							9.05%	3.87%	87.08%			60.90%	
Count – Purchase Orders						98	10	2	86				
Percentage of Total Count – Purchase Orders							10.20%	2.04%	87.76%				

# TAB 4

## Agencies' Consolidated Procurement and Contract Guidelines

**PROCUREMENT AND CONTRACT GUIDELINES OF  
THE NEW YORK STATE HOUSING FINANCE AGENCY,  
STATE OF NEW YORK MORTGAGE AGENCY,  
NEW YORK STATE AFFORDABLE HOUSING CORPORATION,  
STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY,  
AND TOBACCO SETTLEMENT FINANCING CORPORATION  
ESTABLISHING STANDARDS  
FOR THE USE, AWARD, MONITORING AND REPORTING  
OF PROCUREMENT CONTRACTS**

*(effective as of December 15, 2005, amended September 4, 2010, amended September 12, 2013, amended as of January 26, 2023)*

ARTICLE I

1. STATEMENT OF PURPOSE AND APPLICABILITY

- a. Statement of Purpose. These Guidelines are adopted pursuant to the provisions of the Acts and §2879 of the Public Authorities Law, as guidelines of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation (collectively hereinafter referred to as "Agencies" or each individually as "Agency") and, in accordance therewith, are to be reviewed and approved by the Members and Directors of each respective Agency at least annually.
- b. Applicability. These Guidelines apply to the Procurement by the Agencies of goods or services in the actual or estimated amount of \$5,000 or more.
- c. Title. Outside of this document, these Guidelines may be referred to as the "Procurement and Contract Guidelines" and herein may be referred to as "Guidelines."

ARTICLE II

2. DEFINITION OF TERMS

- a. Definitions. The following terms shall, for purposes of these Guidelines, have the following meanings unless the context shall clearly indicate some other meaning:
  - i. "Act" or "Acts" shall mean, either individually, or collectively, the Acts of each of the New York State Housing Finance Agency, State of New York

Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.

- ii. "Agency" or "Agencies" shall mean, either individually or collectively, each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.
- iii. "Affiliated Agencies" shall mean all of the affiliated and co-located Agencies, being the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation, including the Housing Trust Fund Corporation, a subsidiary of the New York State Housing Finance Agency, located in Albany, New York.
- iv. "Annual Procurement Report" shall mean the annual report required by Article XII hereof.
- v. "Article 15-A of the Executive Law" or "Article 15-A" shall mean, the statute that governs the participation by Minority Group Members and women with respect to Agency Contracts.
- vi. "By-Laws" shall mean the By-Laws adopted by the Members and Directors of each Agency.
- vii. "Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, any oral, written or electronic communication from a Contractor or Vendor, or their representatives, with any Agency, under circumstances where a reasonable person would infer that the communication was intended to influence any Agency's conduct or decision regarding an Agency Governmental Procurement.
- viii. "Contract" shall mean a written agreement whereby an Agency undertakes Procurement, and shall include, but not be limited to, accepted Purchase Orders and Procurement Contracts. Contracts in excess of \$25,000 for goods and services and Contracts in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon are subject to the Agencies' MWBE Directives. Additionally, pursuant to Article 15-A, solely for the purpose of providing the opportunity for meaningful participation for certified

MWBEs in the performance of Agency Contracts, Agency Contracts shall include leases of real property by any Agency to a Lessee where: (a) the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such Lessee; and (b) the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of \$100,000.

- ix. "Contractor" shall mean a supplier of goods or services to any Agency pursuant to a written Contract.
- x. "Counsel" shall mean an attorney in the regular employment of any Agency.
- xi. "Critical Contract" shall mean a Contract which must be awarded within a set time period because delay of the award would have a serious adverse effect on the contracting Agency that outweighs the benefits of advertisement in the "New York State Contract Reporter," as determined by the President, and a Senior Officer designated by the President. Examples of Critical Contracts include Contracts related to bond issuances. All Emergency Selection Contracts shall be Critical Contracts. Emergency Foreign Business Enterprise Contracts are not Critical Contracts unless the Agency independently determines those Contracts to be Critical Contracts.
- xii. "Designated Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, a Contact made between an Offerer and the Agency's Designated Contact Officer(s), as set forth in Article VII of these Guidelines.
- xiii. "Designated Contact Officer(s)" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the person(s) the Agency appoints to such position, in accordance with the provisions of the Lobbying Law, who may be the recipient of Designated Contacts, as set forth in Articles VII and XI of these Guidelines.
- xiv. "Designated MWBE Officer(s)" shall mean the senior staff member(s) the Agency appoints to such position, who reports directly to the President to oversee the Agencies' MWBE Program, as set forth in Articles VI and XI of these Guidelines.
- xv. "Determination of Responsibility" shall mean, in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, a final determination required to be made by the Agency of the proposed Contractor or Vendor to whom the Contract

is to be awarded in accordance with Public Authorities Law § 2879 (3) (b) (iii). For Determinations of Responsibility hereunder, the Lobbying Law requires that proposed Contractors and Vendors disclose findings of non-responsibility against them within the previous four years by any other governmental agency.

- xvi. "Director(s)" shall mean the Directors of each of the State of New York Mortgage Agency and State of New York Municipal Bond Bank Agency and collectively, both of them.
- xvii. "Discriminatory Jurisdiction" shall mean any other county, 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 or services by the same, or a non-governmental entity influenced by the same.
- xviii. "Disparity Study of 2010" or "Disparity Study" shall refer to the disparity study commissioned by the Empire State Development Corporation ("ESDC"), pursuant to Article 15-A, and published on April 29, 2010.
- xix. "Emergency Foreign Business Enterprise Contract" shall mean any Contract awarded on an emergency or critical basis or where the New York State Commissioner of Economic Development (hereinafter referred to as the "Commissioner") waives provisions otherwise applying to Contracts with Foreign Business Enterprises which are equal to or greater than \$1,000,000, pursuant to Article VIII of these Guidelines.
- xx. "Emergency Selection Contract" shall mean any Contract exempt from competitive selection due to an Agency determination of an emergency justifying such exemption.
- xxi. "Employee" shall mean an employee of any Agency, whether full or part time.
- xxii. "Ethics Officer" shall mean the person the Agency appoints to such position for purposes of administering matters in connection with the State Ethics laws, or any other State law which requires the existence of such an officer to review, monitor and impose sanctions related to Procurement matters including, but not limited to, Lobbying Law Directives.
- xxiii. "Foreign Business Enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods sought by any Agency and which are substantially produced outside the State, or services sought by any Agency,

and which are substantially performed outside the State.

- xxiv. "Formal Contract" shall mean a Contract which is required to be in writing and formally executed by the Contractor and the Agency.
- xxv. "Formal Solicitation" shall mean a Request for Proposal process.
- xxvi. "Governance Committee Member(s)" shall mean the members of each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation, and collectively, all of them.
- xxvii. "Governmental Procurement" shall mean the (a) public announcement, public notice, or public communication to any potential Vendor of a determination of a need for a Procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, RFPs, or evaluation criteria for a Procurement Contract, (b) solicitation for a Procurement Contract, (c) evaluation of a Procurement Contract, (d) award, approval, denial or disapproval of a Procurement Contract, or (e) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the Procurement Contract as it was finally awarded or approved by the State's comptroller, as applicable), renewal or extension of a Procurement Contract, or any other material change in the Procurement Contract resulting in a financial benefit to the Offerer.
- xxviii. "Guidelines" shall mean these Guidelines, as they may be amended from time to time.
- xxix. "Impermissible Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, any Contact that is not a Designated Contact.
- xxx. "Informal Solicitation" shall mean a Request for Bid process.
- xxxi. "Invitation for Bid" process or "IFB" shall mean the informal solicitation, by way of a statement of qualification, proposal and/or, as appropriate, price bid from at least three prospective Contractors or Vendors, one of which shall be from a MWBE, if possible, for Procurements not expected to exceed \$50,000. Procurements anticipated to exceed \$25,000 or more must include MWBE participation goals.
- xxxii. "Lessee" shall have the same meaning defined in Article 15-A.

- xxxiii. "Lobbying Law Directives" shall mean, in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the requirements of the provisions of the Lobbying Law, and as set forth in Article VII of these Guidelines.
- xxxiv. "Lobbying Law" shall mean the provisions of the Legislative Law and the State Finance Law enacted on August 23, 2005, Chapter 1 of the laws of 2005 and amended on March 20, 2010, Chapter 4 of the laws of 2010.
- xxxv. "Member(s)" shall mean the members of each of the New York State Housing Finance Agency, New York State Affordable Housing Corporation, and Tobacco Settlement Financing Corporation, and collectively, all of them.
- xxxvi. "Minority Owned Business Enterprise" or "MBE" shall mean any business enterprise, including a sole proprietorship, partnership or corporation, that is:
- (1) at least 51% owned by one or more Minority Group Members, or in the case of a publicly-owned business, at least 51% of the common stock or other voting interests of which is owned by one or more Minority Group Members;
  - (2) an enterprise in which the minority ownership is real, substantial and continuing;
  - (3) an enterprise in which the minority ownership has, and exercises, the authority to control independently the day-to-day business decisions of the enterprise;
  - (4) an enterprise authorized to do business in the State, independently owned and operated, and not dominant in its field;
  - (5) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a Personal Net Worth that does not exceed \$3.5 million, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
  - (6) an enterprise that is a Small Business.
- xxxvii. "Minority and/or Women-Owned Business Enterprise" or "MWBE" shall mean any business enterprise, including a sole proprietorship, partnership or corporation, that meets the qualifications for an MBE, a WBE, or both



an MBE and a WBE.

xxxviii. "Minority Group Member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

- (1) Black persons having origins in any of the Black African racial groups not of Hispanic origin;
- (2) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
- (3) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (4) Asian and Pacific Islander persons having origins in any of the Far East countries, Southeast Asia, the Indian sub-continent or the Pacific Islands.

xxxix. "MWBE Director" shall mean the director of the division of minority and women's business development in the Department of Economic Development.

xl. "MWBE Directives" shall mean the requirements of the Agencies' MWBE Program in accordance with the provisions in §2879 of the Public Authorities Law and Article 15-A, and as set forth in Article VI of these Guidelines.

xli. "MWBE Program" shall mean the Agencies' Procurement procedures and policies for providing opportunity for meaningful participation of certified businesses in the performance of Agency Contracts, as more fully described in Article VI of these Guidelines.

xlii. "New York State Business Enterprise" or "NYSBE" shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by any Agency and which are substantially manufactured, produced or assembled in the State, or services which are sought by any Agency and which are substantially performed within the State.

xliii. "Offerer" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, an individual or entity, or any employee, agent or consultant or person acting on behalf of such individual

or entity, that contacts any Agency about an Agency Governmental Procurement during the Restricted Period of such Agency Governmental Procurement, whether or not the caller has a financial interest in the outcome of the Governmental Procurement.

- xliv. "Officer" shall mean any person so defined in the By-Laws of the Agencies.
- xlv. "Permissible Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, a Designated Contact.
- xlvi. "Permissible Subject Matter Communication" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the communications set forth as such in Article VII of these Guidelines.
- xlvii. "Personal Net Worth" shall have the same meaning defined in Article 15-A.
- xlviii. "Personal Services" shall mean any services performed for fee, commission or other compensation by persons or organizations who are not providing such services as Officers or Employees of any Agency or any State agency or public corporation.
- xlix. "Preferred Source" shall mean the status afforded to certain contractors or vendors for purposes of Procurement under §162 of the State Finance Law.
- l. "President and Chief Executive Officer" or "President" shall mean the Senior Officer having such title according each Agency's By-Laws.
- li. "Procurement" shall mean the acquisition of goods, materials and services including, but not limited to, Personal Services, by any Agency. The term goods shall include, but not be limited to, personal property, including furniture, fixtures, stationery and supplies. Services shall include, but not be limited to, the performance of legal, accounting, management, consulting, investment banking, planning, training, statistical, research, public relations, architectural, engineering, surveying or other Personal Services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such service as Officers or Employees of any Agency or any State agency or public corporation.

- lii. "Procurement and Contract Guidelines" shall mean the guidelines to Procurement of goods or services by the Agencies, adopted by the Agencies' Members and Directors on December 15, 2005 and revised as of September 14, 2010, pursuant to the provisions of the Acts and §2879 of the Public Authorities Law, as guidelines of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.
- liii. "Procurement Contract(s)" shall mean, (a) *(following the definition in §2879 of the Public Authorities Law)* any written agreement for Procurement in the actual or estimated amount of \$5,000 or more or (b) *(following the definition in the Lobbying Law for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000)* any Contract, including an amendment, extension, renewal, or change order to an existing Contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the Contract as it was finally awarded), for a Governmental Procurement.
- liv. "Procurement Contract Officer" shall mean the person appointed by the President to such position, as set forth in Article XI of these Guidelines.
- lv. "Procurement Record" shall mean documentation of the decisions made and the approach taken in the Procurement process together with other documentation with respect to Contracts and Contractors/Vendors, as set forth in these Guidelines.
- lvi. "Purchase Order(s)" shall mean written authorization to a Vendor to deliver specified goods or services at a stipulated price.
- lvii. "Quarterly Procurement Report(s)" shall mean the quarterly reports required by Article XII, as described herein.
- lviii. "Request for Proposal" or "RFP" shall mean the formal solicitation, by way of a detailed description of services and/or related work required by any Agency, of a comprehensive response from qualified potential Contractors or Vendors, indicating the manner in which each would perform the tasks involved and the compensation requested, which response would be the basis for a contractual agreement. *(It is generally expected that a qualifying response to an RFP would be sufficiently comprehensive to supply all essential information necessary to enter into a Contract.)*

- lix. "Request for Qualification or "RFQ" shall mean a request for statement of qualifications, which shall contain detailed information, so as to enable recipients to determine the desirability of participating in the selection process and to develop a competitive statement. An RFQ may request other information in addition to qualifications. *(An RFQ requests less information than an RFP. The response may or may not provide enough information upon which to base a Contract, but if it is not sufficient to base a Contract upon, supplementary information would likely be necessary to determine the scope of tasks to be performed under the Contract.)*
- lx. "Restricted Period" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the period of time commencing with the earliest determination of a Procurement need by any Agency to any potential Contractor or Vendor, including, but not limited to, any oral or written communication, notice, advertisement or solicitation of an RFP, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from contractors or vendors intending to result in a Procurement Contract with the Agency and ending with the Agency's approval of the final Contract award.
- lxi. "Senior Officer" shall mean a Senior Officer as defined in the By-Laws of the Agencies.
- lxii. "Senior Vice President and Counsel" shall mean the Senior Vice President and Counsel of the Agencies.
- lxiii. "Service-disabled veteran-owned business enterprise" ("SDVOB") shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
- (1) at least fifty-one percent owned by one or more service-disabled veterans;
  - (2) an enterprise in which such service-disabled veteran ownership is real, substantial, and continuing;
  - (3) an enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
  - (4) an enterprise authorized to do business in this state and is independently-owned and operated;

(5) an enterprise that is a small business which has a significant business presence in the state, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto; and

(6) certified by the State's Office of General Services.

lxiv. "Single Source Contract" shall mean a Contract awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President, that one firm is uniquely qualified or has a unique advantage with respect to the provision of a particular service or good, such that competitive procedures are rendered futile.

lxv. "Small Business" shall have the same meaning defined in Article 15-A.

lxvi. "Sole Source Contract" shall mean a Contract awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President, that there is only one source for a particular service or good, such that competitive procedures are rendered futile.

lxvii. "State" shall mean the State of New York.

lxviii. "Vendor" shall mean a supplier of goods or services to any Agency.

lxix. "Women-Owned Business Enterprise ("WBE")" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:

(1) at least 51% owned by one or more United States citizens or permanent resident aliens who are women or, in the case of a publicly-owned business, at least 51% percent of the common stock or other voting interests of which is owned by United States citizens or permanent resident aliens who are women;

(2) an enterprise in which the ownership interest of women is real, substantial and continuing;

(3) an enterprise in which the women ownership has, and exercises, the authority to control independently the day-to-day business decisions

of the enterprise;

- (4) an enterprise authorized to do business in the State, independently owned and operated, and not dominant in its field;
  - (5) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a Personal Net Worth that does not exceed \$3.5 million, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
  - (6) an enterprise that is a Small Business.
- b. Construction of Language. Any other capitalized terms used herein shall have the meaning given by the By-Laws. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa.

### ARTICLE III

#### 3. USE OF PROCUREMENT CONTRACTORS AND VENDORS

- a. Threshold Criteria for Use of Procurement Contractors for Personal Services. The general responsibilities of the Agencies are performed by Employees. Accordingly, it is the policy of the Agencies that before Personal Services are used, it first be considered whether it would be more appropriate for Employees to provide such services. Personal Services Contractors may be used when it has been determined:
- (1) that such service is necessary or convenient to the performance of any Agency's responsibilities, and;
  - (2) (x) that such service is not available from Employees, or;  
(y) that the performance of such service requires it be undertaken by someone independent of the Agencies, or;  
(z) that use of personnel of any Agency for such service would not be efficient or cost effective.

Such determination shall be made by a Senior Officer except that, in the case of Personal Services set forth below in this Article, such determination may be made by Senior Officers as they may deem administratively appropriate. Non-Personal Services Contracts shall be entered into when any Agency requires goods, materials and non-Personal Services to function effectively and efficiently.

- b. Areas Requiring Use of Procurement Contracts for Personal Services. Personal

Services Contracts have typically been and are anticipated to be executed in the following areas, pursuant to a determination of appropriateness in accordance with the requirements of subparagraph a. of this Article:

Types of Services, Responsibilities and Description of Services to be Provided.

- i. Appraisal. Provide appraisals, analyses and reports with respect to properties which are or may be the subject of Agency loans or loans insured by the Agency.
- ii. Architectural and Engineering. Provide professional architectural and/or engineering services relative to the construction of properties which are or may be the subject of Agency loans, or loans insured by the Agency.
- iii. Audit and Accounting. Provide audit services pertaining to the year-end preparation of financial statements for the Agency in conformance with generally accepted accounting principles. Perform special audits as requested.
- iv. Custody & Safekeeping Services. Provide custody and safekeeping services to secure Agency investments and receive and evaluate underlying collateral for secured Agency investments.
- v. Equipment Maintenance. Provide maintenance for the routine service or repair of office and data processing equipment.
- vi. Information Technology Consulting. Provide analyses and recommendations on the Agencies' data processing structure and operations.
- vii. Information Technology Services. Provide report generating and printing services, computer systems hardware, programming and related services to the Agency(s).
- viii. Investment Banking. Provide: (a) financial advisory services; (b) marketing services for Agency bond issues; and (c) recommendations and analyses with respect to Agency investments, and the preparation, sale, marketing and distribution of Agency bond issues.
- ix. Legal. Provide legal services, opinions and analyses related to bond and note financings, real estate matters, corporate matters, litigation matters and labor matters.
- x. Management Consulting. Provide analyses and recommendations concerning the Agencies' organizational structure and the management of

its operations.

- xi. Minority Business Enterprise Consultants. Provide technical assistance in the Agencies' effort to facilitate MBE participation in Agency programs.
- xii. Printing. Provide: (a) financial printing services based upon specifications and details developed by the Agency; (b) technical printing services relative to the reproduction of loan and insurance documents; (c) graphic, layout and printing services in connection with production of the Agencies' annual report(s); and any special reports that may be required; and (d) other printing and offset services.
- xiii. Training. Provide supervisory and other skills training to Agency Officers and Employees.
- xiv. Trustee Banking Services. Provide banking services to monitor the timely receipt of payments, retirement of debt, collateral evaluations and other services as required by the various bond resolutions.
- xv. Others. The examples of Personal Services listed above in clauses (i) through (xiv) reflect anticipated Personal Services and are not meant to be exhaustive; other services, in other areas, may be utilized subject to these Guidelines.

These Personal Services are not required to be provided as Personal Services Contracts, and may sometimes be performed by Agency staff.

#### ARTICLE IV

#### 4. SELECTION OF PROCUREMENT VENDORS AND CONTRACTORS.

- a. Preferred Selection Criteria and Approach. It is the preference of the Agencies that Vendors and Contractors shall be selected from as broad a spectrum of providers as is practicable, and that Contracts be awarded and purchases be made consistent with the quality of services, or goods and materials required, at fair and reasonable prices. In addition, it is the preference of the Agencies to encourage the participation and utilization of MWBEs in accordance with the MWBE Directives, as set forth in Article VI of these Guidelines and to encourage the participation of New York State Business Enterprises. Contracts shall be regulated in accordance with Lobbying Law Directives, and as set forth in Article VII of these Guidelines.
- b. Selection on a Competitive Basis. It is the preference of the Agencies that Procurement, unless otherwise prescribed, be by competitive process, and that the



process be as competitive as is possible. It is the policy of the Agencies that the selection of Procurement Contractors and Vendors be exempt from the competitive process only under certain exceptional circumstances as specified herein. As appropriate, the following competitive processes may be used in order to select Contractors and Vendors:

- i. Competitive Lowest Price Bid for Goods or Materials. Solicitation of at least three price bids, one of which shall be from a MWBE, if feasible, for specified Procurement, other than Personal Services (goods and materials), to be awarded to qualifying Contractors or Vendors primarily on the basis of the lowest price. Competitive bids are to be solicited when the goods and materials required are of a standardized nature that may reasonably be made the subject of specifications to which bidders respond with required qualification data and price offers.
- ii. Invitation for Bid (“IFB”) process for Contracts Not Expected to Exceed \$50,000. If a Senior Officer determines it is appropriate, an Agency may commence an informal Procurement process by soliciting statements of qualifications, proposals and, as appropriate, price bids from at least three prospective Contractors or Vendors, one of which shall be from a MWBE, if feasible, for Procurements not expected to exceed \$50,000. Procurements valued at \$25,000 or more must include MWBE participation goals. Award of a Contract within this method is made on the basis of an evaluation of the characteristics, quality and cost of such statements of qualifications and proposals.
- iii. RFP (without negotiation). Solicitation of specific proposals which indicate an understanding of identified financial, organizational, logistical and technical requirements and/or problems, and which detail elements of performance, including techniques and procedures as well as prices. Award of a Contract within this method is made on the basis of a formal evaluation of the characteristics, quality and cost of such proposals.
- iv. RFP with Competitive Negotiations. Solicitation of qualifying potential Contractors or Vendors who have submitted materials pursuant to: (a) an RFP to further negotiate their proposals; (b) an RFP which stated that the Agency might further negotiate proposals; or (c) a determination by the Agency, subsequent to issuing an RFP, that further negotiation is appropriate or that the RFP should be revised to permit further negotiations. Further negotiation may include, but shall not be limited to, prices for Contract award on the basis of a formal evaluation of the characteristics, quality and cost of such proposals.
- v. Pre-qualified Panel. The Agency may select Contractors for any Procurement activity from a qualified panel of potential Contractors,

selected on the basis of an RFP or RFQ. The purpose of using a pre-qualified panel is to allow aspects of the competitive process to be addressed early in a phased selection process. This is so that Vendors and Contractors on the panel can be subsequently engaged on an accelerated or more efficient basis. In accordance therewith, panels shall be administered so that the Contract award is based upon a formal evaluation of qualifications and/or the subsequent negotiation of fair and reasonable compensation for specific services actually required. At such time as a panel is created, the Agency shall document for the Procurement Record with respect to that panel, which aspects of the competitive process (a) are being addressed prior to the panel's establishment and (b) shall be fulfilled subsequent to the establishment of the panel. The award of assignments to respective Vendors on a panel need not be based purely on competitive selection processes, to the extent that assignments based on distribution of workload, distribution of risk, and/or a policy of rotation intended to benefit the Agency are reasonable. Panels shall be identified to the Agency Procurement Contract Officer, reported in the Annual Procurement Contract Report, and reviewed and recertified annually to the Agencies' Procurement Contract Officer by the Agency Officer in charge of administering the panel.

- vi. State Contract. Any Agency can enter into Contracts with eligible Vendors, where the State has engaged in a competitive process to create eligible Vendors; and an Agency can enter into a Contract with those Vendors for such services upon comparable terms, provided a Senior Officer determines this is appropriate.
- vii. GSA Contract (or contract of the U.S. General Services Administration or US GSA). Any Agency can enter into Contracts with eligible Vendors, where the US GSA has engaged in a competitive process to create eligible Vendors; and an Agency can enter into a Contract with those Vendors for such services upon comparable terms, provided a Senior Officer determines this is appropriate.
- viii. Affiliated Agency Contract or Affiliated Agency Competitive Selection Process. Whenever an Affiliated Agency has completed a competitive process to create a list of Vendors eligible for the provision of goods or services, any other Agency can enter into a Contract with those Vendors for such services, if for the same services and upon comparable terms. Whenever an Affiliated Agency has engaged in a competitive process, and that process has not yet created a list of eligible Vendors, and an Agency can complete that process to create eligible Vendors, the Agency may do so in order to enter into a Contract with those Vendors for such services for which Vendors are ultimately determined eligible to provide, provided a Senior Officer determines this is appropriate.

- c. Selection on a Non- Competitive Basis. The competitive processes established above in this Article shall not apply or are hereby waived in the following situations:
- i. Preferred Source Providers. Every Agency Procurement shall be conducted in accordance with §162 of the State Finance Law, which, in certain instances, affords Preferred Source status to certain Contractors and Vendors to advance special social and economic goals and precludes the use of competitive selection procedures.
  - ii. Existing Centralized State Contracts. Any Agency may carry out a Procurement using existing centralized State Contracts pursuant to which the Agencies are eligible to procure goods and/or services, according to the State negotiated terms.
  - iii. Existing GSA Contracts. Any Agency may carry out a Procurement using existing centralized GSA Contracts pursuant to which the Agencies are eligible to procure goods and/or services, according to the State negotiated terms.
  - iv. Emergency. When an emergency requires that selection of a Contractor or Vendor cannot be delayed long enough for the use of a competitive procedure because immediate action is required, the President, and a Senior Officer designated by the President, may award a Contract, as the President and the designated Senior Officer deems appropriate, without competitive procedures or following less than the full complement of competitive procedures which would otherwise be required. Circumstances requiring such immediate action must be significant, such as those affecting property of the Agency(s), life, health or safety. Emergencies should only arise out of accident or other unforeseen occurrence. The circumstances under which such Contract was entered into shall be set forth and maintained in the Procurement Record. Such record should, among other things, address whether such circumstances should have been foreseen. Consideration should always be given to whether a Contract entered into on an emergency basis can be supplanted by a subsequent Contract entered into through a competitive process. If the Emergency Contract exceeds \$100,000 in amount or one year in duration, the Contract must be taken to the next Agency Governance Meeting or Board Meeting for approval. The emergency nature of the Contract must be shown in the Quarterly Procurement Report covering the period in which the Contract was executed.
  - v. Sole Source Contract. Sole Source Contracts may be awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the

President. For purposes of determining whether a Contract is a Sole Source Contract, the Agency shall identify if there is only one source for a particular service or good, such that competitive procedures are rendered futile.

- vi. Single Source Contract. Single Source Contracts may be awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President. Competitive procedures may be considered futile for purposes of determining whether a Contract is a Single Source Contract, if, among other things, the submission of bids or proposals by other Contractors or Vendors would not afford them a meaningful likelihood of selection. Any time the Agency considers it appropriate, the Agency may conclusively reach such a determination by relying upon the determination of the State or an Affiliated Agency that a Vendor is uniquely qualified, if the Agency seeks to enter into a Contract or contract with those Vendors for such services upon comparable terms.
- vii. Inconsistent Industry Selection Process with Competitive Price Assurance. Where practice in an industry does not normally involve competitive submission of proposals and where it is determined that it would be cost-effective to award such Contract or otherwise select from among possible Vendors in some other manner, provided steps are taken to assure that the cost is comparable to that generally charged for similar goods or services, and that the Procurement Record contains written evidence of these steps, a Contract may be awarded without competitive process.
- viii. Competitive Proposal Exception for Contracts Not Expected to Exceed \$5,000. In the case of Contracts not expected to exceed \$5,000, if it is determined that soliciting at least three Vendors is not appropriate, such Contract may be awarded without soliciting competitive proposals, if a clear scope of goods or services is utilized and due consideration is given to the market value of such goods or services.
- ix. Option to Waive Competition for Certain Kinds of Contracts. Notwithstanding any other provision of law requiring competition, the competitive process may be waived to include Contracts for the purchase of goods or services from Small Businesses or certified MWBEs or certified SDVOBs, or goods or technology that are recycled or remanufactured, in amounts at or below \$500,000.

## ARTICLE V

5. STANDARDS AND PRACTICES FOR COMPETITIVE SELECTION OF CONTRACTORS.

It is the policy of the Agencies to seek out the maximum practicable number of qualified Vendors interested in offering their goods or services to the Agencies and to establish certain minimum standards for their selection. The following standards shall apply:

- a. Advertisement Requirements for Competitive Source Selection Methods. The solicitation of bids, proposals, offers or submissions of qualification data from Vendors with respect to Contracts shall be made by the Agencies in a manner determined by the President, or a Senior Officer designated by the President, to be the most cost effective for providing reasonable competition for the Agencies' Contracts. This may include advertisement in appropriate newspapers or trade journals, direct mailings to firms considered qualified and such other outreach mechanisms as are consistent with the policy of these Guidelines, including outreach efforts to MWBEs in accordance with the provisions of Article VI herein and the Agencies' MWBE Goal Plan ("MWBE Goal Plan"), and including providing information with respect thereto via the Agencies' website. In addition, in the case of Procurement Contracts in the actual or estimated amount of \$50,000 or more, and in the establishment of pre-qualified panels, as of January 1, 1990, the Agencies shall advertise all such opportunities in the "New York State Contract Reporter" or "Reporter," the official weekly listing of bidding opportunities for the State published by the New York State Department of Economic Development, and any other publication as required by State law, unless the Contract is determined to be a Critical Contract. Already advertised Contract opportunities being re-bid or re-solicited within 45 business days after proposals were originally due, pursuant to publication in the "Reporter," are not required to be published again. Contracts determined to be Single Source Contracts need not be advertised in the "Reporter," but in many instances such advertising should be done to assist in the determination that a Contract is a Single Source Contract.
- b. Minimum of Three Prospective Vendors for Competitively Bid Procurement Contracts. For all Procurement Contracts required to be selected on a competitive basis, the Agency shall solicit statements of qualifications, proposals and, as appropriate, price bids from at least three prospective Vendors. In the case of Contracts not expected to exceed \$5,000, the Agency shall solicit prices, statements of qualifications and proposals from at least three prospective Vendors unless the Agency affirmatively determines it is not appropriate. The Agency shall include at least one MWBE, if feasible, in all Procurement processes for contracts not expected to exceed \$25,000.
- c. Requirements for Agency Bid Documents. Except for Procurement Contracts for which the Agency(s) would be expending funds received from another state, the Agencies shall include in all bid documents provided to potential bidders a

statement that information concerning the availability of State subcontractors and suppliers is available from the State Department of Economic Development, which shall include the directory of certified MWBEs, and an affirmative statement that it is the policy of the Agencies to encourage the use of State subcontractors and suppliers, and to promote the participation of MWBEs, where possible, in the Procurement of goods and services. Additional requirements for Agency Bid Documents relating to the Agencies policies to promote the participation of New York State Business Enterprises is more fully described in Article VIII.8.a. of these Guidelines.

The Agencies shall also require that solicitation documents set forth the expected degree of MWBE participation based, in part, on (1) the potential subcontract opportunities available in the prime Procurement Contract; and (2) the availability of MWBEs to respond competitively to the potential subcontract opportunities.

- i. Required Bid Notices to Professional and other Organizations serving MWBEs. In an effort to award Procurement Contracts to MWBEs in compliance with the Agencies' MWBE Procurement goals, as set forth in the Agencies' MWBE Goal Plan, the Agencies shall provide notice of Governmental Procurements, along with any other notice required by law, to professional and other organizations serving MWBEs that provide the types of services procured by the Agencies. Professional and other organizations can include, but is not limited to, social networking websites, magazines, and/or newspapers catering to a majority of MBE and/or WBE clientele. For the purposes of these Procurement efforts and for other Agency Procurement efforts, the Agencies shall establish procedures for maintaining list(s) of qualified MWBEs. In addition, the Agencies shall establish procedures for maintaining lists to include media outlets and other organizations serving MWBEs. The Agencies will provide such list(s) to Contractors in the Procurement process, requiring that potential Contractors shall consult and contact appropriate MWBEs to solicit their bids, in accordance with Article VI of these Guidelines.
  - ii. Lobbying Law Directives. All Agency solicitations for proposals, bid documents and specifications for Procurement Contracts shall incorporate a summary of the Agencies' policies and prohibitions regarding Contacts under the Lobbying Law, pursuant to the Lobbying Law Directives as described in Article VII of these Guidelines and in the Agencies' Lobbying Reform Law Policies.
  - iii. Promoted Contracts. All Agency solicitations shall follow the directives for the participation of promoted Contracts, as is more fully described in Article VIII of these Guidelines.
- d. Criteria for Selection. Procurement Contracts shall be entered into based on an

evaluation of all proposals or bids received, considering all relevant factors, including, but not limited to terms, costs, goods or services offered, experience and capabilities, financial security, reputation in the field, staff availability, personnel expected to be involved and possible conflicts of interest. Where a Senior Officer determines that there is a suitably neutral and reliable publisher or publicly available industry ratings or evaluations of products or firm qualifications, such ratings or evaluations may be allowed to substitute, in whole or in part, as determined to be appropriate, for required submission of qualifications where it is determined that requiring independent submission of such from Vendors would be duplicative. The criterion for selection are not intended to supersede the fact that the Agencies have certain promoted Contracts and certain prohibited Contracts and Contracts subject to limitations, as set forth in Article VIII of these Guidelines.

- e. Compliance with Additional Procedures for Requests for Proposals and Requests for Qualifications. The Agencies shall also comply with any additional procedures issued by it, from time to time, with respect to the conduct of Requests For Proposals and Requests For Qualifications.

## ARTICLE VI.

### 6. MWBE PROGRAM ESTABLISHING PROCEDURES FOR MWBE PARTICIPATION AND UTILIZATION IN AGENCY PROCUREMENTS

The requirements of the Agencies' MWBE Program, in accordance with the provisions of §2879 of the Public Authorities Law, Article 15-A, and the directives of the Governor, and as set forth in this Article, shall be referred to as the Agencies' MWBE Directives. The Agencies shall work to increase MWBE participation and utilization through certain Procurement procedures, as described in the Agencies' consolidated Annual MWBE Goal Plan and these Guidelines, and incorporated in the Agencies' MWBE Program. These procedures shall include (i) the appointment of a Designated MWBE Officer(s) by the President to oversee the Agencies' MWBE Program, as described more fully in Article XI of these Guidelines, (ii) the establishment of appropriate goals for participation by MWBEs in Procurement Contracts awarded by the Agencies and (iii) the utilization of MWBEs as subcontractors and suppliers by Contractors having Procurement Contracts with the Agencies.

The Agencies have established numerical participation target goals identified in their MWBE Goal Plan based on the findings of the Disparity Study and directives from the Governor. For each new Contract, the Agencies shall gauge the appropriateness of the Procurement goals by considering the availability of Contractors to perform the Contract's anticipated scope of services, weighted by the extent those scope of services represent the total Contract price.

In the event the projected goals cannot be achieved, the Agencies will provide adequate documentation of a good faith effort to meet these goals in its submission of its Annual MWBE Goal Plan.

The Agencies, for the purposes of reaching these goals, shall establish procedures for maintaining list(s) of qualified and certified MWBEs, that have expressed an interest in doing business with the Agencies, and ensuring that such lists are updated periodically, but no less than once annually, and include a firm profile that will, if possible, describe the firm's history, key personnel and core work areas. The Agencies shall also consult the list(s) of certified MWBEs maintained by the Department of Economic Development, pursuant to Article 15-A.

The Agencies shall update these MWBE participation goals annually in an effort to (1) obtain the maximum feasible participation of MWBEs in Agency Contracts, (2) evaluate each Contract to determine the appropriateness of the goal, and (3) examine Agency goals to determine if their implementation will duplicate or conflict with any federal law. The Agencies shall waive the applicability of these goals to the extent of such duplication or conflict. These MWBE goals are subject to change by industry and region pursuant to findings contained within the Disparity Study of 2010, future Disparity Studies by the ESDC and Agency findings evidencing relevant industry and region-specific availability of certified MWBEs

b. Requirements to Conduct Procurements to Ensure Maximum Participation and Utilization by MWBEs. To enable the Agencies to achieve the maximum feasible portion of the Agencies' goals established in their MWBE Goal Plan, that eliminates barriers to participation by MWBEs in the Agencies' Procurements, Agency MWBE Directives shall include:

i. Measures and Procedures. The Agency shall establish measures and procedures to: (a) ensure that certified MWBEs shall be given the opportunity for maximum feasible participation in the performance of Agency Contracts; and (b) to assist in the Agencies' identification of those Agency Contracts for which certified MWBEs may best bid to actively and affirmatively promote and assist their participation in the performance of Agency Contracts so as to facilitate the Agencies' achievement of the maximum feasible portion of the goals for Agency Contracts to such businesses. The Agencies' measures and procedures shall include the following MWBE Directives:

- (1) For competitive Procurements requiring a minimum of three bids, quotes must be obtained from at least one MBE or WBE. If not feasible, the reasons for not doing so shall be documented in writing and included in the Procurement record. Agency staff issuing solicitations will comply with this requirement whenever MWBEs are available for goods or services being procured;



- (2) Encouraging Contractors to consider partnering with MWBEs, if feasible; and practicable; and
  - (3) For non-competitive Procurements, Agency staff issuing the solicitation shall strongly consider using a certified MWBE, if available, and if the MWBE meets the needs of the Agency.
- ii. Designation of the Division of Minority and Women-Owned Business Development (“Division of MWBEs”). The Agencies shall designate the Division of MWBEs to certify and decertify MWBEs for the Agencies.
- iii. Expected Degree of MWBE Participation. The Agencies shall require that each Contract solicitation set forth the expected degree of MWBE participation, as set forth in Article VI of these Guidelines.:
- iv. Current List of MWBEs. The Agencies shall provide a current list of certified MWBEs to each prospective Contractor, as set forth in Article VI of these Guidelines.
- v. Joint Ventures and MWBE Participation Goals. The MBE portion or the WBE portion of joint ventures shall count toward meeting the Agencies’ MWBE participation goals. A firm owned by a Minority Group Member who is also a woman may be certified as a MBE, a WBE, or both, and may be counted towards either a MBE goal or a WBE goal, in regard to any Contract or any goal, set by the Agencies, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the MBE goal and the WBE goal.
- vi. Waiver of Obligations of Contractor relating to MWBE Participation. The Agencies may waive obligations of the Contractor relating to MWBE participation after a showing of good faith effort to comply with the MWBE participation requirements, pursuant Chapter 174 and Chapter 175 of the laws of 2010 that amend §2879 of the Public Authorities Law and Article 15-A, §313, subdivision six, respectively, both enacted on July 15, 2010.
- vii. Verification of MWBE Participation. The Agencies shall verify that MWBEs listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted, including verification that the procured primary Contractors are truly providing for the participation of MWBEs as described in the Procurement Contract. Participation of MWBEs shall be verified by (i) electronically monitoring and tracking the utilization, prompt payment and unauthorized substitutions of MWBE subcontractors and (ii) the provision of the following data, by the Contractor to the Agency, for each MWBE subcontract:

- (1) name(s) of the MWBE subcontractor;
- (2) total dollar amount of the MWBE's participation;
- (3) scope of work of the MWBE subcontractor; and
- (4) dates of participation.

viii. In the implementation of this section of this Article, the Agencies shall:

- (1). consider, where practicable, the severability of construction projects and other bundled Contracts; however, unbundling must be conducted within the constraints of the Agencies' need to ensure efficiency and limit costs;
- (2) implement its MWBE Program to enable the Agencies to evaluate each Contract to determine the appropriateness of the goal, as set forth in this Article, which shall include:
  - (a) increasing MWBE outreach and communication efforts by use of the internet to facilitate access to information and build relationships between MWBEs and potential partners by:
    - (i) Posting a list on the Agencies' website of Agency contracting staff; and
    - (ii) Requiring Agency staff to include certified MWBEs in the solicitation lists for Procurements not expected to exceed \$25,000;
  - (b) consider the number and types of MWBEs located in the region in which the Agency Contract is to be performed;
  - (c) consider the total dollar value of the Agency Contract, the scope of work to be performed, and the project size and term;
  - (d) consider whether the Contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event,
    - (i) whether or not certified MWBEs that have been solicited by the Contractor exhibited interest in

- submitting proposals for a particular project by attending a pre-bid conference; and
- (ii) whether certified MWBEs which have been solicited by the Contractor have responded in a timely fashion to the Contractor's solicitations for timely competitive bid quotations prior to the Agency's bid date;
- (e) consider whether there has been written notification to appropriate certified MWBEs that appear in the directory of certified MWBEs, and
- (f) consider whether the Contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified MWBEs.
- 3. consider compliance with the requirements of any federal law concerning opportunities for MWBEs which effectuates the purpose of this Article; and
- 4. consult the most recent disparity study, pursuant to Article 15-A.

## ARTICLE VII

### 7. REQUIRED DESIGNATIONS AND DISCLOSURES UNDER LOBBYING LAW DIRECTIVES IN THE SELECTION OF PROCUREMENT VENDORS AND CONTRACTORS.

Contacts shall be regulated in accordance with Lobbying Law Directives as follows:

For any Governmental Procurement or Contract made subject to the Lobbying Law, the Agency shall notify every potential Contractor or Vendor that the Agency has a Designated Contact Officer(s) who is the only Agency representative(s) permitted to receive Designated Contacts from the Contractors or Vendors, or their representatives, during the Restricted Period with respect to such Governmental Procurement (*effective June 10, 2010, the Agencies have designated, the Vice President and Deputy Counsel or when*

*appropriate, an Agency Senior Officer with technical knowledge of the Governmental Procurement, as the Designated Contact Officer(s) for all Governmental Procurement for which such appointment is required).* A Contractor or Vendor is restricted from making Contacts with the Agency(s) from the date of any public announcement, public notice, or public communication by any Agency to any potential Vendor of a determination of a need for a Governmental Procurement through final award and approval of the Procurement Contract by the Agency to anyone other than the Designated Contact Officer(s) with respect to the Governmental Procurement unless such communication is any one of the following Permissible Subject Matter Communications:

- (a) the submission of written proposals in response to a Request for Proposals, invitation for bids or any other method for soliciting a response from Offerers intending to result in a Procurement Contract;
- (b) the submission of written questions by a method set forth in a RFP, or invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract, when all written questions and responses are to be disseminated to all Offerers who have expressed an interest in the RFP, or invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract;
- (c) participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in a RFP, invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract;
- (d) complaints by an Offerer regarding the failure of the person or persons designated by the Agency pursuant to this section to respond in a timely manner to authorized Offerer Contacts, made in writing to the office of general counsel of the Agency, provided that any such written complaints shall become a part of the Procurement Record;
- (e) Offerers who have been tentatively awarded a Contract and are engaged in communications with the Agency solely for the purpose of negotiating the terms of the Procurement Contract after being notified of tentative award;
- (f) communications between designated staff of the Agency and an Offerer to request the review of a Procurement Contract award;
- (g) communications by Offerers in protests, appeals or other review proceedings (including the apparent successful bidder and his or her representatives) before the

Agency conducting the Governmental Procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or

- (h) communications between Offerers and governmental entities that solely address the determination of responsibility entity of an Offerer.

Unless the communication(s) is any one of the above Permissible Subject Matter Communications, the Vice President and Deputy Counsel or the designated Senior Officer are the only representative(s) of the Agencies permitted to receive Contacts from bidders, potential Contractors or Vendors, or their representatives, during the Restricted Period with respect to an Agency Governmental Procurement.

All Agency solicitations for proposals, bid documents and specifications for Procurement Contracts shall incorporate a summary of the Agencies' policies and prohibitions regarding Contacts under the Lobbying Law. All potential Contractors or Vendors must complete and return to the Agency with their proposal or bid response to an Agency solicitation, the *Affirmation of Understanding of and Agreement*, and *Potential Contractor or Vendor Disclosure of Prior Non-Responsibility Determinations*, Lobbying Law Forms 1 and 2, respectively. Form 1 is a written affirmation of a Contractor's or Vendor's understanding of the Governmental Procurement lobbying procedures of the Agencies and Form 2 requires the potential Contractor or Vendor to certify that all information provided to the Agencies with respect to the Lobbying Law is complete, true and accurate. Prior to awarding a Procurement Contract to which these provisions apply, the Agency shall make a final Determination of Responsibility. All solicitations for proposals by the Agency shall require that potential Contractors or Vendors disclose to the Agency any findings of non-responsibility against them within the previous four years by any other governmental agency and must contain certifications that the same are complete, true and accurate.

For Contractors or Vendors who fail to comply with the Agencies' Lobbying Law Directives, refer to Article VIII of these Guidelines and the Agencies' Lobbying Reform Law Policies.

## ARTICLE VIII

### 8. PROMOTED AND PROHIBITED CONTRACTS & CONTRACTS SUBJECT TO OTHER LIMITATIONS

Notwithstanding the general practices of the Agencies with respect to selection of Contractors and Vendors and adherence to competitive practices, as set forth in in these Guidelines, the following shall apply or be given weight in order that certain Contracts, or the award thereof, may be promoted, prohibited or subject to certain limitations.

- a. Promoted Contracts. It is the policy of the Agency to promote certain contracts as

follows:

- i. Minority- and Women-Owned Business Enterprises. It is the policy of the Agencies to promote and encourage the use of MWBEs and New York State subcontractors and suppliers in competition for Procurement Contracts. Furthermore, for Procurements anticipated to be in the amount of \$25,000 or less, if the performance of any Contract requires or permits the use of a subcontractor, it is preference of the Agencies to encourage the participation of MWBEs, as set forth in these Guidelines. The Agencies encourage bidders to include demonstrations that their selection promotes the use of MWBEs in bid responses, for example, through proposals for joint ventures with MWBEs. Procurements exceeding \$25,000 must include MWBE participation goals in solicitation documents.

In order to promote and assist participation by, and facilitate the awarding of a fair share of Contracts to, MWBEs, the Agencies have identified the following services as those areas or types of Contracts for which MWBEs may best bid: Archival Off-Site Services; Audit/Accounting Services; Appraisal Services; Architectural/Engineering Services; Equipment Maintenance Services; Information Technology Consulting/Services; Investment Banking Services; Legal Services; Management Consulting Services; and Printing Services; and Temporary Employee Services.

- ii. New York State Business Enterprises and New York State Residents. It is the goal of the Agencies to promote the participation of New York State Business Enterprises and New York State residents in Procurement Contracts. Accordingly, the following procedure shall apply:

- (1) The Agencies shall collect and consult the specifications of NYSBEs in developing specifications for any Procurement Contract for the purchase of goods where possible, practicable, feasible and consistent with open bidding, except for Procurement Contracts for which the Agency would be expending funds received from another state. The Agencies shall, where feasible, make use of the stock item specification forms prepared by the State Commissioner of General Services, and where necessary, consult with the State Commissioner of the Office of General Services, in developing such specifications and make such determinations;
- (2) The Agencies shall, with the cooperation of the Department of Economic Development and through cooperative efforts with Contractors and Vendors, (i) notify NYSBEs of opportunities to participate as subcontractors and suppliers on Agency Procurement Contracts in amounts estimated to be equal to or greater than

\$1,000,000 and (ii) promulgate procedures which will assure compliance by Contractors and Vendors with such notification. Once awarded the Contract, such Contractors shall document their efforts to encourage the participation of NYSBEs as suppliers and subcontractors on Procurement Contracts equal to or greater than \$1,000,000, pursuant to §2879 of the Public Authorities Law;

(3) The Agencies shall, with the cooperation of the Community Services Division of the Department of Labor and through cooperative efforts with Contractors and Vendors, notify New York State residents of employment opportunities arising out of Procurement Contracts let by the Agencies in an amount estimated to be equal to or greater than \$1,000,000. Contractors shall, as supplementary materials to their bids, document their efforts to provide such notification.

(4) The Agency shall include in all bid documents, (i) a statement notifying potential bidders located in foreign countries that the Agency may assign or otherwise transfer offset credits created by the Procurement Contract to third parties located in New York State and (ii) a provision for the assignment or other form of transfer of offset credits created by such Procurement Contracts, directly or indirectly, to third parties located in the State. Such assignment or other form of transfer shall be in accordance with the written directions of the Commissioner of Economic Development. The Agency shall cooperate with the Department of Economic Development in efforts to get foreign countries to recognize offset credits assigned or transferred to third parties located in New York State created by the Agency's Procurement Contracts.

iii. Businesses with Anti-discriminatory Employment Practices. It is the Agencies' policy to have procedures in place that will ensure, to the extent of the Agencies' ability, that Contractors and Vendors comply with the federal Equal Employment Opportunity Act of 1972, as amended.

For any Contractor or Vendor with fifteen or more employees responding to an RFP, RFQ, IFB or other type of invitation for bids, included with such response must be a statement disclosing whether the Contractor or Vendor is currently operating under or negotiating, or has at some time in the last five years operated under or negotiated, a conciliation agreement with the Equal Employment Opportunity Commission ("EEOC"); has been, at some time in the last five years, or is currently the subject of a civil action brought against it by the EEOC; has been, at some time in the last five years, or is currently the subject of an action brought against it by the EEOC for permanent, temporary or preliminary relief; has operated, at some time in

the last five years, or is currently operating under an order of a court to take affirmative action as a result of a civil action brought against it by EEOC.

The Agencies shall state in each Contract entered into with a Contractor or Vendor with fifteen or more employees, that it is an unlawful employment practice for such Contractor or Vendor to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, or to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, or national origin, or because an individual opposed any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, or because he or she made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under that Title; and that it shall be an unlawful employment practice to print or publish or cause to be printed or published any notice or advertisement relating to employment indicating any preference, limitation, specification, or discrimination on the basis of race, color, religion, sex, or national origin.

The Agencies shall state in each Contract entered into with a Contractor or Vendor with fifteen or more employees, that such Contractor or Vendor shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods as the EEOC shall prescribe by regulation, and (3) make such reports therefrom as the EEOC shall prescribe by regulation or order.

The Agencies shall state in each Contract entered into with a Contractor or Vendor with fifteen or more employees, that such Contractor or Vendor must post and keep posted in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted a notice prepared or approved by the EEOC setting forth excerpts from, or summaries of, pertinent provisions of Title VII of the Civil Rights Act of 1964, as amended, and information pertinent to the filing of a complaint.

The Agencies' goal is to award Contracts to those Contractors and Vendors who have evidenced compliance with the laws of the State prohibiting discrimination in employment. The Agencies recognize that this goal may be achieved by awarding Procurement Contracts to those firms who have demonstrated that they do not discriminate with respect to employment.

For all Personal Services Contracts over \$25,000, and for all Contracts for



goods and materials over \$100,000, bidders shall submit to the Agencies data regarding the race and gender of their partners, members and employees by job category. Bidders whose Affirmative Action plans are not found acceptable to the Agencies shall be rejected.

- b. Prohibited Contracts and Contracts Permitted Subject to Specified Exceptions or Limitations. It is the policy of the Agencies that certain Contracts be prohibited or permitted only subject to certain exceptions or limitations as follows.
  - i. Special Criteria Rule for Evaluation of Architects, Engineers and Surveyors. For purposes of this subparagraph, the term “Professional Firm” shall be defined as any individual or sole proprietorship, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture, engineering, or surveying. The Agency shall not refuse to negotiate with a Professional Firm solely because the ratio of the “allowable indirect costs” to direct labor costs or the hourly rate in any labor category of the Professional Firm exceeds a limitation generally set by the Agency in the determination of the reasonableness of the estimated cost of services to be rendered by the Professional Firm, but rather the Agency should also consider the reasonableness of cost based on the total estimated cost of the service of the Professional Firm which should include, among other things, all the direct labor costs of the Professional Firm for such services plus all “allowable indirect costs,” other direct costs, and negotiated profit of the Professional Firm. For purposes of this subparagraph, “allowable indirect costs” of a Professional Firm are defined as those costs generally associated with overhead which cannot be specifically identified with a single project or Contract and are considered reasonable and allowable under specific Contract or allowability limits.
  - ii. Contracts with Businesses with Operations in Northern Ireland. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Agencies shall not enter into Procurement Contracts with Vendors who have operations in Northern Ireland unless the Agencies receive contractual assurance that the Contractor shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in §165 of the New York State Finance Law), and agrees to permit independent monitoring of its compliance with such principles.
  - iii. Contracts with Foreign Business Enterprise. The Agencies shall notify the New York State Commissioner of Economic Development (“Commissioner”) of the award of a Procurement Contract for the purchase of goods from a Foreign Business Enterprise in an amount equal to or greater than \$1,000,000, simultaneously with notifying the successful bidder therefor. The Agencies shall not thereafter enter into a Procurement

Contract for said goods until at least 15 days have elapsed, except for Procurement Contracts awarded as Emergency Selection Contracts or where the Commissioner waives the provisions of this section. The notification to the Commissioner shall include the name, address and telephone and facsimile numbers of the Foreign Business Enterprise, a brief description of the goods or services to be obtained pursuant to the proposed Procurement Contract, the amount of the proposed Procurement Contract, the term of the proposed Procurement Contract, and the name of the individual at the Foreign Business Enterprise or acting on behalf of the same who is principally responsible for the proposed Procurement Contract. *(The purpose of such notification is solely to allow the Commissioner to use the information to provide notification to NYSBEs of opportunities to participate as subcontractors and suppliers on such Procurement Contracts; to promote and encourage the location and development of new business in the State; to assist NYSBEs in obtaining offset credits from foreign countries; and to otherwise investigate, study and undertake means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of NYSBEs, industry and commerce.)*

- iv. Contracts with Discriminatory Jurisdiction Business Enterprises. The Agencies shall not, except as hereinafter provided, solicit bids from, or enter into a Procurement Contract with, a Foreign Business Enterprise which has its principal place of business in a jurisdiction that discriminates against New York businesses, as contained on the list prepared by the Commissioner pursuant to §165(6)(b) of the State Finance Law. *(Currently, as of the date of these revisions of these Guidelines, the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming have discriminatory policies against New York State bidders.)* The Agencies may waive this section only when the President, or a Senior Officer designated by the President, determines in writing that it is in the best interest of the State to do so.
- v. Vendors Failing to Comply with Lobbying Law Directives. The Agencies shall not enter into Contracts with Contractors or Vendors when:
  - (1) proposed Vendor or Contractor has failed to timely disclose accurate and complete information or otherwise cooperate with the Agencies in administering the Lobbying Law Directives; or
  - (2) there has been a finding that an Offerer has knowingly and willfully violated the provisions set forth in Article VII . of these Guidelines and the Agencies' Lobbying Reform Law Policies. This finding shall also result in a determination of non-responsibility against the Offerer. *(Violations of the Lobbying Law are expected to typically involve Contacts made to persons at the Agencies other than the*

*Designated Contact Officer(s)).*

The Agencies shall not enter into Contracts in the case of either (1) or (2) of this subparagraph (v), section (b) of this Article, unless the Agencies determine that the award of the Procurement Contract:

- (a) is necessary to protect public property or public health or safety, and
- (b) that the Contractor or Vendor is the only source capable of supplying the required goods or services within the necessary time frame.

In order for the Agency determinations in (1) and (2) (a) and (b) above to be effective as exceptions, the above required findings, including a statement describing the basis of such determination by the Agency must be made a part of the Procurement Record.

Any subsequent determination of non-responsibility due to violations of the requirements of the Lobbying Law, if such determination is separated by less than four years, shall result in the proposed Vendor or Contractor being rendered ineligible to submit a proposal on or be awarded any Procurement Contract for a period of four years from the date of the second final determination of non-responsibility.

- vi. Contracts with Former Agency Officers and Employees. The Agencies shall not enter into Contracts which contemplate, violate or affirmatively, by their terms, allow former Officers and Employees of the Agencies to violate §73 (8) (a) of the State Ethics Law. Specifically, and not by way of limitation, (except for employment contracts pursuant to which former Employees resume employee status to again work directly for the Agencies), the Agencies shall not enter into Contracts which provide for or permit a former Officer or Employee of the Agencies, either as an individual contracting directly with the Agencies or as an officer or employee of a private business entity, to appear, practice, communicate or otherwise render services before the Agencies or receive compensation for any such services rendered by such former Officer or Employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction:

- (1) with respect to which such Officer or Employee was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration or over which that Employee or Officer exercised decision-making power during the performance of his or her official duties at the Agencies, or
- (2) in connection with any matter before the Agencies or its business

for a period of two years after termination of such service or employment.

If the President deems it appropriate, the preceding prohibitions may be temporarily waived provided that, prior thereto, the State Ethics Commission grants an exception in accordance with the requirements of Chapter 523 of the Laws of 2004, or, for employees who left Agency employment before December 31, 1996 and otherwise qualify, a waiver has been granted pursuant to the provisions of Chapter 229 of the Laws of 1995. Notwithstanding the foregoing, the preceding prohibitions shall not apply when a former Officer or Employee carries out official duties as an elected official or employee of a federal, state or local government, or any agency of such government. Thus, a former Employee may appear, practice, communicate or render compensated services before the Agencies if he or she is acting as an elected official or employee of a federal, state or local government or one of its agencies. This exception applies only to government officials and employees; it does not apply to paid consultants of government entities.

In addition, in determining whether or not to enter into Contracts with respect to which any former Officer or Employee of the Agency plays a role, and with respect to the ethical administration thereof, the Agencies shall give due consideration to whether the execution or administration of the Contract raises an appearance of impropriety.

The Agencies shall, as it deems appropriate, include provisions in its Contracts to effect the purposes of this section.

## ARTICLE IX

### 9. GENERAL CONTRACT PROVISIONS AND CONTINUING EVALUATION OF PROCUREMENT CONTRACTS IN EFFECT FOR LIMITED TERMS.

- a. General Contract Provisions. The Agencies shall include general Contract provisions in its Procurement Contracts, as follows:
  - i. In Writing and Duly Executed. All Procurement Contracts shall be in writing and shall, at a minimum, be duly executed by an individual empowered to do so in accordance with the Agency By-Laws and, as the case may be, the provision for delegation of signing authority thereunder.
  - ii. Scope and Description. Procurement Contracts shall specifically provide for a scope of services indicating the nature of the work to be performed or goods to be provided, and for the time for performance, the monitoring or

reviewing of that performance by personnel of the Agencies, any conditions generally applicable to Contracts with the Agency(s), any applicable provisions for insurance, and, where appropriate, any permitted use of supplies, facilities or personnel of the Agencies.

- iii. Compensation and Payment Terms. Such Procurement Contracts shall also state the compensation for the goods or services, and the terms of payment including the conditions for receiving payment from the Agencies.
- iv. Non-collusion. Formal Contracts shall, whenever appropriate, include Contractor Certifications that:
  - (1) The prices in the bid(s) or proposal(s) were arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restricting competition, or as to any matter relating to such prices with any other Contractor or with any competitor.
  - (2) Unless otherwise required by law, the prices which have been quoted in the bid(s) or proposal(s) were not knowingly disclosed by a Contractor prior to the opening of bid submissions, directly or indirectly, to any other Contractor or to any competitor.
  - (3) No attempt was made or will be made by the Contractor to induce any other person, partnership or corporation to submit or not submit bid(s) or proposal(s) for the purpose of restricting competition.
- v. False or Inaccurate Lobbying Law Directives Certifications. Every Governmental Procurement with an estimated annual expenditure over \$15,000 shall contain:
  - (1) certifications that the representations required by the Lobbying Law Directives, if applicable, are complete, true and accurate, and
  - (2) a provision authorizing the Agency(s) to immediately terminate such Contract in the event that any certification in accordance with the provisions of the Lobbying Law Directives is found to be intentionally false or intentionally inaccurate.
- vi. Prohibitions and violations in Contracts. In accordance with § 316-a of Article 15-A, Contracts shall include a provision expressly providing that any Contractor who willfully and intentionally fails to comply with the minority and women-owned participation requirements, as set forth in such Contract shall be liable to the Agencies for liquidated or other appropriate

damages and shall provide for the appropriate remedies on account of such breach. If the Agencies elect to proceed against a Contractor for breach of Contract, the Agency shall be precluded from seeking enforcement pursuant to §316 of Article 15-A, provided however, that the Agency shall include a summary of all enforcement actions undertaken in its Annual MWBE Goal Plan, in accordance with subdivision three of §315 of Article 15-A and Article XII of these Guidelines.

b. Continuing Evaluation of Procurement Contracts in Effect for Limited Terms.

- i. Limitation of Contract Terms. In order that the Agencies may enter into new Procurement Contracts for the Procurement covered as soon as might be desirable, Procurement Contracts should not commit the Agency(s) to continue to use Contractors for longer than is desirable to achieve the Contract objectives, such as obtaining the Contractor's commitment to perform services at a reasonable price. Unless specifically permitted by a resolution of the Agency's Members or Directors, Procurement Contracts shall be for a term not exceeding one year and shall be terminable by the Agency, at its option, without cause, within a period that is less than a year into the future.
- ii. Continuing Evaluation of Procurement Contracts and Panels. Every Procurement Contract under which services are currently being performed or goods or materials provided shall be continually evaluated by a designated Officer or Employee. Such Officer or Employee shall review and approve all bills to be paid and continually evaluate the Contractor's performance. Such Officer or Employee shall continually give consideration to whether the further use of the Contractor's services and continuation of the Procurement Contract is desirable. Such consideration shall extend to making a determination, at least annually, of when it would be most appropriate and effective to award the Procurement Contract again through a new competitive selection process such as a new Request for Proposals. A determination not to enter into a new competitive award process immediately can be supported, in part, by verification that services are still being provided at competitive rates, but such verification shall not be determinative of whether a new competitive process should commence. Part of the required annual review and recertification to the Agencies' Procurement Contract Officer of Agency panels shall be a consideration of whether it would be appropriate and effective to renew the competitive selection process for Procurement Contracts with firms on the panels, including, but not limited to, doing so through the issuance of a new Request for Qualifications to reestablish the panel. Any determination not to enter into a new competitive award process, as a result of which a Contract would exceed a projected five years without a new competitive award process being conducted, shall require the affirmative concurrence of each

Agency's Governance Committee included in a resolution adopted by each Agency's Governance Committee, as required by Article X of these Guidelines. Such affirmative concurrence shall not be required in relation to Single Source Contracts, Sole Source Contracts, existing State Contracts or existing GSA Contracts.

## ARTICLE X

### 10. REQUIRED AGENCY APPROVALS

- a. Directors' or Members' and/or Governance Committees' Approval. All Contracts where compensation is expected to be in an amount of \$100,000 or more, as well as any Contracts involving services to be provided in excess of one year, shall require initial approval of the Directors or Members of each Agency's Governance Committee or the Agency's Members or Directors. Unless specifically permitted by a resolution of the Agency's Governance Committee or the Members or Directors, Procurement Contracts shall be for a term not exceeding one year and shall be terminable by the Agency(s), at its option, without cause, within a period that is less than a year into the future. The President, or a Senior Officer designated by the President, may submit other Contracts as he or she deems appropriate to the Members or Directors for their consideration and approval.
- b. Directors' or Members' and/or Governance Committees' Annual Review. The Directors and Members shall, at least annually, review any Contract lasting more than a year, each January, as part of the approval of the Annual Report on Procurement Contracts. The Governance Committees will annually review Contracts bundled with similar like goods and/or services. Contracts considered as lasting for more than a year for this purpose shall include Contracts where the Contract itself, by virtue of its stated terms, has a period of longer than a year, and in addition, shall include Contracts where, by virtue of renewal or execution of new or subsequent Contracts, without an intervening Contractor or Vendor Selection Process, the Agency's contractual relationship with the Vendor or Contractor continues for more than a year. Annual approval or review by each Agency's Governance Committee shall be as follows:
  - i. Provided that timely annual review for each Contract is effected, firms on Agency panels can be brought for annual review:
    - (1) collectively, or in such combinations as are deemed appropriate, on a single annual review anniversary, or
    - (2) individually based on the dates that Procurement Contracts first required Member and/or Director approval.

- ii. Any determination not to enter into a new competitive award process, pursuant to which a Contract would exceed a projected five years without a new competitive award process, shall require the affirmative concurrence of each Agency's Governance Committee included in a resolution adopted by each Agency's Governance Committee. Such affirmative concurrence shall not be required in relation to Single Source Contracts, Sole Source Contracts, existing State Contracts, or existing GSA Contracts. In any case, any Contract in excess of a \$100,000 in amount or more than one year in duration must be initially approved by the Agency's Governance Committee and annually reviewed by the Agency's Governance Committee.
- c. Execution of Procurement Contracts. All Procurement Contracts shall be executed by the President, or a Senior Officer, as defined under the Agencies' By-Laws or by such Vice President to whom execution authority has been appropriately delegated in writing by a Senior Officer.
- d. Approval of Procurement Contracts by the Senior Vice President and Counsel. The Senior Vice President and Counsel shall approve, as to legal compliance, all Procurement Contracts. The consideration shall include the legal form and efficacy of the Procurement Contract. The Agencies' Legal Department may evidence such approval by Counsel by:
  - i. Signing "Approved as to form" on any Formal Contract so approved;
  - ii. In connection with a closing managed by the Legal Department, approving the closing and, as necessary, delivering accompanying opinions in connection therewith; or
  - iii. Making such arrangements as are acceptable to the Counsel to assure that the form of Contract is legally acceptable and approved by Agency Counsel.

## ARTICLE XI

### 11. ADMINISTRATION OF PROCUREMENT, RECORDS AND RESPONSIBILITIES OF AGENCY OFFICERS AND EMPLOYEES

- a. Procurement Record. A Procurement Record shall be maintained for each Procurement requiring any Formal Contract and such other Procurement as the Procurement Contract Officer deems appropriate, or as State law requires, identifying, with supporting documentation, decisions made by the Agency during the Procurement process. The Procurement Record shall include, but not be limited to, documentation of: (1) the determination of the method of Procurement from among the available methods permissible under these Guidelines (*particularly, if*



*there is a determination of an Emergency Selection Contract, Sole Source Contract or Single Source Contract); (2) the process to be used to determine best value, the manner in which the selection of evaluation criteria and the evaluation process shall be conducted, and the evaluation criteria, which, whenever possible, shall be quantifiable; and (3) the basis of award and circumstances leading to the selection of the Vendor, including the alternatives considered, the rationale for selecting the specific Vendor and the basis upon which cost was determined reasonable. To the extent practicable, the Agencies shall document all aspects of the solicitation process in advance of the initial receipt of offers. Each amendment to an existing Contract, and the justification for each, shall also be included in the Procurement Record. Determinations of emergency with respect to Emergency Selection Contracts and Emergency Foreign Business Enterprise Contracts shall be included in the Procurement Record.*

Annual certifications of panels should be made a part of the Procurement Record.

With respect to the Lobbying Law Directives, the Procurement Record shall include complete information related to: (i) written certifications by the Contractors or Vendors with respect to affirmations that the Contractor or Vendor understands the Lobbying Law Directives and (that the Agency(s) has been informed in writing of the Vendor's prior determinations of non-responsibility over the previous four years, and that this information is complete, true and accurate; (ii) Determinations of Responsibility by the Agency;; (iii) findings of non-responsibility, whether by the Agency(s) or by other governmental entities; (iv) a record of all Contacts during the Restricted Period, including the name of the person making the Contact, as well as that person's organization, address, telephone number, place of principal employment, occupation, and whether the person/organization making the Contact was the Offerer or was retained, employed or designated by or on behalf of the Offerer to appear before or communicate with the Agency; ;(v) if applicable, a statement regarding the basis for any required finding that the Agency may enter into a Contract with a Contractor or Vendor who has previously been the subject of any determinations of non-responsibility; and (vi) any determination to terminate a Contract pursuant to the Lobbying Law Directives .

The Procurement Record is a place where the Agencies can clearly document, as considered appropriate, the need for the Contract; required specifications; and the ways in which a competitive field, fair and equal opportunity for Vendors, which shall include, but not be limited to, certified MWBEs, and a fair and balanced method of selection have been ensured.

The Procurement Record shall be maintained at least throughout the period the Contract and any extensions thereof are in effect and for a reasonable period of time thereafter.

- b. Procurement Contract Officer. The Procurement Contract Officer's responsibilities

shall include keeping such portions of the Procurement Record as the Procurement Contract Officer deems appropriate, monitoring compliance with proper contracting procedures and adherence to these Guidelines.

Among the Procurement Contract Officer's responsibilities shall be the determination of when certain portions of these Guidelines shall apply to a Contract by virtue of Contract expenditures, in the aggregate, or sequential periods of time, reaching applicable thresholds stated herein. In addition, for Contracts of less than \$500 per year, which are terminable at any time by the Agency(s) with less than 90 days notice, the Procurement Contract Officer may determine that such Contracts shall be considered Contracts not exceeding one year for purposes of these Guidelines.

The Procurement Contract Officer may provide guidance and counsel about proper administration of the Procurement process and Contracts but shall not be a principal directly responsible for administering any Agency Contract. The Procurement Contract Officer should be available for counsel and guidance respecting the Procurement selection process but should not be directly involved as an actual selector of Vendors.

The Procurement Contract Officer shall encourage and promote good Procurement practices, including but not limited to, proper and coordinated management of Contracts, desirable Vendor selection practices, and informed and careful bill approval procedures. Among other things, it is generally desirable that there be a single individual designated to manage each Procurement Contract, including renewals and amendments thereto, reporting thereon, and bill approvals, (*and excluding receipt of Designated Contracts*), and that individuals managing different Contracts in the same area or from the same Vendors coordinate their work.

The Procurement Contract Officer shall, from time to time, issue such reports on Procurement as shall be appropriate or required including the Procurement Reports required under these Guidelines.

The Procurement Contract Officer shall notify the Office of General Services of all Contractors who, with respect to the Lobbying Law, have been the subject of determinations of non-responsibility by the Agency or who have been debarred.

The Procurement Contract Officer should periodically review and assess the adequacy of these Guidelines and, as appropriate, recommend changes for approval.

The Procurement Contract Officer may grant temporary technical exceptions to these Guidelines for Contracts, other than Formal Contracts, provided that such exceptions appear in the Procurement Contract Record, and that attorneys under the supervision of the Senior Vice President and Counsel determine the exceptions

legally appropriate.

- c. Designated Contact Officer(s). The Agencies have designated the Vice President and Deputy Counsel, or when appropriate, an Agency Senior Officer with technical knowledge of the Governmental Procurement, as the Designated Contact Officer(s) for all Governmental Procurement for which such appointment is required. In accordance with the provisions of the Lobbying Law Directives, the Designated Contact Officer, for any given Governmental Procurement or Procurement Contract, is intended to be, by virtue of his or her designation as such, the recipient of any Designated Contacts with respect to the Governmental Procurement for which he or she has been designated. The Designated Contact Officer shall have ready access to, and shall refer to, as appropriate, the Contractors' and Vendors' written affirmations of their understanding of the Agencies' Governmental Procurement lobbying procedures along with all disclosures Contractors or Vendors have provided of any findings of any determinations of non-responsibility against them under the Lobbying Law. Prior to the Agencies' awarding of a Procurement Contract to which these provisions apply, it shall be the Designated Contact Officer's responsibility to consult with the Ethics Officer and to likewise consult at any appropriate time thereafter.
- d. Designated MWBE Officer(s). The Agencies' President shall appoint a Designated MWBE Officer(s) to oversee the Agencies' MWBE Program established to promote and assist: (i) participation by certified MWBEs in the Agencies' Procurement opportunities and facilitation of the award of Procurement Contracts to such enterprises; (ii) the utilization of certified MWBEs as subcontractors and suppliers by entities having Procurement Contracts with the Agencies; and (iii) the utilization of partnerships, joint ventures or other similar arrangements between certified MWBEs and other entities having Procurement Contracts with the Agencies. The Designated MWBE Officer(s) shall be familiar with the Procurement of the types of construction, financial, legal or professional services utilized by the Agencies, report directly to the Agencies' President and, either directly or through their designees, participate in the Procurement process.
- e. Ethical Administration of Contracts, Compliance with the Lobbying Law Directives: Responsibility of Officers and Employees. It shall be the responsibility of the Procurement Contract Officer, the Ethics Officer, the Designated Contact Officer(s), the MWBE Officer(s), and all Officers and Employees to ensure that Contracts of the Agencies are administered ethically with due regard for all State ethics laws and Lobbying Law Directives. Determinations respecting ethical contract administration shall be made by the Ethics Officer, to whom any allegations of impropriety or unethical administration may be reported. The Ethics Officer shall also be responsible for reviewing, investigating, monitoring and imposing sanctions relating to any noncompliance with Lobbying Law Directives. The Procurement Contract Officer shall report to the Ethics Officer such allegations

of impropriety or unethical administration of Procurement, or violations of the Lobbying Law Directives, as may come to the Procurement Contract Officer's attention. Agency Officers and Employees including, but not limited to, the Designated Contact Officer(s), shall report to the Ethics Officer any allegations of impropriety or unethical administration of Procurement or violations of the Lobbying Law Directives that come to their attention. If the Ethics Officer determines that sufficient cause exists to believe that an allegation concerning a violation of the Lobbying Law Directives is true, the Ethics Officer shall give the respective Contractor or Vendor reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation.

Prior to the awarding of a Procurement Contract by the Agency to which the Lobbying Law Directives' provisions apply, and any time thereafter, it shall be the Ethics Officer's responsibility to consult with the Designated Contact Officer(s) and make other appropriate inquiries so as to make the findings as to whether there were any certifications in relation to the provisions of the Lobbying Law Directives that were intentionally false or intentionally inaccurate so that the Agency would have right to terminate such Contract. If the Agency(s) terminates a Procurement Contract under these termination provisions, it shall be the Designated Contact Officer's responsibility to provide the statement describing the basis for such action for inclusion in the Procurement Record.

In order to comply with the Lobbying Law Directives, all Employees must cooperate and participate in the recording of Contacts with respect to which the Lobbying Law Directives apply. The record of a Contact shall include the name, address, telephone number, place of principal employment, and occupation of the person or organization. Employees must also inquire about, and record, whether the person or organization making the Contact was the Offerer, or was retained by the Offerer to contact the Agency(s) about the Procurement. Employees must report all recorded Contacts to the Procurement Contract Officer for inclusion in the Procurement Record of the Procurement Contract.

If the Ethics Officer finds a knowing and willful violation of the Lobbying Law Directives by any Employee, the Ethics Officer shall report the violation to the President.

It is expected that the Ethics Officer will confer, as appropriate, with the Senior Vice President and Counsel with respect to allegations of unethical conduct or violations of the Lobbying Law Directives or other violations of law and nothing in any of the forgoing is to be taken to preclude individuals from also contacting the Senior Vice President and Counsel directly with respect to any such allegations.

## ARTICLE XII

## 12. REPORTS ON PROCUREMENT

- a. Annual Procurement Report (“Annual Report”). Within 90 days after the conclusion of each fiscal year shared by the majority of the Affiliated Agencies (*October 31*), *excluding the Housing Trust Fund Corporation*, the Members and Directors of the Agencies shall approve an Annual Report summarizing Procurement activity for the period of the Annual Report. Such Annual Report will include these Guidelines, an explanation of these Guidelines and any amendments thereto since the last Annual Report. The Annual Report describing Procurement activity shall include: (a) a listing of all Procurement Contracts entered into; (b) all Contracts entered into with NYSBEs and the subject matter and value thereof; (c) all Procurement Contracts entered into with certified MWBEs and the subject matter and value thereof, all referrals made and all penalties imposed, pursuant to §316 of Article 15-A; (c) all Contracts entered into with Foreign Business Enterprises and the subject matter and value thereof; (d) the selection process used to select such Contractors; (e) all Procurement Contracts which were exempt from the publication requirements of Article 4-C of the Economic Development Law, the basis for any such exemption; and (f) the status of existing Procurement Contracts.

Such Annual Report shall list for each Contract the following information:

- i. a description of the duties performed by the Contractor;
- ii. the date of the Contract and its duration;
- iii. the total value of the Contract;
- iv. the full name and address of the Contractor;
- v. the status of the Contract, including the amount spent or other considerations given pursuant to the Contract during the reporting period and for the life of the Contract to date;
- vi. whether the Contractor is a certified Minority or Women-Owned Business Enterprise; and
- vii. the total number of bids or proposals received prior to the award of the Contract.

The Annual Procurement Report, after being approved by the Members and Directors, shall be filed to the Division of the Budget and the Department of Audit and Control using the Public Authorities Reporting Information System (“PARIS”) on-line Reporting System, with copies of this report to the Department of Economic Development, the Senate Finance Committee and the Assembly Ways and Means

Committee.

Copies of the Annual Procurement Report shall also be available to the public upon reasonable request at the Agencies' main office.

- b. Quarterly Procurement Report(s) (“Quarterly Report(s)”). Within 90 days after the conclusion of each quarter of the fiscal year shared by the majority of the Affiliated Agencies (*January 31, April 30, July 31 and October 31 and excluding the Housing Trust Fund Corporation*), the Agencies’ Members and Directors shall review a Quarterly Report. Each Quarterly Report shall describe the quarter's Procurement activity and shall include the same summary of activity information as is required in the Annual Procurement Report.
- c. Consolidation of Procurement Reports. The Annual Procurement Reports and the Quarterly Procurement Reports for each of the Affiliated Agencies (excluding the Housing Trust Fund Corporation), may, respectively, as determined by the President and a Senior Officer designated by the President, be consolidated annual or quarterly reports for all the Affiliated Agencies (excluding the Housing Trust Fund Corporation), to the extent that the President or designated Senior Officer determines that doing so will be more elucidating.
- d. Annual MWBE Goal Plan (“MWBE Goal Plan”). The Agencies shall report, annually, to the Governor, Legislature and the MWBE Director, on various issues pertaining to Procurements relating to MWBE, in accordance with Article VI of these Guidelines and Article 15-A, including but not limited to:
  - i. the annual goals, identified in the Agencies’ Annual MWBE Goal Plan, for Contracts with MWBEs;
  - ii. providing adequate documentation of a good faith effort to meet the Agency goals described in the Agencies’ Annual MWBE Goal Plan, in the event that the Agency projected goals cannot be achieved;
  - iii. the number of actual Contracts issued to MWBEs;
  - iv. the activities undertaken to promote and encourage Procurement opportunities of Minority Group Members and women and promote and increase participation by certified businesses with respect to Agency Contracts and subcontracts;
  - v. Agency Contracts for leases of real property by the Agency(s) to a Lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such Lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements

thereon exceeds the sum of \$100,000;

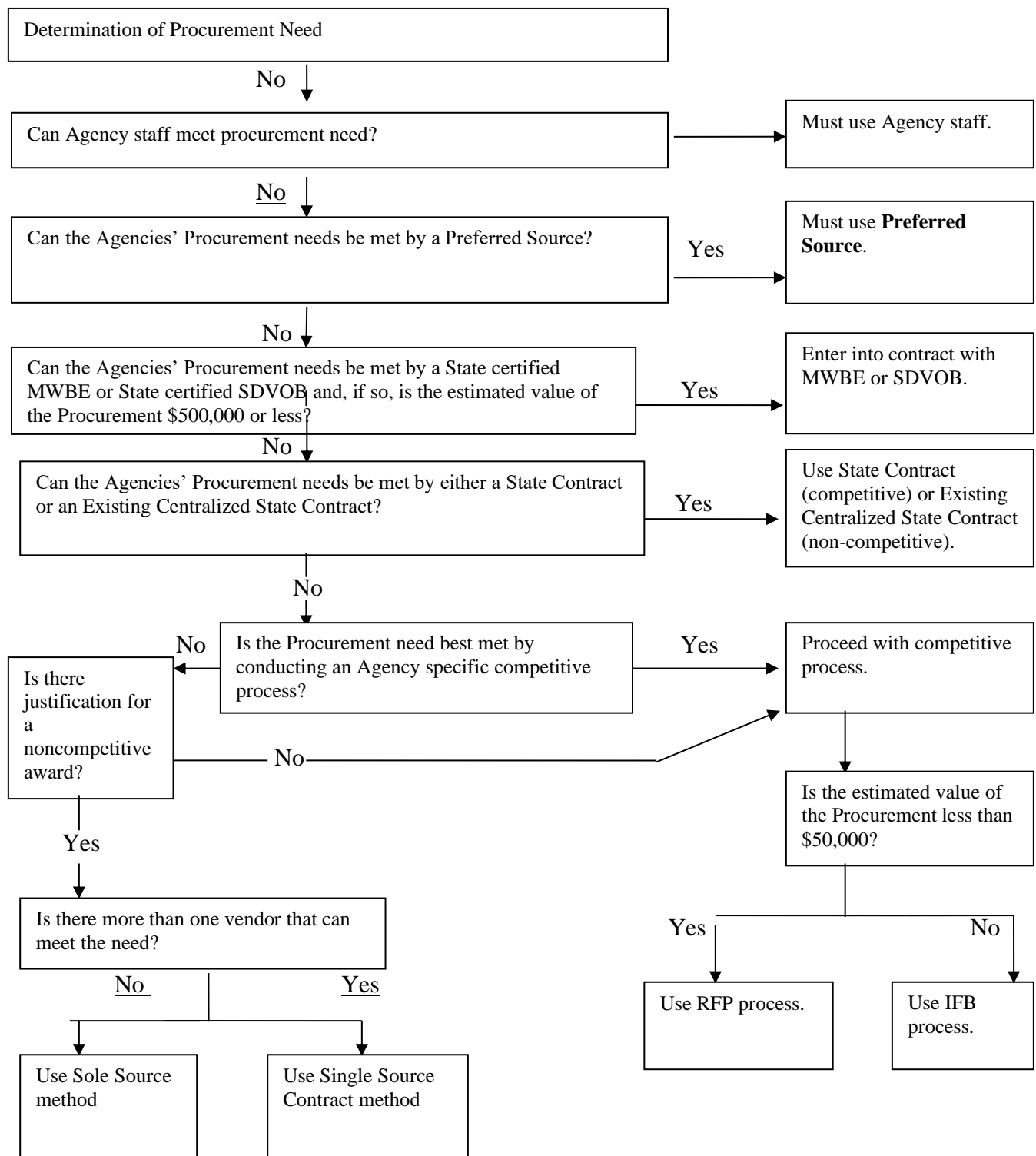
- vi. a summary of all enforcement actions undertaken by the Agency against a Contractor for breach of Contract pursuant to §316-a of Article 15-A and Article IX. of these Guidelines; and
- vii. a summary of all waivers, defined in Article VI of these Guidelines, permitted by the Agencies during the period covered by the MWBE Report, including:
  - (1) a description of the basis of the waiver request; and
  - (2) the rationale for granting any such waiver.

### ARTICLE XIII

#### 13. MISCELLANEOUS PROVISIONS

- a. Powers of Amendment. Any modification or amendment of these Guidelines may be made by a Supplemental Resolution adopted at any duly constituted Members' or Directors' meeting; provided, however, that no such modification or amendment shall abrogate the rights and duties of existing Agency Contracts, the terms of which were established pursuant to these Guidelines; and further provided that the President may make non-material changes in these Guidelines.
- b. Supplementation with Procedural Handbooks, Practice Manuals and Other Directives. These Guidelines are only intended to provide the general framework for Agency Procurement practices. These Guidelines are not intended to preclude supplementation of the Guidelines through the promulgation of more specific procedural handbooks, practice manuals, or other directives and guidance as may be issued from time to time, including as example, and not by way of limitation, more specific procedures for conduct of Requests For Proposals and Requests For Qualifications. It is also not intended that the existence of these Guidelines should prevent or supplant the issuance of additional Agency guidelines or regulations to deal specifically with Lobbying Law Directives and/or MWBE Directives, if appropriate.
- c. No Recourse under these Guidelines. No provision of these Guidelines shall be the basis for any claim based upon these Guidelines against any Member, Director, Officer or Employee of the Agency(s) or the Agency(s) itself.
- d. Effect upon Existing Agencies' Contracts. These Guidelines shall not abrogate the rights and duties of Agency Contracts with third parties executed prior to the effective date of these Guidelines.

## SELECTING A PROCUREMENT PROCESS.





**PROCUREMENT AND CONTRACT GUIDELINES OF  
THE NEW YORK STATE HOUSING FINANCE AGENCY,  
STATE OF NEW YORK MORTGAGE AGENCY,  
NEW YORK STATE AFFORDABLE HOUSING CORPORATION,  
STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY,  
AND TOBACCO SETTLEMENT FINANCING CORPORATION  
ESTABLISHING STANDARDS  
FOR THE USE, AWARD, MONITORING AND REPORTING  
OF PROCUREMENT CONTRACTS**  
*(effective as of December 15, 2005, revised as of September 12, 2013)*

ARTICLE I

1. STATEMENT OF PURPOSE AND APPLICABILITY

- a. Statement of Purpose. These Guidelines are adopted pursuant to the provisions of the Acts and §2879 of the Public Authorities Law, as guidelines of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation (collectively hereinafter referred to as "Agencies" or each individually as "Agency") and, in accordance therewith, are to be reviewed and approved by the Members and Directors of each respective Agency at least annually.
- b. Applicability. These Guidelines apply to the Procurement by the Agencies of goods or services in the actual or estimated amount of \$5,000 or more.
- c. Title. Outside of this document, these Guidelines may be referred to as the "Procurement and Contract Guidelines" and herein may be referred to as "Guidelines."

ARTICLE II

2. DEFINITION OF TERMS

- a. Definitions. The following terms shall, for purposes of these Guidelines, have the following meanings unless the context shall clearly indicate some other meaning:
  - i. "Act" or "Acts" shall mean, either individually, or collectively, the Acts of each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State

of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.

- ii. "Agency" or "Agencies" shall mean, either individually or collectively, each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.
- iii. "Affiliated Agencies" shall mean all of the affiliated and co-located Agencies, being the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation, including the Housing Trust Fund Corporation, a subsidiary of the New York State Housing Finance Agency, located in Albany, New York.
- iv. "Annual Procurement Report" shall mean the annual report required by Article XII hereof.
- v. "Article 15-A of the Executive Law" or "Article 15-A" shall mean, the statute that governs the participation by Minority Group Members and women with respect to Agency Contracts.
- vi. "By-Laws" shall mean the By-Laws adopted by the Members and Directors of each Agency.
- vii. "Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, any oral, written or electronic communication from a Contractor or Vendor, or their representatives, with any Agency, under circumstances where a reasonable person would infer that the communication was intended to influence any Agency's conduct or decision regarding an Agency Governmental Procurement.
- viii. "Contract" shall mean a written agreement whereby an Agency undertakes Procurement, and shall include, but not be limited to, accepted Purchase Orders and Procurement Contracts. Contracts in excess of \$25,000 for goods and services and Contracts in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair, or renovation of real property and improvements thereon are subject to the Agencies' MWBE Directives. Additionally, pursuant to Article 15-A, solely for the purpose of providing the opportunity for meaningful participation for certified MWBEs in the performance of Agency Contracts, Agency Contracts shall

include leases of real property by any Agency to a Lessee where: (a) the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such Lessee; and (b) the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of \$100,000.

- ix. "Contractor" shall mean a supplier of goods or services to any Agency pursuant to a written Contract.
- x. "Counsel" shall mean an attorney in the regular employment of any Agency.
- xi. "Critical Contract" shall mean a Contract which must be awarded within a set time period because delay of the award would have a serious adverse effect on the contracting Agency that outweighs the benefits of advertisement in the "New York State Contract Reporter," as determined by the President, and a Senior Officer designated by the President. Examples of Critical Contracts include Contracts related to bond issuances. All Emergency Selection Contracts shall be Critical Contracts. Emergency Foreign Business Enterprise Contracts are not Critical Contracts unless the Agency independently determines those Contracts to be Critical Contracts.
- xii. "Designated Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, a Contact made between an Offerer and the Agency's Designated Contact Officer(s), as set forth in Article VII of these Guidelines.
- xiii. "Designated Contact Officer(s)" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the person(s) the Agency appoints to such position, in accordance with the provisions of the Lobbying Law, who may be the recipient of Designated Contacts, as set forth in Articles VII and XI of these Guidelines.
- xiv. "Designated MWBE Officer(s)" shall mean the senior staff member(s) the Agency appoints to such position, who reports directly to the President to oversee the Agencies' MWBE Program, as set forth in Articles VI and XI of these Guidelines.
- xv. "Determination of Responsibility" shall mean, in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, a final determination required to be made by the Agency of the proposed Contractor or Vendor to whom the Contract is to be awarded in accordance with Public Authorities Law § 2879 (3) (b)

(iii). For Determinations of Responsibility hereunder, the Lobbying Law requires that proposed Contractors and Vendors disclose findings of non-responsibility against them within the previous four years by any other governmental agency.

- xvi. "Director(s)" shall mean the Directors of each of the State of New York Mortgage Agency and State of New York Municipal Bond Bank Agency and collectively, both of them.
- xvii. "Discriminatory Jurisdiction" shall mean any other county, 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 or services by the same, or a non-governmental entity influenced by the same.
- xviii. "Disparity Study of 2010" or "Disparity Study" shall refer to the disparity study commissioned by the Empire State Development Corporation ("ESDC"), pursuant to Article 15-A, and published on April 29, 2010.
- xix. "Emergency Foreign Business Enterprise Contract" shall mean any Contract awarded on an emergency or critical basis or where the New York State Commissioner of Economic Development (hereinafter referred to as the "Commissioner") waives provisions otherwise applying to Contracts with Foreign Business Enterprises which are equal to or greater than \$1,000,000, pursuant to Article VIII of these Guidelines.
- xx. "Emergency Selection Contract" shall mean any Contract exempt from competitive selection due to an Agency determination of an emergency justifying such exemption.
- xxi. "Employee" shall mean an employee of any Agency, whether full or part time.
- xxii. "Ethics Officer" shall mean the person the Agency appoints to such position for purposes of administering matters in connection with the State Ethics laws, or any other State law which requires the existence of such an officer to review, monitor and impose sanctions related to Procurement matters including, but not limited to, Lobbying Law Directives.
- xxiii. "Foreign Business Enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods sought by any Agency and which are substantially produced outside the State, or services sought by any Agency, and which are substantially performed outside the State.

- xxiv. "Formal Contract" shall mean a Contract which is required to be in writing and formally executed by the Contractor and the Agency.
- xxv. "Formal Solicitation" shall mean a Request for Proposal process.
- xxvi. "Governance Committee Member(s)" shall mean the members of each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation, and collectively, all of them.
- xxvii. "Governmental Procurement" shall mean the (a) public announcement, public notice, or public communication to any potential Vendor of a determination of a need for a Procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, RFPs, or evaluation criteria for a Procurement Contract, (b) solicitation for a Procurement Contract, (c) evaluation of a Procurement Contract, (d) award, approval, denial or disapproval of a Procurement Contract, or (e) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the Procurement Contract as it was finally awarded or approved by the State's comptroller, as applicable), renewal or extension of a Procurement Contract, or any other material change in the Procurement Contract resulting in a financial benefit to the Offerer.
- xxviii. "Guidelines" shall mean these Guidelines, as they may be amended from time to time.
- xxix. "Impermissible Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, any Contact that is not a Designated Contact.
- xxx. "Informal Solicitation" shall mean a Request for Bid process.
- xxxi. "Invitation for Bid" process or "IFB" shall mean the informal solicitation, by way of a statement of qualification, proposal and/or, as appropriate, price bid from at least three prospective Contractors or Vendors, one of which shall be from a MWBE, if possible, for Procurements not expected to exceed \$50,000. Procurements anticipated to exceed \$25,000 or more must include MWBE participation goals.
- xxxii. "Lessee" shall have the same meaning defined in Article 15-A.

- xxxiii. "Lobbying Law Directives" shall mean, in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the requirements of the provisions of the Lobbying Law, and as set forth in Article VII of these Guidelines.
- xxxiv. "Lobbying Law" shall mean the provisions of the Legislative Law and the State Finance Law enacted on August 23, 2005, Chapter 1 of the laws of 2005 and amended on March 20, 2010, Chapter 4 of the laws of 2010.
- xxxv. "Member(s)" shall mean the members of each of the New York State Housing Finance Agency, New York State Affordable Housing Corporation, and Tobacco Settlement Financing Corporation, and collectively, all of them.
- xxxvi. "Minority Owned Business Enterprise" or "MBE" shall mean any business enterprise, including a sole proprietorship, partnership or corporation, that is:
- (1) at least 51% owned by one or more Minority Group Members, or in the case of a publicly-owned business, at least 51% of the common stock or other voting interests of which is owned by one or more Minority Group Members;
  - (2) an enterprise in which the minority ownership is real, substantial and continuing;
  - (3) an enterprise in which the minority ownership has, and exercises, the authority to control independently the day-to-day business decisions of the enterprise;
  - (4) an enterprise authorized to do business in the State, independently owned and operated, and not dominant in its field;
  - (5) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a Personal Net Worth that does not exceed \$3.5 million, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
  - (6) an enterprise that is a Small Business.
- xxxvii. "Minority and/or Women-Owned Business Enterprise" or "MWBE" shall mean any business enterprise, including a sole proprietorship, partnership or corporation, that meets the qualifications for an MBE, a WBE, or both an MBE and a WBE.

xxxviii. "Minority Group Member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

- (1) Black persons having origins in any of the Black African racial groups not of Hispanic origin;
- (2) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
- (3) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (4) Asian and Pacific Islander persons having origins in any of the Far East countries, Southeast Asia, the Indian sub-continent or the Pacific Islands.

xxxix. "MWBE Director" shall mean the director of the division of minority and women's business development in the Department of Economic Development.

xl. "MWBE Directives" shall mean the requirements of the Agencies' MWBE Program in accordance with the provisions in §2879 of the Public Authorities Law and Article 15-A, and as set forth in Article VI of these Guidelines.

xli. "MWBE Program" shall mean the Agencies' Procurement procedures and policies for providing opportunity for meaningful participation of certified businesses in the performance of Agency Contracts, as more fully described in Article VI of these Guidelines.

xlii. "New York State Business Enterprise" or "NYSBE" shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by any Agency and which are substantially manufactured, produced or assembled in the State, or services which are sought by any Agency and which are substantially performed within the State.

xliii. "Offerer" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, an individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts any Agency about an Agency Governmental

Procurement during the Restricted Period of such Agency Governmental Procurement, whether or not the caller has a financial interest in the outcome of the Governmental Procurement.

- xliv. "Officer" shall mean any person so defined in the By-Laws of the Agencies.
- xlvi. "Permissible Contact" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, a Designated Contact.
- xlvi. "Permissible Subject Matter Communication" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the communications set forth as such in Article VII of these Guidelines.
- xlvi. "Personal Net Worth" shall have the same meaning defined in Article 15-A.
- xlvi. "Personal Services" shall mean any services performed for fee, commission or other compensation by persons or organizations who are not providing such services as Officers or Employees of any Agency or any State agency or public corporation.
- xlix. "Preferred Source" shall mean the status afforded to certain contractors or vendors for purposes of Procurement under §162 of the State Finance Law.
- l. "President and Chief Executive Officer" or "President" shall mean the Senior Officer having such title according each Agency's By-Laws.
- li. "Procurement" shall mean the acquisition of goods, materials and services including, but not limited to, Personal Services, by any Agency. The term goods shall include, but not be limited to, personal property, including furniture, fixtures, stationery and supplies. Services shall include, but not be limited to, the performance of legal, accounting, management, consulting, investment banking, planning, training, statistical, research, public relations, architectural, engineering, surveying or other Personal Services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such service as Officers or Employees of any Agency or any State agency or public corporation.



- lii. "Procurement and Contract Guidelines" shall mean the guidelines to Procurement of goods or services by the Agencies, adopted by the Agencies' Members and Directors on December 15, 2005 and revised as of September 14, 2010, pursuant to the provisions of the Acts and §2879 of the Public Authorities Law, as guidelines of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.
- liii. "Procurement Contract(s)" shall mean, (a) *(following the definition in §2879 of the Public Authorities Law)* any written agreement for Procurement in the actual or estimated amount of \$5,000 or more or (b) *(following the definition in the Lobbying Law for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000)* any Contract, including an amendment, extension, renewal, or change order to an existing Contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the Contract as it was finally awarded), for a Governmental Procurement.
- liv. "Procurement Contract Officer" shall mean the person appointed by the President to such position, as set forth in Article XI of these Guidelines.
- lv. "Procurement Record" shall mean documentation of the decisions made and the approach taken in the Procurement process together with other documentation with respect to Contracts and Contractors/Vendors, as set forth in these Guidelines.
- lvi. "Purchase Order(s)" shall mean written authorization to a Vendor to deliver specified goods or services at a stipulated price.
- lvii. "Quarterly Procurement Report(s)" shall mean the quarterly reports required by Article XII, as described herein.
- lviii. "Request for Proposal" or "RFP" shall mean the formal solicitation, by way of a detailed description of services and/or related work required by any Agency, of a comprehensive response from qualified potential Contractors or Vendors, indicating the manner in which each would perform the tasks involved and the compensation requested, which response would be the basis for a contractual agreement. *(It is generally expected that a qualifying response to an RFP would be sufficiently comprehensive to supply all essential information necessary to enter into a Contract.)*

- lix. "Request for Qualification or "RFQ" shall mean a request for statement of qualifications, which shall contain detailed information, so as to enable recipients to determine the desirability of participating in the selection process and to develop a competitive statement. An RFQ may request other information in addition to qualifications. *(An RFQ requests less information than an RFP. The response may or may not provide enough information upon which to base a Contract, but if it is not sufficient to base a Contract upon, supplementary information would likely be necessary to determine the scope of tasks to be performed under the Contract.)*
- lx. "Restricted Period" shall mean, for purposes of applying the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000, the period of time commencing with the earliest determination of a Procurement need by any Agency to any potential Contractor or Vendor, including, but not limited to, any oral or written communication, notice, advertisement or solicitation of an RFP, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from contractors or vendors intending to result in a Procurement Contract with the Agency and ending with the Agency's approval of the final Contract award.
- lxi. "Senior Officer" shall mean a Senior Officer as defined in the By-Laws of the Agencies.
- lxii. "Senior Vice President and Counsel" shall mean the Senior Vice President and Counsel of the Agencies.
- lxiii. "Single Source Contract" shall mean a Contract awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President, that one firm is uniquely qualified or has a unique advantage with respect to the provision of a particular service or good, such that competitive procedures are rendered futile.
- lxiv. "Small Business" shall have the same meaning defined in Article 15-A.
- lxv. "Sole Source Contract" shall mean a Contract awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President, that there is only one source for a particular service or good, such that competitive procedures are rendered futile.
- lxvi. "State" shall mean the State of New York.
- lxvii. "Vendor" shall mean a supplier of goods or services to any Agency.

lxviii. "Women-Owned Business Enterprise ("WBE")" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:

- (1) at least 51% owned by one or more United States citizens or permanent resident aliens who are women or, in the case of a publicly-owned business, at least 51% percent of the common stock or other voting interests of which is owned by United States citizens or permanent resident aliens who are women;
- (2) an enterprise in which the ownership interest of women is real, substantial and continuing;
- (3) an enterprise in which the women ownership has, and exercises, the authority to control independently the day-to-day business decisions of the enterprise;
- (4) an enterprise authorized to do business in the State, independently owned and operated, and not dominant in its field;
- (5) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a Personal Net Worth that does not exceed \$3.5 million, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
- (6) an enterprise that is a Small Business.

b. Construction of Language. Any other capitalized terms used herein shall have the meaning given by the By-Laws. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa.

### ARTICLE III

#### 3. USE OF PROCUREMENT CONTRACTORS AND VENDORS

a. Threshold Criteria for Use of Procurement Contractors for Personal Services. The general responsibilities of the Agencies are performed by Employees. Accordingly, it is the policy of the Agencies that before Personal Services are used, it first be considered whether it would be more appropriate for Employees to provide such services. Personal Services Contractors may be used when it has been determined:

- (1) that such service is necessary or convenient to the performance of any Agency's responsibilities, and;
- (2) (x) that such service is not available from Employees, or;  
(y) that the performance of such service requires it be undertaken by someone independent of the Agencies, or;  
(z) that use of personnel of any Agency for such service would not be efficient or cost effective.

Such determination shall be made by a Senior Officer except that, in the case of Personal Services set forth below in this Article, such determination may be made by Senior Officers as they may deem administratively appropriate. Non-Personal Services Contracts shall be entered into when any Agency requires goods, materials and non-Personal Services to function effectively and efficiently.

- b. Areas Requiring Use of Procurement Contracts for Personal Services. Personal Services Contracts have typically been and are anticipated to be executed in the following areas, pursuant to a determination of appropriateness in accordance with the requirements of subparagraph a. of this Article:

Types of Services, Responsibilities and Description of Services to be Provided.

- i. Appraisal. Provide appraisals, analyses and reports with respect to properties which are or may be the subject of Agency loans or loans insured by the Agency.
- ii. Architectural and Engineering. Provide professional architectural and/or engineering services relative to the construction of properties which are or may be the subject of Agency loans, or loans insured by the Agency.
- iii. Audit and Accounting. Provide audit services pertaining to the year-end preparation of financial statements for the Agency in conformance with generally accepted accounting principles. Perform special audits as requested.
- iv. Custody & Safekeeping Services. Provide custody and safekeeping services to secure Agency investments and receive and evaluate underlying collateral for secured Agency investments.
- v. Equipment Maintenance. Provide maintenance for the routine service or repair of office and data processing equipment.
- vi. Information Technology Consulting. Provide analyses and recommendations on the Agencies' data processing structure and operations.

- vii. Information Technology Services. Provide report generating and printing services, computer systems hardware, programming and related services to the Agency(s).
- viii. Investment Banking. Provide: (a) financial advisory services; (b) marketing services for Agency bond issues; and (c) recommendations and analyses with respect to Agency investments, and the preparation, sale, marketing and distribution of Agency bond issues.
- ix. Legal. Provide legal services, opinions and analyses related to bond and note financings, real estate matters, corporate matters, litigation matters and labor matters.
- x. Management Consulting. Provide analyses and recommendations concerning the Agencies' organizational structure and the management of its operations.
- xi. Minority Business Enterprise Consultants. Provide technical assistance in the Agencies' effort to facilitate MBE participation in Agency programs.
- xii. Printing. Provide: (a) financial printing services based upon specifications and details developed by the Agency; (b) technical printing services relative to the reproduction of loan and insurance documents; (c) graphic, layout and printing services in connection with production of the Agencies' annual report(s); and any special reports that may be required; and (d) other printing and offset services.
- xiii. Training. Provide supervisory and other skills training to Agency Officers and Employees.
- xiv. Trustee Banking Services. Provide banking services to monitor the timely receipt of payments, retirement of debt, collateral evaluations and other services as required by the various bond resolutions.
- xv. Others. The examples of Personal Services listed above in clauses (i) through (xiv) reflect anticipated Personal Services and are not meant to be exhaustive; other services, in other areas, may be utilized subject to these Guidelines.

These Personal Services are not required to be provided as Personal Services Contracts, and may sometimes be performed by Agency staff.

## ARTICLE IV

### 4. SELECTION OF PROCUREMENT VENDORS AND CONTRACTORS.

- a. Preferred Selection Criteria and Approach. It is the preference of the Agencies that Vendors and Contractors shall be selected from as broad a spectrum of providers as is practicable, and that Contracts be awarded and purchases be made consistent with the quality of services, or goods and materials required, at fair and reasonable prices. In addition, it is the preference of the Agencies to encourage the participation and utilization of MWBEs in accordance with the MWBE Directives, as set forth in Article VI of these Guidelines and to encourage the participation of New York State Business Enterprises. Contracts shall be regulated in accordance with Lobbying Law Directives, and as set forth in Article VII of these Guidelines.
- b. Selection on a Competitive Basis. It is the preference of the Agencies that Procurement, unless otherwise prescribed, be by competitive process, and that the process be as competitive as is possible. It is the policy of the Agencies that the selection of Procurement Contractors and Vendors be exempt from the competitive process only under certain exceptional circumstances as specified herein. As appropriate, the following competitive processes may be used in order to select Contractors and Vendors:
  - i. Competitive Lowest Price Bid for Goods or Materials. Solicitation of at least three price bids, one of which shall be from a MWBE, if feasible, for specified Procurement, other than Personal Services (goods and materials), to be awarded to qualifying Contractors or Vendors primarily on the basis of the lowest price. Competitive bids are to be solicited when the goods and materials required are of a standardized nature that may reasonably be made the subject of specifications to which bidders respond with required qualification data and price offers.
  - ii. Invitation for Bid ("IFB") process for Contracts Not Expected to Exceed \$50,000. If a Senior Officer determines it is appropriate, an Agency may commence an informal Procurement process by soliciting statements of qualifications, proposals and, as appropriate, price bids from at least three prospective Contractors or Vendors, one of which shall be from a MWBE, if feasible, for Procurements not expected to exceed \$50,000. Procurements valued at \$25,000 or more must include MWBE participation goals. Award of a Contract within this method is made on the basis of an evaluation of the characteristics, quality and cost of such statements of qualifications and proposals.
  - iii. RFP (without negotiation). Solicitation of specific proposals which indicate an understanding of identified financial, organizational, logistical and technical requirements and/or problems, and which detail elements of

performance, including techniques and procedures as well as prices. Award of a Contract within this method is made on the basis of a formal evaluation of the characteristics, quality and cost of such proposals.

- iv. RFP with Competitive Negotiations. Solicitation of qualifying potential Contractors or Vendors who have submitted materials pursuant to: (a) an RFP to further negotiate their proposals; (b) an RFP which stated that the Agency might further negotiate proposals; or (c) a determination by the Agency, subsequent to issuing an RFP, that further negotiation is appropriate or that the RFP should be revised to permit further negotiations. Further negotiation may include, but shall not be limited to, prices for Contract award on the basis of a formal evaluation of the characteristics, quality and cost of such proposals.
- v. Pre-qualified Panel. The Agency may select Contractors for any Procurement activity from a qualified panel of potential Contractors, selected on the basis of an RFP or RFQ. The purpose of using a pre-qualified panel is to allow aspects of the competitive process to be addressed early in a phased selection process. This is so that Vendors and Contractors on the panel can be subsequently engaged on an accelerated or more efficient basis. In accordance therewith, panels shall be administered so that the Contract award is based upon a formal evaluation of qualifications and/or the subsequent negotiation of fair and reasonable compensation for specific services actually required. At such time as a panel is created, the Agency shall document for the Procurement Record with respect to that panel, which aspects of the competitive process (a) are being addressed prior to the panel's establishment and (b) shall be fulfilled subsequent to the establishment of the panel. The award of assignments to respective Vendors on a panel need not be based purely on competitive selection processes, to the extent that assignments based on distribution of workload, distribution of risk, and/or a policy of rotation intended to benefit the Agency are reasonable. Panels shall be identified to the Agency Procurement Contract Officer, reported in the Annual Procurement Contract Report, and reviewed and recertified annually to the Agencies' Procurement Contract Officer by the Agency Officer in charge of administering the panel.
- vi. State Contract. Any Agency can enter into Contracts with eligible Vendors, where the State has engaged in a competitive process to create eligible Vendors; and an Agency can enter into a Contract with those Vendors for such services upon comparable terms, provided a Senior Officer determines this is appropriate.
- vii. GSA Contract (or contract of the U.S. General Services Administration or US GSA). Any Agency can enter into Contracts with eligible Vendors, where the US GSA has engaged in a competitive process to create eligible

Vendors; and an Agency can enter into a Contract with those Vendors for such services upon comparable terms, provided a Senior Officer determines this is appropriate.

- viii. Affiliated Agency Contract or Affiliated Agency Competitive Selection Process. Whenever an Affiliated Agency has completed a competitive process to create a list of Vendors eligible for the provision of goods or services, any other Agency can enter into a Contract with those Vendors for such services, if for the same services and upon comparable terms. Whenever an Affiliated Agency has engaged in a competitive process, and that process has not yet created a list of eligible Vendors, and an Agency can complete that process to create eligible Vendors, the Agency may do so in order to enter into a Contract with those Vendors for such services for which Vendors are ultimately determined eligible to provide, provided a Senior Officer determines this is appropriate.
- c. Selection on a Non- Competitive Basis. The competitive processes established above in this Article shall not apply or are hereby waived in the following situations:
  - i. Preferred Source Providers. Every Agency Procurement shall be conducted in accordance with §162 of the State Finance Law, which, in certain instances, affords Preferred Source status to certain Contractors and Vendors to advance special social and economic goals and precludes the use of competitive selection procedures.
  - ii. Existing Centralized State Contracts. Any Agency may carry out a Procurement using existing centralized State Contracts pursuant to which the Agencies are eligible to procure goods and/or services, according to the State negotiated terms.
  - iii. Existing GSA Contracts. Any Agency may carry out a Procurement using existing centralized GSA Contracts pursuant to which the Agencies are eligible to procure goods and/or services, according to the State negotiated terms.
  - iv. Emergency. When an emergency requires that selection of a Contractor or Vendor cannot be delayed long enough for the use of a competitive procedure because immediate action is required, the President, and a Senior Officer designated by the President, may award a Contract, as the President and the designated Senior Officer deems appropriate, without competitive procedures or following less than the full complement of competitive procedures which would otherwise be required. Circumstances requiring such immediate action must be significant, such as those affecting property of the Agency(s), life, health or safety. Emergencies should only arise out



of accident or other unforeseen occurrence. The circumstances under which such Contract was entered into shall be set forth and maintained in the Procurement Record. Such record should, among other things, address whether such circumstances should have been foreseen. Consideration should always be given to whether a Contract entered into on an emergency basis can be supplanted by a subsequent Contract entered into through a competitive process. If the Emergency Contract exceeds \$100,000 in amount or one year in duration, the Contract must be taken to the next Agency Governance Meeting or Board Meeting for approval. The emergency nature of the Contract must be shown in the Quarterly Procurement Report covering the period in which the Contract was executed.

- v. Sole Source Contract. Sole Source Contracts may be awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President. For purposes of determining whether a Contract is a Sole Source Contract, the Agency shall identify if there is only one source for a particular service or good, such that competitive procedures are rendered futile.
- vi. Single Source Contract. Single Source Contracts may be awarded without competitive procedures as a result of a determination by the Agency, approved in writing by the President and a Senior Officer designated by the President. Competitive procedures may be considered futile for purposes of determining whether a Contract is a Single Source Contract, if, among other things, the submission of bids or proposals by other Contractors or Vendors would not afford them a meaningful likelihood of selection. Any time the Agency considers it appropriate, the Agency may conclusively reach such a determination by relying upon the determination of the State or an Affiliated Agency that a Vendor is uniquely qualified, if the Agency seeks to enter into a Contract or contract with those Vendors for such services upon comparable terms.
- vii. Inconsistent Industry Selection Process with Competitive Price Assurance. Where practice in an industry does not normally involve competitive submission of proposals and where it is determined that it would be cost-effective to award such Contract or otherwise select from among possible Vendors in some other manner, provided steps are taken to assure that the cost is comparable to that generally charged for similar goods or services, and that the Procurement Record contains written evidence of these steps, a Contract may be awarded without competitive process.

- viii. Competitive Proposal Exception for Contracts Not Expected to Exceed \$5,000. In the case of Contracts not expected to exceed \$5,000, if it is determined that soliciting at least three Vendors is not appropriate, such Contract may be awarded without soliciting competitive proposals, if a clear scope of goods or services is utilized and due consideration is given to the market value of such goods or services.
- ix. Option to Waive Competition for Certain Kinds of Contracts. Notwithstanding any other provision of law requiring competition, the competitive process may be waived to include Contracts for the purchase of goods or services from Small Businesses or certified MWBEs, or goods or technology that are recycled or remanufactured, in amounts at or below \$200,000.

## ARTICLE V

### 5. STANDARDS AND PRACTICES FOR COMPETITIVE SELECTION OF CONTRACTORS.

It is the policy of the Agencies to seek out the maximum practicable number of qualified Vendors interested in offering their goods or services to the Agencies and to establish certain minimum standards for their selection. The following standards shall apply:

- a. Advertisement Requirements for Competitive Source Selection Methods. The solicitation of bids, proposals, offers or submissions of qualification data from Vendors with respect to Contracts shall be made by the Agencies in a manner determined by the President, or a Senior Officer designated by the President, to be the most cost effective for providing reasonable competition for the Agencies' Contracts. This may include advertisement in appropriate newspapers or trade journals, direct mailings to firms considered qualified and such other outreach mechanisms as are consistent with the policy of these Guidelines, including outreach efforts to MWBEs in accordance with the provisions of Article VI herein and the Agencies' MWBE Goal Plan ("MWBE Goal Plan"), and including providing information with respect thereto via the Agencies' website. In addition, in the case of Procurement Contracts in the actual or estimated amount of \$50,000 or more, and in the establishment of pre-qualified panels, as of January 1, 1990, the Agencies shall advertise all such opportunities in the "New York State Contract Reporter" or "Reporter," the official weekly listing of bidding opportunities for the State published by the New York State Department of Economic Development, and any other publication as required by State law, unless the Contract is determined to be a Critical Contract. Already advertised Contract opportunities being re-bid or re-solicited within 45 business days after proposals were originally due, pursuant to publication in the "Reporter," are not required to be published again. Contracts determined to be Single Source Contracts need not be advertised in the "Reporter,"

but in many instances such advertising should be done to assist in the determination that a Contract is a Single Source Contract.

- b. Minimum of Three Prospective Vendors for Competitively Bid Procurement Contracts. For all Procurement Contracts required to be selected on a competitive basis, the Agency shall solicit statements of qualifications, proposals and, as appropriate, price bids from at least three prospective Vendors. In the case of Contracts not expected to exceed \$5,000, the Agency shall solicit prices, statements of qualifications and proposals from at least three prospective Vendors unless the Agency affirmatively determines it is not appropriate. The Agency shall include at least one MWBE, if feasible, in all Procurement processes for contracts not expected to exceed \$25,000.
- c. Requirements for Agency Bid Documents. Except for Procurement Contracts for which the Agency(s) would be expending funds received from another state, the Agencies shall include in all bid documents provided to potential bidders a statement that information concerning the availability of State subcontractors and suppliers is available from the State Department of Economic Development, which shall include the directory of certified MWBEs, and an affirmative statement that it is the policy of the Agencies to encourage the use of State subcontractors and suppliers, and to promote the participation of MWBEs, where possible, in the Procurement of goods and services. Additional requirements for Agency Bid Documents relating to the Agencies policies to promote the participation of New York State Business Enterprises is more fully described in Article VIII.8.a. of these Guidelines.

The Agencies shall also require that solicitation documents set forth the expected degree of MWBE participation based, in part, on (1) the potential subcontract opportunities available in the prime Procurement Contract; and (2) the availability of MWBEs to respond competitively to the potential subcontract opportunities.

- i. Required Bid Notices to Professional and other Organizations serving MWBEs. In an effort to award Procurement Contracts to MWBEs in compliance with the Agencies' MWBE Procurement goals, as set forth in the Agencies' MWBE Goal Plan, the Agencies shall provide notice of Governmental Procurements, along with any other notice required by law, to professional and other organizations serving MWBEs that provide the types of services procured by the Agencies. Professional and other organizations can include, but is not limited to, social networking websites, magazines, and/or newspapers catering to a majority of MBE and/or WBE clientele. For the purposes of these Procurement efforts and for other Agency Procurement efforts, the Agencies shall establish procedures for maintaining list(s) of qualified MWBEs. In addition, the Agencies shall establish procedures for maintaining lists to include media outlets and other organizations serving MWBEs. The Agencies will provide such list(s) to

Contractors in the Procurement process, requiring that potential Contractors shall consult and contact appropriate MWBEs to solicit their bids, in accordance with Article VI of these Guidelines.

- ii. Lobbying Law Directives. All Agency solicitations for proposals, bid documents and specifications for Procurement Contracts shall incorporate a summary of the Agencies' policies and prohibitions regarding Contacts under the Lobbying Law, pursuant to the Lobbying Law Directives as described in Article VII of these Guidelines and in the Agencies' Lobbying Reform Law Policies.
- iii. Promoted Contracts. All Agency solicitations shall follow the directives for the participation of promoted Contracts, as is more fully described in Article VIII of these Guidelines.
- d. Criteria for Selection. Procurement Contracts shall be entered into based on an evaluation of all proposals or bids received, considering all relevant factors, including, but not limited to terms, costs, goods or services offered, experience and capabilities, financial security, reputation in the field, staff availability, personnel expected to be involved and possible conflicts of interest. Where a Senior Officer determines that there is a suitably neutral and reliable publisher or publicly available industry ratings or evaluations of products or firm qualifications, such ratings or evaluations may be allowed to substitute, in whole or in part, as determined to be appropriate, for required submission of qualifications where it is determined that requiring independent submission of such from Vendors would be duplicative. The criterion for selection are not intended to supersede the fact that the Agencies have certain promoted Contracts and certain prohibited Contracts and Contracts subject to limitations, as set forth in Article VIII of these Guidelines.
- e. Compliance with Additional Procedures for Requests for Proposals and Requests for Qualifications. The Agencies shall also comply with any additional procedures issued by it, from time to time, with respect to the conduct of Requests For Proposals and Requests For Qualifications.

## ARTICLE VI.

### 6. MWBE PROGRAM ESTABLISHING PROCEDURES FOR MWBE PARTICIPATION AND UTILIZATION IN AGENCY PROCUREMENTS

The requirements of the Agencies' MWBE Program, in accordance with the provisions of §2879 of the Public Authorities Law, Article 15-A, and the directives of the Governor, and as set forth in this Article, shall be referred to as the Agencies' MWBE Directives. The Agencies shall work to increase MWBE participation and utilization through certain Procurement procedures, as described in the Agencies' consolidated Annual MWBE Goal

Plan and these Guidelines, and incorporated in the Agencies' MWBE Program. These procedures shall include (i) the appointment of a Designated MWBE Officer(s) by the President to oversee the Agencies' MWBE Program, as described more fully in Article XI of these Guidelines, (ii) the establishment of appropriate goals for participation by MWBEs in Procurement Contracts awarded by the Agencies and (iii) the utilization of MWBEs as subcontractors and suppliers by Contractors having Procurement Contracts with the Agencies.

The Agencies have established numerical participation target goals identified in their MWBE Goal Plan based on the findings of the Disparity Study and directives from the Governor. For each new Contract, the Agencies shall gauge the appropriateness of the Procurement goals by considering the availability of Contractors to perform the Contract's anticipated scope of services, weighted by the extent those scope of services represent the total Contract price.

In the event the projected goals cannot be achieved, the Agencies will provide adequate documentation of a good faith effort to meet these goals in its submission of its Annual MWBE Goal Plan.

The Agencies, for the purposes of reaching these goals, shall establish procedures for maintaining list(s) of qualified and certified MWBEs, that have expressed an interest in doing business with the Agencies, and ensuring that such lists are updated periodically, but no less than once annually, and include a firm profile that will, if possible, describe the firm's history, key personnel and core work areas. The Agencies shall also consult the list(s) of certified MWBEs maintained by the Department of Economic Development, pursuant to Article 15-A.

The Agencies shall update these MWBE participation goals annually in an effort to (1) obtain the maximum feasible participation of MWBEs in Agency Contracts, (2) evaluate each Contract to determine the appropriateness of the goal, and (3) examine Agency goals to determine if their implementation will duplicate or conflict with any federal law. The Agencies shall waive the applicability of these goals to the extent of such duplication or conflict. These MWBE goals are subject to change by industry and region pursuant to findings contained within the Disparity Study of 2010, future Disparity Studies by the ESDC and Agency findings evidencing relevant industry and region-specific availability of certified MWBEs

b. Requirements to Conduct Procurements to Ensure Maximum Participation and Utilization by MWBEs. To enable the Agencies to achieve the maximum feasible portion of the Agencies' goals established in their MWBE Goal Plan, that eliminates barriers to participation by MWBEs in the Agencies' Procurements, Agency MWBE Directives shall include:

i. Measures and Procedures. The Agency shall establish measures and procedures to: (a) ensure that certified MWBEs shall be given the

opportunity for maximum feasible participation in the performance of Agency Contracts; and (b) to assist in the Agencies' identification of those Agency Contracts for which certified MWBEs may best bid to actively and affirmatively promote and assist their participation in the performance of Agency Contracts so as to facilitate the Agencies' achievement of the maximum feasible portion of the goals for Agency Contracts to such businesses. The Agencies' measures and procedures shall include the following MWBE Directives:

- (1) For competitive Procurements requiring a minimum of three bids, quotes must be obtained from at least one MBE or WBE. If not feasible, the reasons for not doing so shall be documented in writing and included in the Procurement record. Agency staff issuing solicitations will comply with this requirement whenever MWBEs are available for goods or services being procured;
  - (2) Encouraging Contractors to consider partnering with MWBEs, if feasible; and practicable; and
  - (3) For non-competitive Procurements, Agency staff issuing the solicitation shall strongly consider using a certified MWBE, if available, and if the MWBE meets the needs of the Agency.
- ii. Designation of the Division of Minority and Women-Owned Business Development ("Division of MWBEs"). The Agencies shall designate the Division of MWBEs to certify and decertify MWBEs for the Agencies.
- iii. Expected Degree of MWBE Participation. The Agencies shall require that each Contract solicitation set forth the expected degree of MWBE participation, as set forth in Article VI of these Guidelines.:
- iv. Current List of MWBEs. The Agencies shall provide a current list of certified MWBEs to each prospective Contractor, as set forth in Article VI of these Guidelines.
- v. Joint Ventures and MWBE Participation Goals. The MBE portion or the WBE portion of joint ventures shall count toward meeting the Agencies' MWBE participation goals. A firm owned by a Minority Group Member who is also a woman may be certified as a MBE, a WBE, or both, and may be counted towards either a MBE goal or a WBE goal, in regard to any Contract or any goal, set by the Agencies, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the MBE goal and the WBE goal.

- vi. Waiver of Obligations of Contractor relating to MWBE Participation. The Agencies may waive obligations of the Contractor relating to MWBE participation after a showing of good faith effort to comply with the MWBE participation requirements, pursuant Chapter 174 and Chapter 175 of the laws of 2010 that amend §2879 of the Public Authorities Law and Article 15-A, §313, subdivision six, respectively, both enacted on July 15, 2010.
- vii. Verification of MWBE Participation. The Agencies shall verify that MWBEs listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted, including verification that the procured primary Contractors are truly providing for the participation of MWBEs as described in the Procurement Contract. Participation of MWBEs shall be verified by (i) electronically monitoring and tracking the utilization, prompt payment and unauthorized substitutions of MWBE subcontractors and (ii) the provision of the following data, by the Contractor to the Agency, for each MWBE subcontract:
  - (1) name(s) of the MWBE subcontractor;
  - (2) total dollar amount of the MWBE's participation;
  - (3) scope of work of the MWBE subcontractor; and
  - (4) dates of participation.
- viii. In the implementation of this section of this Article, the Agencies shall:
  - (1). consider, where practicable, the severability of construction projects and other bundled Contracts; however, unbundling must be conducted within the constraints of the Agencies' need to ensure efficiency and limit costs;
  - (2) implement its MWBE Program to enable the Agencies to evaluate each Contract to determine the appropriateness of the goal, as set forth in this Article, which shall include:
    - (a) increasing MWBE outreach and communication efforts by use of the internet to facilitate access to information and build relationships between MWBEs and potential partners by:
      - (i) Posting a list on the Agencies' website of Agency contracting staff; and

- (ii) Requiring Agency staff to include certified MWBEs in the solicitation lists for Procurements not expected to exceed \$25,000;
  - (b) consider the number and types of MWBEs located in the region in which the Agency Contract is to be performed;
  - (c) consider the total dollar value of the Agency Contract, the scope of work to be performed, and the project size and term;
  - (d) consider whether the Contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event,
    - (i) whether or not certified MWBEs that have been solicited by the Contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and
    - (ii) whether certified MWBEs which have been solicited by the Contractor have responded in a timely fashion to the Contractor's solicitations for timely competitive bid quotations prior to the Agency's bid date;
  - (e) consider whether there has been written notification to appropriate certified MWBEs that appear in the directory of certified MWBEs, and
  - (f) consider whether the Contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified MWBEs.
3. consider compliance with the requirements of any federal law concerning opportunities for MWBEs which effectuates the purpose of this Article; and
  4. consult the most recent disparity study, pursuant to Article 15-A.



## ARTICLE VII

### 7. REQUIRED DESIGNATIONS AND DISCLOSURES UNDER LOBBYING LAW DIRECTIVES IN THE SELECTION OF PROCUREMENT VENDORS AND CONTRACTORS.

Contacts shall be regulated in accordance with Lobbying Law Directives as follows:

For any Governmental Procurement or Contract made subject to the Lobbying Law, the Agency shall notify every potential Contractor or Vendor that the Agency has a Designated Contact Officer(s) who is the only Agency representative(s) permitted to receive Designated Contacts from the Contractors or Vendors, or their representatives, during the Restricted Period with respect to such Governmental Procurement (*effective June 10, 2010, the Agencies have designated, the Vice President and Deputy Counsel or when appropriate, an Agency Senior Officer with technical knowledge of the Governmental Procurement, as the Designated Contact Officer(s) for all Governmental Procurement for which such appointment is required*). A Contractor or Vendor is restricted from making Contacts with the Agency(s) from the date of any public announcement, public notice, or public communication by any Agency to any potential Vendor of a determination of a need for a Governmental Procurement through final award and approval of the Procurement Contract by the Agency to anyone other than the Designated Contact Officer(s) with respect to the Governmental Procurement unless such communication is any one of the following Permissible Subject Matter Communications:

- (a) the submission of written proposals in response to a Request for Proposals, invitation for bids or any other method for soliciting a response from Offerers intending to result in a Procurement Contract;
- (b) the submission of written questions by a method set forth in a RFP, or invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract, when all written questions and responses are to be disseminated to all Offerers who have expressed an interest in the RFP, or invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract;
- (c) participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in a RFP, invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract;

- (d) complaints by an Offerer regarding the failure of the person or persons designated by the Agency pursuant to this section to respond in a timely manner to authorized Offerer Contacts, made in writing to the office of general counsel of the Agency, provided that any such written complaints shall become a part of the Procurement Record;
- (e) Offerers who have been tentatively awarded a Contract and are engaged in communications with the Agency solely for the purpose of negotiating the terms of the Procurement Contract after being notified of tentative award;
- (f) communications between designated staff of the Agency and an Offerer to request the review of a Procurement Contract award;
- (g) communications by Offerers in protests, appeals or other review proceedings (including the apparent successful bidder and his or her representatives) before the Agency conducting the Governmental Procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or
- (h) communications between Offerers and governmental entities that solely address the determination of responsibility entity of an Offerer.

Unless the communication(s) is any one of the above Permissible Subject Matter Communications, the Vice President and Deputy Counsel or the designated Senior Officer are the only representative(s) of the Agencies permitted to receive Contacts from bidders, potential Contractors or Vendors, or their representatives, during the Restricted Period with respect to an Agency Governmental Procurement.

All Agency solicitations for proposals, bid documents and specifications for Procurement Contracts shall incorporate a summary of the Agencies' policies and prohibitions regarding Contacts under the Lobbying Law. All potential Contractors or Vendors must complete and return to the Agency with their proposal or bid response to an Agency solicitation, the *Affirmation of Understanding of and Agreement*, and *Potential Contractor or Vendor Disclosure of Prior Non-Responsibility Determinations*, Lobbying Law Forms 1 and 2, respectively. Form 1 is a written affirmation of a Contractor's or Vendor's understanding of the Governmental Procurement lobbying procedures of the Agencies and Form 2 requires the potential Contractor or Vendor to certify that all information provided to the Agencies with respect to the Lobbying Law is complete, true and accurate. Prior to awarding a Procurement Contract to which these provisions apply, the Agency shall make a final Determination of Responsibility. All solicitations for proposals by the Agency shall require that potential Contractors or Vendors disclose to the Agency any findings of non-responsibility against them within the previous four years by any other governmental agency and must contain certifications that the same are complete, true and accurate.

For Contractors or Vendors who fail to comply with the Agencies' Lobbying Law Directives, refer to Article VIII of these Guidelines and the Agencies' Lobbying Reform Law Policies.

## ARTICLE VIII

### 8. PROMOTED AND PROHIBITED CONTRACTS & CONTRACTS SUBJECT TO OTHER LIMITATIONS

Notwithstanding the general practices of the Agencies with respect to selection of Contractors and Vendors and adherence to competitive practices, as set forth in in these Guidelines, the following shall apply or be given weight in order that certain Contracts, or the award thereof, may be promoted, prohibited or subject to certain limitations.

a. Promoted Contracts. It is the policy of the Agency to promote certain contracts as follows:

i. Minority- and Women-Owned Business Enterprises. It is the policy of the Agencies to promote and encourage the use of MWBEs and New York State subcontractors and suppliers in competition for Procurement Contracts. Furthermore, for Procurements anticipated to be in the amount of \$25,000 or less, if the performance of any Contract requires or permits the use of a subcontractor, it is preference of the Agencies to encourage the participation of MWBEs, as set forth in these Guidelines. The Agencies encourage bidders to include demonstrations that their selection promotes the use of MWBEs in bid responses, for example, through proposals for joint ventures with MWBEs. Procurements exceeding \$25,000 must include MWBE participation goals in solicitation documents.

In order to promote and assist participation by, and facilitate the awarding of a fair share of Contracts to, MWBEs, the Agencies have identified the following services as those areas or types of Contracts for which MWBEs may best bid: Archival Off-Site Services; Audit/Accounting Services; Appraisal Services; Architectural/Engineering Services; Equipment Maintenance Services; Information Technology Consulting/Services; Investment Banking Services; Legal Services; Management Consulting Services; and Printing Services; and Temporary Employee Services.

ii. New York State Business Enterprises and New York State Residents. It is the goal of the Agencies to promote the participation of New York State Business Enterprises and New York State residents in Procurement Contracts. Accordingly, the following procedure shall apply:

- (1) The Agencies shall collect and consult the specifications of NYSBEs in developing specifications for any Procurement Contract for the purchase of goods where possible, practicable, feasible and consistent with open bidding, except for Procurement Contracts for which the Agency would be expending funds received from another state. The Agencies shall, where feasible, make use of the stock item specification forms prepared by the State Commissioner of General Services, and where necessary, consult with the State Commissioner of the Office of General Services, in developing such specifications and make such determinations;
- (2) The Agencies shall, with the cooperation of the Department of Economic Development and through cooperative efforts with Contractors and Vendors, (i) notify NYSBEs of opportunities to participate as subcontractors and suppliers on Agency Procurement Contracts in amounts estimated to be equal to or greater than \$1,000,000 and (ii) promulgate procedures which will assure compliance by Contractors and Vendors with such notification. Once awarded the Contract, such Contractors shall document their efforts to encourage the participation of NYSBEs as suppliers and subcontractors on Procurement Contracts equal to or greater than \$1,000,000, pursuant to §2879 of the Public Authorities Law;
- (3) The Agencies shall, with the cooperation of the Community Services Division of the Department of Labor and through cooperative efforts with Contractors and Vendors, notify New York State residents of employment opportunities arising out of Procurement Contracts let by the Agencies in an amount estimated to be equal to or greater than \$1,000,000. Contractors shall, as supplementary materials to their bids, document their efforts to provide such notification.
- (4) The Agency shall include in all bid documents, (i) a statement notifying potential bidders located in foreign countries that the Agency may assign or otherwise transfer offset credits created by the Procurement Contract to third parties located in New York State and (ii) a provision for the assignment or other form of transfer of offset credits created by such Procurement Contracts, directly or indirectly, to third parties located in the State. Such assignment or other form of transfer shall be in accordance with the written directions of the Commissioner of Economic Development. The Agency shall cooperate with the Department of Economic Development in efforts to get foreign countries to recognize offset credits assigned or transferred to third parties located in New York State created by the Agency's Procurement Contracts.

- iii. Businesses with Anti-discriminatory Employment Practices. It is the Agencies' policy to have procedures in place that will ensure, to the extent of the Agencies' ability, that Contractors and Vendors comply with the federal Equal Employment Opportunity Act of 1972, as amended.

For any Contractor or Vendor with fifteen or more employees responding to an RFP, RFQ, IFB or other type of invitation for bids, included with such response must be a statement disclosing whether the Contractor or Vendor is currently operating under or negotiating, or has at some time in the last five years operated under or negotiated, a conciliation agreement with the Equal Employment Opportunity Commission ("EEOC"); has been, at some time in the last five years, or is currently the subject of a civil action brought against it by the EEOC; has been, at some time in the last five years, or is currently the subject of an action brought against it by the EEOC for permanent, temporary or preliminary relief; has operated, at some time in the last five years, or is currently operating under an order of a court to take affirmative action as a result of a civil action brought against it by EEOC.

The Agencies shall state in each Contract entered into with a Contractor or Vendor with fifteen or more employees, that it is an unlawful employment practice for such Contractor or Vendor to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, or to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, or national origin, or because an individual opposed any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, or because he or she made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under that Title; and that it shall be an unlawful employment practice to print or publish or cause to be printed or published any notice or advertisement relating to employment indicating any preference, limitation, specification, or discrimination on the basis of race, color, religion, sex, or national origin.

The Agencies shall state in each Contract entered into with a Contractor or Vendor with fifteen or more employees, that such Contractor or Vendor shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods as the EEOC shall prescribe by regulation, and (3) make such reports therefrom as the EEOC shall prescribe by regulation or order.

The Agencies shall state in each Contract entered into with a Contractor or Vendor with fifteen or more employees, that such Contractor or Vendor must post and keep posted in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted a notice prepared or approved by the EEOC setting forth excerpts from, or summaries of, pertinent provisions of Title VII of the Civil Rights Act of 1964, as amended, and information pertinent to the filing of a complaint.

The Agencies' goal is to award Contracts to those Contractors and Vendors who have evidenced compliance with the laws of the State prohibiting discrimination in employment. The Agencies recognize that this goal may be achieved by awarding Procurement Contracts to those firms who have demonstrated that they do not discriminate with respect to employment.

For all Personal Services Contracts over \$25,000, and for all Contracts for goods and materials over \$100,000, bidders shall submit to the Agencies data regarding the race and gender of their partners, members and employees by job category. Bidders whose Affirmative Action plans are not found acceptable to the Agencies shall be rejected.

- b. Prohibited Contracts and Contracts Permitted Subject to Specified Exceptions or Limitations. It is the policy of the Agencies that certain Contracts be prohibited or permitted only subject to certain exceptions or limitations as follows.
  - i. Special Criteria Rule for Evaluation of Architects, Engineers and Surveyors. For purposes of this subparagraph, the term "Professional Firm" shall be defined as any individual or sole proprietorship, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture, engineering, or surveying. The Agency shall not refuse to negotiate with a Professional Firm solely because the ratio of the "allowable indirect costs" to direct labor costs or the hourly rate in any labor category of the Professional Firm exceeds a limitation generally set by the Agency in the determination of the reasonableness of the estimated cost of services to be rendered by the Professional Firm, but rather the Agency should also consider the reasonableness of cost based on the total estimated cost of the service of the Professional Firm which should include, among other things, all the direct labor costs of the Professional Firm for such services plus all "allowable indirect costs," other direct costs, and negotiated profit of the Professional Firm. For purposes of this subparagraph, "allowable indirect costs" of a Professional Firm are defined as those costs generally associated with overhead which cannot be specifically identified with a single project or Contract and are considered reasonable and allowable under specific Contract or allowability limits.

- ii. Contracts with Businesses with Operations in Northern Ireland. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Agencies shall not enter into Procurement Contracts with Vendors who have operations in Northern Ireland unless the Agencies receive contractual assurance that the Contractor shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in §165 of the New York State Finance Law), and agrees to permit independent monitoring of its compliance with such principles.
- iii. Contracts with Foreign Business Enterprise. The Agencies shall notify the New York State Commissioner of Economic Development (“Commissioner”) of the award of a Procurement Contract for the purchase of goods from a Foreign Business Enterprise in an amount equal to or greater than \$1,000,000, simultaneously with notifying the successful bidder therefor. The Agencies shall not thereafter enter into a Procurement Contract for said goods until at least 15 days have elapsed, except for Procurement Contracts awarded as Emergency Selection Contracts or where the Commissioner waives the provisions of this section. The notification to the Commissioner shall include the name, address and telephone and facsimile numbers of the Foreign Business Enterprise, a brief description of the goods or services to be obtained pursuant to the proposed Procurement Contract, the amount of the proposed Procurement Contract, the term of the proposed Procurement Contract, and the name of the individual at the Foreign Business Enterprise or acting on behalf of the same who is principally responsible for the proposed Procurement Contract. *(The purpose of such notification is solely to allow the Commissioner to use the information to provide notification to NYSBEs of opportunities to participate as subcontractors and suppliers on such Procurement Contracts; to promote and encourage the location and development of new business in the State; to assist NYSBEs in obtaining offset credits from foreign countries; and to otherwise investigate, study and undertake means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of NYSBEs, industry and commerce.)*
- iv. Contracts with Discriminatory Jurisdiction Business Enterprises. The Agencies shall not, except as hereinafter provided, solicit bids from, or enter into a Procurement Contract with, a Foreign Business Enterprise which has its principal place of business in a jurisdiction that discriminates against New York businesses, as contained on the list prepared by the Commissioner pursuant to §165(6)(b) of the State Finance Law. *(Currently, as of the date of these revisions of these Guidelines, the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming have discriminatory policies against New York State bidders.)* The Agencies may waive this section only when the President, or a Senior Officer

designated by the President, determines in writing that it is in the best interest of the State to do so.

v. Vendors Failing to Comply with Lobbying Law Directives. The Agencies shall not enter into Contracts with Contractors or Vendors when:

- (1) proposed Vendor or Contractor has failed to timely disclose accurate and complete information or otherwise cooperate with the Agencies in administering the Lobbying Law Directives; or
- (2) there has been a finding that an Offerer has knowingly and willfully violated the provisions set forth in Article VII . of these Guidelines and the Agencies' Lobbying Reform Law Policies. This finding shall also result in a determination of non-responsibility against the Offerer. *(Violations of the Lobbying Law are expected to typically involve Contacts made to persons at the Agencies other than the Designated Contact Officer(s)).*

The Agencies shall not enter into Contracts in the case of either (1) or (2) of this subparagraph (v), section (b) of this Article, unless the Agencies determine that the award of the Procurement Contract:

- (a) is necessary to protect public property or public health or safety, and
- (b) that the Contractor or Vendor is the only source capable of supplying the required goods or services within the necessary time frame.

In order for the Agency determinations in (1) and (2) (a) and (b) above to be effective as exceptions, the above required findings, including a statement describing the basis of such determination by the Agency must be made a part of the Procurement Record.

Any subsequent determination of non-responsibility due to violations of the requirements of the Lobbying Law, if such determination is separated by less than four years, shall result in the proposed Vendor or Contractor being rendered ineligible to submit a proposal on or be awarded any Procurement Contract for a period of four years from the date of the second final determination of non-responsibility.

vi. Contracts with Former Agency Officers and Employees. The Agencies shall not enter into Contracts which contemplate, violate or affirmatively, by their terms, allow former Officers and Employees of the Agencies to violate §73 (8) (a) of the State Ethics Law. Specifically, and not by way of limitation, (except for employment contracts pursuant to which former Employees resume employee status to again work directly for the Agencies), the Agencies shall not enter into Contracts which provide for or



permit a former Officer or Employee of the Agencies, either as an individual contracting directly with the Agencies or as an officer or employee of a private business entity, to appear, practice, communicate or otherwise render services before the Agencies or receive compensation for any such services rendered by such former Officer or Employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction:

- (1) with respect to which such Officer or Employee was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration or over which that Employee or Officer exercised decision-making power during the performance of his or her official duties at the Agencies, or
- (2) in connection with any matter before the Agencies or its business for a period of two years after termination of such service or employment.

If the President deems it appropriate, the preceding prohibitions may be temporarily waived provided that, prior thereto, the State Ethics Commission grants an exception in accordance with the requirements of Chapter 523 of the Laws of 2004, or, for employees who left Agency employment before December 31, 1996 and otherwise qualify, a waiver has been granted pursuant to the provisions of Chapter 229 of the Laws of 1995. Notwithstanding the foregoing, the preceding prohibitions shall not apply when a former Officer or Employee carries out official duties as an elected official or employee of a federal, state or local government, or any agency of such government. Thus, a former Employee may appear, practice, communicate or render compensated services before the Agencies if he or she is acting as an elected official or employee of a federal, state or local government or one of its agencies. This exception applies only to government officials and employees; it does not apply to paid consultants of government entities.

In addition, in determining whether or not to enter into Contracts with respect to which any former Officer or Employee of the Agency plays a role, and with respect to the ethical administration thereof, the Agencies shall give due consideration to whether the execution or administration of the Contract raises an appearance of impropriety.

The Agencies shall, as it deems appropriate, include provisions in its Contracts to effect the purposes of this section.

## ARTICLE IX

### 9. GENERAL CONTRACT PROVISIONS AND CONTINUING EVALUATION OF PROCUREMENT CONTRACTS IN EFFECT FOR LIMITED TERMS.

- a. General Contract Provisions. The Agencies shall include general Contract provisions in its Procurement Contracts, as follows:
  - i. In Writing and Duly Executed. All Procurement Contracts shall be in writing and shall, at a minimum, be duly executed by an individual empowered to do so in accordance with the Agency By-Laws and, as the case may be, the provision for delegation of signing authority thereunder.
  - ii. Scope and Description. Procurement Contracts shall specifically provide for a scope of services indicating the nature of the work to be performed or goods to be provided, and for the time for performance, the monitoring or reviewing of that performance by personnel of the Agencies, any conditions generally applicable to Contracts with the Agency(s), any applicable provisions for insurance, and, where appropriate, any permitted use of supplies, facilities or personnel of the Agencies.
  - iii. Compensation and Payment Terms. Such Procurement Contracts shall also state the compensation for the goods or services, and the terms of payment including the conditions for receiving payment from the Agencies.
  - iv. Non-collusion. Formal Contracts shall, whenever appropriate, include Contractor Certifications that:
    - (1) The prices in the bid(s) or proposal(s) were arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restricting competition, or as to any matter relating to such prices with any other Contractor or with any competitor.
    - (2) Unless otherwise required by law, the prices which have been quoted in the bid(s) or proposal(s) were not knowingly disclosed by a Contractor prior to the opening of bid submissions, directly or indirectly, to any other Contractor or to any competitor.
    - (3) No attempt was made or will be made by the Contractor to induce any other person, partnership or corporation to submit or not submit bid(s) or proposal(s) for the purpose of restricting competition.

- v. False or Inaccurate Lobbying Law Directives Certifications. Every Governmental Procurement with an estimated annual expenditure over \$15,000 shall contain:
    - (1) certifications that the representations required by the Lobbying Law Directives, if applicable, are complete, true and accurate, and
    - (2) a provision authorizing the Agency(s) to immediately terminate such Contract in the event that any certification in accordance with the provisions of the Lobbying Law Directives is found to be intentionally false or intentionally inaccurate.
  - vi. Prohibitions and violations in Contracts. In accordance with § 316-a of Article 15-A, Contracts shall include a provision expressly providing that any Contractor who willfully and intentionally fails to comply with the minority and women-owned participation requirements, as set forth in such Contract shall be liable to the Agencies for liquidated or other appropriate damages and shall provide for the appropriate remedies on account of such breach. If the Agencies elect to proceed against a Contractor for breach of Contract, the Agency shall be precluded from seeking enforcement pursuant to §316 of Article 15-A, provided however, that the Agency shall include a summary of all enforcement actions undertaken in its Annual MWBE Goal Plan, in accordance with subdivision three of §315 of Article 15-A and Article XII of these Guidelines.
- b. Continuing Evaluation of Procurement Contracts in Effect for Limited Terms.
- i. Limitation of Contract Terms. In order that the Agencies may enter into new Procurement Contracts for the Procurement covered as soon as might be desirable, Procurement Contracts should not commit the Agency(s) to continue to use Contractors for longer than is desirable to achieve the Contract objectives, such as obtaining the Contractor's commitment to perform services at a reasonable price. Unless specifically permitted by a resolution of the Agency's Members or Directors, Procurement Contracts shall be for a term not exceeding one year and shall be terminable by the Agency, at its option, without cause, within a period that is less than a year into the future.
  - ii. Continuing Evaluation of Procurement Contracts and Panels. Every Procurement Contract under which services are currently being performed or goods or materials provided shall be continually evaluated by a designated Officer or Employee. Such Officer or Employee shall review and approve all bills to be paid and continually evaluate the Contractor's performance. Such Officer or Employee shall continually give consideration to whether the further use of the Contractor's services and continuation of the Procurement Contract is desirable. Such consideration

shall extend to making a determination, at least annually, of when it would be most appropriate and effective to award the Procurement Contract again through a new competitive selection process such as a new Request for Proposals. A determination not to enter into a new competitive award process immediately can be supported, in part, by verification that services are still being provided at competitive rates, but such verification shall not be determinative of whether a new competitive process should commence. Part of the required annual review and recertification to the Agencies' Procurement Contract Officer of Agency panels shall be a consideration of whether it would be appropriate and effective to renew the competitive selection process for Procurement Contracts with firms on the panels, including, but not limited to, doing so through the issuance of a new Request for Qualifications to reestablish the panel. Any determination not to enter into a new competitive award process, as a result of which a Contract would exceed a projected five years without a new competitive award process being conducted, shall require the affirmative concurrence of each Agency's Governance Committee included in a resolution adopted by each Agency's Governance Committee, as required by Article X of these Guidelines. Such affirmative concurrence shall not be required in relation to Single Source Contracts, Sole Source Contracts, existing State Contracts or existing GSA Contracts.

## ARTICLE X

### 10. REQUIRED AGENCY APPROVALS

- a. Directors' or Members' and/or Governance Committees' Approval. All Contracts where compensation is expected to be in an amount of \$100,000 or more, as well as any Contracts involving services to be provided in excess of one year, shall require initial approval of the Directors or Members of each Agency's Governance Committee or the Agency's Members or Directors. Unless specifically permitted by a resolution of the Agency's Governance Committee or the Members or Directors, Procurement Contracts shall be for a term not exceeding one year and shall be terminable by the Agency(s), at its option, without cause, within a period that is less than a year into the future. The President, or a Senior Officer designated by the President, may submit other Contracts as he or she deems appropriate to the Members or Directors for their consideration and approval.
- b. Directors' or Members' and/or Governance Committees' Annual Review. The Directors and Members shall, at least annually, review any Contract lasting more than a year, each January, as part of the approval of the Annual Report on Procurement Contracts. The Governance Committees will annually review Contracts bundled with similar like goods and/or services. Contracts considered as lasting for more than a year for this purpose shall include Contracts where the

Contract itself, by virtue of its stated terms, has a period of longer than a year, and in addition, shall include Contracts where, by virtue of renewal or execution of new or subsequent Contracts, without an intervening Contractor or Vendor Selection Process, the Agency's contractual relationship with the Vendor or Contractor continues for more than a year. Annual approval or review by each Agency's Governance Committee shall be as follows:

- i. Provided that timely annual review for each Contract is effected, firms on Agency panels can be brought for annual review:
  - (1) collectively, or in such combinations as are deemed appropriate, on a single annual review anniversary, or
  - (2) individually based on the dates that Procurement Contracts first required Member and/or Director approval.
- ii. Any determination not to enter into a new competitive award process, pursuant to which a Contract would exceed a projected five years without a new competitive award process, shall require the affirmative concurrence of each Agency's Governance Committee included in a resolution adopted by each Agency's Governance Committee. Such affirmative concurrence shall not be required in relation to Single Source Contracts, Sole Source Contracts, existing State Contracts, or existing GSA Contracts. In any case, any Contract in excess of a \$100,000 in amount or more than one year in duration must be initially approved by the Agency's Governance Committee and annually reviewed by the Agency's Governance Committee.
- c. Execution of Procurement Contracts. All Procurement Contracts shall be executed by the President, or a Senior Officer, as defined under the Agencies' By-Laws or by such Vice President to whom execution authority has been appropriately delegated in writing by a Senior Officer.
- d. Approval of Procurement Contracts by the Senior Vice President and Counsel. The Senior Vice President and Counsel shall approve, as to legal compliance, all Procurement Contracts. The consideration shall include the legal form and efficacy of the Procurement Contract. The Agencies' Legal Department may evidence such approval by Counsel by:
  - i. Signing "Approved as to form" on any Formal Contract so approved;
  - ii. In connection with a closing managed by the Legal Department, approving the closing and, as necessary, delivering accompanying opinions in connection therewith; or

- iii. Making such arrangements as are acceptable to the Counsel to assure that the form of Contract is legally acceptable and approved by Agency Counsel.

## ARTICLE XI

### 11. ADMINISTRATION OF PROCUREMENT, RECORDS AND RESPONSIBILITIES OF AGENCY OFFICERS AND EMPLOYEES

- a. Procurement Record. A Procurement Record shall be maintained for each Procurement requiring any Formal Contract and such other Procurement as the Procurement Contract Officer deems appropriate, or as State law requires, identifying, with supporting documentation, decisions made by the Agency during the Procurement process. The Procurement Record shall include, but not be limited to, documentation of: (1) the determination of the method of Procurement from among the available methods permissible under these Guidelines (*particularly, if there is a determination of an Emergency Selection Contract, Sole Source Contract or Single Source Contract*); (2) the process to be used to determine best value, the manner in which the selection of evaluation criteria and the evaluation process shall be conducted, and the evaluation criteria, which, whenever possible, shall be quantifiable; and (3) the basis of award and circumstances leading to the selection of the Vendor, including the alternatives considered, the rationale for selecting the specific Vendor and the basis upon which cost was determined reasonable. To the extent practicable, the Agencies shall document all aspects of the solicitation process in advance of the initial receipt of offers. Each amendment to an existing Contract, and the justification for each, shall also be included in the Procurement Record. Determinations of emergency with respect to Emergency Selection Contracts and Emergency Foreign Business Enterprise Contracts shall be included in the Procurement Record.

Annual certifications of panels should be made a part of the Procurement Record.

With respect to the Lobbying Law Directives, the Procurement Record shall include complete information related to: (i) written certifications by the Contractors or Vendors with respect to affirmations that the Contractor or Vendor understands the Lobbying Law Directives and (that the Agency(s) has been informed in writing of the Vendor's prior determinations of non-responsibility over the previous four years, and that this information is complete, true and accurate; (ii) Determinations of Responsibility by the Agency;; (iii) findings of non-responsibility, whether by the Agency(s) or by other governmental entities; (iv) a record of all Contacts during the Restricted Period, including the name of the person making the Contact, as well as that person's organization, address, telephone number, place of principal employment, occupation, and whether the person/organization making the Contact was the Offerer or was retained, employed or designated by or on behalf of the Offerer to appear before or communicate with the Agency; ;(v) if applicable, a

statement regarding the basis for any required finding that the Agency may enter into a Contract with a Contractor or Vendor who has previously been the subject of any determinations of non-responsibility; and (vi) any determination to terminate a Contract pursuant to the Lobbying Law Directives .

The Procurement Record is a place where the Agencies can clearly document, as considered appropriate, the need for the Contract; required specifications; and the ways in which a competitive field, fair and equal opportunity for Vendors, which shall include, but not be limited to, certified MWBEs, and a fair and balanced method of selection have been ensured.

The Procurement Record shall be maintained at least throughout the period the Contract and any extensions thereof are in effect and for a reasonable period of time thereafter.

- b. Procurement Contract Officer. The Procurement Contract Officer's responsibilities shall include keeping such portions of the Procurement Record as the Procurement Contract Officer deems appropriate, monitoring compliance with proper contracting procedures and adherence to these Guidelines.

Among the Procurement Contract Officer's responsibilities shall be the determination of when certain portions of these Guidelines shall apply to a Contract by virtue of Contract expenditures, in the aggregate, or sequential periods of time, reaching applicable thresholds stated herein. In addition, for Contracts of less than \$500 per year, which are terminable at any time by the Agency(s) with less than 90 days notice, the Procurement Contract Officer may determine that such Contracts shall be considered Contracts not exceeding one year for purposes of these Guidelines.

The Procurement Contract Officer may provide guidance and counsel about proper administration of the Procurement process and Contracts but shall not be a principal directly responsible for administering any Agency Contract. The Procurement Contract Officer should be available for counsel and guidance respecting the Procurement selection process but should not be directly involved as an actual selector of Vendors.

The Procurement Contract Officer shall encourage and promote good Procurement practices, including but not limited to, proper and coordinated management of Contracts, desirable Vendor selection practices, and informed and careful bill approval procedures. Among other things, it is generally desirable that there be a single individual designated to manage each Procurement Contract, including renewals and amendments thereto, reporting thereon, and bill approvals, (*and excluding receipt of Designated Contracts*), and that individuals managing different Contracts in the same area or from the same Vendors coordinate their work.

The Procurement Contract Officer shall, from time to time, issue such reports on Procurement as shall be appropriate or required including the Procurement Reports required under these Guidelines.

The Procurement Contract Officer shall notify the Office of General Services of all Contractors who, with respect to the Lobbying Law, have been the subject of determinations of non-responsibility by the Agency or who have been debarred.

The Procurement Contract Officer should periodically review and assess the adequacy of these Guidelines and, as appropriate, recommend changes for approval.

The Procurement Contract Officer may grant temporary technical exceptions to these Guidelines for Contracts, other than Formal Contracts, provided that such exceptions appear in the Procurement Contract Record, and that attorneys under the supervision of the Senior Vice President and Counsel determine the exceptions legally appropriate.

- c. Designated Contact Officer(s). The Agencies have designated the Vice President and Deputy Counsel, or when appropriate, an Agency Senior Officer with technical knowledge of the Governmental Procurement, as the Designated Contact Officer(s) for all Governmental Procurement for which such appointment is required. In accordance with the provisions of the Lobbying Law Directives, the Designated Contact Officer, for any given Governmental Procurement or Procurement Contract, is intended to be, by virtue of his or her designation as such, the recipient of any Designated Contacts with respect to the Governmental Procurement for which he or she has been designated. The Designated Contact Officer shall have ready access to, and shall refer to, as appropriate, the Contractors' and Vendors' written affirmations of their understanding of the Agencies' Governmental Procurement lobbying procedures along with all disclosures Contractors or Vendors have provided of any findings of any determinations of non-responsibility against them under the Lobbying Law. Prior to the Agencies' awarding of a Procurement Contract to which these provisions apply, it shall be the Designated Contact Officer's responsibility to consult with the Ethics Officer and to likewise consult at any appropriate time thereafter.
- d. Designated MWBE Officer(s). The Agencies' President shall appoint a Designated MWBE Officer(s) to oversee the Agencies' MWBE Program established to promote and assist: (i) participation by certified MWBEs in the Agencies' Procurement opportunities and facilitation of the award of Procurement Contracts to such enterprises; (ii) the utilization of certified MWBEs as subcontractors and suppliers by entities having Procurement Contracts with the Agencies; and (iii) the utilization of partnerships, joint ventures or other similar arrangements between certified MWBEs and other entities having Procurement Contracts with the Agencies. The Designated MWBE Officer(s) shall be familiar with the



Procurement of the types of construction, financial, legal or professional services utilized by the Agencies, report directly to the Agencies' President and, either directly or through their designees, participate in the Procurement process.

- e. Ethical Administration of Contracts, Compliance with the Lobbying Law Directives: Responsibility of Officers and Employees. It shall be the responsibility of the Procurement Contract Officer, the Ethics Officer, the Designated Contact Officer(s), the MWBE Officer(s), and all Officers and Employees to ensure that Contracts of the Agencies are administered ethically with due regard for all State ethics laws and Lobbying Law Directives. Determinations respecting ethical contract administration shall be made by the Ethics Officer, to whom any allegations of impropriety or unethical administration may be reported. The Ethics Officer shall also be responsible for reviewing, investigating, monitoring and imposing sanctions relating to any noncompliance with Lobbying Law Directives. The Procurement Contract Officer shall report to the Ethics Officer such allegations of impropriety or unethical administration of Procurement, or violations of the Lobbying Law Directives, as may come to the Procurement Contract Officer's attention. Agency Officers and Employees including, but not limited to, the Designated Contact Officer(s), shall report to the Ethics Officer any allegations of impropriety or unethical administration of Procurement or violations of the Lobbying Law Directives that come to their attention. If the Ethics Officer determines that sufficient cause exists to believe that an allegation concerning a violation of the Lobbying Law Directives is true, the Ethics Officer shall give the respective Contractor or Vendor reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation.

Prior to the awarding of a Procurement Contract by the Agency to which the Lobbying Law Directives' provisions apply, and any time thereafter, it shall be the Ethics Officer's responsibility to consult with the Designated Contact Officer(s) and make other appropriate inquiries so as to make the findings as to whether there were any certifications in relation to the provisions of the Lobbying Law Directives that were intentionally false or intentionally inaccurate so that the Agency would have right to terminate such Contract. If the Agency(s) terminates a Procurement Contract under these termination provisions, it shall be the Designated Contact Officer's responsibility to provide the statement describing the basis for such action for inclusion in the Procurement Record.

In order to comply with the Lobbying Law Directives, all Employees must cooperate and participate in the recording of Contacts with respect to which the Lobbying Law Directives apply. The record of a Contact shall include the name, address, telephone number, place of principal employment, and occupation of the person or organization. Employees must also inquire about, and record, whether the person or organization making the Contact was the Offerer, or was retained by the Offerer to contact the Agency(s) about the Procurement. Employees must

report all recorded Contacts to the Procurement Contract Officer for inclusion in the Procurement Record of the Procurement Contract.

If the Ethics Officer finds a knowing and willful violation of the Lobbying Law Directives by any Employee, the Ethics Officer shall report the violation to the President.

It is expected that the Ethics Officer will confer, as appropriate, with the Senior Vice President and Counsel with respect to allegations of unethical conduct or violations of the Lobbying Law Directives or other violations of law and nothing in any of the forgoing is to be taken to preclude individuals from also contacting the Senior Vice President and Counsel directly with respect to any such allegations.

## ARTICLE XII

### 12. REPORTS ON PROCUREMENT

- a. Annual Procurement Report (“Annual Report”). Within 90 days after the conclusion of each fiscal year shared by the majority of the Affiliated Agencies (*October 31*), *excluding the Housing Trust Fund Corporation*, the Members and Directors of the Agencies shall approve an Annual Report summarizing Procurement activity for the period of the Annual Report. Such Annual Report will include these Guidelines, an explanation of these Guidelines and any amendments thereto since the last Annual Report. The Annual Report describing Procurement activity shall include: (a) a listing of all Procurement Contracts entered into; (b) all Contracts entered into with NYSBEs and the subject matter and value thereof; (c) all Procurement Contracts entered into with certified MWBEs and the subject matter and value thereof, all referrals made and all penalties imposed, pursuant to §316 of Article 15-A; (c) all Contracts entered into with Foreign Business Enterprises and the subject matter and value thereof; (d) the selection process used to select such Contractors; (e) all Procurement Contracts which were exempt from the publication requirements of Article 4-C of the Economic Development Law, the basis for any such exemption; and (f) the status of existing Procurement Contracts.

Such Annual Report shall list for each Contract the following information:

- i. a description of the duties performed by the Contractor;
- ii. the date of the Contract and its duration;
- iii. the total value of the Contract;
- iv. the full name and address of the Contractor;

- v. the status of the Contract, including the amount spent or other considerations given pursuant to the Contract during the reporting period and for the life of the Contract to date;
- vi. whether the Contractor is a certified Minority or Women-Owned Business Enterprise; and
- vii. the total number of bids or proposals received prior to the award of the Contract.

The Annual Procurement Report, after being approved by the Members and Directors, shall be filed to the Division of the Budget and the Department of Audit and Control using the Public Authorities Reporting Information System (“PARIS”) on-line Reporting System, with copies of this report to the Department of Economic Development, the Senate Finance Committee and the Assembly Ways and Means Committee.

Copies of the Annual Procurement Report shall also be available to the public upon reasonable request at the Agencies' main office.

- b. Quarterly Procurement Report(s) (“Quarterly Report(s)”). Within 90 days after the conclusion of each quarter of the fiscal year shared by the majority of the Affiliated Agencies (*January 31, April 30, July 31 and October 31 and excluding the Housing Trust Fund Corporation*), the Agencies’ Members and Directors shall review a Quarterly Report. Each Quarterly Report shall describe the quarter's Procurement activity and shall include the same summary of activity information as is required in the Annual Procurement Report.
- c. Consolidation of Procurement Reports. The Annual Procurement Reports and the Quarterly Procurement Reports for each of the Affiliated Agencies (excluding the Housing Trust Fund Corporation), may, respectively, as determined by the President and a Senior Officer designated by the President, be consolidated annual or quarterly reports for all the Affiliated Agencies (excluding the Housing Trust Fund Corporation), to the extent that the President or designated Senior Officer determines that doing so will be more elucidating.
- d. Annual MWBE Goal Plan (“MWBE Goal Plan”). The Agencies shall report, annually, to the Governor, Legislature and the MWBE Director, on various issues pertaining to Procurements relating to MWBE, in accordance with Article VI of these Guidelines and Article 15-A, including but not limited to:
  - i. the annual goals, identified in the Agencies’ Annual MWBE Goal Plan, for Contracts with MWBEs;

- ii. providing adequate documentation of a good faith effort to meet the Agency goals described in the Agencies' Annual MWBE Goal Plan, in the event that the Agency projected goals cannot be achieved;
- iii. the number of actual Contracts issued to MWBEs;
- iv. the activities undertaken to promote and encourage Procurement opportunities of Minority Group Members and women and promote and increase participation by certified businesses with respect to Agency Contracts and subcontracts;
- v. Agency Contracts for leases of real property by the Agency(s) to a Lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such Lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon exceeds the sum of \$100,000;
- vi. a summary of all enforcement actions undertaken by the Agency against a Contractor for breach of Contract pursuant to §316-a of Article 15-A and Article IX. of these Guidelines; and
- vii. a summary of all waivers, defined in Article VI of these Guidelines, permitted by the Agencies during the period covered by the MWBE Report, including:
  - (1) a description of the basis of the waiver request; and
  - (2) the rationale for granting any such waiver.

### ARTICLE XIII

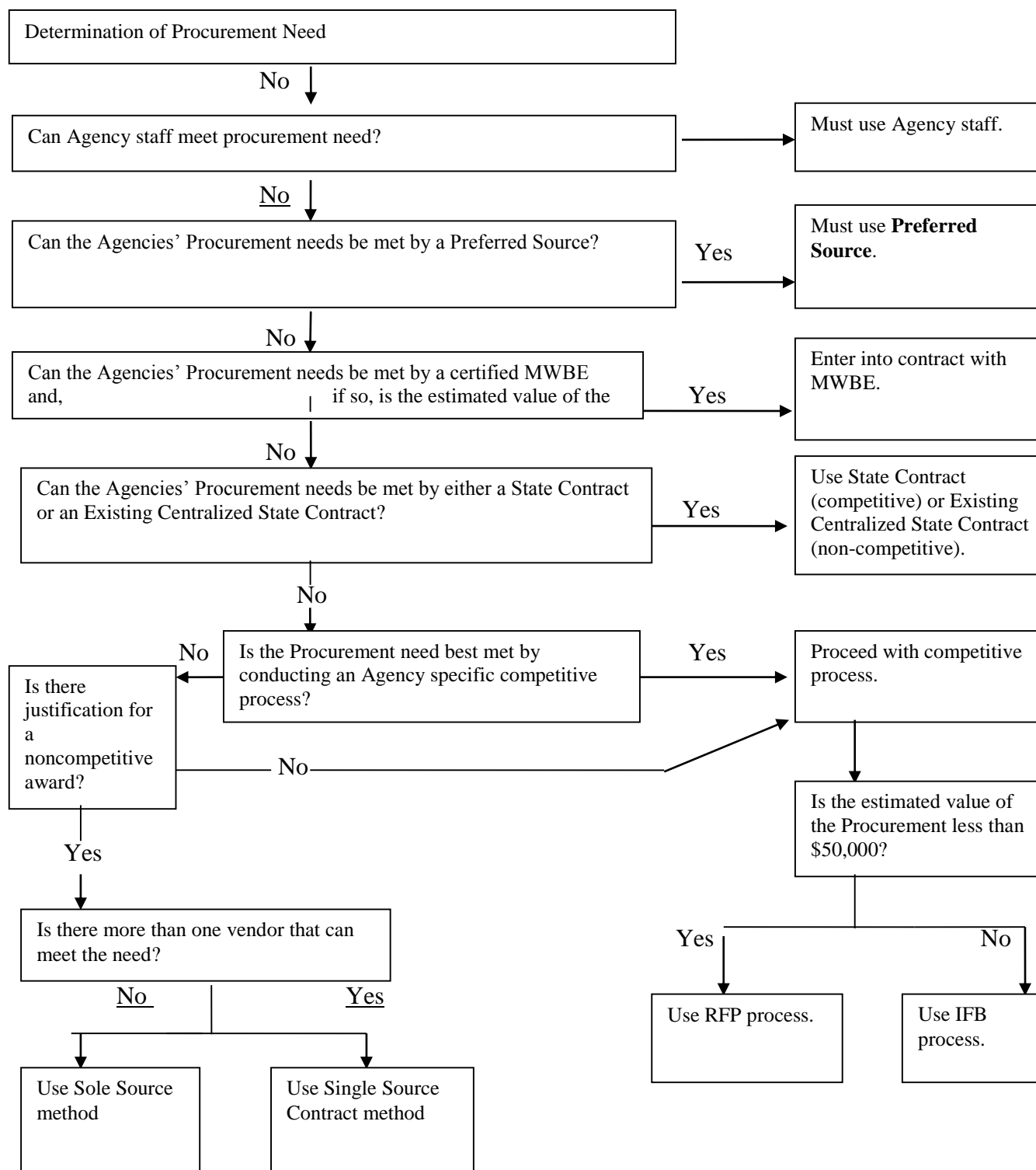
#### 13. MISCELLANEOUS PROVISIONS

- a. Powers of Amendment. Any modification or amendment of these Guidelines may be made by a Supplemental Resolution adopted at any duly constituted Members' or Directors' meeting; provided, however, that no such modification or amendment shall abrogate the rights and duties of existing Agency Contracts, the terms of which were established pursuant to these Guidelines; and further provided that the President may make non-material changes in these Guidelines.
- b. Supplementation with Procedural Handbooks, Practice Manuals and Other Directives. These Guidelines are only intended to provide the general framework for Agency Procurement practices. These Guidelines are not intended to preclude

supplementation of the Guidelines through the promulgation of more specific procedural handbooks, practice manuals, or other directives and guidance as may be issued from time to time, including as example, and not by way of limitation, more specific procedures for conduct of Requests For Proposals and Requests For Qualifications. It is also not intended that the existence of these Guidelines should prevent or supplant the issuance of additional Agency guidelines or regulations to deal specifically with Lobbying Law Directives and/or MWBE Directives, if appropriate.

- c. No Recourse under these Guidelines. No provision of these Guidelines shall be the basis for any claim based upon these Guidelines against any Member, Director, Officer or Employee of the Agency(s) or the Agency(s) itself.
- d. Effect upon Existing Agencies' Contracts. These Guidelines shall not abrogate the rights and duties of Agency Contracts with third parties executed prior to the effective date of these Guidelines.

## SELECTING A PROCUREMENT PROCESS.



# TAB 5

## Explanation of the Agencies' Consolidated Procurement and Contract Guidelines

**Explanation of consolidated Procurement and Contract Guidelines of the Agencies, as revised and in effect, January 26, 2023**

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The consolidated Procurement and Contract Guidelines (the “Guidelines”) were (i) adopted on December 15, 2005, (ii) revised on June 14, 2007, June 11, 2008, September 14, 2010, September 12, 2013, respectively, and (iii) most recently revised on January 26, 2023, pursuant to the provisions of the Acts of each of the New York State Housing Finance Agency, the State of New York Mortgage Agency, the New York State Affordable Housing Corporation, the State of New York Municipal Bond Bank Agency and the Tobacco Settlement Financing Corporation (individually, “Agency,” and collectively, the “Agencies”), and Section 2879 of the Public Authorities Law.

The Guidelines were revised on January 26, 2023 to (i) add the defined term “Service Disabled Owned Veteran Business (“SDVOB”), (ii) add SDVOBs to the listing of organizations waived from competitive process in accordance with the statutory monetary threshold limit, and (iii) increase the monetary threshold amount for the waiver of competitive processes for MWBEs and SDVOBs from \$200,000 to \$500,000 to mirror the statutory limit for this type of exception to competitive processes under Articles 15-A and 17-B of the New York State Executive Law.

**EXPLANATION OF CONSOLIDATED  
PROCUREMENT AND CONTRACT GUIDELINES  
OF THE AGENCIES  
(as revised and in effect, January 26, 2023)**

A. Article II, 2. titled “Definition of Terms”: the defined term for SDVOB was added to this section to read as follows:

lxiii. "Service-disabled veteran-owned business enterprise" (“SDVOB”) shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

- (1) at least fifty-one percent owned by one or more service-disabled veterans;
- (2) an enterprise in which such service-disabled veteran ownership is real, substantial, and continuing;
- (3) an enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;



(4) an enterprise authorized to do business in this state and is independently-owned and operated;

(5) an enterprise that is a small business which has a significant business presence in the state, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto; and

(6) certified by the State's Office of General Services.

B. Article IV, 4.c.ix., titled "Selection of Procurement Vendors and Contractors, Selection on a Non-Competitive Basis, Option to Waive Competition for Certain Kinds of Contracts" was revised to read as follows:

ix. Option to Waive Competition for Certain Kinds of Contracts. Notwithstanding any other provision of law requiring competition, the competitive process may be waived to include Contracts for the purchase of goods or services from Small Businesses or certified MWBEs or certified SDVOBs, or goods or technology that are recycled or remanufactured, in amounts at or below \$500,000.

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## REVISIONS TO GUIDELINES EFFECTIVE ON September 12, 2013

The Guidelines were revised on September 12, 2013 to (i) incorporate certain substantive amendments intended to improve the procurement process, (ii) align our minority and women-owned business ("M/WBE") procedures with New York State ("State") law, and (iii) implement some definitional changes.

The substantive amendments include the addition of provisions to: (i) increase the monetary threshold from \$15,000 to \$50,000 for request for proposal ("RFP") processes in order to make the procurement process less burdensome, and a change that is in line with recent statutory changes made to the requirement to post contract opportunities in the State's Contract Reporter for solicitations, which similarly increased the threshold amount from \$15,000 to \$50,000; (ii) permit the Agencies to rely on the procurement processes of the Federal Government Administration ("GSA") for the purchase of goods and services, allowing the Agencies to piggy back on Federal procurements as they are permitted to do for State Contract procurements; (iii) provide for the initial approval and annual review of Contracts by each Agency's Governance Committee, with the Agencies' Board approving and/or reviewing Contracts annually each January as part of their approval of the Agencies' consolidated annual procurement report (a change that was previously authorized through charter amendments for the Governance Committees); (iv) require the Agencies' the President/CEO to authorize all Agency determinations of Single Source Contracts,

Sole Source Contracts, Critical Source Contracts and Emergency Contracts after any such determination is made by an Agency Senior Officer; and (v) require any Emergency Contracts be brought before the Governance Committee for approval at the next scheduled meeting. The changes in (iv) and (v) above are intended to tighten control processes in situations where non-competitive procurement methods are used.

In addition to these changes, certain changes were made to improve our MWBE procurement contract procedures. The Guidelines were amended to (a) increase the monetary threshold amount for the waiver of competitive processes for M/WBEs from \$100,000 to \$200,000 to mirror the statutory limit for this type of exception to competitive processes under the amendments to Article 15-A of the State's Executive Law; and (b) delete the M/WBE goals in the Guidelines and replace them with a reference to the goals in the Agencies' Annual M/WBE Goal Plan.

Finally, certain definitional changes have been implemented. The defined term "Uniquely Qualified Source Contract" was replaced with "Single Source Contract" to mirror the State's term for this procurement method, and Housing Trust Fund Corporation was added as an agency to the defined term "Affiliated Agencies" for purposes of procurement processes. This last change is intended to align the Agencies with HTFC, all now part of HCR.

EXPLANATION OF CONSOLIDATED  
PROCUREMENT AND CONTRACT GUIDELINES  
OF THE AGENCIES  
(as revised and in effect, September 12, 2013)

The consolidated Procurement and Contract Guidelines ("Guidelines"), pursuant to the provisions of the Acts of each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation (individually, "Agency," and collectively, the "Agencies") and Section 2879 of the Public Authorities Law, apply to the Agencies' procurement of goods and services. As defined in the Guidelines, "Procurement" means the acquisition of goods, materials and services including, but not limited to, personal services, by any Agency. "Procurement Contract" is defined, (a) following the definition in Section 2879 of the Public Authorities Law, as any written agreement for Procurement in the actual or estimated amount of \$5,000 or more, and (b) following the definition in the Lobbying Law in relation to any Agency Governmental Procurement with actual or anticipated annualized expenditures in excess of \$15,000 in amount, as any Contract, including an amendment, extension, renewal, or change order to an existing Contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the Contract as it was finally awarded), for a Governmental Procurement. (Unless otherwise defined herein, capitalized terms adhere to their respective definitions in the Guidelines.)

A. Selection of Procurement Contractors and/or Vendors (Article IV of the Guidelines)

In selecting Procurement Contractors and/or Vendors, it is the preference of the Agencies that Contractors and Vendors be selected from as broad a spectrum of providers as is practicable, and that any Contract (defined as a written agreement whereby an Agency undertakes Procurement, including accepted Purchase Orders and Procurement Contracts) be awarded and purchases be made consistent with the quality of services or goods and materials required, at fair and reasonable prices. In addition, it is the preference of the Agencies to encourage the participation and utilization of minority owned business enterprises (“MBEs”) and women-owned business enterprises (“WBEs”) (and collectively, “MWBEs”) in accordance with the MWBE Directives in the Guidelines and to encourage the participation of New York State Business Enterprises (“NYSBEs”).

B. Competitive Processes (Article IV of the Guidelines)

The following are the main competitive processes provided for in Article IV of the Guidelines: (i) a competitive lowest price bid for goods and materials; (ii) an invitation for bids process (*new terminology*) for Contracts not expected to exceed \$50,000 (*revised amount*) in amount; (iii) a request for proposal (“RFP”) without negotiation; (iv) an RFP with competitive negotiations; (v) use of a pre-qualified panel; (vi) use of a State Contract; (vi) U.S. General Services Administration Contracts (“GSA Contracts”) (*new addition*) and (vii) use of an Affiliated Agency Contract, and Affiliated Agency Contract shall include the Housing Trust Fund Corporation (“HTFC”) (*new addition*) entered into as a result of a competitive process, or the use of an Affiliated Agency competitive selection process as the basis for entering into a Contract and such Affiliated Agency competitive process shall include processes conducting by HTFC (*new addition*).

C. Selection of Contractors and Vendors through a Competitive Selection Process (Article IV of the Guidelines)

In selecting Contractors and Vendors through a competitive selection process, certain standards and practices are required to be considered, including: (i) advertisement requirements including outreach efforts to MWBEs and providing information with respect thereto via the Agencies’ website; and (ii) criteria for selection, including but not limited to, terms, costs, goods or services offered, reputation and experience. For procurements not expected to exceed \$50,000 (*revised amount*) in amount, the Agency shall solicit prices, statements of qualifications and proposals from at least three prospective Vendors, including at least one MWBE, if feasible.

D. Selection of Contractors and Vendors on a Non-Competitive Basis (Article IV of the Guidelines)

In the selection or use of Contractors or Vendors, the following Contracts may be awarded without engaging in any one of the competitive processes set forth above: Preferred Source providers; existing centralized State Contracts; existing GSA Contracts (*new addition*); Emergency Selection Contracts where the selection of a Contractor or Vendor cannot be delayed; Sole Source Contracts; Single Source Contracts (*new terminology*); instances where practice in an

industry does not normally involve competitive selection processes and an Agency determination that entering into a Contract is deemed cost-effective for the Agency; and the purchase of goods and services from Small Businesses and certified MWBEs, or goods or technology that are recycled or remanufactured, in amounts of \$200,000 (*revised amount*) or less. Determinations to enter into Emergency Selection Contracts, Sole Source Contracts and Single Source Contracts must be made by an Agency Senior Officer and the President (*revised language*).

E. Requirements for Agency Bid Documents (Article V of the Guidelines)

For Procurements in the actual or estimated amount of \$50,000 (*revised amount*) or more, the Agency shall advertise all such opportunities in the “New York State Contract Reporter. The Agencies shall include in all bid documents to potential bidders a statement that information concerning the availability of subcontractors and suppliers is available from the State Department of Economic Development, which shall include the directory of certified MWBEs, and an affirmative statement that it is the policy of the Agencies to encourage the use of State subcontractors and suppliers, and to promote the participation of NYSBEs and MWBEs, where possible, in the Procurement of goods and services.

The Agencies also require that solicitation documents set forth the expected degree of MWBE participation based, in part, on (i) the potential subcontract opportunities available in the prime Procurement Contract, and (ii) the availability of MWBEs to respond competitively to the potential subcontract opportunities. In addition, the Agencies shall:

1. provide notice of Governmental Procurements, along with any other notice required by law, to professional and other organizations serving MWBEs that provide the types of services procured by the Agencies. For the purposes of these Procurement efforts, and for other Agency Procurement efforts, the Agencies shall maintain lists of qualified MWBEs and will provide such list(s) to Contractors in the Procurement process, requiring that potential Contractors consult and contact appropriate MWBEs to solicit their bids, in accordance with Article VI of the Guidelines;
2. incorporate a summary of the Agencies’ policies and prohibitions regarding Contacts under the Lobbying Law, in accordance to the Lobbying Law Directives as described in Article VII of the Guidelines; and
3. follow the directives for the participation of promoted Contracts, as more fully described in Article VIII of the Guidelines;

F. MWBE Program (Article VI of the Guidelines)

The Agencies shall implement procedures for MWBE participation and utilization in Agency Procurements, including:

- (i) appointing a Designated MWBE Officer by the President to oversee the Agencies’ MWBE Program;

- (ii) establishing appropriate numerical MWBE participation target goals (to be updated annually) for each new Procurement Contract awarded by the Agencies and for the utilization of MWBEs as subcontractors and suppliers by Contractors having Procurement Contracts with the Agencies. In addition, the MBE portion or the WBE portion of joint ventures shall count toward meeting the Agencies' MWBE participation goals. In the event that the projected goals cannot be achieved, the Agencies will provide adequate documentation of a good faith effort to meet these goals in their submission of their Annual MWBE Officer Report.
- (iii) establishing procedures for maintaining lists of qualified and certified MWBEs, that have expressed an interest in doing business with the Agencies, and ensuring that such lists are updated at least annually;
- (iv) establishing measures and procedures to ensure that certified MWBEs will be given the opportunity for maximum feasible participation in the performance of Agency Contracts and to assist in the Agencies' identification of those Agency Contracts for which certified MWBEs may best bid to actively and affirmatively promote and assist their participation in the performance of Agency Contracts so as to facilitate the Agencies' achievement of the maximum feasible portion of the goals for Agency Contracts to such businesses;
- (v) designating the Division of Minority and Women-Owned Business Development to certify and decertify MWBEs for the Agencies;
- (vi) requiring that each Contract solicitation set forth the expected degree of MWBE participation, as set forth in the Agencies' Annual MWBE Goal Plan (*new addition*).
- (vi) submitting a waiver by the Agency of obligations of Contractor relating to MWBE participation after a showing of good faith effort to comply with the MWBE participation requirements; and
- (vii) verifying that MWBEs listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted.

In implementing the MWBE Directives, the Agencies shall:

- (1) consider, where practicable, severability of construction projects and other bundled Contracts; however, unbundling must be conducted within the constraints of the Agencies' need to ensure efficiency and limit costs;

- (2) implement its MWBE Program to enable the Agencies to evaluate each Contract to determine the appropriateness of the goal, as set forth in the Agencies' Annual MWBE Goal Plan (*new addition*);
- (3) consider compliance with the requirements of any federal law concerning opportunities for MWBEs that effectuates the purpose of Article VI of the Guidelines; and
- (4) consult the most recent disparity study, pursuant to Article 15-A of the Executive Law ("Article 15-A").

G. Lobbying Law Directives (Article VII of the Guidelines)

For any Contract made subject to the "Lobbying Reform Law," the Agency is required to notify every potential Contractor or Vendor that the Agency has a "Designated Contact Officer," who is "knowledgeable of the procurement" and is the only Agency representative permitted to receive Contacts from Contractors or Vendors, or their representatives, during the "Restricted Period" with respect to such Governmental Procurement. In addition to observing the Lobbying Reform Law's proscriptions on Contacts, all potential Contractors or Vendors must complete and return to the Agency with their proposal or bid response to an Agency solicitation, a written affirmation of a Contractor's or Vendor's understanding of the Governmental Procurement lobbying procedures of the Agency, as well as disclose prior determinations of non-responsibility as a result of Lobbying Law violations over the preceding four years. Any violation of the Lobbying Reform Law over the preceding four years is considered an adverse factor in the Contractor or Vendor selection process.

H. Promoted and Prohibited Contracts & Contracts Subject to Other Limitations (Article VIII of the Guidelines)

Notwithstanding the general practices of the Agencies with respect to selection of Contractors and Vendors and adherence to competitive practices, as set forth in the Guidelines, Article VIII of the Guidelines require that certain Contracts may be "promoted," "prohibited" or "subjected to certain limitations."

It is the goal of the Agencies to both promote and assist participation by MWBEs in competition for Procurement Contracts, and award a fair share of Procurement Contracts to MWBEs. The Agencies also seek to promote the participation of New York State Business Enterprises.

In addition, as it is the goal of the Agencies to award Contracts to those Contractors or Vendors who have evidenced compliance with the laws of the State prohibiting discrimination in employment, the Agencies will seek to achieve this goal by awarding Procurement Contracts to those firms who have demonstrated that they do not discriminate with respect to employment. The

Agencies have also promulgated procedures for ensuring Contractor or Vendor compliance with the Equal Opportunity Act of 1972.

Under the Guidelines, certain Contracts will be prohibited or permitted only subject to certain exceptions or limitations as follows: (i) with respect to evaluation of Architects, Engineers and Surveyors, the Agencies shall consider special criteria including the reasonableness of cost based on the total estimated cost of any legal entity permitted by law to practice such professions; (ii) in accordance with the MacBride Fair Employment Principles, the Agencies shall not enter into Procurement Contracts with Contractors or Vendors who have operations in Northern Ireland unless assurance is made that lawful steps in good faith have been made to comply with the MacBride Principles; (iii) with respect to Contracts with a Foreign Business Enterprise, the Agencies shall notify the State Commissioner of Economic Development of the award of a Procurement Contract for the purchase of goods from said Foreign Business Enterprise in an amount equal to or greater than \$1,000,000. Thereafter, the Agencies shall not enter into a Procurement Contract for said goods until at least 15 days have elapsed, except where a Contract is awarded due to Emergency. The Agencies shall not solicit bids from or enter into a Procurement Contract with a Foreign Business Enterprise which has its principal place of business in a jurisdiction that discriminates against New York business, pursuant to Section 165 (6)(b) of the State Finance Law.

In addition to the consideration of Contractor or Vendor non-compliance with Lobbying Law Directives, with respect to Contracts with former Agency Officers and Employees, the Agencies shall not enter into Contracts which contemplate, violate or affirmatively, by their terms, allow former Officers and Employees of the Agencies to violate Section 73(8)(a) of the State Ethics Law.

#### I. General Contract Provisions (Article IX of the Guidelines)

All Procurement Contracts shall be in writing and duly executed by an individual empowered to do so in accordance with Agency By-Laws. Procurement Contracts shall specifically provide for a scope of services indicating the nature of the work to be performed or goods to be provided, and for the time for performance, and the monitoring or reviewing of performance. Additionally, Procurement Contracts shall also state compensation and payment terms and indicate that prices in bids were arrived at independently without collusion. In addition to a provision authorizing the Agency to immediately terminate any Contract in the event that any Lobbying Law certification is found to be intentionally false or inaccurate, Contracts shall also include “a provision expressly providing that any Contractor who willfully and intentionally fails to comply with minority and women-owned participation requirements, as set forth in the Contract, shall be liable to the Agencies for liquidated or other appropriate damages and shall provide for the appropriate remedies on account of such breach”.

In order that the Agencies may enter into new Procurement Contracts for the Procurement covered as soon as they may desire, Procurement Contracts should not commit the Agency(s) to continue to use Contractors for longer than is desirable to achieve the Contract objectives. Unless specifically permitted by a resolution of the Agency’s Members or Directors, Procurement Contracts should be for a term not exceeding one year, and should be terminable by the Agency,

at its option, without cause, within a period that is less than a year into the future. A designated Officer or Employee shall perform a continuing evaluation of Procurement Contracts and Panels.

J. Agency Approvals (Article X of the Guidelines)

All Contracts where compensation is expected to be \$100,000 or more, as well as any Contracts involving services to be provided over a period of more than one year, require initial approval and annual review of the Governance Committee of each Agency (*new addition*). The Members and Directors shall, at least annually, approve and/or review any Contract lasting more than a year, each January, as part of the approval of the Annual Report on Procurement Contracts. All Procurement Contracts shall be executed by the President and CEO, or a Senior Officer, as defined under Agency By-Laws or by such Vice President to whom execution authority has been appropriately delegated in writing by a Senior Officer or as otherwise provided for in the Bylaws. The Senior Vice President and Counsel, or his/her designee(s), shall approve as to legal compliance all Procurement Contracts.

K. Procurement Record (Article XI of the Guidelines)

A “Procurement Record” shall be maintained for each Procurement requiring any Formal Contract and such other Procurement as the Procurement Contract Officer deems appropriate, or as State law might require, identifying, with supporting documentation, decisions made by the Agency during the Procurement process. Additionally, the Procurement Contract Officer shall be charged with responsibilities that include the retention of such portions of the Procurement Contract Record as the Procurement Contract Officer deems appropriate, monitoring compliance with proper contracting procedures and adherence to the Guidelines.

L. Reports on Procurement (Article XII of the Guidelines)

1. Annual Procurement Report

Within ninety days after the conclusion of each fiscal year shared by the majority of the Agencies, the Members or Directors of the Agency shall approve an Annual Procurement Report, summarizing procurement activity for the period of the report. Such report shall include for each Procurement Contract listed (including MWBEs): a description of the duties performed by the Contractor; the date of the Contract and its duration; the total value of the Contract; the full name and address of the Contractor; the status of the Contract including the amount spent or other considerations given pursuant to the Contract during the reporting period and for the life of the Contract to date; whether the Contractor is a Minority or Women-Owned Business Enterprise; and the total number of bids or proposals received prior to the award of the Contract.

The Annual Procurement Report, after being approved by the Members and Directors, shall be filed using the Public Authorities Reporting Information System (“PARIS”) on-line reporting system.



2. Quarterly Procurement Report

Within ninety days after the close of each quarter of the fiscal year shared by the majority of the Affiliated Agencies, the Agencies shall prepare and deliver to the Members and Directors a report summarizing procurement activity for the period of the report.

3. Annual MWBE Officer Report

The Agencies annually file an MWBE Officer Report that includes: (i) Agency annual MWBE goals; (ii) documentation of a good faith effort to meet Agency goals, in the event that these goals cannot be achieved; (iii) the number of actual Contracts issued to MWBEs; (iv) the activities undertaken to promote and encourage Procurement opportunities of MWBEs and increase participation by certified MWBEs; (v) Agency Contracts for leases of real property by the Agency to a Lessee (a) where the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such Lessee and (b) the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon exceeds the sum of \$100,000; (vi) a summary of all enforcement actions undertaken by the Agency against a Contractor for breach of Contract; and (vii) a summary of all waivers, permitted by the Agencies during the period covered by the MWBE Officer Report.