



## ALL AGENCY SERVICE CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on March 27, 2019

These guidelines (the “**Service Contract Guidelines**”) apply to the Metropolitan Transportation Authority (“**MTA**”), the New York City Transit Authority (“**NYCT**”), the Long Island Rail Road Company (“**LIRR**”), The Metro-North Commuter Railroad Company (“**MNR**”), Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Capital Construction (“**MTACC**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”), and to the Triborough Bridge and Tunnel Authority (“**Bridges and Tunnels**”) insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of which is referred to severally and together, as the “**Authority**”).

### **Article I-Applicability of Service Contract Guidelines**

It is the policy of the Authority to contract for services when, because of factors such as timing, costs, qualifications or availability of Authority staff, or the nature of the services to be rendered, it is more beneficial for such services to be contracted for than performed by employees of the Authority. Contractors shall be selected on a competitive basis except when competition is not required pursuant to applicable law or these Service Contract Guidelines or is waived as impractical or inappropriate.

These **Service Contract Guidelines** apply to

- i) personal service contracts (“**Personal Service Contracts**”); and
  - ii) miscellaneous service contracts (“**Miscellaneous Service Contracts**”, and collectively with Personal Service Contracts, “**Service Contracts**”).
- A. Personal Services Contracts involve contracts for the provision of personal services (“**Personal Services**”) which generally involve retaining a consultant who specializes in one of the following:
- (1) Accounting and auditing
  - (2) Advertising
  - (3) Analysis
  - (4) Appraisal
  - (5) Architecture and design
  - (6) Bonds and financial management
  - (7) Commissioning of original art
  - (8) Dispute resolution
  - (9) Engineering
  - (10) Financial
  - (11) Human resources
  - (12) Information technology
  - (13) Investment
  - (14) Labor relations

- (15) Legal
- (16) Legislation
- (17) Management
- (18) Marketing
- (19) Office services requiring specialized skills
- (20) Other consulting, professional or technical services
- (21) Planning
- (22) Printing where editorial services predominate
- (23) Public affairs and corporate relations
- (24) Real estate
- (25) Records management, including electronic data storage and retrieval and discovery
- (26) Research
- (27) Security, including cybersecurity
- (28) Statistics
- (28) Surveying
- (30) Training

B. A Miscellaneous Service Contract is any contract for services which is not:

- i) a Personal Service Contract; or
- ii) a General Contract (capitalized terms not defined in these Service Contract Guidelines shall have the meaning ascribed thereto in the All Agency General Contract Procurement Guidelines (the “**General Contract Guidelines**” and collectively with these Service Contract Guidelines, the “**Guidelines**”).

Examples of miscellaneous services (“**Miscellaneous Services**”) include but are not limited to guard service, custodial service and maintenance work performed by laborers, workers or mechanics which does not result in a substantial improvement to a building or other fixed asset.

C. In the event a proposed contract contains elements of more than one type of contract under these Service Contract Guidelines or the General Contract Guidelines, the elements which predominate shall determine the type of contract for purposes of the Guidelines.

## **Article II - Delegation of Authority**

The Chairman, the President of the respective Authority or the designated representative or representatives thereof (each defined for purposes of these Service Contract Guidelines as an “**Authorized Officer**”) are hereby empowered with respect to Service Contracts to be entered into by the respective Authority acting on its own behalf or as agent for the MTA, as follows:

A. to implement these Service Contract Guidelines.

- B. to establish procedures which shall be competitive to the extent deemed practicable by the Authorized Officer, for the award of Service Contracts (including contracts for SBC, M/WBE and SDVOB ) estimated to involve the expenditure of less than \$100,000.
- C. to establish procedures, to the extent not otherwise covered herein, for the award of Service Contracts regardless of the estimated expenditure, which procedures shall provide for Board approval of the award if the Services Contract provides for the estimated expenditure of \$100,000 or more is not awarded pursuant to sealed competitive bidding. A majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing such award.
- D. for Service Contracts estimated to involve the expenditure of \$100,000 or more:
  - 1. to determine the criteria for the evaluation of bids;
  - 2. to determine whether a Services Contract required to be advertised in the New York State Contract Reporter (“NYSCR”) is exempt from such requirement on the basis of a need to award such contract on an emergency or critical basis;
  - 3. to advertise for, solicit and open bids;
  - 4. to record the name of each bidder and the amount(s) bid;
  - 5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the Service Contract to any of such bidders or obtain new bids from such bidders;
  - 6. to reject all bids when it is determined to be in the public interest to do so; and
  - 7. to award the Service Contract.
- E. to determine whether a bidder is responsible pursuant to the All-Agency Responsibility Guidelines.

**Article III - Selection of Personal and Miscellaneous Service Contractors**

A. Requirements for Selection of Personal Service Contractors

The following are the requirements to be followed for selection of contractors for Personal Services, except for:

- i) contracts for architectural, engineering, and survey services (which are subject to Article III(B);
- ii) contracts equal to or less than \$100,000 (which may be entered into pursuant to the provisions of this Article III(A) or pursuant to procedures established

by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer); and

- iii) Service Contracts for which a competitive selection process is inappropriate pursuant to the provisions of Article III(C).
  - 1. The Division/Department of the Authority requiring the services shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.
  - 2. A request for proposals ("**RFP**") to perform the required services shall be sent by mail or electronically to three or more firms to invite competition, including any DBE, MWBE or SDVOB (as such terms are hereinafter defined) firms selected to receive the RFP pursuant to applicable Authority or New York State DBE, MWBE or SDVOB programs, unless there are only two qualified firms or unless competition is waived as hereinafter provided. The RFP or notice thereof shall also be provided by mail or electronically to professional and other organizations, if any, that represent or regularly notify MWBEs and SDVOBs of the type of procurement opportunity that is the subject of the RFP notice.
  - 3. The RFP shall describe the services to be performed, any completion dates or time requirements, DBE/WBE/MBE/SDVOB requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals and shall contain a requirement for technical and cost proposals and the date, time and place when proposals must be received.
  - 4. The Authority may select one or more proposers with which to negotiate after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposal(s) will be the most advantageous to the Authority, price, qualifications and other factors considered, using the evaluation criteria specified in the RFP as the basis for the decision.

B. Architectural- Engineering and Survey Contracts

- 1. In the procurement of architectural, engineering and surveying services, the Authority shall determine whether to comply with the RFP procedures set forth in Article III(A) or the "Brooks" method set forth in this paragraph, provided that, if federal assistance is involved, the decision shall take into account applicable federal requirements.
- 2. The Authority shall encourage professional firms engaged in the lawful practice of the profession to submit an annual statement of qualifications and performance data. For each proposed project identified in accordance with Article III(A)(1), the Authority shall evaluate current statements of qualifications and performance data on file with the Authority. If desired

and to the extent appropriate if federal assistance is involved, the Authority may conduct discussions with three or more professional firms regarding anticipated design concepts and proposed methods of approach to the assignment.

3. The Authority shall then evaluate whether a modification to the written statement prepared in accordance with subparagraph 1 of Article III(A)(iii) is appropriate, and shall then comply with the provisions of subparagraphs 2 and 3 of Article III(A)(iii).
  4. The Authority shall select from the proposals submitted, in order of preference, based upon the criteria established by the Authority, no less than three professional firms deemed to be the most highly qualified to provide the services required.
  5. The Authority shall negotiate a contract with the best qualified professional firm for architectural, engineering or surveying services at compensation which the Authority determines in writing to be fair and reasonable. In making this decision, the Authority shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee it determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing to come to accord with the second most qualified professional firm, the Authority shall formally terminate negotiations. The Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the selected professional firms it shall select additional professional firms, in order of their competence and qualification and it shall continue negotiations in accordance with this subparagraph until an agreement is reached.
  6. The provisions of this Article III(B) shall apply only to engineering, architectural, or surveying services contracts in excess of \$100,000. Contracts for engineering, architectural or surveying services involving lesser amounts may be entered into pursuant to the provisions of this paragraph or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer.
- C. It is hereby determined that a competitive selection process is inappropriate and that a competitive process shall not be required in the following instances:
1. When the services are obtainable from one source only.

2. When the provider of the Personal and Miscellaneous Services has unique or otherwise outstanding qualifications.
  3. When an emergency or other circumstances exist which make competition impracticable or inappropriate.
  4. Legal services.
- D. A Service Contract, in an amount not to exceed \$400,000, that is not federally funded, may be awarded pursuant to Section 2879(3)(b)(i) of the Public Authorities Law without competitive bidding or other formal competitive process, notwithstanding any other provision of law or these Guidelines, where either (i) the proposed award is to a small business concern, a certified minority or women-owned business enterprise (“**MWBE**”) or a certified service disabled veteran owned business (“**SDVOB**”).

The relevant Authority Chief Procurement Officer or his/her designee (the “**CPO**”) shall determine which Service Contracts are appropriate for such types of procurements. In the case of Service Contracts that are eligible pursuant to Section 2879(3)(b)(i) for award to SBCs, MWBEs or SDVOBs, the CPO may make a determination that any such Service Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, and to assist the Authorities in achieving their MWBE and SDVOB goals. Notice of such procurements shall be placed on the Authority website inviting responsive proposals from qualified SBCs, MWBEs or SDVOBs. At least three bids or proposals, must be solicited, and there must be a determination that the price is fair and reasonable. Awards pursuant to this process shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer, shall require approval by a majority of the Board at which a quorum is present. The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to this process if the CPO determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

- E. Pursuant to Article 17-B of the Executive Law, the Authority may determine that a non-federally funded Service Contract procurement is appropriate for a set-aside contract for SDVOBs. A notice shall be placed on the MTA website and the NYSCR, stating that only SDVOBs are eligible for contract award. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern contracting for each type of procurement.
- F. The Chairman, President, General Counsel, or Chief Procurement Officer of the Authority, or such individuals as they may designate, may give verbal authorization

to contractors or consultants to commence the performance of contracts entered into pursuant to the provisions of this Article IV, where prior written agreement is impracticable, provided, however, that the contract shall be reduced to writing as soon as practicable. Prior to issuing a verbal authorization for a federally assisted contract, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.

#### **Article IV – NYSCR Notice**

In those instances where notice in the NYSCR is required under these Service Contract Guidelines:

- A. Regardless of the selection process used, notice of a Services Contract in the actual or estimated amount of \$100,000 or more shall be published at least one time in the NYSCR, except as provided in Article IV(C). The publication shall be no less than fifteen business days prior to the planned date on which a bid or proposal is due, provided that if the Services Contract is to be awarded without bids or proposals and advertising is required, the timing of the publication shall be determined by an Authorized Officer.
  
- B. The notice must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.
  
- C. Notice in the NYSCR is not required under the following circumstances:
  - i) In the event of an emergency or critical need for the services as determined by an Authorized Officer;
  - ii) The contract is re-bid or re-solicited for substantially the same services within forty-five business days after the date bids or proposals were originally due;
  - iii) The contract is awarded to a not-for-profit provider of human services;
  - iv) The contract is awarded pursuant to the provisions of Article III(C)(1) or (2) (single or unique source) or Article III (D) (discretionary procurements to SBCs, MWBEs or SDVOBs) of these Guidelines.

- D. In addition to the above NYSCR notice, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBEs and SDVOBs, of the type of procurement opportunity that is the subject of the solicitation.

#### **Article V – Minority/Women Owned and Disadvantaged Business Enterprises**

The potential exists for disadvantaged/minority/women owned business enterprise involvement in Service Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of certified disadvantaged business enterprises (“**DBEs**”) under the Authority's federal program, and MWBEs and SDVOBs under the New York State program set forth in Public Authorities Law §2879, Article 15-A and 17-B of the Executive Law and these Service Contract Guidelines.

- A. The MTA Chief Diversity Officer ("**Chairman's Designee**") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of Service Contracts to such enterprises; ii) the utilization of MWBEs and SDVOBs as subcontractors to Authority prime contractors; and iii) the utilization of partnerships, joint ventures (“**JVs**”) or other similar arrangements between MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.
- B. For contracts awarded pursuant to these Service Contract Guidelines, the Authority shall establish appropriate goals for participation by MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.
- C. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article V(B) including by taking the following actions:
  - i) establishing measures and procedures to ensure that MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which MWBEs and SDVOBs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
  - ii) designating the New York State Division of Minority and Women-owned Business Development (“**DMWBD**”) to certify and decertify MWBEs, and OGS Division of Service-Disabled Veterans' Business Development to



certify and decertify SDVOBs, for purposes of these Service Contract Guidelines;

- iii) setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of MWBEs and SDVOBs to respond competitively to those opportunities;
- iv) providing to prospective contractors in writing or by identifying a link to a specific web site a current list of MWBEs and SDVOBs;
- v) with regard to JVs, allowing a bidder to count toward meeting its MWBE and SDVOB participation goal, the MWBE or SDVOB portion of the JV;
- vi) waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and
- vii) verifying that MWBEs and SDVOBs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted.

The Authority will also consider, where practicable:

- a. the severability of service requirements and other bundled service contracts;
- b. with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; and
- c. compliance with the requirements of any federal law concerning opportunities for any DBEs, MWBEs and SDVOBs which effectuates the purposes of this Article V.

- D. The Chairman's Designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded Service Contracts.

#### **Article VI-Types of Provisions to be Contained in Service Contracts**

- A. The following types of provisions shall be contained in all personal services contracts, except that it is not necessary to include any provision which is inapplicable or unnecessary because of the nature or duration of the services to be performed, the location or locations where they are to be performed or the type of compensation being paid.
  - 1. Description of services
  - 2. Compensation
  - 3. Time for performance or date of completion
  - 4. Liability of contractor or consultant; indemnification of Authority
  - 5. Reports of contractor or consultant
  - 6. Ownership of plans, drawings or other products of the performance of the services

7. Assignments; subcontracts
  8. Maintenance of records, accounts
  9. Right of Authority to Inspect and/or audit books and records of contractor or consultant
  10. Insurance requirements
  11. Termination
  12. Monitoring of the performance of services
  13. Use of Authority supplies, facilities or property
  14. Use of Authority personnel
  15. All provisions required to be included in Authority contracts by federal, state or local laws, ordinances, codes, rules or regulations.
  16. Such modifications and additions as are appropriate in light of the specific circumstances presented.
- B. To the extent practicable, a verbal authorization to commence work and a writing which is not intended to constitute the final agreement, at a minimum shall:
1. Describe the services to be performed;
  2. Specify the amount of compensation to be paid pursuant to the verbal authorization and writing or the rates or fees which will be utilized to determine such compensation; and
  3. Specify a date for completion or the anticipated duration of the services (except in instances where the nature of the services makes an estimate of the time required impossible or impracticable or where the contract is a retainer for the performance of services over an extended period of time on an "as-needed" basis and contains provisions allowing termination by the Authority at any time without cause).
- C. Miscellaneous service contracts shall contain those provisions of paragraph A and of other standard forms of contract deemed appropriate by an Authorized Officer.

**Article VII- Responsibilities of Services Contractors**

A service contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms;
- B. To perform the services required under the contract competently, efficiently, in a timely manner, at a reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with the Authority personnel who are directing, supervising or monitoring the performance of the services or who are assisting in their performance.

**Article VIII - Contracts Involving Former Officers or Employees of the Authority**

The Authority may enter into contracts with any Authority's former officers or employees or with firms employing such officers or employees only to the extent permitted by Public Officers Law §73.

**Article IX - Reporting of Service and Purchase Contracts**

- A. Each Division/Department of an Authority shall maintain records, for each fiscal year, of the following contracts entered into by the Authority at the request of such Division/Department: i) personal service contracts in the actual or estimated amount of \$15,000 or more; ii) miscellaneous service contracts in the actual or estimated amount of \$15,000 or more; and iii) purchase contracts in an actual or estimated amount of \$15,000 or more.
  
- B. The Authority's Authorized Officer shall designate a Division or Department which shall be responsible for preparing a report at the end of each fiscal year with respect to the foregoing contracts. With respect to each such contract, the report shall contain the following information:
  - 1. Name of Contractor;
  - 2. Short description of the services involved;
  - 3. Amounts paid pursuant to the contract as of the end of such fiscal year;
  - 4. The selection process used;
  - 5. Status of the contract;
  - 6. If it was exempt from advertising in the NYSCR pursuant to Article IV(C) of these Guidelines:
    - i) a statement to that effect; and
    - ii) the basis for such exemption;
  - 7. Whether the contract was entered into with a New York State business enterprise or a foreign business enterprise, as those terms are defined in Public Authorities Law § 2879.
  - 8. Whether the contract was entered into with an MWBE or SDVOB
  - 9. Referrals to and penalties imposed by the Director of DMWBD pursuant to Executive Law § 316.
  
- C. Each Authority shall submit a copy of such report to the Board of the Authority upon its completion.

**Article X- Personal Service Contracts Requiring Approval of the Board**

The following Service Contracts shall require the approval of the Board of the Authority by resolution approved by a majority of the members present at a meeting at which a quorum is in attendance and shall be reviewed by the Board on an annual basis:

- A. Personal Service Contracts of all Authorities : All personal service contracts entered into by an Authority in the actual or estimated amount of \$100,000 or more, except if awarded to the lowest responsible bidder, pursuant to sealed bids, and;
- B. Miscellaneous Service Contracts: See Article II(C) of these Service Contract Guidelines.

### **Article XI-Change Orders**

An Authority may enter into a change order or amendment to a personal service or miscellaneous service contract provided that approval of the Board of the Authority by a resolution approved by a majority of the members present at a meeting at which a quorum is in attendance, shall be required in the following circumstances:

- A. The Service Contract did not equal or exceed the applicable monetary or durational threshold for board approval set forth in Article XI or Article II of these Service Contract Guidelines and the applicable threshold is equaled or exceeded as a result of the change order or amendment. This provision applies to all contracts subject to these Service Contract Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.
- B. The Service Contract was approved by the Board and the change order or amendment, including any change orders or amendments since Board approval was last obtained, results in a substantial change in the contract as determined by an Authorized Officer. Notwithstanding the foregoing, Board approval of change orders shall only be required if the change order is over \$750,000, or over \$250,000 if the change order exceeds 15% of the adjusted contract value, provided that a change order over \$250,000 must be approved by the Authority president or his or her designee.
- C. The Miscellaneous Service Contract was awarded pursuant to the General Contract Guidelines and the change order or amendment equals or exceeds the requirements for Board approval under Article IX of the General Contract Guidelines.
- D. Notwithstanding the foregoing, an Authorized Officer may enter into a change order or amendment in any of the following situations as determined by an Authorized Officer,
  - 1. The existence of an emergency;
  - 2. The risk of a substantial increase in cost or delay if prompt action is not taken; or
  - 3. The change order is for a Design-Build contract and such change order does not change the total contract price to exceed the project budgeted cost, including contingency.
- E. The Chairman or Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

## **Article XII – Miscellaneous**

- A. Any provision of these Service Contract Guidelines may be waived by the Chairman, an Authority President or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these Service Contract Guidelines.
- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these Service Contract Guidelines, provided that with regard to discretionary contracts awarded under Article III(D), an Authority may divide requirements for the purpose of unbundling contracts to create discretionary contracting opportunities.
- D. Nothing in these Service Contract Guidelines shall preclude the Authority from accepting bids or proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.
- E. A Service Contract awarded by an Authority pursuant to the provisions of these Service Contract Guidelines may provide that the Service Contract includes the requirements of one or more other Authorities.
- F. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report, in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- G. These Service Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under or by reason, of any requirement or provision thereof.
- H. An Authority may contract for a service available through an existing contract between a contractor and the State of New York or the City of New York or another Authority if: i) the existing contract, if not awarded by the State of New York, was awarded pursuant to a process of competitive sealed bids or a competitive request for proposals; ii) the Authority's Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and iii) if Board

authorization would otherwise be required under these Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present meeting at which a quorum is in attendance which sets forth the reasons why a competitive process is impractical or inappropriate and authorizes the Authority to enter into the Service Contract.

- I. Nothing contained in these Service Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these Service Contract Guidelines.
- J. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these Service Contract Guidelines, then such requirements shall take precedence over those contained herein.