

GUIDELINES OF THE NEW YORK STATE BRIDGE AUTHORITY

FOR THE SALE AND REPORTING OF

BONDS AND NOTES

ARTICLE I

STATEMENT OF PURPOSE

- 1.01 These Guidelines are adopted in compliance with the requirements of Executive Order #173 and are intended to set forth the New York State Bridge Authority's policies for the procurement of services in connection with the issuance of debt.

ARTICLE II

PROCUREMENT OF SERVICES

- 2.01 It is the Authority's determination that, unless otherwise excepted by law or resolution of the Authority, the vendors of such services as may be required to complete a debt issuance transaction must be selected subject to the provisions of Section 2879 of the New York Public Authorities Law and the Procurement Guidelines of the New York State Bridge Authority.
- 2.02 For the purposes of this article the services required to complete a debt issuance shall include but not be limited to, Attorney or Bond Counsel, Financial Adviser, Consultant Engineer, Bondholder Trustee, Insurer, Insurance Carrier, Insurance Agent, Traffic Consultant, Underwriter, Underwriter's Counsel (if and only to the extent that the issuer shall have the right to exercise discretion over the selection of Underwriter's Counsel).
- 2.03 Nothing in these Guidelines shall be deemed to require the Authority to initiate a special separate selection process for the procurement of any services in connection with the issuance of debt;
- (a) if a vendor has been previously selected to provide such services generally to the Authority or,
 - (b) if the services to be provided in connection with the issuance of debt are incidental to services being provided by a vendor under a separate contract,

... PROVIDED, in either case, that the selection of such vendor was made in full compliance with the provisions of Section 2879 of the New York Public Authorities Law and the Procurement Guidelines of the New York State Bridge Authority.

ARTICLE III

DEFINITION OF TERMS

3.01 Definitions. The following terms shall, for purposes of these Guidelines, have the following meanings unless the context shall clearly indicate some other meaning:

“Authority” shall mean the New York State Bridge Authority.

“Board” shall mean the collective members of the Authority Corporate Board as defined in Section 527 of the Public Authorities Law.

“Debt” shall mean a contract of indebtedness evidenced or secured by a bond, or note or other written instrument executed by the Authority to the credit of another party.

“Minority Business Enterprise” shall have the meaning set forth in the Procurement Guidelines.

“Women-Owned Business Enterprise” shall have the meaning set forth in the Procurement Guidelines.

“Procurement Guidelines” shall mean the Guidelines of the New York State Bridge Authority Establishing Standards for the Use, Award, Monitoring and Reporting of Procurement Contracts published as Section C.III (a) of the Authority’s Policy and Procedures Manual.

ARTICLE IV

SELECTION OF METHOD OF SALE

4.01 Upon authorization of a debt issue by the Board, the Board shall select a method of sale from among the following:

a. Public Competitive Sale. When a particular debt issue is standardized and routine such that the specifics of the issue can be satisfactorily described in a public notice to bidders and for which the most important factor is the ultimate price of the issue, bids may be solicited from the public. The sale of bonds shall be advertised in a manner determined by the Executive Director, or a designee, to provide adequate notice for the most practical and efficient sale.

b. Public Negotiated Sale. Bonds or notes may be sold at public negotiated sale when the issue represents a new financing method; includes complex security, structuring, or other factors that require extensive explanation to potential purchasers of the bonds; or has such other features as require extensive pre-marketing efforts in order to achieve a cost-effective sale. In addition, the use of public negotiated sale is appropriate during periods of instability or uncertainty in the financial markets. In the case of a public negotiated sale, managing underwriters shall be selected in accordance with Article V of these Guidelines.

c. Private Placement. Where the size, complexity or risk of a debt issue would make it impractical or not cost-effective to offer the bonds for sale to more than a limited number of ultimate

purchasers, the Authority may select a private placement sale, with the selection of the placement agent (if any) for the bonds to be made in accordance with Article V of these Guidelines.

ARTICLE V

SPECIAL PROVISIONS CONCERNING

THE SELECTION OF MANAGING UNDERWRITERS

AND PRIVATE PLACEMENT AGENTS

- 5.01 Methods of Selecting Underwriters and Private Placement Agents. At the time the Board authorizes the issuance of debt by a negotiated sale or private placement, it shall select underwriters or private placement agents for the sale of such debt.

The following general procedures shall be followed:

- (1) In order to assure the widest possible solicitation of qualified underwriters or agents, the Executive Director, or a designee, shall issue a Request for Qualifications and Proposals from interested investment banking firms and/or agents with experience in the structuring or structuring and marketing of tax-exempt debt instruments. A notice that Proposals and Qualifications are being sought shall be printed in the State Contract Reporter.

The Executive Director, or a designee, shall establish an Evaluation Committee consisting of those Board Members who desire to participate in the evaluation and other persons. The Committee shall evaluate the responses to the Authority's Request using appropriate criteria. The Committee shall then make recommendations in writing as to (1) which firms are qualified to underwrite or place the Authority's debt and (2) which among those qualified it deems to be the most appropriate, on the basis of the proposals, to underwrite or place the specific debt issue. The Committee may recommend a single agent or underwriter, or a team of participants with one party designated as the managing agent or underwriter.

The criteria used in evaluating each respondent may include, but need not be limited to, (a) the firm's price proposal, (b) the firm's financial strength or net capital, (c) the firm's presence in New York, (d) the firm's ability to support the Authority bond issues, (e) the firm's ethical standards and practices, and (f) the firm's compliance with the equal opportunity/affirmative action policies of the Authority. The Executive Director, or a designee, shall document in writing the recommendations of the Committee to the Board for its action.

- (2) The final selection of UNDERWRITERS, MANAGING UNDERWRITERS or PRIVATE PLACEMENT AGENTS shall be made by the Board at a public meeting of the Authority and shall be reported in the minutes of that meeting. The Board shall take into account the following factors: (a) the recommendations of the Evaluation Committee; (b) responses to a Request for Qualifications and Proposals, including price; (c) support provided to the Authority through the general marketing of Authority bond and/or assistance in the development of new financial programs; (d) an evaluation of any conflict of interest, impropriety or appearance of impropriety; and (e) such other factors that are deemed relevant to the particular bond issue.

In the event the Board rejects any recommendation of the Evaluation Committee, it shall document the specific reason or reasons for rejection at the public meeting during which the rejection takes place and the reason or reasons shall be reported in the minutes of that meeting.

- (3) Where it has been determined that a private placement is the appropriate method of sale, the Board may also consider in its selection criteria particular expertise and experience of effectuating a private placement in a cost-effective manner.
- (4) It is the policy of the Authority to expect the highest ethical standards from its underwriters. The Board and the Executive Director, or a designee, shall implement appropriate measures to promote the highest ethical standards and practices in the underwriting of every Authority bond issue. The Executive Director, or any participant in the process, shall notify the Board if he or she has reason to believe that any firm on the Authority's list of qualified potential managing underwriters has engaged in conduct that may be inconsistent with the Authority's best interests, and shall indicate the reason therefore.

The Board may remove any firm from the Authority's list of qualified potential managing underwriters for such period as they determine to be appropriate upon a determination by the Board (which may be based upon a finding by another administrative or judicial body or such other facts and circumstances as they deem appropriate) that said firm has engaged in conduct inconsistent with the Authority's best interests, whether or not such conduct involves the underwriting of an Authority bond issue.

- 5.02 Promotion of Minority and Women-Owned Business Enterprises. It is the goal of the Authority to, among other things, promote and assist participation by Minority and Women-Owned Business Enterprises in the underwriting of the Authority's bonds. This goal shall be considered in the selection of underwriters and private placement agents as described in Subsection 5.01 above.

It is also the Authority's goal to select as underwriters or private placement agents those investment banking firms that have evidenced compliance with the laws of the State of New York prohibiting discrimination in employment. The Authority recognizes that this goal may be achieved by selecting as managing underwriters or private placement agents those firms that have demonstrated that they do not discriminate in employment. Accordingly, the Executive Director, or his designee, shall request from investment banking firms such information on employment policies and practices as is necessary to assess such firms' compliance with relevant laws and policies on equal employment opportunity and affirmative action.

- 5.03 Promotion of New York State Business Enterprises. It is also the goal of the Authority to, among other things, promote and assist participation by New York State Business Enterprises in the underwriting of the Authority's bonds. This goal shall be considered in the selection of managing underwriters and private placement agents as described in Subsection 5.01 above.

ARTICLE VI

REPORTS ON BOND SALES

- 6.01 Annual Report. The Authority shall annually prepare and approve a bond sale report which shall include the Authority's Guidelines for the Sale and Reporting of Bonds and Notes, amendments to such Guidelines since the last Authority report, and if necessary, an explanation of the Guidelines and the results of any sales including, but not limited to, the underwriter's compensation and net interest costs of bonds sold during the fiscal year. Such bond sale report shall also identify which of the Authority's bond sales were conducted as negotiated sales, public sales or private sales and describe the participation of minority and women-owned business enterprise firms in such sales. Such bond sale report may be part of any other annual report that the Authority is required to make.

Copies of the bond sale report shall be available to the public upon reasonable request at the Authority's main office.

ARTICLE VII

MISCELLANEOUS PROVISIONS

- 7.01 Powers of Amendment. Any modification or amendment of these Guidelines may be made by a Resolution adopted at any duly constituted Board meeting; provided, however, that no such modification or amendment shall abrogate the rights and duties of existing Authority contracts, the terms of which were established pursuant to these Guidelines.
- 7.02 No Recourse Under these Guidelines. No provision of these Guidelines shall be the basis for any claim based on these Guidelines against any Board Member, Officer or Employee of the Authority or the Authority itself. Furthermore, notwithstanding the provisions of these Guidelines, once the Board has authorized the issuance of debt, these Guidelines shall not be construed to restrict in any way the issuance of such debt.
- 7.03 Effect upon Existing Authority Contracts. These Guidelines shall not abrogate the rights and duties of Authority contracts with third parties executed prior to the effective date of these Guidelines.