



**Chautauqua, Cattaraugus, Allegany & Steuben Counties**

# **Southern Tier Extension Railroad Authority**

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**John Margeson, Chairman**

## **CHAUTAUQUA, CATTARAUGUS, ALLEGANY AND STEUBEN COUNTIES SOUTHERN TIER EXTENSION RAILROAD AUTHORITY**

### **CONTRACT AND PROCUREMENT POLICY**

1. The Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority (hereinafter "Authority") has adopted this Contract and Procurement Policy in order to comply with Section 2542 of Title 28-AA of the NYS Public Authorities Law, and to comply with U.S. Code of Federal Regulations, Title 7, Volume 15, Chapter 30, Part 3019, Subpart C, Sec. 3019.44. Any conflicts between this Contract and Procurement Policy and those laws shall be resolved in favor of those laws.
2. As regards compliance with Section 2542 of Title 28-AA of the NYS Public Authorities Law, this Contract and Procurement Policy sets forth procurement and contracting policies intended to comply with Section 2642, including:
  - (A) All contracts for the construction, reconstruction, rehabilitation or improvement of buildings let by the authority shall comply with the provisions of section two hundred twenty of the NYS labor law and shall also be subject to the provisions of law applicable to contracts let by a municipal corporation in NYS, except as otherwise provided in Section 2542 of Title 28-AA of the NYS Public Authorities Law.
  - (B) All contracts for the construction, reconstruction, rehabilitation or improvement of buildings let by the Authority shall be in conformity with the applicable provisions of Section 135 of the NYS Finance Law.
  - (C) The Authority may, in its discretion, assign contracts for supervision and coordination to the successful bidder for any subdivision of work for which the authority receives bids. Any construction contract awarded by the Authority shall contain such other terms and conditions as the Authority may deem desirable. The Authority shall award any construction contract involving an expenditure of more than five thousand dollars to the lowest bidder who, in its opinion, is qualified to perform the work required and who is responsible and reliable. The Authority may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The Authority may reject any bid, if, in its judgment, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed.
  - (D) For the purposes of Article 15-A of the Executive Law only, the authority shall be deemed a NYS state agency as that term is used in such article, and all contracts for procurement,

design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

3. As regards compliance with U.S. Code of Federal Regulations, Title 7, Volume 15, Chapter 30, Part 3019, Subpart C, Sec. 3019.44, this Contract and Procurement Policy sets forth procedures for the Authority for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. This Contract and Procurement Policy is intended to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

(A) This Contract and Procurement Policy provides that at a minimum, U.S. Code of Federal Regulations, Title 7, Volume 15, Chapter 30, Part 3019, Subpart C, Sec. 3019.44, paragraphs (a)(1), (a)(2), and (a)(3), apply. Specifically,

- (1) The Authority shall avoid purchasing unnecessary items.
- (2) Where appropriate, the Authority shall make an analysis of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.
- (3) Solicitations for goods and services shall provide for all of the following:
  - (i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features that unduly restrict competition.
  - (ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
  - (iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
  - (iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
  - (v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
  - (vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(B) Further, the Authority shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. The Authority shall take all of the following steps to further this goal:

- (1) The Authority shall ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) The Authority shall make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

- (3) The Authority shall consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
  - (4) The Authority shall encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
  - (5) The Authority shall use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.
- (C) Further, the type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the Authority, but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.
- (D) Further, contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the term and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of U.S. E.O.'s 12549 and 12689, "Debarment and Suspension."
- (D) Further, the Authority shall keep records of and, on request, make available for the Federal awarding agency, any and all pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:
- (1) The Authority's procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency's implementation of this part.
  - (2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403(11) (currently \$25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
  - (3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.
  - (4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.
  - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

Adopted on October 11, 2001 by Resolution of the  
Chautauqua, Cattaraugus, Allegany and Steuben  
Southern Tier Extension Railroad Authority

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Secretary

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Date