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March 23, 2015

EXECUTIVE CORRESPONDENCE

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The Honorable Andrew M. Cuomo
Governor of the State of New York
Executive Chamber
The Capitol
Albany, New York 12224

OFFICE OF THE STATE COMPTROLLER
THOMAS P. DINAPOLI
COMPTROLLER

RE: Reply to Audit Report 2013-S-45, Contract Award and Performance

Dear Governor Cuomo:

In accordance with Section 170 of the Executive Law, this letter provides New York State Energy Research and Development Authority's (NYSERDA) response to the Office of the State Comptroller's audit report issued on December 22, 2014, *Contract Award and Performance (2013-S-45)*, a copy of which is also enclosed.

Following is the status of implementing the recommendations contained in the report.

Recommendation #1: Ensure the assignment of project task orders to contractors is properly justified and adequately documented. Also, ensure such documentation is retained in procurement files.

Status: Completed. For programs using such task assignments and pre-qualified contractors, NYSERDA has updated its Operations & Procedures Manual and has communicated to staff that the rationale for assigning each specific project/task to a contractor shall be adequately documented in the appropriate procurement files.

Recommendation #2: Notify the Board when the choice of vendors is restricted by terms of a contract that may be awarded.

Status: Completed. NYSERDA will notify the Board when contracts requiring Board approval include restrictions on the choice of vendors.

Recommendation #3: Fully inform the Board of the modifications to contracts by including the original contract value and the justification for the modification.

Status: In Process. We will modify the Periodic Procurement Contracts Report – Section 2 (Anticipated Contracts and Modifications with Term in Excess of One Year) presented to the Board for approval at each regularly scheduled meeting to include the current contract amount for those contracts involving modifications. This change will be implemented after the upgrade of the PeopleSoft financial management system currently in progress is completed. However, given the relatively large number of contracts listed on the report (for fiscal year 2013-14, there were 334 contracts with a term greater than one year that were modified), we think it may be

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and Finance Committee and Board at a meeting scheduled for April 21, 2015 to determine whether additional changes to the report are necessary.

Recommendation #4: Actively monitor the expiration dates of existing contracts so that the process of replacing them is started sufficiently in advance of the contracts' expiration. Revise the Manual to include steps for evaluating expiring contracts and prescribe the requirement for formal senior management approval when contracts are extended without competition.

Status: Completed. NYSERDA has revised its Operations and Procedures Manual to require that Contract management staff will monitor upcoming contract expiration dates and alert staff of the need to complete solicitation activities prior to expiration dates to avoid contract extensions and modifications where practical. In those instances where a contract extension or adding additional funding to a contract beyond its originally scheduled expiration date is necessary, we will continue to document this noting senior management approval.

Recommendation #5: Classify contracts properly and use the appropriate procurement method to award them.

Status: Completed. Accurate procurement method classification in the contract management information system has been reinforced with program, legal and contract management staff.

Recommendation #6: Document the reasonableness of cost and justification of vendor selection before approving contracts that are awarded non-competitively.

Status: Completed. Policies have been revised and provided to all staff to document vendor selection and cost reasonableness for contracts not competitively awarded.

Recommendation 7: Develop and implement policies and procedures to provide sufficient assurance that contractors fully comply with the obligations for deliverables, as prescribed by the terms of contracts. This should include, but not be limited to, verifying data received from vendors in energy production reports and budget and revenue data where the information is used to determine NYSERDA's share of expenses and revenues.

Status: Completed. We have reviewed existing policies and procedures for monitoring and documenting contractor compliance with deliverables and determined them to be satisfactory.

With regard to specific contracts for the production of renewable energy from wind farms noted in the report, NYSERDA has independently confirmed that Metering Authorities in the State of New York, certified by the New York State Public Service Commission as a Meter Service Provider and approved by the New York Independent System Operator (NYISO) as a Meter Data Service Provider, follow the practices and meet the standards and requirements mandated in the NYISO Revenue Metering Requirements Manual (August 2013), the NYISO Control Center Requirements Manual (March 2014), and the New York State Electric Meter Engineers' Committee Guide for Uniform Practices in Revenue Quality Metering (August 2003). Therefore, NYSERDA deems the procedures, processes and controls instituted by the Public Service Commission, the NYISO and the New York State Metering Authorities provide reasonable assurance of the accuracy of the revenue meter data utilized for Renewable Portfolio Standard payments.

With regard to the contract noted in the report with Regional Greenhouse Gas Initiative, Inc. (RGGI, Inc.), we have reviewed processes for reimbursement of New York State's pro-rata share of RGGI, Inc. expenses to ensure that these can be reconciled to RGGI Inc. independently

With regard to the contract noted in the report with Regional Greenhouse Gas Initiative, Inc. (RGGI, Inc.), we have reviewed processes for reimbursement of New York State's pro-rata share of RGGI, Inc. expenses to ensure that these can be reconciled to RGGI Inc. independently audited financial statements. We have also reviewed the procedures for ensuring the accuracy of auction proceed revenues received and determined that they are satisfactory.

Recommendation #8: Revise policies and procedures in the Manual to require staff to prepare and maintain notes documenting the results of their site visits.

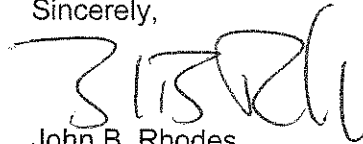
Status: Completed. NYSERDA has revised its Operations and Procedures Manual to more clearly require NYSERDA staff to document and maintain the results of site visits.

Recommendation #9: Ensure the contract management information system and contract files are updated timely and accurately when changes are made to the contract values. Periodically verify that information system and file data are consistent. Resolve differences when they occur.

Status: Completed. The discrepancies noted were the result of previous practices and have since been revised.

Please contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "J. B. Rhodes", written over a horizontal line.

John B. Rhodes
President and CEO

cc: Honorable Thomas P. DiNapoli
Honorable Dean G. Skelos
Honorable Jeffrey Klein
Honorable Andrea Stewart-Cousins
Honorable Carl Heastie
Honorable Joseph Morelle
Honorable Brian M. Kolb
Honorable John A. DeFrancisco
Honorable Liz Krueger
Honorable Herman D. Farrell, Jr.
Honorable Bob Oakes