



**Department of  
Public Service**



# REQUEST FOR PROPOSALS

To Perform a Comprehensive Management and  
Operations Audit of the Long Island Power Authority  
and PSEG Long Island LLC

Matter No. 21-00618

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## 1. Introduction

### 1.1. Overview

The New York State Department of Public Service (the Department or DPS) hereby solicits proposals for an independent consulting firm to perform a comprehensive management and operations audit of the Long Island Power Authority (the Authority or LIPA) and its Service Provider, PSEG Long Island LLC (PSEG LI). The audit will be performed in accordance with the LIPA Reform Act of 2013 (LRA) through its revision of the Public Authorities Law (PAL) §1020-f(bb) and creation of Public Service Law (PSL) §3-b. PSL §3-b(3)(d) affords the Department the discretion to have such audit conducted by an independent auditor chosen by and under terms negotiated by the Department, through a contract between the independent auditor, LIPA, and the Department.

The process used by the Department to select the independent auditor will be similar to the process it currently uses pursuant to PSL §66(19), as applied to audits of investor-owned utilities. The management audit approach in New York includes, but is not limited to, a prospective investigation of a utility's construction program planning processes, and an evaluation of the efficiency of the utility's operations with a focus on opportunities to improve performance.

The Department expects the selected consulting firm to analyze current and historical information for the purpose of gaining an understanding of the Authority and its Service Provider, with the ultimate goal of improving existing processes, practices, systems, and organizational structures to drive better performance. The Department seeks proposals that will provide a framework which will enable Department staff to develop a more comprehensive understanding of the Authority's and its Service Provider's operations and explore improvement opportunities with the Authority and its Service Provider. The consulting firm will document its review of the Authority and its Service Provider in a Final Audit Report. The Final Audit Report will focus on improvement opportunities. Findings and conclusions will be tied to root causes and will include recommendations that address the root causes and seek to improve the Authority and its Service Provider's performance going forward.

Please note that because LIPA is a Public Authority rather than an investor-owned utility, the multi-party contract to be entered into among the selected consulting firm, the Authority, and the Department will differ in certain respects from the usual multi-party contracts utilized for the performance of management audits pursuant to PSL §66(19).

All potential bidders are encouraged to stay informed of recent legislative actions and related developments by visiting the Department's website. Potential bidders are also encouraged to review relevant documents, or any recent publicly available reports related to LIPA and its Service Provider on the LIPA website at [www.lipower.org](http://www.lipower.org) and the PSEG LI website at <https://www.psegliny.com/>.

## **1.2. Roles and Responsibilities of the Parties**

### Department of Public Service

The LRA provides for statutorily mandated oversight of LIPA and PSEG LI by DPS. The Department will evaluate proposals and recommend a consulting firm to the Chief Executive Officer of DPS for selection. Staff has overall responsibility for the day-to-day management of the audit and will work to facilitate coordination between the consulting firm, LIPA and its Service Provider. DPS Project Manager(s) (PM) will be assigned to the audit, as well as additional Department Staff who will serve as subject matter experts (SMEs). The consulting firm should be prepared to meet with the DPS PM, Senior DPS Staff members, and SMEs at various times during the audit to discuss areas of interest and findings.

Staff has the responsibility to review the consulting firm's work and will assume an active role in the audit. The consultants should be prepared to work with Staff throughout the course of the audit. Staff must be knowledgeable about the project status, the emerging issues, the content of the final audit report, as well as the management and operations of LIPA and its Service Provider. Therefore, it will be necessary for Staff to be closely involved in the work of the consultants. This will include accompanying the consultant for on-site visits, attending selected interviews (in person or via teleconference/videoconference), reviewing analytical procedures, and monitoring the audit's progress as to scope, budget, work plan, time, etc. It is expected that the individual assigned to each task area will frequently discuss his/her progress with the DPS PM and/or SMEs during the course of the audit.

### Consulting Firm

The consulting firm is responsible for performing the audit in adherence to the Contract, the Approved Work Plan, the RFP and the Proposal. The consulting firm will develop the findings, conclusions and recommendations in the audit report, and the firm's representatives will attend all Public Statement Hearings related to the audit. The consulting firm is responsible for producing the audit deliverables defined in the RFP.

### Authority/ PSEG LI

The Authority and PSEG LI will both designate a project manager to work with Department Staff and the selected consulting firm counterparts. The Authority's and PSEG LI's project managers will facilitate the scheduling of interviews, on-site visits, and manage the flow of data requests and responses. The Authority and Service Provider will provide the consulting firm suitable on-site office space and equipment, if needed. Following approval by the Department, the Authority will pay the consulting firm's invoices.



### 1.3. Contact Information

Daniel Pohoreckyj (516-490-2319) and Pooja Oberoi (516-490-2328) are the Project Managers and Sanielle Worrell (516-490-2302) is the Engagement Director.

#### Questions & Clarifications

Questions from Bidders regarding this RFP shall be submitted via electronic mail to [LIPAMOA@dps.ny.gov](mailto:LIPAMOA@dps.ny.gov) no later than the date and time specified in the Schedule of Events. Responses to any questions received will be communicated by email to all interested consulting firms that attend the bidder's conference call and/or submit a letter of intent, though the source of the question will be anonymous, by the date indicated in the timeline in [Section 1.4](#). No other communication of questions and answers will be made.

Each interested party should send a brief Notice of Intent by April 15, 2022, by email to [LIPAMOA@dps.ny.gov](mailto:LIPAMOA@dps.ny.gov). Such notice should contain the Consulting firm, address, phone number, e-mail address and point of contact. Submission of a Notice of Intent is strongly encouraged, although not a pre-requisite for submitting a proposal.

### 1.4. Schedule of Events

#### Timeline

The anticipated schedule for this project is set forth below. The schedule may be altered at the discretion of the Department. An alternate or accelerated schedule may be proposed if the consultant believes it is appropriate or achievable. If the consulting firm's proposed schedule differs substantially from the schedule below, a rationale for the difference should be provided.

Dates	Key Timeline dates
Wednesday, December 15, 2021	Initiate Audit
Friday, April 08, 2022	Issuance of RFP
Tuesday, April 19, 2022	Bidders' Conference Call
Friday, April 22, 2022	Deadline for Questions
Wednesday, April 27, 2022	Response(s) Posted
Wednesday, June 08, 2022	Proposals Due
Tuesday, June 28, 2022	Department Selects Finalists
Week of Tuesday July 05, 2022	Finalist Interviews
Tuesday, July 19, 2022	Consulting Firm Selected by DPS (A)
Wednesday, July 27, 2022	LIPA Board Contract Approval
Wednesday, August 3, 2022	Deadline to Request Debrief
Held by Tuesday September 06, 2022	Public Statement Hearings
Target date of Friday September 16, 2022	Comptroller Contract Approval
Wednesday, October 05, 2022	Orientation Meetings with Consultants

Wednesday, October 26, 2022	Draft Work Plan Due to Staff
Wednesday, October 11, 2023	Draft Report Due to Staff
Tuesday, November 14, 2023	Draft Report provided to LIPA/PSEG LI
Week of Wednesday December 13, 2023	Factual Accuracy Review Meeting
Thursday, January 04, 2024	Draft Review Process Completed with Briefing of Department's CEO
Monday, January 15, 2024	Final Audit Report Due to Staff
Friday, January 19, 2024	Final Audit Report must be provided to LIPA (A)
Held by Friday March 22, 2024	Public Statement Hearings for Implementation (B)

(A) Report due 18 months after DPS Selection of a consultant. Report due by January 19, 2024.

(B) Additional Public Statement Hearings may be required if the LIPA Board makes a preliminary determination of inconsistency with respect to any such finding or recommendations. See Section 6.3.

### Bidder's Conference

A teleconference for interested potential bidders will take place on Tuesday, April 19, 2022, at 2:00 p.m. Eastern Time. To participate in the teleconference, call (518) 549-0500 at the designated time and enter Access Code 1612 09 5504 or join the meeting using the WebEx link from your computer: [Join Meeting](#). If any issues joining the call, please email the project managers at [LIPAMOA@dps.ny.gov](mailto:LIPAMOA@dps.ny.gov).

The bidder's conference provides interested potential bidders with an excellent opportunity to learn more about the Authority and Service Provider as well as ask any questions about Staff's expectations of the proposal content. While attendance is not mandatory, it is strongly encouraged.

### **1.5. Minimum Qualifications**

The consulting firm, to be selected for this audit, must demonstrate a thorough knowledge of the utility industry, gained from either direct employment in the field or by supported professional reviews of such entities. The consulting firm and proposed team must show that they have relevant knowledge of the latest developments in the management and operations of large utilities as well as best practices that can bring about improvement opportunities to the Authority and its Service Provider. Familiarity with municipal utilities as well as the utility ratemaking process is beneficial.

### **1.6. Conflicts of Interest and Ethical Conduct**

The Department of Public Service will not engage any firm with a conflict of interest and may not engage any firm with the appearance of a conflict of interest.

Each consulting firm, any of its principals, any of its affiliates, and any subcontractor, must disclose all previous work performed for LIPA and/or its Service Provider, or its affiliate, including any existing contracts or agreements. In view of the unique relationship between LIPA and its Service

Provider, conflicts of interest and ethical conduct considerations must be considered with respect to the Service Provider as well as to LIPA. Such disclosure may not necessarily disqualify an individual or firm. Failure to disclose such relationship will be considered grounds for disqualification.

An appearance of a conflict of interest may also exist if the consulting firm, or any of its principals, affiliates, or subcontractors have performed work for other organizations associated with the utility industry in New York State, such as, but not limited to, New York State Independent System Operator, during the five-year period preceding the date of the proposal. The proposal must describe any relationships which may constitute the appearance of a conflict of interest.

Section 73(8)(a)(i) of the Public Officers Law (POL) prohibits a former employee of the Department of Public Service or LIPA from appearing or practicing before the Department or from receiving compensation for any services rendered by such former employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before the Department or LIPA for a period of two years after the termination of service of the former employee from the Department or LIPA. In addition, a lifetime ban may apply to former employees of the Department and LIPA. This means that you may not include such a former employee in your consulting team, nor in your RFP proposal or communications with Staff. Any such inclusion could be construed to be an “appearance” by that former employee before the Department in violation of POL §73(8)(a)(i), which could be a basis for disqualification of the consulting firm’s bid and could expose that former employee to liability. In addition, a former employee who, within two years of terminating service or employment with the Department and/or LIPA, assists the consulting firm in the preparation of any documents for submission to the Department would violate POL §73(8)(a)(i) even if the former employee’s participation is totally unknown to the Department because such assistance would constitute the rendering of services for compensation in relation to a matter before the Department. Either situation may be a basis for disqualification of the consulting firm’s bid and may expose that former employee to liability.

The proposal should also clearly identify any previous work done by the consulting firm for or with the Department of Public Service or LIPA. However, the proposal should not list the names of any Department employees.

The consulting firm selected, and its team and subcontractors, must adhere to the highest business, professional and ethical standards. Neither the consulting firm, its personnel, nor any subcontractor shall offer any gift, favor, or gratuity of any value, or make any offer of employment to any officer or employee of the Authority or its Service Provider or to any Staff of the Department of Public Service during the audit. Violation of this restriction may result in immediate termination of services of the offending individual or firm and may ban the individual or firm from future consideration by the Department.

Furthermore, the consulting firm and any subcontractors must agree that neither it nor any of its affiliates or any of its principals or employees will perform any work for LIPA and its Service

Provider or their affiliates during the course of the audit and for two years after completion of the audit without written authorization by the Department.

### **1.7. Contract Period**

The term of this contract shall commence on the date it is executed by all three Parties and terminate as of April 30, 2024, or as otherwise agreed upon.

### **1.8. Authority Background**

LIPA is a component unit of New York State (State). The Authority became the retail supplier of electric service in the Counties of Nassau and Suffolk (with certain limited exceptions) and a portion of Queens County known as the Rockaways (Service Area), on May 28, 1998, by acquiring the transmission and distribution (T&D) system of the Long Island Lighting Company (LILCO) as a wholly owned subsidiary of LIPA. As part of the acquisition, LIPA also acquired an undivided 18 percent interest in the Nine Mile Point Unit 2 (NMP2) generating facility, located in upstate New York, which is operated and managed by Exelon Corporation. LIPA provides electric delivery service in the Service Area, which includes approximately 1.1 million customers. The population of the Service Area is approximately 2.9 million. LIPA's 2022 annual revenues are projected to exceed \$3.85 billion.

LIPA is governed by a nine-member Board of Trustees (LIPA BOT), five of whom are appointed by the Governor, two by the Temporary President and Majority Leader of the New York State Senate, and two by the Speaker of the New York State Assembly. The Chair is appointed by the Governor. LIPA must obtain approval from the New York State (NYS) Comptroller's Office for contracts in excess of \$50,000. LIPA is also subject to the State Administrative Procedure Act, the Public Authorities Law, the State Finance Law, and various NYS Executive Orders and laws.

LIPA has operating agreements to provide the majority of services necessary to deliver electric service in the Service Area. The primary operating agreement is the Second Amended and Restated Operations Services Agreement (Second A&R OSA) with PSEG LI. PSEG LI commenced operating LIPA's electric T&D system on January 1, 2014, under the PSEG Long Island brand name and manages the day-to-day T&D system operating functions, as well as certain administrative support functions. PSEG LI acts as an agent in performing many of its obligations and in return receives: (a) reimbursement for pass-through operating expenditures, (b) a fixed management fee, and (c) an incentive fee contingent on meeting certain performance metrics.

The Second A&R OSA became effective on April 1, 2022 with a contract end date of December 31, 2025. Upon mutual agreement both parties can extend the Term up to an additional five years to December 31, 2030.

### LIPA Reform Act (LRA)

The LRA provides for statutorily mandated oversight of LIPA and PSEG LI by the DPS. The Long Island Office of the DPS (DPS LI) opened in 2014 to implement state oversight of LIPA and PSEG LI. DPS provides independent recommendations to the LIPA Board of Trustees (BOT). To date, the LIPA BOT has accepted every recommendation offered by the DPS.

### Prior Management Audit

LIPA's most recent comprehensive management and operations audit was conducted in 2016 (Matter 16-01248). The resulting final audit report, Comprehensive Management and Operations Audits of Long Island Power Authority and PSEG Long Island LLC was issued on June 29, 2018. The final audit report included 49 recommendations for improvement. LIPA staff formally briefed the Board of Trustees on the final audit report on July 25, 2018, recommending adoption of each recommendation. Following consultation with DPS, LIPA and PSEG LI set forth their implementation plan to the LIPA Board on October 24, 2018. Since then, the Authority and Service Provider have implemented 36 out of the 49 recommendations, including those recurring on an annual basis. DPS has reviewed the implemented recommendations and provided feedback on certain audit recommendations deemed completed by LIPA and PSEG LI.

Discussed below are New York Public Service Commission (NYPSC) Orders or Regulations, and Department Guidance or Recommendations that consulting firms shall familiarize themselves with while preparing the proposals. The information below will provide useful context for issues under review in this audit. In addition to the items listed below, consulting firms should familiarize themselves with any other NYPSC Orders or documents that may be relevant to this audit.

### **The Climate Leadership and Community Protection Act**

In July 2019, Governor Andrew Cuomo signed the Climate Leadership and Community Protection Act (CLCPA) into law requiring, among other things, for New York to reduce economy-wide greenhouse gas emissions 40% by 2030, and no less than 85% by 2050. The CLCPA also included goals related to renewable energy and storage and established the Climate Action Council to develop recommendations to reach these goals. The following year, the Governor signed the Accelerated Renewable Energy Growth Act, which directs the Commission and New York's utilities to develop plans for investment in transmission and distribution systems that will meet the CLCPA goals. In the January 2022 State of the State Address, Governor Hochul announced several initiatives to stimulate offshore wind development, decarbonize homes, and increase the adoption of electric vehicles throughout New York.

### **Utility 2.0 (Matter 14-01299)**

The LRA requires LIPA or PSEG LI, annually, to submit to the DPS for review, a proposed plan "related to implementing energy efficiency measures, distributed generation or advanced grid technology programs" with the intent of providing customers with the means to "more efficiently

and effectively manage their energy usage and utility bills” and to improve system reliability and power quality.

PSEG LI submits its Utility 2.0 Plan (Matter 14-01299), on an annual basis, consistent with the requirements of the LRA, the Second A&R OSA and the NYPSC regulatory policy objectives, stated in and further developed in the CLCPA, and its predecessor the Reforming the Energy Vision (REV) Proceeding.

#### **Energy Efficiency New York Order (Case 18-M-0084)**

On January 16, 2020, the Commission issued an Order in Case 18-M-0084 which established base annual budgets and saving targets for 2021 through 2025, initiated a long-term heat-pump strategy for New York, provided guidance on future utility initiatives on energy efficiency and heat pumps, and directed a Performance Management and Improvement Process for meaningful positive advancement.

#### **Data Resource and Access Framework (Case 20-M-0082)**

On February 11, 2021, the Commission issued an Order in Case 20-M-0082, which established the creation of an Integrated Energy Data Resource (IEDR) that will provide New York’s energy stakeholders with a platform to access system and customer energy data. This platform will manage a wide variety of standardized energy-related information from the State’s utilities and other sources.

#### **Community Choice Aggregation (CCA) (Case 14-M-0224)**

Since the restructuring of markets in New York in the late 1990s, energy customers have been able to choose a supplier through the retail market, where energy services companies (ESCOs) sell energy to customers. In 2014, the Commission established a proceeding (Case 14-M-0224) to examine implementation of CCA in New York.

#### **Long Island Choice Proceeding (Matter 15-02754)**

In 2015, the Long Island Office of DPS opened a proceeding to examine the potential benefits of retail competition for Long Island electric customers. Public comments were gathered in 2021 and DPS produced a White Paper in October 2021. DPS issued recommendations to the LIPA Board in November 2021 and the LIPA Board adopted Tariff changes in December 2021.

#### **The Home Energy Fair Practices Act (HEFPA)**

The Home Energy Fair Practices Act (HEFPA), set forth in Public Service Law Article 2 and implemented in 16 NYCRR Part 11, provides comprehensive consumer protections to residential customers for electric and natural gas utility service. HEFPA establishes that the continued provision of all or any part of gas, electric, and steam service to all such ratepayers is necessary for the preservation of the health and general welfare and is in the public interest. HEFPA contains provisions related to new service applications, service cancellations, overdue bills, and other consumer protections. Non-residential customers are entitled to similar protections under 16 NYCRR Part 13.

**Customer Service Performance Indicators to Gas and Electric (Case 15-M-0566)**

On August 15, 2013, pursuant to PSL §66(19), the Commission instituted a proceeding for an independent third-party consultant to conduct a focused operations audit of the accuracy of the self-reported data regarding electric reliability, gas safety and customer service provided by New York State's major gas and electric utilities.

Subsequently, on April 20, 2016, the Commission summarized the consultant's findings and recommendations from the Final Report and remanded several customer service recommendations to Case 15-M-05665 for further consideration.

**Low Income Program (Case 14-M-0565)**

In January 2015, the Commission initiated a proceeding to examine the low-income programs offered by the major electric and gas utilities in New York State (Case 14-M-0565). This proceeding standardized utility low-income programs to reflect best practices where appropriate, streamlined the regulatory process, and ensured consistency with the Commission's statutory and policy objectives. The Commission directed the new Low-Income Affordability program to be implemented by all major New York State utilities by December 31, 2018.

**DPS Investigation into the Utilities Preparation and Response to August 2020 Tropical Storm Isaias (Case 20-E-0586)**

On August 5, 2020, Governor Cuomo directed DPS to investigate utilities for their failed Storm Response for Isaias. In August 2020, the Department sent letters to utilities for their responses to the investigation (Case 20-E-0586). Based upon the findings in Staff's Interim Report, the State has reached settlement agreements with PSEG LI and the IOUs for almost \$190 million. Additionally, DPS issued its recommendations regarding the Reformed Operation Services Agreement between the Long Island Power Authority and PSEG Long Island LLC on November 23, 2021.

## **2. Proposal Requirements**

### **2.1. Proposal Form and Content**

The proposal must demonstrate a clear understanding of the objectives and deliverables outlined in this RFP. It should also illustrate the consulting firm's approach to meeting the objectives in a timely and comprehensive manner. Proposals must demonstrate the consulting firm's ability to follow the instructions in this RFP and to communicate relevant information in a clear and professional manner. In this way, proposals are indicative of the quality of the Final Audit Report. The Department expects proposals to be well written, free of typographical errors, succinct, complete, and well-organized.

The proposal must include the following components:

- A. Introduction and Firm Experience
- B. Scope and Objectives
- C. Approach, Methods, and Project Management
- D. Customer Benefit Analyses
- E. Project Team and Responsibilities
- F. Work Timeline
- G. Individual Experience and Qualifications
- H. Writing Samples
- I. Conflict(s) of Interest Disclosure
- J. References
- K. Insurance Attestation
- L. Minority- and Women-Owned Business Enterprises (M/WBE)
- M. Participation of Service-Disabled Veteran Owned Businesses (SDVOB)

#### **A. Introduction and Firm Experience**

In a concise narrative, describe the consulting firm's understanding of the scope and objectives for the project. The narrative should demonstrate the consulting firm's recent and relevant history, as well as its expertise relevant to the scope of work, New York's regulatory environment, and issues specific to the Authority and its Service Provider. Generic "boilerplate" material and restatements of this RFP must be kept to a minimum. Experience shall be limited to the last five years for both the consulting firm and any subcontracting firms that will be used during the audit. Proposals shall demonstrate an understanding of the New York regulatory environment and issues specific to LIPA and its Service Provider. Do not include any project costs (billing rates, professional fees, expenses, etc.) in the proposal. The not-to-exceed cost will be submitted as a separate document, titled as "Cost Document." See [Section 2.3.4](#) for further details.

#### **B. Scope and Objectives**

Describe, in detail, the consulting firm's understanding of each audit element in the RFP. Identify any additional evaluative criteria, specific tasks, and activities for each audit element. Organize and number these in the same manner as [Section 5.2 – Scope of Work](#), so it is clear which criteria, tasks, and activities are related to which scope component.

#### **C. Approach, Methods, and Project Management**

Describe how the audit will be planned, conducted, and managed by the proposed team, as well as the methods and procedures the consulting firm proposes to use for the audit. Include a discussion of how the consulting firm's project manager will communicate and collaborate with its directors and individual team members, as well as the Authority, Service Provider and Department personnel. Explain how the consulting firm will document the findings and conclusions in its Final Audit Report



(See [Section 5.3 – Developing and Supporting Recommendations](#) for further guidance). Include a discussion of how the consulting firm will identify, select, and assess a representative sample of construction programs and projects that are completed and/or in progress, for the purpose of identifying opportunities to improve performance.

#### **D. Customer Benefit Analyses**

Include a description of the consulting firm’s approach to developing Customer Benefit Analyses (CBAs). CBAs provide context regarding the estimated financial consequences of implementing individual recommendations. A thorough consideration of expected benefits and anticipated costs is a fundamental component of management audits in New York. Each recommendation developed by the consulting firm must be accompanied by a CBA, which considers potential benefits, potential risks, one-time and ongoing costs, and potential savings or efficiencies. Though some of these components are not easily quantifiable, consultants are expected to work with the Authority and its Service Provider to quantify as many components as feasible. Proposals shall indicate the consulting firm’s experience with and intended approach to CBAs, including any templates the consulting firm intends to use. Proposed schedules shall include adequate time for the development of robust and well-documented CBAs. Final CBAs will be included in the Final Audit Report or as an appendix to the Final Audit Report.

The consulting firm is required, throughout the audit, to review the current operating environment of LIPA and its Service Provider and incorporate in its Final Audit Report recommendations where improvements could be made that will either enhance service or reduce costs for customers. Wherever possible, the consulting firm is required to quantify both the cost(s) and the potential benefit(s) of recommendations. The consulting firm must utilize current costs at LIPA and its Service Provider, estimated implementation costs, industry data, and market data to assess how its recommendations will improve LIPA’s and its Service Provider’s operations. In some cases, there may be a direct correlation between the recommendation and the cost savings, as when a consultant recommends the elimination of certain employee positions. In some instances, the consulting firm may use its professional judgment to determine that savings may occur if the recommendations were properly implemented.

Recommendations for improvements and/or change, especially those involving significant implementation costs and/or savings, shall be supported by adequate documentation. The consulting firm should provide estimates, at a minimum, based on the documentation of the following information:

- Operating costs incurred before implementation of the recommendation;
- Operating costs to be incurred after implementation of the recommendation;
- Time frame for implementing the recommendation;
- Costs of implementing the recommendation and any annual O&M costs;
- Savings after consideration of implementation and O&M costs; and

- Risks associated with not implementing the recommendation.

Ensure the CBAs conform to the following model:

- For a recommendation that is expected to have quantifiable benefits, define known cost and benefit components and quantify as many as feasible.
- For a recommendation that does not have quantifiable benefits, but nevertheless is desirable (improved performance, good management practices, etc.), define all cost components and qualitative benefits.
- CBAs shall define as many benefit and cost components as feasible so that if/when more information becomes available, those components can be more readily quantified.

Potential cost components shall include, but not be limited to:

- Labor, materials, equipment, systems, training and development, etc.;
- One-time and/or recurring costs;
- Operation & Maintenance (O&M) expenses and capital costs; and
- Estimated implementation durations (months or years) and quantified dollar benefit and cost streams, as appropriate.

Potential benefit components include, but will not be limited to:

- Increased efficiencies and/or productivity;
- Improved reliability;
- Reduced expenses;
- Reduced capital requirements;
- Reduced full-time equivalents (FTEs);
- Improved practices and processes;
- Improved schedule adherence;
- Improved work quality; and
- Optimized organizational structures.

#### **E. Project Team and Responsibilities**

The proposal must identify the consulting firm's Engagement Director and Project Manager. The proposal should include an organizational chart that clearly shows team member assignments for each element of the audit, including the designation of lead and support team members as applicable. The proposal must include a breakdown of the allocation of hours (not person-days) committed to each element of the audit (excluding any cost information), both in total, and per individual assigned. All consulting team member assignments must represent actual specific individuals; placeholders are not acceptable. No personnel, other than those identified in the proposal, can be assigned to the audit without prior written approval from the Department.

**F. Work Timeline**

Include a timeline reflecting the duration of each phase of the audit. Gantt charts are acceptable but must be legible. At a minimum, the timeline should show the start and end dates for the following audit phases: Orientation, Work Plan, Interviews/Site Visits, Data Analysis, Draft Reports, Factual Accuracy Review, Applicable Team Meetings, Midpoint Status Meeting, Final Audit Report, Briefings to the Chief Executive Officer (CEO) of the Department and Senior Staff as well as to LIPA's Board of Trustees, LIPA and its Service Provider, LIPA's and its Service Provider's Written Comments, and the Release of the Final Audit Report.

**G. Experience and Qualifications (Individual Team members)**

The proposal shall include a discussion of both the experience and qualifications of the consulting firm as well as the individuals that will be assigned to the proposed team. Include a brief resume for each team member detailing relevant credentials that focus on experience applicable to this audit. Include descriptions of previous assignments relevant to the scope and objectives of this audit. Do not include any experience older than five years. For subcontractor(s), describe the relationship and role with the consulting firm by listing current or previous projects no older than five years for each team member.

**H. Writing Samples**

Include links to relevant professional writing samples. Do not include the documents themselves, only links.

**I. Conflicts of Interest**

The proposal shall identify each existing contract or other agreement that the consultant or its subcontractor(s) have with LIPA and/or its Service Provider and/or their affiliates and shall describe any work that it or its affiliates/subcontractor(s) are doing or have done for LIPA and/or its Service Provider and/or its affiliates within the last five years. Similar disclosures shall be made for any existing contract the consultant, or its subcontractor(s) have with organizations representing LIPA's and/or its Service Provider's workforce. The Department's Ethics Officer will determine if there is either an appearance of, or an actual conflict of interest.

Please include the following information in the proposal:

Has the consulting firm, any of its subsidiaries or subcontractors, conducted any audits, such as management, operations, storm review, fuel adjustment clause, audit preparation services, etc., within the last five years for LIPA and/or its Service Provider and/or its affiliates or any electric, gas or water utilities under the jurisdiction of the New York State Public Service Department or Public Service Commission?

Yes \_\_\_\_\_ No \_\_\_\_\_

If “yes”, please provide an additional explanation.

**J. References**

The proposal must include no more than five references for recent and relevant work. Do not list any projects with the Department or include any names of Department personnel. References will be contacted.

**K. Insurance Attestation**

New York State Workers' Compensation Law §57 and §220 requires that any business applying for permits, licenses, or contracts with New York State provide evidence of appropriate workers' compensation and disability benefits insurance coverage. The consulting firm must attest that it understands the mandatory insurance requirements and will provide documentation of such to the Department upon selection. The consulting firm does not need to provide proof of coverage with the proposal but will be required to provide such proof if the firm is selected to perform the audit.

**L. Minority-and Women-Owned Business Enterprises (M/WBE)**

For purposes of this solicitation, DPS hereby establishes an overall subcontracting goal of 30%; 15% for MBE participation and 15% for WBE participation. Please note that all certified M/WBE firms submitting proposals to this RFP, should be registered as such with the New York State Department of Economic Development. Indicate if the consulting firm is a New York State certified minority-owned business enterprise or women-owned business enterprise. Include the names of any Minority-Owned Business Enterprises (MBE) or Women-Owned Business Enterprises (WBE firms) to be utilized and the scope of work each will be performing. For firms that are not certified but have applied for certification, please provide evidence of filing, including filing date. Consulting firms should utilize their best efforts to employ M/WBEs on this project. If the consulting firm is unable to employ M/WBEs, they should document their best efforts and fill out M/WBE form 104. M/WBE form 104 is the M/WBE Waiver form that requests documentation of the good faith efforts to meet the M/WBE goals.

**M. Participation of Service-Disabled Veteran Owned Businesses (SDVOB)**

New York State has established a state-wide goal of participation on statewide contracts by SDVOBs of 6%. Consulting firms who are certified as a New York State Service-Disabled Veteran-Owned Business should include this information in their proposal.

For purposes of this solicitation, DPS hereby establishes an overall subcontracting goal of participation on this project by SDVOBs of 6%. Respondents are encouraged to use SDVOBs in connection with their proposed project. Consulting firms should employ their best efforts to meet this threshold and are required to submit a completed SDVOB Utilization plan on form SDVOB 100. If the respondent is unable to meet this threshold, they should document their good faith efforts to utilize SDVOBs, and complete forms SDVOB 100 and SDVOB 200 to request a full or partial

waiver. For more information regarding New York State Service-Disabled Veteran-Owned Businesses, please visit the [New York State Office of General Services Service-Disabled Veterans' Business Development webpage](#).

## **2.2. Cost and Confidentiality of Proposals**

The consulting firm shall provide a not-to-exceed cost in which the cost of professional fees, including support services (clerical, secretarial, research, and report preparation services), and out-of-pocket expenses, are separately stated, and the criteria for each defined for billing purposes. The proposal must include the current billing rate for each individual the consulting firm plans to utilize, as well as an estimate of all out-of-pocket expenses for each individual. The consulting firm should detail all assumptions used to develop the not-to-exceed cost. Travel and other expenses shall be quoted in actual dollars, not as a percentage of consulting fees.

Due to the novel coronavirus and associated safety concerns, the amount of travel related to this audit is uncertain. The Proposal should indicate the amount of on-site work that the consulting firm believes is optimal to conduct the audit. The Cost Document should include a not-to-exceed budget for travel and expenses. Consultants are expected to contain expenses whenever possible. The consultants should schedule travel as far in advance as possible to obtain the most favorable rates, and exercise reasonable oversight regarding per diem reimbursements for its employees and subcontractors. Necessary and economical travel and meals, including vehicle rental, while performing work on the review shall be actual and reasonable, provided however that the reimbursement of travel and meals shall be in accordance with the regulation established by the U.S. General Services Administration (GSA) and shall not exceed applicable per diems set by the GSA for Albany, Nassau, New York, and Suffolk Counties, New York. When estimating travel expenses, the consulting firm should endeavor to utilize available technology to conduct meetings via videoconferencing and/or teleconferencing to the extent practical and appropriate in order to achieve efficiencies throughout the audit.

The content of all submitted proposals (including cost information) will remain confidential and exempt from public disclosure until such time as the Department selects a consultant. The name of each consulting firm that submits a proposal in response to an RFP will be public information during the Department's review, but the Cost Document and the proposal itself will be kept confidential pursuant to the requirements of the Public Officers Law §§87(2) and 89(2), and 16 NYCRR §6-1.3. After the Department makes its selection, all submitted proposals and associated cost information will become public documents.

## **2.3. Required Documents**

The following five separate documents are required for a bid to be considered for evaluation.

### **2.3.1. Cover Letter Addressed to the Secretary**

Cover letters must be addressed to the Secretary of the New York State Department of Public Service. The purpose of this cover letter is to notify the DPS of the consulting firm's bid and interest for consideration for the project. This letter will be public information and posted on the Department's DMM Site.

### **2.3.2. Cover Letter Addressed to the Records Access Officer**

The cover letter addressed to the Department's Records Access Officer (RAO) ensures that the content of all submitted proposals will remain confidential and exempt from public disclosure until such time as the Department selects a consultant. The name of a consulting firm that submits a proposal in response to an RFP will be public information during the Staff's review process, but the proposal itself will be protected. After the Department makes its selection, all submitted proposals will be made available as public documents.

To ensure this confidentiality, the Department requires that the cover letter comply with the following:

1. Must be a separate Portable Document Format (PDF) file.
2. Must be addressed to the "Records Access Officer."
3. Must contain the name of the consulting firm.
4. Must contain the primary contact information, including an email address.
5. Must include the name of the audit and the matter number as provided in the RFP.
6. Must include a declaration that all the information in the proposal is accurate, that the consulting firm is committed and able to perform all the work contained in the proposal, that the consulting firm is in compliance with all RFP requirements and that the proposal is valid for 180 days from the date of the cover letter.
7. Must include the following paragraph requesting confidentiality:

The [Name of Consulting Firm] respectfully requests that the information in the attached documents be treated by the Department of Public Service as trade secret information and confidential commercial information pursuant to New York State's Public Officers Law §§87(2) and 89(2), and the Department of Public Service's implementing regulation, 16 NYCRR §6-1.3. The information in these documents, if made available publicly, would likely cause substantial injury to the competitive positions of [Name of Consulting Firm]. Accordingly, [Name of Consulting Firm] respectfully requests that the attached unredacted documents be treated as confidential

trade secret information and afforded all of the protections against public disclosure available for such information, as provided by law.

### **2.3.3. Proposal**

The proposal is the primary document that the Department staff will evaluate to determine if the consulting firm will be interviewed as a finalist. Do not include any project costs (billing rates, professional fees, etc.) in the proposal itself.

### **2.3.4. Cost Document**

The Cost Document is a separate PDF file where the consulting firm will discuss the not-to-exceed cost of the proposal. The not-to-exceed cost will include professional fees (hours and billing rates by each member of the proposed team) and out-of-pocket travel expenses. Travel expenses shall be quoted in actual dollars, not as a percentage of the professional fees.

Professional fees and travel expenses are two distinct pools of costs, and one cannot be used to offset the other without good cause shown, and subject to Department approval. The consulting firm shall detail what are considered professional fees and travel expenses when developing the not-to-exceed cost. The professional fees shall reflect an inclusion of traditional administrative/back-office fees (e.g., conference calls/long distance calls, copies, postage, etc.). The consulting firm shall reference [Section 2.2](#) for further details on professional fees and travel expenses. All cost information must be contained in the Cost Document only.

## **3. Submitting the Proposal Package**

The Department requires all proposal documents to be electronically filed (e-Filed) in its Document and Matter Management (DMM) system. E-File is a secure method for the consulting firm to upload the five required documents. It is extremely important to completely read this entire section and carefully follow the instructions below. Proposal packages submitted in a manner inconsistent with what is described below may not be considered. If you have any questions about the proposal submission process detailed in this RFP, please contact the DPS Project Manager(s) assigned.

A step-by-step guide to e-Filing a proposal package is available on the Department's website at the following link: [How to Submit Response to Management & Operations Audit RFP](#). A consulting firm must visit this link in advance of the deadline for proposal submission to ensure it has the latest version of the instructions. Technical questions about e-Filing can be directed to [dmm@dps.ny.gov](mailto:dmm@dps.ny.gov) or (518) 474-3204. If you do not receive an e-mail acknowledgment that your proposal was received within one hour of submission (during business hours), please call the Project Manager listed in [Section 1.3](#) of this RFP.

## **4. The Selection Process**

The selection process consists of a two-part evaluation of the proposals (initial review of proposals and finalist interviews) by Staff. Staff will recommend a consulting firm to the CEO. The CEO, at his/her discretion, will select the consulting firm to perform the audit.

### **4.1. Work Sample**

Work samples of previously completed audit reports will be requested from consulting firms under consideration as finalists and will be evaluated. Such reports should be limited to the last five years and relevant to the audit at hand. Each work sample, if requested, must be submitted as a separate PDF file to the DPS Project Manager(s). Please do not submit work samples unless specifically requested to by the DPS Project Manager(s).

### **4.2. Review of Proposals**

All proposals will first undergo a technical evaluation and a cost evaluation by the Department. The results of this evaluation will determine which consulting firms proceed to the finalist interviews. Staff may request additional information or clarification and may request best and final offers under certain circumstances. Staff reserves the right to waive non-material deviations in a proposal. Non-material deviations are deviations and/or omissions the waiving of which, at Staff's sole discretion, do not disadvantage the Department, do not provide a competitive advantage to the consulting firm and/or will not prejudice other potential respondents.

### **4.3. Technical Evaluation**

All proposals will be evaluated for responsiveness to the RFP and technical merit. Staff reviewers will consider the proposed approach for and demonstrated understanding of each element of the audit, as well as the qualifications of the consulting firm and the individual consulting team members assigned to each element of the audit. The specific items that staff will consider as part of this evaluation include the consulting firm's audit approach, quality of the written proposal, the consulting firm experience, approach to Customer Benefit Analyses, the firm's overall diversity and commitment to equal opportunity programs and finalists' interviews. The technical evaluation portion is worth 75 percent of the proposal score.

### **4.4. Cost Evaluation**

All proposals deemed qualified and responsive by the Department will undergo a cost evaluation. The qualified proposal with the least cost will receive the most cost points, and other proposal costs are scored relative to the lowest qualified proposal cost. The cost evaluation portion is worth 25 percent of the proposal score.



#### **4.5. Notification**

Following the CEO's selection of a consulting firm, the Department will notify the selected consulting firm by telephone. Other bidders will be notified by e-mail. All bidders not selected for the project may request the opportunity to receive feedback from the Project Managers after the Department's selection. Upon being notified of their unsuccessful Bids, bidders may request a debriefing in writing within fifteen (15) calendar days of such notice. The fifteen (15) day period starts once unsuccessful Bidders are notified.

No information regarding the Department's review of proposals or recommendation will be shared with any consultant or any other party until such time as the Department makes its decision. The selected consulting firm is prohibited from publicly announcing any award unless specifically approved in writing by the Department.

#### **4.6. Proposal Protest Procedures**

To protest a non-winning bid, a protest must be made in writing and filed with the Department within ten business days of notice of the contract non-award, or if a debriefing has been requested within five business days of the debriefing (whichever is later), see [Section 1.4](#). The protest must be submitted by certified mail, overnight mail, or hand delivered to the Department and include the following:

- Name, address, e-mail address and telephone number of the protesting party or its designated agent.
- Bid, proposal or contract number.
- Detailed statement of the legal and factual grounds for the protest, including a description of resulting prejudice to the protesting party.
- Copies of all relevant documents.
- Request for a determination by the Project Managers.
- Statement of the relief requested.
- Information establishing that the protest was timely filed in accordance with this protest procedure.

#### **4.7. Contracting Procedures**

The consulting firm selected by the CEO of the Department will be required to sign a multi-party contract (the Contract) that will govern the conduct of the audit. This Contract will also be signed by representatives of the Long Island Power Authority and the Department of Public Service. The Contract will be the controlling document setting forth the rights and responsibilities of each of the parties. The Contract will also be reviewed and must be approved by the New York State Attorney General's Office and the New York State Comptroller's Office.

Respondents must fully execute the following form and submit it with its proposal: NYS Vendor Responsibility Questionnaire (please find the form at <http://www.osc.state.ny.us/vendrep/>)

#### **4.8. Reserved Rights**

The Department reserves the right to:

- A. Reject any or all proposals received in response to this RFP;
- B. Withdraw this RFP at any time, at the Department's sole discretion;
- C. Make an award under this RFP in whole or in part;
- D. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of this RFP or any subsequent amendments to this RFP, or any subsequent amendments hereto;
- E. Seek clarifications and revisions of proposals, including revisions addressing subsequent RFP amendments;
- F. Change any of the scheduled dates stated herein;
- G. Amend the RFP and direct Bidders to submit Proposal modifications accordingly;
- H. Waive any informality or technical defect if, in the judgment of the Department the best interest of the Department will be so served;
- I. Negotiate with the successful bidder within the scope of this RFP, or any subsequent amendments hereto, in the best interests of New York State or its ratepayers;
- J. Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder;
- K. Utilize any and all ideas submitted in the proposals received;
- L. Require clarification at any time during the consultant selection process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a bidder's proposal and/or to determine a bidder's compliance with the requirements of this RFP or any subsequent amendments hereto.
- M. Set aside the original Successful Bidder if the Department determines that such Bidder is nonresponsive or non-responsible. The Department may then award the Contract to the responsive and responsible bidder with the next highest score; and
- N. Stop the work covered by this RFP and the Contract at any time that it is deemed the Successful Bidder is unable, unwilling, or incapable of performing the work to the Department's satisfaction. In the event of such stop, the Department shall have the right to arrange for the completion of the work in such a manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the Successful Bidder and its surety shall be liable to the State of New York for any such cost thereof. In the event the Department stops the work as provided herein, together with the reason thereof, the Bidder shall have ten (10) business days to respond to the Department's stop order before any such stop order shall become effective. After the ten business days have passed and/or any response received is considered, the Department may move forward with the original stop order, or modify or withdraw its original stop order, within its discretion.

#### **4.9. Orientation**

After the consulting firm has been selected and the Contract has been executed, the audit will begin with an orientation presentation provided by the Authority and its Service Provider. The purpose of the orientation is for the consultant firm to gain sufficient background and perspective to prepare the detailed audit work plan. The consulting firm will also engage in the initial interview process with the Authority and Service Provider following this presentation. The consulting firm can and should submit data requests to prepare the detailed work plan, and as appropriate, continue to issue data requests until the audit is completed. See [Section 5.5](#) for further details on the orientation.

#### **4.10. Work Plan**

After the Contract has been executed, the orientation has taken place, initial interviews have been completed, and the responses to the initial data requests have been reviewed, the consulting firm will submit a draft work plan for Staff's review and approval before in-depth work begins. The consulting firm is expected to meet with DPS Staff to discuss any concerns about the work plan before the final detailed work plan is submitted and approved. Consultation with DPS Staff aids in achieving a mutual understanding of the issues and areas to be examined in the audit and will give DPS Staff and the consulting firm a written document to guide the audit.

The work plan should incorporate the scope topics listed in [Section 5.1](#) below. The consulting firm should work with staff to ensure any new concerns or emerging issues are addressed in the work plan, and that the work plan meets the Department's needs and expectations. This plan must include the tasks to be performed, the individuals assigned to those tasks, and the schedule for the task completion. The work plan shall contain, but is not limited to, the following information:

- Preliminary list of issues identified during the orientation, initial interviews, and initial responses to data requests,
- Preliminary list of individuals to be interviewed,
- Documents to be reviewed,
- Questions to be asked,
- Evaluative criteria,
- Description of what will be examined and how it will be analyzed,
- Detailed audit activities, and
- Facilities to be visited.

A final work plan will be developed in conformance with the Contract, the RFP and the Proposal detailing how the consultant will execute the scope topics as described below. The final work plan may be supplemented or modified consistent with the terms and conditions of the Contract.

## 5. Performing the Audit

### 5.1. Audit Topics

This comprehensive and regular management and operations audit will focus on and evaluate the overall operations and management of the Authority and its Service Provider, including such operations and management in the context of the Authority's duty to set rates at the lowest level consistent with standards and procedures provided in PAL §1020-f(u), and include, but not be limited to: (i) the Service Provider's construction and capital program planning in relation to the needs of its customers for reliable service; (ii) the overall efficiency of the Authority's and its Service Provider's operations; (iii) the manner in which the Authority is meeting its debt service obligations; (iv) the Authority's Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause; (v) the Authority's and its Service Provider's annual budgeting procedures and process; (vi) the application, if any, of the performance metrics designated in the Second A&R OSA and the accuracy of the data relied upon with respect to such application; and (vii) the Authority's compliance with debt covenants. Additional scope areas defined by this audit include (viii) ERM and Corporate Governance; and (ix) The climate leadership & community protection act (CLCPA); (x) cyber security and system design and performance (xi); and the implementation of the recommendations from the Department's Comprehensive Management and Operations Audit of LIPA in Matter 16-01248. A list of Audit Topics is appended hereto as Appendix C.

### 5.2. Scope of Work

The audit should emphasize an assessment of LIPA's and the Service Provider's efficiency and effectiveness in meeting its mission, particularly with respect to meeting its performance goals, meeting its contractually mandated duties, and the extent to which there are opportunities for improvement.

Proposals should include a discussion of how the consulting firm will identify, select, and assess a representative sample of construction programs and projects that are completed and/or in progress, for the purpose of identifying opportunities to improve performance.

The scope of work is described with greater specificity in Appendix C of the RFP. Within the context of each audit topic, the consulting firm should be prepared to address the generic issues of: (1) purpose, mission, planning, goals and objectives, and strategies, (2) functions, processes, practices, and systems, (3) organizational design, (4) staffing, responsibilities and accountabilities, (5) cost control/cost oversight, (6) efficiency and effectiveness, (7) results and performance, and (8) opportunities for improvements, including "best practices" (based on past experience) that are appropriate to LIPA and PSEG LI's operating environment.

The audit will review operating conditions as they exist today under the Second A&R OSA with PSEG LI. The consulting firm should be prepared to identify and address gaps and recommend

improvement opportunities that will benefit LIPA's ratepayers under this new management relationship. The study should include the day-to-day and long-term oversight by LIPA employees over PSEG LI as well as any other long-term contractors that assist PSEG LI in running the electric T&D system.

### **5.3. Developing and Supporting Recommendations**

The audit program is guided by the principle that improvements to management practices and processes will lead to improved performance over time. Consulting firms are expected to develop recommendations for such improvements. The Department expects recommendations to be meaningful, actionable, and supportable. Fewer well-defined and well-supported recommendations are more desirable than numerous recommendations with minimal impact or inadequate support. In the Final Audit Report, recommendations must be clearly tied to underlying findings and conclusions, which are further tied to original source documents.

### **5.4. Managing Audit Documents**

All work papers, interview notes, statistical analyses, and other supporting documents developed or obtained by the consulting firm during the audit shall be made available to Department staff in a sequentially organized electronic format. The exact processes to be used for this type of reporting will be developed following the selection of a consulting firm. If a consulting firm has a preferred process or proprietary system for such, it shall be identified in the proposal.

The consulting firm is required to report to Staff on the continuing progress of the audit. Regular status meetings will be required at least once a month, and sometimes more frequently. These meetings included but are not limited to reporting the status of the schedule and budget, reporting on emerging issues, findings, and likely conclusions. A midpoint status meeting and presentation with Staff to discuss the consulting firm's emerging issues is required. These status meetings should appear in the consulting firm's proposed schedule and should be considered when developing the proposed budget.

Staff must be informed of interviews and any on-site visits scheduled, including details such as interviewee, interviewer, topic/areas of focus, date, time, and location. Furthermore, Staff must be informed of and have access to data and/or document requests and their status, documents received from LIPA and/or its Service Provider and interview summaries, among other things.

The exact processes to be used for this type of reporting will be developed following the selection of a consultant. If a consulting firm has a preferred process or proprietary system for such, it should be highlighted in the proposal.

Draft and final written deliverables will be submitted to the Department via e-mail. Upon written approval from the Department, the consultant will share the Final Audit Report with the Authority and its Service Provider.

### **5.5. Orientation Kickoff**

The audit work begins with an orientation presentation, which may be held at the Authority's headquarters or via tele-conference. The orientation will be scheduled following the consulting firm's submission of its initial data request to the Authority and its Service Provider. A tentative timeframe for the orientation is indicated in [Section 1.4](#) of this RFP. The purpose of the orientation is to gain sufficient background and perspective to prepare the audit work plan. Further data requests and interviews will follow as determined by the consulting firm.

Consulting firms will work with the Department, the Authority, and its Service Provider to determine the specific schedule for any on-site work if needed. Due to the novel coronavirus and associated safety concerns, while on-site work is preferred and expected, the Department will address any specific concerns with the consultant as they develop. The selected consulting firm will identify in its work plan any required site visits, and work with the Authority, its Service Provider, and the Department to determine the specific schedule for such. This schedule will determine which Authority or Service Providers personnel, Department staff, and individual consultants may need to be on-site. Please note that interviews and on-site visits may not be scheduled on days that the Department is not open for business.

### **5.6. Deliverables**

The selected consultant will provide the following during the course of the engagement:

- Work Plan – Following the public statement hearings, as referenced in the timeline in [Section 1.4](#) and [Section 6.3](#), orientation, initial interviews, and a review of responses to initial data requests, the consulting firm will develop and submit its work plan. The work plan is a further refinement of the proposal, and must outline in additional detail, the schedule, methods to be employed, and scope of work to be examined by the consulting firm during the engagement. The work plan scope must connect to the scope in the proposal and RFP, as well as any issues arising from the public statement hearings, initial interviews, and responses to initial data requests. The consulting firm should work with Staff to ensure any new concerns or emerging issues are addressed in the work plan, and that the work plan meets the Department's needs and expectations. Approval of the work plan by Staff will authorize the consulting firm to execute the tasks as stated therein.
- Status Updates - The consulting firm will provide regular status updates to the Department on the progress of the audit. These updates are typically held via teleconference, and should report against schedule and budget, identify any emerging issues, and preview next steps. The

schedule for these updates will be determined following the selection of a consulting firm. In addition, the consulting firm is required to provide a written status report with each monthly invoice indicating the overall progress from the preceding month, as well as anticipated activities for the following month. This report shall also include any schedule and budget issues.

- Status Reporting - The consulting firm is required to provide a written status report with each monthly invoice indicating the audit's overall progress from the preceding month, as well as reporting against the schedule and budget, and anticipated activities for the following month.
- Briefings – The consulting firm will brief the Department approximately halfway through the audit (Midpoint Briefing) to discuss tentative findings, preliminary assessments, and potential conclusions. The Midpoint Briefing is typically held via teleconference and may include Senior Staff from the Department. In addition to the Midpoint Briefing, the consultant may be required at other times to provide briefings to the Department after the report has been submitted.
- Draft Reports - This draft report must be representative of the final work product. Staff will review the draft report and provide edits and comments to the consulting firm to be incorporated. Following the incorporation of feedback and approval from Staff, Staff will authorize the consulting firm to send the finalized draft report to the Authority and its Service Provider for review of the report for factual accuracy and for confidentiality, see [Section 6.2](#) for more details on this process.
- Customer Benefit Analyses - The consulting firm will develop Customer Benefit Analyses to support its recommendations. Final Customer Benefit Analyses will be submitted as part of the Final Audit Report or as an appendix to the Final Audit Report, based on the criteria outlined in [Section 2.1](#).
- Final Audit Report – Following the Authority's and its Service Provider's confidentiality and factual accuracy review, a Final Audit Report must be submitted. After submission of the Final Audit Report, there will be additional briefings for the Department's CEO and Senior Staff as well as the Authority's Board of Trustees, as indicated in [Section 6.3](#) and [Section 6.4](#). The consulting firm is required to assist with public statement hearings, resolution of disagreements, or in such other fashion as may be necessary in accordance with PAL §1020-f(bb)(4).

## **5.7. Managing the Audit**

The consulting firm's project manager is responsible for the efficient conduct of the audit, its compliance with the prescribed scope, and its adherence to the established schedules and budgets.

## **5.8. Invoice Approval**

Although the party responsible for payment is LIPA, the Department is the client. In conformance with the multi-party Contract, it is Staff's responsibility to review and certify the consulting firm's

invoices before authorizing payment by LIPA. It is usual standard practice for the consulting firm to submit invoices electronically once a month. Any consulting firm which has a different practice should explain how often invoices would be submitted.

DPS Project Manager(s) will verify the charges through an examination of appropriate supporting documents, such as time sheets, trip reports, receipts, and other supporting documentation. Copies of these records must be provided to Staff along with the invoice. The consulting firm should electronically catalogue the supporting documents it submits to the DPS Project Manager(s). For billing purposes, the billing rate for each team member shall be specified. Out-of-pocket expenses should be included in the documentation provided. No payment will be made by LIPA until authorized by the DPS Project Manager(s).

Travel expenses should be reasonable and limited to only those which are necessary for the conduct of the audit. The consulting firm is expected to exercise fiscal responsibility when making travel arrangements. Travel and accommodations should be booked in advance to the extent possible to minimize the financial burden on ratepayers and only coach travel will be reimbursed. Change fees, upgrade fees, short-term parking at airports, one-way car rentals, and other unnecessary charges should be avoided. Lodging, meal, and miscellaneous costs should be actual, reasonable and cannot exceed US General Services Administration (GSA) per diem guidelines for Albany, Nassau, New York, and Suffolk Counties, New York. Staff reserves the right to disallow any undocumented, unexplained, or unnecessary travel charges.

### **5.9. Payment Restrictions**

Payments for professional fees are subject to certain retainages which are outlined in the multi-party Contract. Expenses are not subject to retainages. A consulting firm must submit an invoice for payment of a retainage (this can be included within the monthly invoice or issued separately).

The following restrictions apply to payments made in accordance with the Contract:

- Payments for professional fees under the contract are subject to three retainages until certain milestones are met. These three retainages are the Work Plan Retainage (5%), Draft Report Retainage (10%), and Contract Completion Retainage (10%).
- At the beginning of the project, a total of 25% of professional fees will be retained from each invoice.
- Following Staff's written approval of the work plan, the amount retained from subsequent invoices will be reduced to 20% and the Work Plan Retainage will be authorized for payment.
- Following Staff's written approval of the draft audit report, the amount retained from subsequent invoices will be reduced to 10% and the Draft Report Retainage will be authorized for payment. The approval will be issued after the consulting firm has completed its draft audit report and delivered it to the Department, LIPA and its Service Provider for a factual accuracy review and any resulting revisions.



- Following Staff's written notice that all deliverables have been provided and all of the consultant's contractual obligations have been met, the Contract Completion Retainage will be authorized for payment.
- Expenses are not subject to retainage.

## **6. Completing the Audit**

### **6.1. Developing Findings, Conclusions and Recommendations**

The audit program is guided by the principle that improvements to management practices and processes will lead to improved performance over time. Consulting firms are expected to develop recommendations for such improvements. The Department requires recommendations be meaningful, actionable, and supportable. Fewer well-defined and well-supported recommendations are more desirable than numerous recommendations with minimal impact or inadequate support. At a minimum, the workpapers shall identify sources of information, nature and extent of the work done and conclusions reached, and appropriate cross-references to an indexed copy of the Final Audit Report, bulk file items, etc. In the initial Draft Report and the Final Audit Report, recommendations must include citations to underlying findings and conclusions, which are further tied to original source documents (e.g., data requests, etc.). All findings, conclusions and recommendations are subject to Staff's review for completeness.

### **6.2. The Final Audit Report**

The Final Audit Report should be written with LIPA and its Service Provider as the primary target audience, as well as for the Department Staff, general public and external stakeholders. The report should assume a fundamental understanding of common utility terminology and operations. The report will also have a much broader audience, and as such, technical terms, industry jargon, and acronyms may be used but should be defined in the document and/or in an appendix.

The Final Audit Report should explain in detail any opportunities and recommendations for improvements. The report should not dwell on a description of the functions, processes, etc. which are appropriately managed. A simple statement that a function or organizational unit is performing properly, appropriately, and efficiently, along with a brief factual description of its operation, is sufficient. If the consultant finds a "best practice" or any other exceptionally well-performed function, practice, etc., that should be highlighted, the consultant should do so. The report is ultimately a tool to identify opportunities for improvement and align LIPA and its Service Provider with the best practices in the utility industry.

The Final Audit Report is the result of a series of written work products:

1. Emerging Issues/Conclusions - Prior to the submission of the initial draft audit report, but not later than the midpoint of the audit, the consultant will prepare an informal written summary

or presentation of emerging issues for Staff's review and discussion as part of the Mid-point briefing.

2. Draft Reports - The Draft Report will be submitted electronically for review by Staff for adherence to the scope in the RFP and the Approved Work Plan. After any necessary changes to the draft report identified by Staff are made by the consulting firm, the second draft report will be reviewed by Staff before being provided to LIPA and its Service Provider for the limited purpose of their confidentiality and factual accuracy review. LIPA and its Service Provider will review the draft report for factual accuracy (i.e., that the current internal processes referred to in the audit are accurately described or depicted in the audit report) and provide factual corrections to the consulting firm and Staff. One or more meetings among the consulting firm, Staff, LIPA, and its Service Provider may be held to discuss any potential factual corrections, as listed in Section 1.4 as the factual accuracy meeting. The next draft report shall reflect any factual corrections that the consulting firm and DPS Staff determines to be appropriate and will be submitted to Staff for final review prior to being submitted as the Final Audit Report.
3. Release of the Final Audit Report - Upon release by the Department, the Final Audit Report will be posted as a public document in the Department's Document and Matter Management (DMM) system. LIPA and its Service Provider will have an opportunity to present their comments on the Final Audit Report at this time, and these comments will be posted to DMM as public documents in conjunction with the Final Audit Report.

### **6.3. Presence at Public Statement Hearings**

In accordance with the LRA, through its revision of the PAL §1020-f(bb), the selected consulting firm is required to be present at all public statement hearings to solicit input from members of the public and other external stakeholders, and/or pertaining to a preliminary determination of inconsistency with this audit.

First, after the CEO selects the consulting firm to perform the audit, the Department shall hold a public statement hearing, with proper notice, in both Nassau and Suffolk Counties for the purpose of receiving both oral and written comments from the public on matters related to the audit. The hearings will provide an opportunity for the public and/or other interested parties to provide comments relating to the audit's scope and the proposed work plan submitted by the consulting firm. Public comments taken at the hearings will be transcribed, and the comments submitted during the hearings will be taken into consideration during the development of the scope of the audit and the work plan.

Second, LIPA's Board of Trustees is required to make any preliminary determination of inconsistency with respect to any such finding or recommendations within 30 days of receipt of the final audit report. A notice and the basis of such determination will be provided to the Department and posted on LIPA's and its Service Provider's websites. LIPA's Board of Trustees is required to hold a public hearing with respect to the preliminary determination of inconsistency within 30 days of such posting. At the public hearing, unless agreement on disputed issues is reached prior to the

public hearing, the Board shall present its basis for its determination of inconsistency, the independent auditor shall present the basis for its findings and recommendations, and the Authority's Service Provider may present its positions as well.

#### **6.4. Post-Audit Activities**

At the conclusion of the audit, the consultant must attest that certain sensitive and confidential documents have been appropriately discarded or destroyed. The specific requirements for this attestation will be provided in the multi-party contract.

If testimony or other support by the consultant is requested by the Department following the conclusion of the audit, consultants must agree to provide the needed testimony at their standard rates for consulting services as outlined in the proposal. The consultant will be reimbursed for actual, reasonable travel expenses for post-audit work.

## **Appendix A - Participation by Minority Group Members and Women with Respect to State Contracts**

### **CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE-CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

#### **NEW YORK STATE LAW**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations the Department of Public Service (DPS) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of DPS contracts.

#### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, DPS hereby establishes an overall goal of 30 percent for MWBE participation, 15 percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15 percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs) **if subcontractors are utilized**. A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that DPS may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how DPS will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and DPS may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting DPS.

**If subcontractors will be utilized**, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to DPS for review and approval.

DPS will review the submitted MWBE Utilization Plan and advise the respondent of DPS acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the DPS, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DPS to be inadequate, DPS shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

DPS may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If DPS determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DPS, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly M/WBE Contractor Compliance & Payment Report to DPS, by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

### **Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of Appendix D – Standard Clauses for LIPA Contracts including Clause - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement

does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form # 4 (below), to DPS with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by DPS on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

## **MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

### **M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at DPS.

#### **M/WBE**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from DPS and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

#### **EEO**

- a. This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
- b. This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.
- c. At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- d. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- e. This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

By \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison  
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.



## Appendix B - SDVOB - Service-Disabled Veteran-Owned Businesses



### **PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. Department of Public Service (DPS) recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DPS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

#### **I. Contract Goals**

- A. DPS hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the DPS Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

## **II. SDVOB Utilization Plan**

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to DPS.
- C. DPS will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of DPS acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to DPS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DPS to be inadequate, DPS shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by DPS, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. DPS may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
  - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
  - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
  - (c) If a Bidder fails to submit a request for waiver; or
  - (d) If DPS determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DPS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

### **III. Request for Waiver**

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at DPS for guidance.
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by DPS at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, DPS shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to DPS, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If DPS, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, DPS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to DPS.

### **IV. Required Good Faith Efforts**

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.

(2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.

(3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by DPS with certified SDVOBs whom DPS determined were capable of fulfilling the SDVOB goals set in the Contract.

(4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.

(5) Other information deemed relevant to the waiver request.

#### **V. Monthly SDVOB Contractor Compliance Report**

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to DPS during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available on the DPS website and should be completed by the Contractor and submitted to DPS, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: LIPAMOA@dps.ny.gov

#### **VI. Breach of Contract and Damages**

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

**ALL FORMS ARE AVAILABLE AT:** <https://ogs.ny.gov/veterans/>

## Appendix C – Scope Topics

The 2013 LIPA Reform Act requires the Long Island Power Authority (the Authority or LIPA) and PSEG Long Island LLC (PSEG LI or Service Provider), which term includes the subsidiary Service Company (ServCo), to cooperate in the undertaking, by the Department of Public Service (DPS or Department), of a comprehensive management and operations audit in accordance with the requirements of the LIPA Reform Act and paragraph (d) of subdivision three of section three-b of the Public Service Law. The LIPA Reform Act provides that the audit shall review and evaluate the overall operations and management of the Authority and Service Provider in the context of the Authority's duty to set rates at the lowest level consistent with the standards and procedures provided in subdivision (u) of the LIPA Reform Act, including, but not limited to:

- (i) the Service Provider's construction and capital program planning in relation to the needs of customers for reliable service;
- (ii) the overall efficiency of the Authority's and Service Provider's operations;
- (iii) the manner in which the Authority is meeting its debt service obligations;
- (iv) the Authority's Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause;
- (v) the Authority's and Service Provider's annual budgeting procedures and process;
- (vi) the application, if any, of the performance metrics designated in the Operations Services Agreement and the accuracy of the data relied upon with respect to such application; and
- (vii) the Authority's compliance with debt covenants.

Additional scope areas defined by this audit include: (viii) Enterprise Risk Management (ERM) and Corporate Governance, (ix) The Climate Leadership and Community Protection Act (CLCPA), (x) Cybersecurity and IT Systems, and (xi) the implementation of the recommendations from the Department's Comprehensive Management and Operations Audit of LIPA in Matter No. 16-01248. Specific areas of review are set forth herein as "Audit Topics."

The consultants' proposals should articulate in detail their plans for the review of each audit topic as well as any other topics the consultant believes are necessary. These reviews should be conducted in the context of an evaluation of the overall operations and management of the Authority and Service Provider, in the context of the Authority's duty to set rates at the lowest level consistent with standards and procedures provided in Public Authorities Law §1020-f(u). For each audit topic, there is a list of baseline evaluative criteria that should be used by the consultant in the review of that topic or area. Reviewers should prioritize audit topics to optimize customer benefits.

The unique nature of the relationship between a municipal entity and a for-profit subcontractor running the day-to-day utility operations, highlights issues relating to oversight, accountability, and efficiency. These issues are at the core of this audit and are delineated in the LIPA Reform Act and the Second Amended and Restated Operations Services Agreement (Second A&R OSA) with PSEG LI. The consultant will need to review how LIPA manages and oversees PSEG LI, for example, identifying PSEG LI operating philosophies, systems and processes and how these are implemented to achieve the goals of the LIPA Reform Act and the

Second A&R OSA. The consultant must also review the organizational structure of ServCo referenced in the Second A&R OSA and how it interacts with LIPA. The consultant's proposal should evidence a strong understanding of the challenges facing both LIPA and PSEG LI; and the current events that will impact and shape each organization going forward.

From the audit topics contained in this section, the consultant must include in the final audit report an overall assessment of the efficiency of the Authority's and Service Provider's operations and any recommended managerial or operational improvements. This assessment should be contained in a separate Executive Summary of the report, which not only synthesizes the findings in each audit area but summarizes the consultant's overall conclusions about the efficiency of the Authority's and Service Provider's operations. Recommendations for improvement must be summarized in this Executive Summary. The LIPA Reform Act, as implemented by the Second A&R OSA, identifies the functions and responsibilities of LIPA and PSEG LI. Accordingly, the Audit Topics listed below may be applicable to either LIPA, PSEG LI or both. It is the responsibility of the consultant to address the appropriate party or parties for each of the Audit Topics.

## **C1 - THE SERVICE PROVIDER'S CONSTRUCTION AND CAPITAL PROGRAM PLANNING IN RELATION TO THE NEEDS OF CUSTOMERS FOR RELIABLE SERVICE**

LIPA's approved 2022 budget includes capital expenditures of \$782.8 million. Pursuant to the LIPA Reform Act, PSEG LI must submit by January first of each year, for DPS review, a report dealing with the Service Provider's planned capital expenditures. The purpose of reviewing capital program planning in the Management Audit is to ensure that PSEG LI has oversight and controls in place to ensure that projects are undertaken efficiently and address reliability and customer service needs. The consultant must review the actual performance in these areas with an emphasis on developing recommendations that will improve LIPA and PSEG LI's performance.

### **C1.1: PSEG LI's System Planning and Distributed System Platform (DSP) Development**

The consultant will review and assess the extent of PSEG LI's infrastructure planning and engineering functions to satisfy load requirements, effectively integrate Distributed Energy Resources (DER), and maintain reliability.

#### **C1.1.a: Decision Making**

- Review master plans for the long-term and short-term growth and needs of the system.
- Assess infrastructure upgrade and expansion needs for long-term and short-term planning, including the consideration of Non-Wires Alternatives (NWAs).
- Evaluate how the CLCPA initiatives and policy goals such as increased wind and solar penetration, electric vehicle infrastructure, beneficial electrification, and wider deployment of DER, including utility-scale and Behind the Meter (BTM) battery energy storage, are incorporated into the system planning process.

- Review consideration of other load and infrastructure factors in the planning process, such as advanced metering, demand management, and energy efficiency initiatives.
- Review the planning process for the on-going 2022 Integrated Resource Plan (IRP), Load Forecasting methodology, Local Transmission Plans, and other planning documents to evaluate how PSEG LI is changing its T&D infrastructure investments, planning practices, and equipment procurement practices as more DER are incorporated into the system, and further beneficial electrification is pursued.
- Review and assess PSEG LI's interconnection requirements for DERs, including but not limited to, interconnection limits at substation and feeder levels, and alignment with current DPS standards for interconnection.
- Assess how PSEG LI considers DER interconnection requirements in its system planning process.
- Assess PSEG LI's operation as a Distribution System Platform (DSP), and how it facilitates the connection across the grid among DERs, large-scale power generators, storage, demand-response technologies, customers, and other innovative services by effectively sharing its energy data to increase efficiency while lowering costs.
- Assess how PSEG LI is planning to enhance system capabilities necessary to support DER integration, Distributed System Implementation (DSIP) efforts, and other modernization efforts.
- Determine the extent to which PSEG LI is considering new service offerings that will generate savings or financial benefits to customers.
- Determine the extent to which PSEG LI is developing more granular cost of service estimates for planning and valuation purposes.
- Determine the extent to which PSEG LI considers benefit/cost analyses in its electric system planning and prioritization, which cost tests are considered (e.g., Societal Cost Test, Utility Cost test, Ratepayer Impact Measure, etc.), how PSEG LI evaluates the results of individual tests, the extent to which PSEG LI considers the full range of reasonable benefits and costs in its analyses; and determine any factors which should be included in future analyses.
- Evaluate electric supply portfolio principles, objectives, policies, processes, oversight, risk management, and issue escalation & resolution strategies.
- Determine and evaluate the processes for identifying, developing, and justifying the need for major projects (e.g., transmission/distribution lines, substations, etc.) and LIPA's alignment with the Public Service Commission's Order issued on September 9th, 2021, in Case 20-E-0197.
- Assess the process and criteria for making decisions regarding replace versus repair, including how the overall construction program planning process is affected.
- Examine the impact of demand management (demand response, distributed generation, etc.), energy efficiency and migration of retail customers to competitive suppliers in the assessment of system infrastructure adequacy and their role in the procurement process.
- Assess the effectiveness, implementation, and design of PSEG LI's Demand Response programs including the Distribution Local Relief Program (DLRP), Commercial System Relief Program (CSR), and the Direct Load Control Program (DLC).

### **C1.1.b: Management and Organizational Structure**

- Determine the extent to which PSEG LI's management recognizes the importance of aligning the needs and interests of employees, third parties, customers, processes, and technology while planning and deploying DER and improving grid functions.
- Assess the adequacy of PSEG LI's change management tools such as training, communications plans, and transition management, and employee acceptance of these processes.
- Evaluate the organizational structure used for system planning functions and the skills and capabilities of key engineers.
- Evaluate priorities, guidance and other instructions for evaluations, consideration of tradeoffs, and decision making in the system planning process, including any impacts on DSP development or meeting state goals. Evaluate the organization and staffing of forecasting functions.

### **C1.1.c: System Design and Capabilities**

- Review how new technologies are evaluated and brought into the planning process for improving system reliability, resiliency, safety, and operating efficiency.
- Assess the capabilities of PSEG LI's information systems for meeting short and long-term clean energy policy objectives.
- Evaluate PSEG LI's process to collect, manage, and make system usage data available to DER providers.
- Assess PSEG LI's process to collect disaggregated load data, and PSEG LI's ability to maintain this data's integrity and security.
- Assess PSEG LI's use of AMI technology to collect and manage load data.
- Assess PSEG LI's process to optimize decisions to replace older technology with newer technology and the resulting impacts on remaining useful life and depreciation assumptions of the existing infrastructure, as well as impacts on capital and O&M expenditures, revenue requirements, rates, and system reliability.
- Review the changes in operational risk profile with respect to the replacement of older technology with newer technology.
- Review and evaluate how PSEG LI optimizes the existing system design, innovates design concepts, and incorporates the integrated design concepts with the latest technology to improve the economics, efficiency, reliability and safety of the system.
- Examine and evaluate any measures and methods that PSEG LI uses to motivate employees to innovate design concepts, optimize system design, and promote the integration of the latest technology for improving the economics, efficiency, reliability, resiliency, and safety of the system.
- Evaluate the effectiveness of PSEG LI's safety programs and the adherence to written procedures for its staff.



## **C1.2: PSEG LI's Program and Project Planning and Management**

- Review the process for prioritization and approvals for planned projects over various time horizons.
- Evaluate program and project planning, design, engineering, cost estimating, scheduling, risk management, issue response, purchasing/procurement, and implementation/execution.
- Assess the quality assurance and quality control measures at the program and project level.
- Review the analysis and decision-making used to optimize the use of in-house workforce versus contractor labor.
- Assess PSEG LI's contractor and engineering bidding practices to determine if RFPs define project requirements adequately to provide complete bids at the lowest practical cost, and if the process allows PSEG LI to negotiate bids received based on project needs.
- Examine PSEG LI's contractor management, project/program management, including accountability, goals, objectives, and performance measurement, as well as the company's ability to complete projects on time and within budget.
- Evaluate the effectiveness of PSEG LI monitoring and controls to manage excessive overtime and minimize overall cost and reduce overtime.
- Evaluate the management of PSEG LI's clean energy programs (e.g., energy efficiency and renewable energy programs), including oversight of any subcontractors, budgeting methodology and variance reporting, and the efficacy of using in-house labor vs. external contractors.
- Review and assess the types of quality assurance/quality controls that PSEG LI uses to evaluate the work performed by the energy efficiency program subcontractor.
- Assess PSEG LI's process for developing RFPs for DER assets including Solar, Storage, and other Non-Wires Alternatives.

## **C1.3: Transmission and Distribution**

The consultant shall review PSEG LI's operation of the T&D System. Since the prior audit, LIPA's oversight of PSEG LI has expanded with increased performance metrics to measure PSEG LI operations of the T&D system. A very broad definition of T&D could include, but is not limited to, the following areas: reliability, preventive maintenance, repair/replace and reactive/corrective maintenance, and outage management.

### **C1.3.a: Reliability**

This area will focus on reliability, including root cause analyses of outages, aging analyses of the plant, and standard indices.

- Review and evaluate the processes that PSEG LI utilizes to establish and attain SAIFI (System Average Interruption Frequency Index), SAIDI (System Average Interruption Duration Index), CAIDI (Customer Average Interruption Duration Index), MAIFI (Momentary Average Interruption Frequency Index), S-MCOs (Sustained Multiple Customer Outages), Repeat Customer Sustained Multiple Customer Outages (S-MCOs), and Momentary Multiple Customer Outages (M-MCOs) goals.
- Determine whether work processes are efficiently designed, implemented, and measured.

- Assess whether work force management processes appropriately include work definitions, priorities, time duration standards, efficient scheduling, work order procedures, progress reporting, quality controls and performance measurements (productivity, utilization, lost/delay time trends, etc.).
- Assess the level, quality, and fit to purpose of any mobile workforce tools.
- Review how PSEG LI is incorporating reliability metrics into its processes
- Evaluate the impact of O&M expenditures on reliability performance.
- Assess the efficacy of PSEG LI's process for improving resiliency and hardening of its system, including the selective undergrounding of portions of circuits, and the effectiveness of its storm hardening program.

### **C1.3.b: Preventive Maintenance, Inspection Programs, and Vegetation Management**

The consultant will review PSEG LI's established preventive maintenance schedules to ensure that there are minimal backlogs.

- Assess whether preventive maintenance, inspection programs (including poles), and vegetation management programs are adequately designed, scheduled, and performed, to effectively maintain the system.
- Review whether trend analyses and other preventive maintenance performance data is maintained and considered for future implementation of preventive maintenance plans and vegetation management for T&D assets.
- Evaluate whether managers have necessary and timely information to oversee and direct preventive maintenance regarding T&D asset maintenance timelines and requirements to effectively implement preventive maintenance.
- Determine whether the organizational design effectively and efficiently supports the preventive maintenance mission.
- Assess whether the records of facilities (including specifications, location, maintenance repair, and trouble history) are comprehensive, accurate, up-to-date, and easily accessible for staff engaged in preventive maintenance activities.
- Assess whether PSEG LI has adequate access to current and accurate property records concerning vegetation management to enable PSEG LI to meet the objectives of its vegetation management program.
- Review the adequacy of PSEG LI's vegetation management program as it relates to enforcement of their property rights as they pertain to vegetation management activity.

### **C1.3.c: Asset Management, Repair/Replace and Reactive/Corrective Maintenance**

This area will review the state of PSEG LI's asset management for operational T&D assets and decision-making process which PSEG LI has in place to assist in making repair or replace decisions.

- Assess PSEG LI's asset management program relative to industry standards.
- Assess PSEG LI's road map to implement comprehensive asset management systems.

- Assess the use of the Computerized Maintenance Management System (CMMS), Spending Optimization Suite (SOS), and any other systems used for asset management including their effectiveness for tracking asset condition and maintenance requirements, including the completeness and integrity of its data and its use in determining which assets should be prioritized.
- Assess whether adequate cost/benefit analyses are performed to support the repair/replace decision-making process.
- Review the processes for translation of information concerning rework, failures, repair history, etc., into corrective actions, infrastructure aging analysis(es), and repair versus replace decision-making.
- Evaluate whether work processes are efficiently designed and implemented.

#### **C1.4: Advanced Metering Infrastructure (AMI)**

This section will review the newly implemented AMI infrastructure to ensure that the benefits of AMI are realized. Funding for implementation of AMI technology was recommended by the Department and approved by the LIPA Board of Trustees (Board) in 2018. In view of the benefits expected as part of the approval of AMI:

- Review and assess PSEG LI's use of AMI technology to provide customers improved, granular, user-friendly data on their electric usage with useful insights to their consumption and costs, and any available options to lower or alter these attributes to benefit them and the grid.
- Review and assess the compatibility of the technology with existing systems including but not limited to the Outage Management System, and Billing Systems.
- Assess PSEG LI's progress to customize any components as required to enhance compatibility among these systems.
- Assess the ability of the technology, in coordination with other systems, to support new rate designs including Time of Use Rates.
- Review and assess the accuracy of reported savings in the form of decreased O&M expenses from meter services associated with the technology.
- Determine if all opportunities to improve operational efficiency through use of AMI technology are being utilized.
- Review and assess any substantial impacts and benefits of AMI for customers and PSEG LI, including but not limited to load forecasting, capital investment planning, customer management/control on its electricity consumption, the costs saving of metering & billing, and outage/restoration costs.
- Assess how AMI data integration with other information and management systems including OMS and geographic information system (GIS) enable PSEG LI to create more accurate and detailed outage maps, isolate outages faster, improve outage information, support rapid restoration, and promote customer notification on service restoration progress.
- Assess how AMI voltage monitoring capabilities can improve/enhance the effectiveness of automated controls for voltage and reactive power management, particular for the conservation voltage reduction program (CVR) and Voltage Optimization.
- Evaluate the impact of AMI for customer engagement in Demand Response programs.

- Assess what processes or technologies are in place for PSEG LI to upload aggregated monthly data by municipality to NYSERDA's Utility Energy Registry (UER), consistent with the Public Service Commission's Order issued on April 20, 2018 in Case 17-M-0315.

### **C1.5: Load and Sales Forecasting**

- Review the models, assumptions and key drivers, and other inputs used by PSEG LI to forecast local and system-wide load requirements. Evaluate changes to the electric load forecasting processes since the previous management audit.
- Assess how demand side management (demand response, etc.), energy efficiency, and other initiatives are factored into the forecasting process. Evaluate the means and methods for forecasting the growth in Distributed Energy Resources and incorporating the impact of incremental DER in the load forecasting process.
- Assess how policy goals such as the build out of electric vehicle infrastructure and beneficial electrification are factored into the load forecasting process. Evaluate the methodology for forecasting the growth of electric vehicles and other beneficial electrification uses such as heat pumps and incorporating the impact of incremental electric vehicles and heat pumps in the load forecasting process.
- Evaluate the organization and staffing of forecasting functions.
- Review the extent to which the planning for electric load, as well as region-specific factors, is integrated into the overall business processes and strategies.
- Evaluate whether changes to the electric load forecasting process sufficiently take into consideration policy initiatives that could have significant impact on load and energy requirements.
- Evaluate how total system-wide and substation-specific load forecasting are incorporated into the system planning process, including an assessment of system infrastructure adequacy (including planned improvements) to meet future load requirements. Assess the accuracy of load forecasts at the system-wide and at the substation level. Evaluate if circuit level or customer specific forecasts are incorporated into the load forecasting process.
- Review the extent to which load forecasts are derived via top-down analysis of a company-wide peak forecast and/or a bottom-up aggregation of substation level peak demand forecasts. Examine whether the combined use and synchronization of both top-down and bottom-up methodologies could produce increased accuracy of company-wide and substation specific forecasts cost-effectively.
- Examine if incorporating DER providers' forecasts into PSEG LI's forecasting process would result in more robust and accurate forecasting.
- Examine how the NYISO's role in the State's electric forecasting, interplays with and affects PSEG LI's forecasting.
- Evaluate the means and methods for collecting load data that is disaggregated by time and location.
- Determine to what extent probabilistic approaches have been incorporated into the forecasting process.
- Evaluate if the time horizon on the forecasting process is sufficient for optimal planning purposes.

- Evaluate the effectiveness of weather forecasting processes, how PSEG LI monitors forecast accuracy, and how forecast information is used for operational purposes such as storm preparation.
- Review and evaluate the accuracy of annual sales forecasting and its impact on current rates and rates in subsequent years by affecting riders like the RDM.
- Review and evaluate the measures and methods that PSEG LI has used for improving the accuracy of short-term and long-term load and sales forecasting.
- Examine and evaluate how PSEG LI determines the acceptable or reasonable margin of errors in short-term and long-term load and sales forecasting.

## **C2 - THE OVERALL EFFICIENCY OF THE AUTHORITY'S AND SERVICE PROVIDER'S OPERATIONS.**

This area includes a review of staffing levels of LIPA and PSEG LI and an analysis of the major information systems that support the efficiency of the organization, and its communications ability.

Optimizing the utilization of human resources is a critical component of the effective management of any organization. Departmental or functional areas in a utility that generally offer the greatest cost savings opportunities relative to workforce management include customer service, T&D operations, and construction.

Another objective of this review is to evaluate the systems used to ensure their effectiveness in meeting the expectations of today's consumers with respect to accuracy, timeliness, and ease of access. This study should include an analysis of the interoperability of the systems, the openness of the architecture and scalability, and flexibility for new functionalities to be added.

### **C2.1: Work Management**

- Review the planning, conversion and execution of programs and projects into short-term and day-to-day work.
- Study and assess work management systems that are used to schedule and manage field crews, including equipment, transportation, and materials. Determine the age and usefulness of the systems; the extent to which these systems interface with other major operating systems, and the availability of information from them to disseminate to the public.
- Assess the deployment of mobile technology to the outside workforce, and the availability of adequate/updated customer information to contact customers.
- Review the day-to-day management of program and project schedules.
- Determine if any analysis or review of workforce management systems optimization is performed, which enables performance improvement opportunities, and assess the effectiveness of this process.
- Determine whether there are adequate systems and procedures in place to provide pertinent historical data to be used in analyzing work volumes and staffing levels.
- Review the utilization of work locations for maximizing productivity between teams.

- Review the Supervisory Control and Data Acquisition (SCADA), work management and outage management systems to determine if they are effective in identifying trends in workload levels, productivity, utilization, and service levels.
- Review PSEG LI's oversight of costs associated with storm restoration, including the accounting for storm costs (e.g., salvaged materials).

## **C2.2: The Adequacy and Effectiveness of Systems used in Reporting Financial Information**

- Evaluate the current financial reporting systems used by LIPA and PSEG LI.
- Evaluate any changes to the financial reporting system used by LIPA since the last management audit.
- Determine the flow of information into the general ledger and analyze the quality and consistency of source data.
- Review manual reporting processes, such as manually performed journal entries and off-line spreadsheets completing calculations, for automation opportunities and elimination of duplication of effort and non value-added activities.
- Review the accuracy of the data reported by systems for significant adjustments or corrections.
- Assess the effectiveness and efficiency of the chart of accounts structure designed to capture data and adherence to the FERC Chart of Accounts.
- Assess the internal controls around financial systems and audit trails.
- Assess the effectiveness of the interconnection of the new LIPA Enterprise Resource Planning (ERP) system, accounts payable, general ledger, procurement, and human resource modules, to the PSEG LI SAP system, implemented to enhance productivity and quality of reporting.

## **C2.3: Customer Services**

This area will review LIPA and PSEG LI's customer service process including complaint handling and customer service support systems and billing.

### **C2.3.a: Customer Complaints**

- Assess PSEG LI's processes for handling customer complaints and inquiries that have not been resolved and/or have been referred to DPS.
- Assess PSEG LI's process for analyzing and implementing feedback from customers.
- Assess PSEG LI's timeliness and quality of responses to DPS on cases filed by customers.

### **C2.3.b: Customer Support Systems and Billing**

- Review the adequacy and efficiency of customer information and customer accounting systems used to support customer service operations. Evaluate the extent to which these systems adequately support: (1) PSEG LI's technical business needs and processes including interfaces with other systems and external service providers, (2) compliance with state laws and regulations, and (3) achievement of customer service goals.

- Review PSEG LI's overall ability to provide timely and accurate bills and assess its internal goals for billing accuracy.
- Review PSEG LI's process to determine if customers are assigned the proper classification rate or if customers qualify for a different rate, based on best practices.
- Assess PSEG LI's bill estimation process and identify any measures used to reduce the number of estimated bills.
- Review PSEG LI's process to notify customers that are being billed on an incorrect rate or customers that qualify for a different rate.
- Assess LIPA and PSEG LI's record keeping capabilities and policies regarding record retention as it relates to customer records, applications, billing information, and billing disputes.

## **C2.4: Customer Call Center and Operations**

This area will review PSEG LI's customer call center operations and customer operations.

### **C2.4.a: Contact (Call) Center – System Improvements and Performance**

- Assess the Call Center's average speed of answer and call abandonment rate in comparison to other IOUs.
- Evaluate PSEG LI's processes for quality control and customer service staff training specifically regarding compliance with state laws and regulations.
- Assess the effectiveness and timeliness of communications within other departments of PSEG LI to provide the Call Center with relevant information.
- Assess the Call Center's ability to address energy efficiency programs and other clean energy program offerings.

### **C2.4.b: Customer Operations**

- Examine the adequacy and effectiveness of PSEG LI's internal controls related to the Home Energy Fair Practices Act and Energy Consumer Protection Act (16 NYCRR Part 11).
- Examine the adequacy and effectiveness of PSEG LI's internal controls related to the Rules Governing the Provision of Service by Gas, Electric and Steam Corporations to Nonresidential Customers (16 NYCRR Part 13).

## **C2.5: Customer Outreach and Communications**

This area will review PSEG LI's outreach efforts and customer communications.

- Evaluate PSEG LI's outreach efforts for presentation of information, explanations regarding rate changes, and decision-making on major policy issues to key stakeholders, elected officials and customers.
- Assess the effectiveness of PSEG LI's incoming and outgoing communication with customers, including the use of advanced technologies.



- Evaluate PSEG LI's outreach efforts including, but not limited to, its external affairs program for addressing key stakeholders, elected officials, municipalities and customers on complex infrastructure projects with substantial public impacts.
- Determine the success of PSEG LI's outreach programs and whether timely and effective on-going communication has an impact on addressing communications focused on these projects.
- Evaluate the effectiveness of PSEG LI's communications with customers about its clean energy (EE, DER, and related) programs. Determine whether PSEG LI conducts a self-assessment of its outreach efforts for these programs and evaluate this assessment.
- Evaluate the effectiveness of PSEG LI's outreach efforts for its tree trimming program and the effectiveness of its communications with tree advocates.
- Evaluate the effectiveness of PSEG LI's communications with low-income customers about its low-income and energy efficiency programs.
- Assess PSEG LI's efforts to educate consumers about financial assistance opportunities including special rates available for eligible customers such as the winter-heating rate tied to heat pumps or the Household Assistance Program tiered rates.
- Evaluate PSEG LI's efforts to assess their Return on Investment (ROI) for outreach spending.
- Evaluate the navigability, functionality and organization of PSEG LI's website.
- Evaluate PSEG LI's process to plan, organize, and execute its outreach programs.

## **C2.6: COVID 19- Impacts**

- Evaluate the impact of COVID-19 on customer field operations, including, but not limited to, high bill and shared meter investigations, theft of service investigations, collections, meter readings, etc.
- Assess efforts/measures to make residential customers aware of the COVID-19 shut-off moratorium protections and the assistance available for arrears/payment.
- Assess measures to ensure the safety of employees and customers when conducting outreach activities involving in-person participation. Review and evaluate any changes made to outreach processes to adapt to the impact of Covid.
- Evaluate any savings or increases in costs from COVID-19 due to changes in processes for field operations.
- Address potential financial implications of COVID-19 in areas including revenue, receivables, uncollectibles/bad debt.

## **C2.7: Outside Services**

LIPA and PSEG LI accomplish their mission by outsourcing the majority of work involved in running the transmission and distribution (T&D) system.

- Review the effectiveness of LIPA and PSEG LI's oversight of outside vendors, consultants and their contract compliance.
- Evaluate LIPA and PSEG LI procurement practices for third parties, including MWBEs and SDVOB and any reporting activities to monitor outside procurement.



- Determine whether operational policies and procedures are consistently followed and meet applicable legal, regulatory, and contractual requirements. Identify and name any gaps between policies and procedures.
- Review current cost allocation methodologies to determine whether costs are appropriately allocated, consistently followed, and meet applicable legal, regulatory, and contractual requirements.
- Review and assess the controls and processes in place for invoicing and payments for storm costs.
- Review controls to prevent outside vendor abuses:
  - a. The review of outside vendor transactions should include, but not be limited to, identifying material transactions between PSEG LI and its vendors.
  - b. At a minimum, the review should consider the following questions: Are there effective internal controls in place for managing and controlling levels of service and costs of services? If so, are they being applied?

### **C3 - THE MANNER IN WHICH THE AUTHORITY IS MEETING ITS DEBT SERVICE OBLIGATIONS**

Utility companies are capital-intensive industries that require significant investment in plant and equipment to maintain efficient and reliable service for customers. The planning and funding of LIPA's capital investment inherently requires LIPA to incur substantial amounts of long-term debt. LIPA's 2021 Audited Financial Statements shows that LIPA's long-term debt, including the Utility Debt Securitization Authority (UDSA) debt, was \$9.1 billion, with related interest expense of \$366 million.

In this audit topic section, the study must investigate several facets of the Authority's activities surrounding debt to evaluate how the Authority meets its debt service obligations.

#### **C3.1: Application of Industry Standards to Manage Debt**

- Review and evaluate the Authority's debt management plans, including its debt retirement and refinancing plans.
- Assess the application of industry benchmarking data to evaluate its debt costs.
- Evaluate the selection process for underwriters and financial advisors.
- Review and evaluate the effectiveness of the Authority's debt cost analyses.
- Review the process for monitoring interest rates and other financial factors relative to the Authority's management of its debt costs.
- Review and evaluate the effectiveness of the Authority's refinancing analyses.

#### **C3.2: Receipt of Necessary Approvals for Debt Management**

- Review and evaluate the thoroughness of compliance documentation by LIPA from each of the Authority's regulatory bodies debt compliance requirements.
- Review and evaluate the Finance and Audit Committee's recommendations, including associated documentation, for the Authority's debt issuance proposals.

- Review and evaluate the Authority's response, including associated documentation, to the Finance Committee's recommendations to its debt issuance proposals.

### **C3.3: Audit of Debt Management Practices**

- Review and evaluate the Authority's policy and practices for the internal audit of its debt management.
- Evaluate the Authority's documentation of its internal audits relating to debt management and follow-up actions.
- Evaluate the effectiveness of the Authority's actions in response to credit rating agencies' reports.
- Review and evaluate any Authority meetings, documentation and responses to credit rating agencies relative to its debt management practices.

### **C3.4: Effectiveness of the Authority's Debt Management Strategies Relative to Meeting the Authority's Debt Obligations**

- Evaluate the Authority's debt management policy and strategy.
- Evaluate the Authority's process to monitor changes in interest rates and other financial factors that impact its risk management techniques.
- Evaluate the Authority's policy concerning its interest rate swap policies and procedures.
- Review and evaluate the Authority's documentation and response regarding meetings, audits, and studies conducted by its regulatory bodies.

### **C3.5: Treasury Operations and Fixed Obligation Coverage Ratio**

- Evaluate the cash management process including the process for non-product revenue collections.
- Review and evaluate the Authority's proposed coverage ratio targets in relation to industry standards of other municipal entities of similar size and revenues.
- Review and evaluate the Authority's progress towards achieving an optimal coverage ratio, maintaining its financial health and building an adequate cushion of reserves. If the Authority has sufficiently reached these targets, review and evaluate the benefits that may arise due to any increases to its coverage ratio.

## **C4 - NYISO AND REGIONAL ENTITY INTERACTIONS, SUPPLY PORTFOLIO MANAGEMENT, AND THE AUTHORITY'S FUEL AND PURCHASED POWER COST ADJUSTMENT CLAUSE AND RECOVERY OF COSTS ASSOCIATED WITH SUCH CLAUSE**

Under the Power Supply Charge component of electric rates, LIPA's Tariff Leaves 166 - 169 permit the recovery of fuel and purchased power costs. This audit topic focuses on the external impacts on the Fuel and Purchased Power Cost Adjustment clause, and LIPA's policies, procedures, and oversight on the recovery of cost associated with this clause.

#### **C4.1: PSEG LI's Active and Effective Involvement in New York Independent System Operator (NYISO) Issues and Operations as well as Other Regional Entities**

This area focuses on PSEG LI's ability to effectively impact issues which can affect the reliability and cost of electricity for its customers as a result of rules and/or operations of wholesale electricity market and/or reliability entities such as the NYISO as well as New York State Reliability Council (NYSRC); Northeast Power Coordinating Council (NPCC); North American Electric Reliability Corporation's (NERC); Federal Energy Regulatory Commission (FERC); New York State Public Service Commission (NYPSC); Independent System Operator of New England (ISO-NE); and PJM Interconnection LLC (PJM).

- Evaluate PSEG LI's engagement at stakeholder forums (e.g., standing committees, working groups and task forces and ad hoc groups) of the above-mentioned state or regional market/reliability entities, particularly in areas that are expected to have a significant impact on the T&D system.
- Evaluate PSEG LI's actions regarding advocating for and protecting customer interests, system reliability and mitigating cost impacts in relevant stakeholder forums with respect to NYISO operations, NYISO billing, interpretations and applications of NYISO market rules (including the internal administrative compliance costs of participating in various markets); potential changes in market rules; interpretations and applications of NYSRC, NPCC and NERC reliability rules; potential changes in reliability rules, and results of planning studies conducted by the NYISO and others specified above.
- Evaluate PSEG LI's initiatives to develop, and advocate for changes in market and reliability rules to help improve overall market efficiency and reliability.
- Evaluate PSEG LI's actions to improve the overall efficiency and effectiveness of state and regional market and reliability entities in but not limited to budgeting and cost control, performance objectives and metrics, strategic planning and overall management.
- Evaluate PSEG LI's performance in representing LIPA's co-ownership interest in Nine Mile Point 2.

#### **C4.2: LIPA's Fuel and Purchased Power Contract Management, as addressed by the Amended and Restated Power Supply Agreement (A&R PSA), Fuel Management Agreement (FMA), and Power Supply Management Agreement (PSM).**

This area focuses on LIPA's ability to effectively manage its A&R PSA for sale and delivery of electric capacity and energy by National Grid Generation LLC (GENCO) (oil and gas-fired generating plants on Long Island) and its FMA and PSM agreements with PSEG Energy Resources and Trade LLC (PSEG ER&T) which provides fuel management services for both the GENCO generating facilities and the non-GENCO units for which the Authority is responsible for providing fuel.

- Evaluate LIPA's auditing, enforcement, and management of its A&R PSA to effectively and efficiently balance reliability with low-cost electricity for its customers.

- Evaluate LIPA's auditing, enforcement, and management of its FMA to effectively and efficiently balance reliability with low-cost electricity for its customers.
- Evaluate LIPA's auditing, enforcement, and management of its PSM to effectively and efficiently balance reliability with low costs electricity for its customers.

### **C4.3: PSEG LI's Supply Procurement**

- Identify and evaluate PSEG LI's short and long-term power supply portfolio principles, goals, and objectives for its customers.
- Identify and evaluate risk management strategies and practices.
- Identify and evaluate the relevant issue management and escalation process, its actual use and the associated outcome.
- Identify and evaluate the method(s) used by PSEG LI to evaluate the effectiveness of its supply portfolio with respect to price volatility and cost.
- Review and evaluate supply procurement strategies, policies, processes, and methods as they relate to fuel purchased for the on-island generation facilities.
- Review and evaluate the coordination between LIPA and PSEG LI during the negotiation of Power Supply contracts.
- Evaluate the effectiveness of PSEG LI's financial and physical hedging practices as they relate to electric, including an examination of the role and use of transmission congestion contracts and rights used in the NYISO's wholesale market.
- Evaluate PSEG LI's power supply resource planning process.
- Evaluate PSEG LI's financial and physical hedging practices by customer type (e.g., residential, small commercial and industrial (C&I), large C&I, etc.) and the savings generated for customers.
- Examine and evaluate PSEG LI's use of performance benchmarking against other utilities.
- Evaluate the achievement of portfolio performance goals.
- Evaluate portfolio oversight and controls.
- Examine the role of demand-side management, demand response, energy efficiency, and the migration of retail customers to competitive suppliers in the portfolio and procurement processes.
- Review and assess the current and proposed use of on-island generation provided by GENCO.
- Evaluate PSEG LI's position on and use of alternate energy sources in its supply portfolio (e.g., hydropower, wind, energy storage, etc.).

### **C4.4: LIPA's Fuel and Purchased Power Cost Adjustment Clause Tariff Leaves 166 -169**

- Review and evaluate any changes to the clarity, usefulness, and thoroughness of LIPA's tariff since the last Management Audit.
- Examine items listed under Tariff Leaves 166-169 for reasonableness and relationship to fuel and purchased power cost.
- Examine LIPA's implementation of the tariff for consistency with the requirements specified under its fuel and purchased power tariff.

- Review and evaluate LIPA's Tariff Leaves 166-169 to identify any changes necessary to better describe and reflect actual fuel and purchased power cost.

#### **C4.5: LIPA's Fuel and Purchased Power Cost Recovery**

- Verify that the cost recovered through this clause is not also recovered in other rates and charges.
- Verify that the actual cost that is recovered correctly represents what is allowed under Tariff Leaves 166 -169. Evaluate the effectiveness of PSEG LI's policies, procedures, and processes for determining and verifying the correct cost recovery amount.
- Verify that the cost recovered through the fuel and purchased power cost adjustment clause were approved by the appropriate managers and the Board.
- Verify that sufficient historical financial records are kept for a reasonable period of time to enable verification of fuel and purchased power cost.
- Evaluate the reasonableness of the projections of future fuel cost incorporated into the Power Supply Charge.
- Evaluate and recommend any improvements to LIPA's fuel and purchased power cost reconciliation with customer bills.
- Review and evaluate policies and procedures for approving changes to cost recovery.
- Examine PSEG LI's day-to-day practices for consistency and adherence with the requirements specified under its fuel and purchased power policies and procedures.

### **C5 - THE AUTHORITY'S AND SERVICE PROVIDER'S ANNUAL BUDGETING PROCEDURES AND PROCESS**

LIPA's 2022 Approved Operating Budget shows LIPA's and PSEG LI's Operating and Managed expenses are budgeted at \$883.5 million; consisting of three major expense categories listed below:

PSEG LI's 2022 Operating Expenses (\$609.5 million) include costs related to the following major areas: Transmission and Distribution (\$191.6 million), Customer Services (\$116.3 million), Business Services (\$179.23 million), Power Markets (\$15.6 million), Energy Efficiency and DER (\$92.8 million), and Utility 2.0 (\$13.9 million).

PSEG LI's Managed Expenses (\$182.1 million), expenses for which PSEG LI manages the expense but which are substantially outside of the control of the Service Provider, includes costs related to Pensions and OPEBs (\$61.4 million), New York State (NYS) Assessment (\$11.7 million), Uncollectible Accounts (\$28.8million), and Storm Restoration (\$76.3 million).

LIPA's Operating Expenses (\$91.9 million) consist of the PSEG LI Management Fee net of the amount capitalized (\$45.3 million), and costs related to the Authority's staff and outside professional services (\$46.6 million).

LIPA's 2022 Approved Budget shows capital expenses are budgeted at \$782.8 million, and consists of T&D projects, IT projects, Utility 2.0 costs, LIPA's share of capital expenses for the Nine Mile Point 2 nuclear generating station, as well as other investments in its assets including fleet and customer operations.

## **C5.1: Capital and O&M Budgeting**

- Examine and assess the roles of the Board, and executive and senior management in goal setting, preparation, and oversight of the Capital and O&M budgets.
- Review and assess the processes that govern Board involvement in the Capital and O&M budgets.
- Identify the level of budget details the Board sees and what its responsibilities are with regards to the budget. Determine whether this information is sufficient for the Board to make informed decisions on the budget.
- Evaluate the construction/capital expenditure priority setting process.
- Review and assess incremental O&M expenses associated with new construction projects that are factored into the budgeting process.
- Study the effects of revenues/rates, financing opportunities, or constraints relating to the Authority's credit rating on budget levels and priorities.
- Review and assess the relationships among planned/budgeted expenditures and actual expenditures and assess the divergences. Assess any trends in over/under spending and potential causes.
- Review and assess the capital budgeting process, including project authorization, project appropriation, increase/decrease of authorization/appropriation, capital budget status reporting (at both the LIPA and PSEG LI levels), validation in advance of appropriation, funding controls, and other elements of the capital budgeting process.
- Determine the Capital and O&M budget development guidelines, practices, and procedures used by PSEG LI, including "zero-based," "bottom-up and top-down" or other alternative methods. Assess the effectiveness and appropriateness of the method(s) used.
- Examine and assess whether the estimating processes for individual capital projects included in the annual budget is appropriate and sufficiently detailed to yield accurate cost estimates.
- Assess how PSEG LI incorporates historical costs to improve cost estimating for new projects. Include an assessment of unit costs for ongoing programs.
- Examine PSEG LI's methodology for prioritizing and determining which capital projects get approved, including an examination of the modeling software used for Capital and O&M budgeting. This review should include an assessment of LIPA's involvement in this process.
- Evaluate PSEG LI's management and control of capital budgeting. Include the methodologies used to control and manage program and project capital costs in the near and long term; the annual process for reviewing and determining whether total Capital and O&M planned expenditures are adequate; cost control systems and processes from both a "top-down" and "bottom-up" perspective; controls to ensure that increases and decreases to the construction budget/expenditures are justified and appropriately approved, and by whom.
- Evaluate PSEG LI's "bottom-up" and "top-down" processes for developing the budgets for capital/construction classifications and categories.

## **C5.2: PSEG LI's Budget Control**

Examine and assess PSEG LI's project cost estimation methodology.

- Study the conversion of Capital and O&M plans and budgets into specific programs and projects.

- Evaluate the methodology for tracking costs, work units and work quality for specific programs and projects.
- Identify the typical variances between original budgeted and actual capital expenditures and work units.
- Determine how variances are tracked, root causes identified, what efforts are taken to minimize future variances, and the extent to which such variances are reported to LIPA.
- Evaluate if the follow-up completed by LIPA/PSEG LI to deal with identified material variances is sufficient to mitigate the issue going forward.
- Evaluate the usage of additional funding for budget-under runs for O&M and Capital projects.
- Evaluate the appropriateness of funding reallocations within the capital budget, the processes to implement reallocations including the role of the Utility Review Board (URB), and any resulting impacts on other projects' funding and schedules.

## **C6 - THE APPLICATION, IF ANY, OF THE PERFORMANCE METRICS DESIGNATED IN THE OPERATIONS SERVICES AGREEMENT AND THE ACCURACY OF THE DATA RELIED UPON WITH RESPECT TO SUCH APPLICATION**

The Second A&R OSA expanded the performance metrics used to measure PSEG LI's performance against operational and customer satisfaction goals. PSEG LI is entitled to variable Incentive Compensation for each contract year, based on favorable performance relative to 96 performance metrics.

For 2021, adjusted for inflation, the maximum Incentive Compensation Pool amounted to \$10.2 million for 23 metrics assigned in three categories for Customer Satisfaction, Technical & Regulatory Performance and Financial Performance.

For 2022, the maximum Incentive Compensation Pool amounted to \$20.0 million, which is allocated to T&D for \$8.0 million, Customer Service \$4.0 million, Information Technology \$3.0 million, Business Services \$3.0 million and Power Supply & Clean Energy \$2.0 million.

### **C6.1: Performance and Results Management**

- Examine PSEG LI's management accountability and tracking of performance improvements, e.g., cost savings and productivity gains anticipated from specific capital and O&M (referred to as Operations in LIPA's budget) programs and projects, and specific corporate goals.
- Review and assess LIPA's and PSEG LI's goals, key performance indicators, and metrics, as well as any additional performance measures or indicators that are used to facilitate attainment of the corporate mission, company objectives and goals, State policy objectives and goals (e.g., CLCPA) and/or will help improve performance.
- Assess PSEG LI's participation or obtaining of benchmarking studies for identifying and developing performance targets.



- Evaluate PSEG LI's change management and continuous improvement processes, including staffing & metrics related to continuous improvement, and any impediments that might constrain performance improvements and necessary changes.
- Assess the extent to which PSEG LI's management compensation and employee-based performance targets promote corporate goals, grid modernization, safety and reliability standards, environmental, and CLCPA goals.

## **C6.2: PSEG LI's Data Collection**

- Identify and trace the methodology and data used in developing a baseline performance level, target performance level and minimum performance level and if these goals are reasonable compared to industry standards.
- Identify the data inputs and source systems that are used in reporting for the performance metrics and incentive compensation.
- Evaluate whether PSEG LI has an adequate process for ensuring that data collection is accurate and complete, including a review of data integrity and whether there is sufficient detail to trace the data to the source documents with an easily traceable audit trail.
- Assess PSEG LI's review of the data used in reporting.

## **C6.3: Metric Calculation**

- Review the business rules for the mathematical calculation of any changes to any quantitative metrics since the last audit and test this mathematical calculation against the requirements of the Second A&R OSA.
- Evaluate and ensure that calculations of the metrics are accurate, sufficiently documented, reviewed, and approved appropriately.

## **C6.4: Modification/Addition of New Metrics**

- Review and evaluate if there are any gaps in metrics based on the related scope areas from the Second A&ROSA.
- Based on industry best practices, recommend new metrics to improve the measurement or monitoring of PSEG LI's operations.

## **C7 - THE AUTHORITY'S COMPLIANCE WITH DEBT COVENANTS**

It is important that the Authority actively review its debt covenant requirements to determine opportunities for increased efficiencies and cost savings relative to administrative costs and opportunities to reduce its risks and lower its cost of debt. Verify whether the Authority has met its due diligence by complying with all stipulations made by governing regulatory bodies.



## **C7.1: Compliance and Management of Debt Covenant Requirements**

- Review and evaluate the Authority's process for managing its compliance with its debt covenant requirements and any defaults of those requirements.
- Review and evaluate the effectiveness of the Board's monitoring and reporting process for the Authority's debt covenant compliance.

## **C8 – ERM and CORPORATE GOVERNANCE**

Corporate governance refers to the processes, systems and associated checks and balances by which a utility is governed and controlled. It includes the relationships and potential conflicts in goals and activities between management and its varied stakeholders. As LIPA is a Public Authority, it is governed differently than Investor-Owned Utilities (IOUs). The shareholder-elected Board of Directors is substituted by a Board of Trustees that are appointed by the Governor, the President of the State Senate and the Speaker of the State Assembly.

This area should include a review of LIPA's Corporate Governance including Mission, Objectives, Goals, and Planning.

### **C8.1: Enterprise Risk Management (ERM)**

In this area, the consultant should review the level to which LIPA and PSEG LI take a holistic view of the risks and opportunities facing it, with a view toward the potential issues that may impact their ability to meet their operational objectives. Since the 2018 Management Audit, LIPA and PSEG LI have made improvements to the ERM process.

- Review and evaluate LIPA and PSEG LI's ERM documented procedures/formalized assessments, and resources or technologies that are in place to assess the risks versus benefits of capital and operational plans that the Authority has approved.
- Determine whether LIPA and PSEG LI engage in adequate training, monitoring and reporting on risks and risk management activities.
- Assess whether the risk philosophy or risk strategy, risk culture and risk appetite for the organization is effectively understood and communicated throughout the organization.
- Examine the weight given to the variables in the risk/benefit analyses.
- Review the process employed by LIPA and PSEG LI to identify, assess and rank risks to the organization, including physical, financial and operational dimensions.
- Assess the variables and any software used in the models for ERM.
- Examine and assess the steps that LIPA and PSEG LI are taking to address the areas identified as the highest risk.
- Assess the process used by LIPA and PSEG LI to develop and track Key Risk Indicators.
- Assess the process used by LIPA and PSEG LI to inform management of a potential high-risk event.
- Determine whether the schedule used by LIPA and PSEG LI to update the ERM is reasonable.

## **C8.2: Corporate Governance**

- Review and assess governance, organizational structure, missions and relationships within and between LIPA and PSEG LI as enshrined in the Second A&R OSA.
- Assess the effectiveness of the means and modes of communication between LIPA and PSEG LI and determine whether appropriate protocols are in place to address the needs and/or issues of each organization.
- Review whether the corporate mission, objectives and goals, are clearly identified and communicated within and between LIPA and PSEG LI.
- Assess LIPA and PSEG LI's use of measurable goals, metrics, key performance indicators, performance improvement processes, etc., to achieve the corporate mission and objectives.
- Examine performance and compliance with procedures and practices related to the scope of this audit, e.g., internal controls, internal audit function and any voluntary compliance with the Sarbanes Oxley Act.
- Evaluate the process in place for the Authority and PSEG LI to assess, review, and respond to tips, anonymous or otherwise, from employees and contractors.
- Examine LIPA and PSEG LI's records management program and determine whether the program adheres to applicable state and federal guidelines and regulations, as well as Section 4.2(A)(1)(r) of the Second A&R OSA and provide recommendations for improvement.
- Evaluate LIPA and PSEG LI's management of their real estate records.
- Evaluate PSEG LI's process for managing pole attachments and joint use agreements.
- Evaluate PSEG LI's environmental, health and safety program.
- Evaluate the timeliness and scope of PSEG LI completion of audits in relation to the Second A&R OSA such as audits of attachment fees, rents and other revenues and capital assets.
- Review that PSEG LI has a process in place for updating and maintaining the Contract Administration Manual (CAM) based on changes to any processes.

## **C8.3: Executive Management**

Executive Management covers an evaluation of the Authority and PSEG LI's overall corporate structure, the responsibilities and authority of the Board and senior management, and the organization's ability to anticipate and respond to strategic issues. An effective management organization and planning process is essential to a well-managed, efficient power authority.

- Determine whether the corporate structure is sufficiently robust to adequately oversee the provision of electric service to the 1.1 million ratepayers.
- Assess the authority that LIPA executive management exerts over PSEG LI, and certify that oversight is properly administered and balanced to ensure efficient operations, consistent with the terms of the Second A&R OSA.
- Review the formal and informal paths of communication between the executives at LIPA and PSEG LI.
- Identify areas where LIPA and PSEG LI require or can improve contingency planning.

- Review the working relationship between LIPA's executive management and the Board, including reports shared between the Board and Board committees.
- Review PSEG LI's management performance for alignment with LIPA's corporate mission, objectives and goals at all organizational levels.
- Assess whether adequate controls exist to address staffing and management concerns within and between LIPA and PSEG LI.

#### **C8.4: Current and Future Organizational Structure**

The Authority should be organized so that functional activities overseen by LIPA, are provided by PSEG LI in an efficient and productive manner while still providing a satisfactory level of customer service at the most reasonable rates. PSEG LI should be organized in a manner to enable it to effectively fulfill its responsibilities as the Service Provider.

- Evaluate the major functions to determine if they are appropriately grouped to provide quality service to customers and sufficient support to operations.
- Determine whether the major functions conducted by ServCo are appropriately staffed with personnel who have sufficient utility experience to be able to assess the operational effectiveness of the Service Provider.
- Assess whether the organizational structure is properly constructed with the correct staff, roles, and functions, allocated amongst the various organizations (e.g., LIPA, PSEG LI, ServCo, etc.)
- Evaluate the spans of control, lines of responsibility, number of management levels, and staffing levels for both LIPA and PSEG LI.
- Determine whether LIPA and PSEG LI are effectively organized to ensure that there is efficient utilization of resources, with no duplication of services.
- Review PSEG LI's compliance with hiring standards dictated by the Second A&R OSA for a dedicated Long Island Team.
- Review and assess whether each organization has an adequate and appropriate process for talent acquisition to provide an appropriately experienced and demographically diverse senior leadership management team.
- Assess whether LIPA and PSEG LI effectively and expeditiously address vacant management positions and whether responsibilities of vacant positions are unduly distributed to other managers or senior executives.
- Assess whether management of both LIPA and PSEG LI effectively participate and manage operations on Long Island both in person and remote, and whether sufficient tools exist to effectuate remote management.

## **C8.5: LIPA's Board**

The Board is responsible for developing and approving all corporate policy decisions. This review should concentrate on the level of participation and involvement of members of the Board and the Board committees.

- Determine whether the Board exercises an appropriate level of authority and responsibility.
- Review the Board's level of participation in the development and approval of important Authority policy decisions.
- Assess the Board and its role in the hiring and evaluation of the performance of the Chief Executive Officer (CEO) and other executives.
- Review the Board's committees to determine if their composition is consistent with best practices.
- Determine the roles and responsibilities of the Board in evaluating feedback of performance results based on metrics.

## **C8.6: Communication and Control**

- Determine whether effective channels of communication and controls are in place and conveyed through administrative policies and procedures.
- Determine whether an effective process is in place for both LIPA and PSEG LI to communicate the results of consultant reports, internal audits, etc., to corporate management, and between LIPA and PSEG LI, and to ensure that follow-up action is taken on any noted deficiencies.
- Evaluate whether LIPA and PSEG LI's corporate management is provided with sufficient and appropriate information through reporting systems to enable them to effectively evaluate the extent to which corporate goals and objectives are being achieved.
- Evaluate LIPA and PSEG LI's policies to ensure that their operations are transparent to key stakeholders, including but not limited to, providing adequate information in a timely manner in response to requests made by DPS.
- Evaluate whether LIPA and PSEG LI provide effective and robust methods and means of communication to inform the development of strategies, policies, and other projects, including but not limited to engagement with customers, external stakeholders, external subject matter experts, and others.

## **C8.7: Strategic Planning**

Strategic Planning provides a roadmap of a company's overall direction for the foreseeable future. The evaluation of the strategic planning process will focus on the strategic management process at PSEG LI to efficiently and cost effectively provide services to LIPA's customers.

- Review how well PSEG LI has followed the Authority's purpose and mission.
- Determine how effectively the Authority is fulfilling its purpose and mission, particularly in meeting the needs of its customers.

- Determine whether LIPA adequately defines the specific long-range and short-range positions it wishes to occupy, and conveys that information to PSEG LI.
- Review and assess how PSEG LI formulates strategies in accordance with the Authority's strategic plan.
- Determine how effectively PSEG LI has established objectives, formulated its strategic plan, follows through with its strategic plan, and whether these are consistent with the defined purpose of the Authority.
- Evaluate how effectively the Authority and PSEG LI execute their strategic plans.
- Determine the flexibility of the Authority and PSEG LI in light of actual experiences, changing conditions, and new priorities.

### **C8.8: Pension and OPEB Investments**

This review should evaluate the Authority's pension and post-employment benefit plan asset investment strategy, including an assessment of the level of risk, and the Authority's ability to meet its plan obligations, and the appropriateness of the diversification of funds to ensure maximization of returns on investments.

- Review and evaluate the Authority's Pension and OPEB Policies and Procedures used in the management of its Pension and OPEB trust funds.
- Evaluate the asset allocation of the Pension and OPEB trust funds to ensure the proper investment mix between asset classes.
- Review and evaluate the fund manager selection process used by the Authority.
- Review and evaluate the existing fund managers that are managing the assets of both funds.

## **C9 – CLIMATE LEADERSHIP & COMMUNITY PROTECTION ACT (CLCPA)**

Evaluate LIPA and PSEG LI's progress towards meeting the goals of the CLCPA.

- Assess how clean energy programs have been aligned to achieve the goals of the CLCPA, e.g., Statewide 70 percent renewables by 2030, Statewide 40 percent reduction in greenhouse gas emissions by 2030, 6,000 MW of energy storage, 185 TBtu of on-site energy savings, etc.
- Evaluate the effectiveness of PSEG LI's process to develop and prioritize proposals made as part of the Utility 2.0 and EEDR plans.
- Evaluate LIPA and PSEG LI's initiatives to achieve climate justice and assess how they ensure that the transition to a low-carbon economy results in beneficial outcomes for traditionally underserved communities.
- Evaluate how PSEG LI is using the data received via AMI metering to advance more energy efficiency and smoothing of peak load.
- Assess PSEG LI's management of existing subcontractors to achieve project milestones and goals associated with energy efficiency and DER programs.

- Evaluate PSEG LI's coordination of efforts in achieving program engagement in programs directed towards low and moderate-income (LMI) customers, including energy efficiency related programs. Determine whether improvements are needed to achieve CLCPA targets for LMI customers.
- Evaluate how PSEG LI communicates its progress towards the achievement of CLCPA goals to stakeholders and the public.
- Assess whether the contract with TRC (formerly Lockheed Martin) as manager of the energy efficiency programs has been productive and beneficial in terms of ease and efficacy of delivering services to customers. Evaluate whether the processes within each program run smoothly and customers and contractors are provided with information and incentives on a timely basis.
- Evaluate how effectively TRC communicates program progress and/or issues to PSEG LI. Evaluate how TRC provides program improvement feedback to PSEG LI, and how this feedback is incorporated. Evaluate how TRC gathers program feedback from stakeholders such as contractors or advocacy organizations.
- Assess PSEG LI's data quality process for vetting information from contractors, in order to verify that jobs are occurring and reported savings are accurate. Evaluate any site inspections that occur as part of this process.
- Evaluate how PSEG LI/TRC review their marketing methods for efficacy.
- Assess PSEG LI coordination with NYSERDA in terms of data submission for the Clean Energy Dashboard.
- Determine if the Feed-In Tariffs (FIT) have been managed effectively and whether the FIT targets have been achieved. If the targets have not been achieved, then evaluate the reasons why.
- Evaluate the role and scope of PSEG LI's advisory committee on clean and renewable energy programs such as its activities, the content of meetings, how stakeholders are selected, and how stakeholder feedback is incorporated/responded to.
- Review and evaluate any recommendations made by the committee on demand reduction goals, beneficial electrification program goals, and renewable program goals.
- Evaluate PSEG LI's level of receptivity to suggestions made in the public comment period of the Utility 2.0/EEDR review.

## **C10 – CYBER SECURITY AND SYSTEM DESIGN AND PERFORMANCE**

### **C10.1: Cyber Security**

- Validate if the policies, procedures, and controls for critical business Information Technology & Operational Technology systems comply with NERC, NIST and other relevant industry standards.
- Identify any areas that exceed the standards set forth by NERC, NIST and other relevant industry standards.
- Verify that the standards outlined in the Public Service Commission's Order issued August 19th, 2013, in Case 13-M-0178 are being met.
- Review any deficiencies that do not meet the standards outlined in Commission Order 13-M-0178 and whether concerns were remediated within an acceptable timeframe. If not, identify the failures in the processes that led to delays.

- Validate the procedures for preventing, detecting, reporting (both internally and externally), and resolving data breaches that may involve customer data, or affect the operation of the system from a reliability and public safety perspective while meeting NERC, NIST and other relevant industry standards.
- Assess the cybersecurity framework for DER interconnection and AMI meter data.
- Review how LIPA and PSEG LI responded to the recent SolarWinds vulnerability, and the steps taken to remediate the issue.
- Review examples of the proper implementation of their policies, procedures and controls for meeting NERC, NIST, and other relevant industry standards.
- Assess the process for conducting third party and internal cyber audits.
- Validate that third party and internal audits are performed at least every 18 months and that any gaps discovered have been remediated.
- Review PSEG LI and LIPA's internal network security monitoring (INSM) requirements.

## **C10.2: System Design and Performance**

- Review the performance of the current Outage Management System (OMS).
- Review the integration points between the OMS and the rest of PSEG LI's core systems.
- Assess the quality assurance process used by PSEG LI to ensure data is accurately captured in OMS.
- Assess the process, including the development of testing scenarios for routine monitoring and stress testing OMS and related systems, used to ensure the systems are functional and capable of operating appropriately when 90% of customers are without power.
- Assess the process, including the development of testing scenarios, for routine monitoring and stress testing of the Communication systems to ensure the systems are functional and capable of operating appropriately when 90% of customers are without power.
- Examine PSEG LI's process to test and troubleshoot the OMS and associated systems prior to placing them in a production environment, including when a current application vendor batch has been recommended for system update.
- Examine PSEG LI's process to test and troubleshoot the OMS and associated systems after placing them in a production environment.
- Examine PSEG LI's process to test and troubleshoot the Communication systems prior to placing them in a production environment.
- Examine PSEG LI's process to test and troubleshoot the Communication systems after placing them in a production environment.
- Assess the IT reporting process and whether items are elevated properly.
- Assess the ability to obtain vendor support, including pre-arranged contracts.
- Review PSEG LI's capability to operate in "manual" mode if one or more systems fail. The review should consider storm response and normal operating conditions.
- Review the integration of the OMS with PSEG LI's outage communication strategy and connections with the information provided to/accessed by customers during an outage.
- Examine the auditing processes of outage data and identify lessons learned and/or other areas of outage management improvement as a result of the audit process.



- Assess any corrective action plans regarding OMS issues, the status of the corrective action plans being implemented, and all documentation related to the implementation of those corrective action plans.
- Assess how the corrective action plans and information provided above has changed or been updated to improve data collected from OMS.
- Evaluate whether the Authority and PSEG LI's main information systems are sufficiently robust to provide new functionalities in light of actual experiences, changing conditions, and new priorities.
- Assess the development and implementation of PSEG LI's System Separation Plan, including cost, and the impact on Operations Services and customers.
- Evaluate PSEG LI's project management standards, quality management standards, and processes for the development, operation and improved efficiency of its IT system.
- Evaluate the adequacy of PSEG LI's disaster recovery plan for the IT system and any potential gaps.

## **C11 – THE IMPLEMENTATION OF THE RECOMMENDATIONS FROM THE DEPARTMENT'S COMPREHENSIVE MANAGEMENT AND OPERATIONS AUDIT OF LIPA IN MATTER NO. 16-01248**

### **C11.1: Evaluation of the Implementation of Recommendations**

Effective internal control systems involve follow-up on prior management audit recommendations to assess whether the intended results were achieved. The prior Management and Operations Audit of LIPA was completed in 2018 by NorthStar Consulting Group and resulted in 49 recommendations. The consultant will be required to review the implementation of some of these recommendations.

- Review and evaluate the implementation status of any recommendations deemed incomplete by the DPS, and/or where DPS has indicated or noted issues with LIPA and/or PSEG LI's implementation and provide additional recommendations or insight to ensure that LIPA and/or PSEG LI effectively implement these recommendations.
- Review any recommendations that LIPA and/or PSEG LI have re-opened and provide recommendations or insight to resolve the implementation or determine whether the implementation has already been completed and the intent of the recommendation has been successfully met.
- Obtain justification for recommendations that are still pending implementation.



## Appendix D – STANDARD CLAUSES FOR LIPA CONTRACTS

### STANDARD CLAUSES FOR LIPA CONTRACTS

For the purposes of this Appendix D, the Long Island Power Authority and its operating subsidiary the Long Island Lighting Company d/b/a LIPA are hereinafter referred to as "LIPA."

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "*the contract*" or "*this contract*") agree to be bound by the following clauses which are hereby made a part of the contract (the word "*Contractor*" herein refers to any party other than LIPA, whether a contractor, consultant, licensor, licensee, lessor, lessee or other party):

**NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of LIPA, and any attempts to assign the contract without LIPA's written consent are null and void. Contractor may, however, assign its right to receive payment without LIPA's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the New York State Finance Law (the "*State Finance Law*"), this Agreement shall not be valid, effective or binding upon LIPA until it has been approved by the State Comptroller and filed in his office.

**WORKER'S COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this Agreement shall be void and of no force and effect unless Contractor provides and maintains coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**NON-DISCRIMINATION REQUIREMENTS.** In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other New York State and Federal statutory and constitutional non-discrimination provisions, Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, age, disability, marital status, sexual orientation, genetic predisposition or carrier status. Furthermore, in accordance with Article 220-e of the New York Labor Law, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, national origin, sexual orientation, genetic predisposition or carrier status; (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee for the performance of work under this Agreement.

**WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours

or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law and shall comply with all requirements set forth in Article 8 or Article 9 of the Labor Law whichever Article applies.

**NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 2878 of the Public Authorities Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to LIPA a non-collusive bidding certification on Contractor's behalf.

**INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, Contractor agrees, as a material condition of the contract, that neither Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC app. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**SET-OFF RIGHTS.** LIPA shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, LIPA's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to LIPA with regard to this contract, any other contract with LIPA, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to LIPA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. LIPA shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by LIPA, its representatives, or the State Comptroller.

**RECORDS.** Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "*the Records*"). The Records must be kept for six (6) years following the expiration or earlier termination of the contract. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. LIPA shall take reasonable steps to

protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "*Statute*") *provided* that: (i) Contractor shall timely inform LIPA in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**DISCLOSURE OF LIPA RECORDS OR INFORMATION.** If any third party requests that Contractor disclose LIPA records or information, as defined in subdivision 4 of section 86 of the Public Officers Law, to the extent permitted by law, Contractor shall notify LIPA of such request and LIPA shall determine, in accordance with Chapter 39 of the Laws of 2010, whether such LIPA records or information may be disclosed.

**EQUAL EMPLOYMENT FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the New York Executive Law: (i) Contractor shall not discriminate against employees or applicants for

employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, genetic predisposition or carrier status and shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; (ii) at the request of LIPA, Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, genetic predisposition or carrier status and that such union or representative will affirmatively cooperate in the implementation of Contractor's obligations herein; and (iii) Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of this Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, genetic predisposition or carrier status. Contractor shall include the provisions of (i), (ii) and (iii) above, in every subcontract over twenty-five thousand dollars (\$25,000.00) for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "*Work*") except where the Work is for the beneficial use of Contractor.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES.** It is the policy of the Authority to provide Minority and Women-Owned Business Enterprises (M/WBEs) the greatest practicable opportunity to participate in the Authority's contracting activity for the procurement of goods and services. To effectuate this policy, Contractor shall comply with the provisions of this Schedule A and the provisions of Article 15-A of the New York Executive Law. The Contractor will employ good faith efforts to achieve the below-stated M/WBE Goals set for this contract, and will cooperate in any efforts of the Authority, or any government agency which may have jurisdiction, to monitor and assist Contractor's compliance with the Authority's M/WBE program.

Minority-Owned Business Enterprise (MBE) Subcontracting Goal 15%

Women-Owned Business Enterprise (WBE) Subcontracting Goal 15%

Waivers shall only be considered in accordance with the provisions of Article 15-A of the Executive Law.

To help in complying, Contractor may inspect the current New York State Certification Directory of Minority and Women Owned Businesses, prepared for use by state agencies and contractors in complying with Executive law Article 15-A, (the Directory) at the same location where the Authority's bid document or request for proposals may be obtained or inspected and also at the Authority's office at 333 Earle Ovington Boulevard, Suite 403, Uniondale, NY 11553. In addition, printed or electronic copies of the Directory may be purchased from the New York State Department of Economic Development, Minority and Women's Business Division.

If requested, Contractor shall submit within ten (10) days of such request, a complete Utilization Plan, which shall include identification of the M/WBEs which the Contractor intends to use; the dollar amount of business with each such M/WBE; the Contract Scope of Work which the Contractor intends to have performed by such M/WBEs; and the commencement and end dates of such performance. The Authority will review the plan and, within twenty (20) days of its receipt, issue a written acceptance of the plan or comments on deficiencies in the plan.

The Contractor shall include in each Subcontract, in such a manner that the provisions will be binding upon each Subcontractor, all of the provisions herein including those requiring Subcontractors to make a good faith effort to solicit participation by M/WBEs.

If requested, the Contractor shall submit monthly compliance reports regarding its M/WBE utilization activity. Reports are due on the first business day of each month, beginning thirty (30) days after Contract award.

The Contractor shall not use the requirements of this section to discriminate against any qualified company or group of companies.

**CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Section 2880 of the Public Authorities Law and the guidelines adopted by LIPA thereto.

**PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of Contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of Contractor to meet with the approval of the State.

**MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the New York Laws of 1992), Contractor hereby stipulates that Contractor either (i) has no business operations in Northern Ireland, or (ii) 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 Article 165 of, the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women- owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic  
Development Division for Small Business  
One Commerce Plaza  
Albany, New York 12245.

A directory of certified minority and women-owned business enterprises is available  
from: NYS Department of Economic Development  
Minority and Women's Business Development Division  
One Commerce Plaza  
Albany, New York  
12245

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractor certifies that:

(a) Contractor has made commercially reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and woman-owned business enterprises, on this Project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92– 261), as amended; and

(c) Contractor agrees to make commercially reasonable efforts to provide notification to New York State residents of employment opportunities on this Project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. Contractor agrees to document these efforts and to provide said documentation to the State upon request.

(d) Contractor acknowledges that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**RECIPROCITY AND SANCTIONS PROVISIONS.** Contractor is hereby notified that if its principal place of business is located in a state that penalizes New York State vendors, and if the goods or services it offers are substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 amendments (Chapter 684, Laws of 1994) require that Contractor be denied contracts which it would otherwise obtain.

**PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), LIPA shall not purchase any apparel from any Contractor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) Contractor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with LIPA), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

**CONTRACTOR AFFIRMATION OF COMPLIANCE AND CERTIFICATION OF DISCLOSURE.** Contractor affirms that it understands and agrees to comply with the procedures of the Governmental Entity relative to permissible contacts as required by the State Finance Law § 139-j (3) and § 139-j (6)(b). Furthermore, Contractor certifies that the information disclosed pursuant to State Finance Law § 139-k (5) is complete true and accurate.

**OPTIONAL TERMINATION BY THE AUTHORITY.** LIPA reserves the right to terminate this contract in the event it is found that the certification filed by Contractor in accordance with New York State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, LIPA may exercise its termination right by providing written notification to Contractor in accordance with the written notification terms of the contract.

**CONTINGENT FEES.** Contractor hereby certifies and agrees that (a) Contractor has not employed or retained and will not employ or retain any individual or entity for the purpose of soliciting or securing any LIPA contract or any amendment or modification thereto pursuant to any agreement or understanding for receipt of any form of compensation which in whole or in part is contingent or dependent upon the award of any such contract or any amendment or modification thereto; and (b) Contractor will not seek or be paid an additional fee that is contingent or dependent upon the completion of a transaction by LIPA.

**NONPUBLIC PERSONAL INFORMATION.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor's agents, officers, employees or subcontractors.

**IRAN DIVESTMENT ACT CERTIFICATION.** Contractor certifies under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165a of the State Finance Law. In addition, Contractor agrees that no person on the list created pursuant to paragraph (b) of subdivision 3 of Section 165a of the State Finance Law will be utilized as a subcontractor on this contract.