

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
REAL PROPERTY ACQUISITION POLICY GUIDELINES
JUNE 2023

I. INTRODUCTION

- A. Pursuant to Public Authorities Law, the New York State Energy Research and Development Authority's ("NYSERDA") purposes include, but are not limited to, developing and implementing new energy technologies consistent with economic, social and environmental objectives; developing and encouraging energy conservation technologies; promoting, developing, encouraging and assisting in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and industrial pollution facilities at the Saratoga Research and Development Center; promoting, developing, encouraging and assisting special energy projects and thereby advancing job opportunities, health, general prosperity and economic welfare of the people of the state of New York; and stewardship of the State's interests at the Western New York Nuclear Service Center.
- B. Pursuant to the Public Authorities Law, which enumerates the General Powers NYSEERDA may exercise in furtherance of its broad purposes, NYSEERDA has the General Power to purchase, receive, lease or otherwise acquire, to hold in the name of the state or otherwise, and to sell, convey mortgage, lease, pledge or otherwise dispose of, upon such terms and conditions as the authority may deem advisable, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto. This policy shall apply to any acquisition of real property by NYSEERDA.
- C. Notwithstanding the terms of any other section of these Guidelines, applicable Property may be acquired in accordance with the provisions of Section 1902 of Title 9-B of Article 8 of the Public Authorities Law.
- D. The Chief Financial Officer is the Contracting Officer who will be responsible for compliance with, and enforcement of, this policy.

II. GENERAL

- A. All acquisitions of real property shall comply with applicable State, federal and local law, including but not limited to Chapter 766 of the Laws of New York 2005, better known as the Public Authorities Accountability Act ("PAAA"), the State Environmental Quality Review Act ("SEQRA"), the Eminent Domain Procedure Law ("EDPL"), any requirements of NYSEERDA's board resolutions, and any other applicable state and local law or regulation.
- B. The President and CEO or their designee is hereby authorized to negotiate the terms and conditions of the acquisition of real property necessary to accomplish NYSEERDA's purposes and consistent with this policy. NYSEERDA may acquire in the name of NYSEERDA or in the name of the state or otherwise, by purchase or condemnation, gift or

grant, real property or rights therein, including but not limited to by lease, license and easement, on terms necessary or convenient in furtherance of its purposes. The Contracting Officer and any other Officer authorized by resolution may execute such documents for the transfer of title or other interest in real property and take such other action as is required or deemed necessary and proper to acquire such real property.

- C. NYSERDA shall maintain a record for each transaction that documents its compliance with this policy.
- D. NYSERDA shall maintain a system of inventory for all real property under its control.
- E. NYSERDA shall procure any outside professional services, such as title insurance and commercial real estate brokerage services, as necessary, pursuant to the NYSERDA's Contracting Guidelines.

III. IMPLEMENTATION

- A. The President and CEO or their designee shall identify real property necessary for NYSERDA's purposes.
- B. Once potentially acceptable real property has been identified, such real property shall be evaluated internally under the direction of the President and CEO of NYSERDA. When necessary or convenient, the President and CEO may seek participation from NYSERDA staff, real estate counsel, engineering, environmental, archeological, and other consultants, title insurance company and a licensed commercial real estate broker or brokers. Any evaluation of the affected real property shall examine such issues as ownership; zoning; road access, including access to interstates; easements and other encumbrances; parcel history; recent sales history; proximity to environmentally compromised areas; potential government funding sources for parcel remediation or developments; market availability; recent appraisals; brokerage arrangements; existing tenants and the terms and conditions of their leases.
- C. Prior to contract for the acquisition of real property, NYSERDA shall obtain either a broker's market analysis or two appraisals by Members of the Appraisal Institute ("AMI") or other reasonable and professionally prepared valuation projections consistent with then-current industry standards and practices. If the two appraisals are materially different, NYSERDA may attempt to reconcile the differences in value through determining an average of the two appraisals, or by seeking a third review appraisal which shall constitute the final determination of value. The contract price for acquiring real property is subject to the approval of the President and CEO of NYSERDA.
- D. NYSERDA may enter into a contract to obtain the right to enter onto real property being considered for acquisition for the purposes of conducting archeological, environmental, geotechnical and any other relevant studies and investigations of such property, either separately or as part of a contract for acquisition of such property.

IV. APPROVAL AND REPORTING REQUIREMENTS

- A. This policy will be submitted to the Members annually for review and approval.
- B. The Authority will post the policy on its internet website and will maintain such site until the policy for the following year is approved.
- C. The Contracting Officer will annually prepare a report that will be submitted to the Members listing all real property acquired during such period. Such report will include the name of the parties to the transaction and the price paid by the Authority as well as the terms of the lease term if applicable.
- D. The Authority shall maintain accountability and a system of internal controls for all Property under its control. The Contracting Officer will conduct no less than a biennial inventory of Property and reconcile such inventory against accounting records maintained for such Property. The Contracting Officer will also periodically inventory Property to determine which Property should be disposed of and will transfer or dispose of such Property as promptly as possible in accordance with the Authority's Property Disposition Guidelines.