



**RENEWABLE PORTFOLIO STANDARD  
CUSTOMER-SITED TIER  
ANAEROBIC DIGESTER GAS-to-ELECTRICITY PROGRAM**

**Program Opportunity Notice (PON) 1146**

A total of \$20.1 million has been allocated to PON 1146 for financial incentives to support the installation and operation of anaerobic digester gas (ADG)-to-electricity systems in New York State, with up to \$1 million available per ADG System. Approximately \$4 million remains. Funding is on a first-come, first-served basis. Application Packages will be accepted until September 30, 2009 at 5:00 PM Eastern Daylight Time, or until all funding has been fully committed, whichever comes first.

The New York State Energy Research and Development Authority (NYSERDA), administrator of the New York State Renewable Portfolio Standard (RPS) program, is accepting applications to receive financial incentives to support the purchase, installation, and operation of Anaerobic Digester Gas (ADG)-to-Electricity Systems in New York State. Both capacity and performance-based electricity production incentives are available, subject to the limitations described in this Program Opportunity Notice (PON). Generally, only customers that pay the RPS Surcharge are eligible to receive funding through this program.

In order to participate in this program, Applicants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into a Standard Performance Contract Agreement with NYSERDA. Applicants must also adhere to measurement and verification requirements throughout the term of the Agreement.

**Application Submission:** Applications must be clearly labeled, contain an original signature, and be mailed to:

**Kathleen O'Connor, PON 1146  
NYS Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399**

All Program Questions should be directed to: Kathleen O'Connor, ext. 3422, [kmo@nyserda.org](mailto:kmo@nyserda.org) or Tom Fiesinger, ext. 3218, [twf@nyserda.org](mailto:twf@nyserda.org).

All Contractual Questions should be directed to: *Nancy Marucci, ext. 3335, [nsm@nyserda.org](mailto:nsm@nyserda.org).*

Late or unsigned applications will be returned. Faxed or e-mailed applications will not be accepted. Applications will not be accepted at any other NYSERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSERDA's website at [www.nyserda.org](http://www.nyserda.org).

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## I. INTRODUCTION

The ADG-to-Electricity Program is issued under the Customer-Sited Tier (“CST”) portion of the New York State Renewable Portfolio Standard (“RPS”) program and seeks to support the purchase, installation, and operation of ADG-fueled Electric Power Generation Equipment in New York State. The CST, commonly described as “behind the meter” generation, refers to smaller-sized electric generation that is sited and the energy created by which is used primarily at the electric customer’s location.

Approximately \$4 million remains under this first-come, first-served program, with a maximum of \$1 million in financial incentives available per ADG System. Both Capacity and performance-based electricity production incentives (herein referred to as “Performance Incentives”) are available, subject to the limitations described in this PON.

In order to participate in this program, Applicants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into a Standard Performance Contract Agreement (“Agreement”) with NYSERDA. Applicants must also adhere to measurement and verification requirements throughout the term of the Agreement.

Applicants should refer to Section IX for the exact definitions of terminology used throughout this PON.

## II. INCENTIVES

Under this program, a maximum of \$1 million in financial incentives is available per ADG System. These incentives may consist of a combination of Capacity and Performance Incentives, as described below.

### CAPACITY INCENTIVE

A **\$500 per kilowatt (kW)** Capacity Incentive is offered to cover a portion of the total purchase and installation costs of New ADG-fueled Electric Power Generation Equipment (New Equipment), including: controls, meters, biogas clean-up equipment, emissions control equipment, and interconnection equipment; and costs associated with engineering services. New Equipment is defined as ADG-fueled Electric Power Generation Equipment purchased for, or installed at, the Host Site on or after 2/12/07, which results in an incremental increase in the ADG-fueled electricity generated at the Host Site compared to the Baseline ADG-fueled Electricity Generation (“Baseline Generation”), if any, existing at the Host Site as of 2/11/07.

The Capacity Incentive will be established based on the ADG-rated Capacity of the New Equipment (rather than the nameplate capacity of the New Equipment), as verified by NYSERDA. If New Equipment is

installed to replace existing equipment (i.e., the existing equipment is removed from service), only that portion of the New Equipment that represents an incremental increase in ADG-fueled electric power generation capacity is eligible for the Capacity Incentive.

The maximum Capacity Incentive *shall not exceed* the lesser of \$350,000 or 50% of the total purchase, engineering services, and installation costs of the New Equipment. If any previous funding from NYSERDA has been received by the Host Site under a contract that included the purchase and/or installation of the ADG-fueled Electric Power Generation Equipment associated with the Application Package, then that equipment will not be eligible for a Capacity Incentive through the ADG-to-Electricity Program.

### **PERFORMANCE INCENTIVES**

Performance Incentive payments are offered through this program for verified ADG-fueled electricity generation, and may be provided for up to three years. Two types of Performance Incentives are offered:

- A Performance Incentive for electricity generated by New Equipment at **\$0.10 per kilowatt-hour (kWh)**; and
- A Performance Incentive for electricity generated by Eligible Existing ADG-fueled Electric Power Generation Equipment (“Eligible Existing Equipment”), herein referred to as “Maintenance Incentives”, at **\$0.02 per kWh**. Eligible Existing Equipment is defined as ADG-fueled Electric Power Generation Equipment purchased for or installed at the Host Site on or after 1/1/03, but before 2/12/07; or equipment that has been Substantially Upgraded since 1/1/03. Substantially Upgraded is defined as a major system upgrade that: 1) increases the capacity/electricity production of the existing ADG-fueled Electric Power Generation Equipment, 2) improves the functioning of the existing ADG-fueled Electric Power Generation Equipment such that it can resume operation at a Capacity Factor of 80%, and/or 3) improves the functioning of the existing ADG-fueled Electric Power Generation Equipment such that it can continue operation by being brought into compliance with relevant State and Federal emissions standards. The Maintenance Incentive has been established to partially offset the costs of operating and maintaining Eligible Existing Equipment, so that the existing equipment continues to produce electricity.

*In no case will an Applicant receive a Performance Incentive of more than \$0.10 per kWh, through this Program, for electricity produced by an individual piece of generation equipment. However, the Applicant may be eligible for additional incentives through other programs (see Section VIII).*

### **CALCULATING INCENTIVES**

Generally, incentives may be provided as large as necessary to meet the approximate Peak Connected Load at the Customer’s meter. However, where there are recognized public benefits, or where practical considerations suggest, incentives may be approved for projects that are sized larger than the Customer’s Peak Connected Load.

To encourage the use of anaerobic digestion systems treating farm wastes and the resulting public benefits, incentives may be provided based on (a) the eligibility capacity limit in the Net Energy Metering Law which currently caps farm waste electric generating equipment at 500 kW, or (b) the Customer’s approximate Peak Connected Load, whichever is greater.

Because of physical requirements, ADG-to-Electricity Systems may be slightly larger than the Customer’s Peak Connected Load if an exact match is not practicable. The physical requirements may include the incremental size of the electric power generation and ancillary equipment currently available and the

system size necessary to effectively use the biogas produced from the anaerobic digestion of the Customer's waste Feedstock(s).

### ***INCENTIVE ESTIMATION TOOL***

NYSERDA has developed an Incentive Estimation Tool to help the Applicant estimate the maximum Total Incentive they may be eligible to receive through the ADG-to-Electricity Program. The Tool assumes that installed systems will operate at an annual Capacity Factor of 80%. The Tool is included as *Section C* of the *Application Form*, which may be downloaded from NYSERDA's website <http://www.nyserda.org/funding/funding.asp>, under the PON 1146 header, requested from NYSERDA toll-free at 1-866-NYSERDA, or requested via e-mail at [info@nyserda.org](mailto:info@nyserda.org). A hard copy of the tool is included in Appendix B2.

The Applicant should use the Tool to develop their Total Incentive estimate and Annual Electricity Generated estimate, which will serve as the basis for their request for funding from NYSERDA. NYSERDA will use these estimates, as well as the other information provided within the Application Package, to develop the Total Contracted Project Incentive (*see below*). If an unanticipated scenario is proposed by the Applicant, which does not fit into the constraints of the Incentive Estimation Tool, but which NYSERDA determines to meet the requirements of the Program, NYSERDA may consider alternative methods of estimating the Total Contracted Project Incentive on a case by case basis.

Examples of how to use the Tool for the following scenarios are provided in *Appendix A*:

- Scenario 1: The Host Site has no Eligible Existing Equipment. The Applicant is installing New Equipment at the Host Site.
- Scenario 2: The Applicant is currently applying only for Maintenance Incentives for Eligible Existing Equipment located at the Host Site.
- Scenario 3: The Host Site has Eligible Existing Equipment, which it will continue to operate. The Applicant is installing New Equipment at the Host Site. If a Customer is eligible to receive Performance Incentives for both New and Eligible Existing Equipment, *both* pieces of equipment must be metered separately (but *the electricity produced by each* can have a single interconnection point with the grid). Additionally, separate Standard Performance Contract Agreements must be entered in to for both pieces of equipment. *This will provide the Applicant with the ability to begin receiving the Maintenance Incentive on the Eligible Existing Equipment before the New Equipment is Installed and Commissioned.*
- Scenario 4: The Applicant is replacing existing ADG-fueled Electric Power Generation Equipment at the Host Site with New Equipment. *If Eligible Existing Equipment is removed from service and replaced with New Equipment, the Applicant must provide NYSERDA with information on the Baseline Generation of the Eligible Existing Equipment. A Performance Incentive of \$0.10 per kWh will be paid on electricity produced above and beyond the existing system's Baseline Generation, while the maintenance incentive of \$0.02 per kWh will be paid on the remaining electricity generated.*

*If non-eligible existing equipment is removed from service and replaced with New Equipment, the Applicant must also provide NYSERDA with information on the Baseline Generation of the existing equipment. A Performance Incentive of \$0.10 per kWh will be paid on electricity produced above and beyond the existing system's Baseline Generation. However, no maintenance incentive will be paid on the remaining electricity generated.*

### **TOTAL CONTRACTED PROJECT INCENTIVE**

The Total Contracted Project Incentive will be used by NYSERDA as the basis for the offer made to the Applicant through the Agreement. The Total Contracted Project Incentive is the sum of all incentives (Capacity and Performance) that will be offered to the Applicant, and is capped at \$1 million per ADG System. NYSERDA will develop the Total Contracted Project Incentive based on the information provided in the Application Package, and using the assumption that installed equipment will operate at a Capacity Factor of 80%. Any previous NYSERDA funding received by the Host Site for the ADG System associated with an Application Package will reduce the \$1 million cap by the amount previously received. NYSERDA *will not* make payments to the Applicant, through the Agreement, *in excess* of the Total Contracted Project Incentive.

### **III. ELIGIBILITY**

Applicants must meet the “RPS Eligibility” requirements set forth in the Public Service Commission’s “Order on Customer-sited Tier Implementation” issued and effective June 28, 2006. The Order may be accessed through the following web address:

[http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/59800CDF0A43451285257199005402E4/\\$File/380\\_03e0188\\_06\\_28\\_06.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/59800CDF0A43451285257199005402E4/$File/380_03e0188_06_28_06.pdf?OpenElement)

Generally, to participate in PON 1146, the following criteria must be met:

- Host Sites must be located in New York State;
- ADG-fueled Electric Power Generation Equipment must be located at Host Sites owned or operated by Customers who currently pay the NYS RPS Surcharge;
- ADG-fueled electricity must be generated and used primarily by the Host Sites at which the utility meter that is interconnected with the grid is located. Applicants are strongly encouraged to install generators that are capable of synchronous operation independent of the electricity grid;
- ADG Systems must consist of Commercially Available Technologies;
- ADG-fueled Electric Power Generation Equipment must have been, or will be, placed in service (i.e., producing electricity), or Substantially Upgraded, on or after January 1, 2003;
- Eligible Biomass Feedstocks include manure, agricultural residues and biomass, industrial organic wastes (e.g., food wastes), and municipal wastewater. [Note: Electricity generated by landfill biogas is not eligible for the ADG-to-Electricity Program.]
- Applicants (and Host Sites, if different) must comply with all applicable:
  - Federal, State and Local codes and regulations;
  - Federal, State and Local permitting requirements;
  - Federal, State and Local emissions limits; and
  - Concentrated Animal Feeding Operation (CAFO) requirements.

*Eligibility Note 1:* An ADG System with multiple Customers, each located at a distinct Host Site, will be considered separate projects, each potentially eligible for \$1 million of financial incentives, if the number of anaerobic digesters substantially contributing ADG to the ADG System is equal to or greater than the number of Customer/Host Site pairings.

*Eligibility Note 2:* Third party ownership of an ADG-to-Electricity System is permitted under this Program contingent upon: the System being located at a Host Site owned or operated by a Customer who currently

pays the RPS Program Surcharge, and a contractual relationship existing between the Customer and the third party clearly indicating that the entire incentive payment is being passed on to the Customer.

## **IV. PROGRAM PARTICIPATION STEPS**

This section describes the program steps for participation in the ADG-to-Electricity Program. Under certain circumstances (i.e., the Applicant is seeking only Maintenance Incentives), it may not be necessary for an Applicant to complete one or more of the Program Participation Steps. Please direct any Program Questions you may have concerning the applicability of a Step to your Application Package to one of the individuals listed on the first page of this PON.

### **1. Submit Application Package**

The Applicant's first step is to submit a completed Application Package to NYSERDA. Procedures for submitting the Application Package are described in Section V. NYSERDA or its Technical Consultant may request additional information and may conduct a site inspection to verify the accuracy of the information in the Application Package.

### **2. Sign Standard Performance Contract Agreement**

Upon acceptance and approval of a completed Application Package, NYSERDA will forward the Applicant an Agreement conformed to the information provided in the Application Package. The Agreement will specify the Total Contracted Project Incentive. Funds for a project will not be encumbered prior to NYSERDA's receipt of the Agreement signed by the Applicant. The Applicant will be required to demonstrate compliance with Tax Law Section 5-a (see *General Conditions, Section VII*). A fully executed copy, including the Effective Date of the Agreement, will be returned to the Applicant. The Effective Date is the date appearing in the first paragraph of the Agreement. A sample Agreement is included as Appendix E.

### **3. Develop Measurement and Verification Plan**

The Applicant must develop a Measurement & Verification (M&V) Plan (as described in *Appendix C*) in conjunction with NYSERDA's Technical Consultant. The M&V Plan must be received and approved by NYSERDA prior to submittal (or payment) of any invoices.

### **4. Procurement**

Procurement of major equipment must be completed, and sufficient documentation of Procurement must be provided to NYSERDA, within eight (8) months of the Effective Date. Major equipment includes the ADG-fueled engine, generator, engine/generator controls, biogas clean-up system, as well as major equipment associated with the anaerobic digester, if applicable. Sufficient documentation of Procurement may include invoices, Bills of Lading, etc. If Procurement can not be completed, or notification of Procurement cannot be provided to NYSERDA, within eight (8) months of the Effective Date, the Applicant must request an extension, in writing, from NYSERDA for continued reservation of the incentive funding. The request for extension must describe the reasons for the delay and the expected timeframe to complete Procurement. Extensions may be granted or denied at NYSERDA's sole discretion. NYSERDA will notify the Applicant in writing whether or not an extension has been granted. NYSERDA may terminate the Agreement upon the failure of the Applicant to conform to these requirements.

### **5. Request First Capacity Incentive Payment**

Upon demonstration of Procurement of major equipment and after acquisition of necessary permits, interconnection approval, and M&V Plan approval, the Applicant may request a payment of the lesser of 50% of the demonstrated purchase and installation expenditures or 50% of the total Capacity Incentive

stipulated in the Total Contracted Project Incentive. Sufficient documentation of interconnection approval and the acquisition of necessary permits, in addition to demonstration of Procurement, must be presented to NYSERDA when the request for the Capacity Incentive payment is made.

## **6. Installation and Commissioning**

Installation and Commissioning is defined as the completion of construction of the ADG-to-Electricity System, interconnection of the System with the utility grid, if applicable, at least one month of satisfactory operation of the system according to its design intent with a minimum 80% Capacity Factor, and demonstration of the ability to upload information to NYSERDA's CHP Data Integration Website ("CHP Website").

## **7. Submit Project Installation Report**

The Project Installation Report, which must be completed and submitted within 14 months of the Effective Date, documents that Installation and Commissioning has been completed. The Project Installation Report must include As-Built Diagrams of the commissioned ADG system. Details on the requirements for the Project Installation Report are located in Appendix D. NYSERDA's approval of the Report will depend on the results of a Post-Installation Site Inspection, which will verify the information provided in the Project Installation Report. NYSERDA will provide notice of approval of the Project Installation Report or will request additional information within 60 days of receipt of the Report.

If the Project Installation Report is not completed and submitted within 14 months of the Effective Date, the Applicant must request an extension, in writing, from NYSERDA for continued reservation of the incentive funding. The request for an extension must describe the reasons for the delay and the expected timeframe to complete Procurement. Extensions may be granted or denied at NYSERDA's sole discretion. NYSERDA will notify the Applicant in writing whether or not the extension has been granted. NYSERDA may terminate the Agreement upon the failure of the Applicant to conform to these requirements.

## **8. Request Second Capacity Incentive Payment**

Once the Project Installation Report is approved the Applicant may request payment of any remaining portion of the total Capacity Incentive stipulated in the Total Contracted Project Incentive. NYSERDA will not pay Capacity Incentives in excess of 50% of the demonstrated purchase and installation expenditures.

## **9. Annual M&V Reporting**

Within one (1) month of NYSERDA's approval of the Project Installation Report, the Applicant must begin providing M&V data for upload to NYSERDA's CHP Website. The first year's (consecutive 12 months) M&V period will commence on the date upon which the Applicant begins providing such data.

Within 60 days from the end of the first year's M&V period, the Applicant must submit an Annual M&V Report to NYSERDA, which will become the basis for the first Performance Incentive payment. Details on annual M&V reporting requirements are located in *Appendix C*. M&V data may be downloaded from the NYSERDA CHP Website. Annual M&V Reports must also be submitted to NYSERDA within sixty (60) days from the end of the second and third year M&V periods. *The Applicant is responsible for ensuring that data provided in the Annual M&V Reports accurately represent the operation of the ADG-to-Electricity System.*

## **10. Requesting Performance Incentive Payments**

Based on the information provided in the three required Annual M&V Reports, the Applicant will be eligible for three annual Performance Incentive payments for the verified electricity generated. These payments will be made after each Annual M&V Report has been approved by NYSERDA, and an invoice

has been submitted to NYSERDA for payment, along with an RPS Attribute Transfer Certificate (*Exhibit E of the Standard Performance Contract Agreement*). If a sufficient quantity of electricity generation is verified, a first payment of up to 40% of the total Performance Incentive stipulated in the Total Contracted Project Incentive may be made after approval of the first year's M&V Report. A second payment may be requested of up to 75% of the total Performance Incentive stipulated in the Total Contracted Project Incentive (inclusive of any first payment), after approval of the second year's M&V Report. A third payment may be requested of up to 100% of the total Performance Incentive stipulated in the Total Contracted Project Incentive (inclusive of any previous Performance Incentives paid), after approval of the third year's M&V Report.

## **V. APPLYING FOR THE PROGRAM**

### **APPLICATION PACKAGE**

Detailed Application Package requirements are included in *Appendix B*. In general, the Application Package consists of the following:

- Application Form;
- Site Plan;
- Economic Evaluation;
- Project Schedule;
- Description of Permitting Requirements;
- Environmental Assessment Form; and
- Supplemental Information.

A hard copy of the Application Form is included in *Appendix B2*. The Application Form may also be downloaded from NYSERDA's website <http://www.nyserda.org/funding/funding.asp>, under the PON 1146 header, requested from NYSERDA toll-free at 1-866-NYSERDA, or requested via e-mail at [info@nyserda.org](mailto:info@nyserda.org). The Application Form should be completed electronically and subsequently printed, signed, and submitted with the other Application Package materials. An electronic copy of the Application Form must also be submitted as part of the Application Package.

Four (4) hard copies of all Project Application materials and one (1) electronic copy of the Application Form and any calculation worksheets that support the Economic Evaluation must be sent to the following address:

Kathleen O'Connor, PON 1146  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399

### **Application Packages that are not signed by the Applicant will be returned.**

NYSERDA will date-stamp and log all program materials as they are received. NYSERDA recommends that all program materials be sent via delivery service, certified or registered mail. It is the sole responsibility of the Applicant to ensure that NYSERDA receives applicable program materials at the designated address by close of business on or before the applicable due date. Applicants should retain proof of delivery (such as a return receipt for certified, registered, or overnight mail) for all program materials submitted. NYSERDA will accept application packages until May 30, 2009 at 5:00 PM Eastern Daylight Time, or until all funding has been fully committed, whichever comes first.

## **APPLICATION PACKAGE REVIEW**

Upon receiving all completed Application Package materials, NYSERDA and its Technical Consultant will review the materials to ensure that the following requirements are met:

- The project meets the ADG-to-Electricity Program and Eligibility requirements;
- The Application Package is complete and accurate; and
- The Total Incentive and Annual Electricity Generated estimates (*from Section D of the Application Form*) and related assumptions and projections are reasonable and supportable, and the supporting data, equations and calculations are correct.

NYSERDA and/or its Technical Consultant may request further information and/or conduct a site inspection to verify the accuracy of the information in the Application Package.

## **APPLICATION PACKAGE APPROVAL AND NOTIFICATION OF PROJECT AWARD**

After reviewing the completed Application Package, NYSERDA will either approve it as submitted, request clarification or additional information, or reject it. NYSERDA may reject an application that it determines does not meet the eligibility requirements, the requirements listed above under “Application Package Review”, or any other requirements of this PON. NYSERDA may work with the Applicant to make revisions to the package that NYSERDA deems necessary.

## **VI. ADDITIONAL INFORMATION AND REQUIREMENTS**

### **RENEWABLE ENERGY CREDITS AND ENVIRONMENTAL ATTRIBUTES (“RPS ATTRIBUTES”)**

NYSERDA will own the rights, and any and all claims, to RPS Attributes associated with the kilowatt-hours generated by the ADG-to-Electricity System installed with CST funding, as specified below.

- a) If the Standard Performance Contract Agreement provides any Capacity Incentive payments for New Equipment (i.e., \$500/kW), NYSERDA’s ownership will extend to all RPS Attributes associated with the kilowatt-hours produced by the Total Contracted Capacity (*Exhibit A of the Agreement*), assuming an 80% Capacity Factor, for a period of three years. (These kilowatt-hours are shown as the *Total Contracted Generation of Exhibit A*.) Due to the Total Capacity Incentive cap of \$350,000, NYSERDA’s ownership will only extend to the first 700 kW of any System.
- b) If the Standard Performance Contract Agreement provides only Performance Incentive payments for New Equipment (i.e., \$0.10/kWh), NYSERDA’s ownership will extend to all RPS Attributes associated with the kilowatt-hours produced by the Total Contracted Capacity (*Exhibit A of the Agreement*), assuming an 80% Capacity, for a period of three years. These kilowatt-hours (shown as the *Total Contracted Generation of Exhibit A*) cannot exceed 10,000,000 kWh over 3 years.
- c) If the Standard Performance Contract Agreement provides only Maintenance Incentive payments for Eligible Existing Equipment (i.e., \$0.02/kWh), no RPS Attributes will be owned by NYSERDA.
- d) The environmental attributes associated with ADG methane destruction are considered to be separate from electric power-based RPS Attributes and will be retained by the Applicant (or Host Site, as appropriate).

To provide flexibility and to foster voluntary green energy markets, NYSERDA will allow Applicants who receive only Performance Incentives (i.e., \$/kWh only) to terminate these incentives on condition that the

RPS Attributes are sold into a voluntary green energy market *in New York State*. However, the Applicant will be required to demonstrate such sale and to fulfill their obligation to provide NYSERDA with the prerequisite three years of annual M&V reporting.

### **STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)**

NYSERDA is required under SEQRA to consider the environmental implications of all funded projects. All proposals must include a completed SEQRA Environmental Assessment Form along with supporting documentation.

If any local governmental entity has discretionary permitting authority, the Applicant must complete the appropriate SEQR Environmental Assessment Form and submit it to *that local governmental entity*. Attach a copy of the completed and signed Environmental Assessment Form to the Application Package.

SEQR forms are available from: <http://www.dec.ny.gov/permits/6191.html>

### **EMISSION STANDARDS FOR BIOGAS-FUELED DISTRIBUTED GENERATION SYSTEMS**

The U.S. Environmental Protection Agency has proposed emission standards for new biogas-fueled spark ignition engines ("Proposed Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Proposed Rule June 12, 2006" and Corrections of June 26, 2006). The proposed standards are 3 g NO<sub>x</sub> per brake-horsepower-hour (bhp-h) by 1/1/08; 2 g NO<sub>x</sub> /bhp-h by 1/1/11; 5 g CO/bhp-h by 1/1/08; and 1 g non-methane hydrocarbon (NMHC)/bhp-h by 1/1/08. More information about these standards may be found on the following websites:

Proposed Rule Document 06-4919: [www.epa.gov/ttn/atw/rice/fr12jn06.pdf](http://www.epa.gov/ttn/atw/rice/fr12jn06.pdf)

Corrections of June 26, 2006: [www.epa.gov/ttn/atw/rice/fr26jn06.pdf](http://www.epa.gov/ttn/atw/rice/fr26jn06.pdf)

All new internal combustion engines must be capable of achieving these standards, except where installation is not economically feasible or the engine is not commercially-available at the capacity required by the Host Site.

## **VII. GENERAL CONDITIONS**

**Proprietary Information** - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your Application Package. Review should include whether it is critical for evaluating the Application Package, and whether general, non-confidential information, may be adequate for review purposes.

The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501

[www.nyserda.org/nyserda.regulations.pdf](http://www.nyserda.org/nyserda.regulations.pdf). However, NYSERDA cannot guarantee the confidentiality of any information submitted.

**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 agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development  
Division For Small Business  
30 South Pearl Street  
Albany, NY 12245

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development  
Minority and Women's Business Development Division  
30 South Pearl Street  
Albany, NY 12245

**Tax Law Section 5-a** - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. *See*, ST-220-TD (available at [http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf)). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a perspective contractor prior to contacting and filed with NYSERDA. *See*, ST-220-CA (available at [http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf)). The Department has developed guidance for contractors which is available at [http://www.tax.state.ny.us/pdf/publications/sales/pub223\\_606.pdf](http://www.tax.state.ny.us/pdf/publications/sales/pub223_606.pdf).

**Contract Award** – Application Packages will be processed on a first-come, first-served basis and will be accepted until 5:00 p.m., Eastern Daylight Time, on September 30, 2009, or until funds are committed, whichever comes first. NYSERDA may request additional data or material to support Application Packages including, but not limited to supporting invoices. NYSERDA may elect to inspect any and all projects prior to final approval. NYSERDA expects to notify Applicants in approximately four weeks from the date of receipt of a completed application whether an application has been selected to receive an incentive.

**Limitation** - This solicitation does not commit NYSERDA to award any contract, pay any costs incurred in preparing an Application Package, or to procure or contract for services or supplies. NYSERDA reserves the right, in its sole discretion to accept or reject any or all Application Packages received, to negotiate with all qualified sources, or to modify or cancel PON 1146 in part or in its entirety at any time.

**Disclosure Requirement** - The Applicant shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or

territory of the United States, and shall describe circumstances for each. When an Applicant is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSERDA after the award of a contract, NYSERDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Applicants must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

## VIII. OTHER OPPORTUNITIES

### **NYSERDA PON 1197**

NYSERDA will cost share up to \$1,000,000 for Combined Heat and Power (CHP) and Renewable Generation Technical Assistance as described in Program Opportunity Notice (PON) 1197. CHP and Renewable Generation Technical Assistance can include:

- Combined Heat & Power studies that investigate the site-specific technical and economic feasibility of installing CHP.
- Renewable Generation studies that investigate the site-specific technical and economic feasibility of installing electricity generation capacity utilizing renewable resources.

PON 1197 applications will be accepted by NYSERDA through November 30, 2009. Subsequent releases of a similar-type PONs may be offered at a later date. Information can be found on NYSERDA's website at [www.nyserdera.org](http://www.nyserdera.org), by e-mailing [info@nyserdera.org](mailto:info@nyserdera.org) or by telephoning toll free at 1-866-NYSERDA.

### **Potential non-NYSERDA Opportunities**

The web address for the New York State Department of Agriculture and Markets' Current Funding Opportunities website is: <http://www.agmkt.state.ny.us/RFPS.html>

The web address for the USDA's Renewable Energy and Energy Efficiency Program's website is: <http://www.rurdev.usda.gov/rbs/farbill/index.html>

## IX. DEFINITIONS

***ADG-fueled Electric Power Generation Equipment:*** The ADG-fueled engine and generator and related equipment used for such functions as engine/generator control, biogas handling, biogas clean-up, emissions control, interconnection, and performance monitoring.

***ADG-rated Capacity:*** Real power production at design fuel input of ADG.

***ADG System:*** A system used for the anaerobic digestion of Eligible Biomass Feedstock(s), and generation of electricity with the resulting ADG, and which includes at least one of **each** of the following:

- Anaerobic Digester;
- ADG-fueled Electric Power Generation Equipment; and
- Customer utility meter located at a Host Site.

***ADG-to-Electricity Program:*** The program described by NYSERDA Program Opportunity Notice (PON) 1146.

***ADG-to-Electricity System:*** The ADG-fueled Electric Power Generation Equipment and procedures associated with using ADG to produce electricity for use at a Host Site.

**Anaerobic Digester Gas (ADG):** Biogas produced by the anaerobic processing of manure, agricultural residues and biomass, industrial organic wastes (i.e., food wastes), and municipal wastewater.

**Annual M&V Report:** A report submitted annually to NYSERDA for a period of three years. The report provides data that should demonstrate clearly to NYSERDA whether or not an installed project is generating the amount of electricity projected in the Standard Performance Contract Agreement.

**Applicant:** The Customer or third party who is submitting the Application Package.

**Application Package:** The Applicant's submission to NYSERDA containing the items listed in Section V of this PON requesting incentives through a Standard Performance Contract Agreement .

**As-Built Diagrams:** The final Site Plan, which is comprised of the Process Flow and Plan View Diagrams, showing the installed and commissioned system. The As-Built Diagrams must be included in the Project Installation Report.

**Baseline ADG-fueled Electricity Generation (Baseline Generation):** The average amount of electricity generated by the Host Site from ADG as demonstrated by historical data or by other methods deemed acceptable to NYSERDA.

**Bill of Lading:** A document listing and acknowledging receipt of goods onsite.

**Capacity Factor:** The ratio of the gross electricity generated, for the period of time considered, to the energy that could have been generated at continuous full-power operation at the ADG-gas rated capacity during the same period.

**Commercially Available Technologies:** With respect to ADG Systems participating in the ADG-to-Electricity Program, technologies that have operated satisfactorily for a minimum of one year, at similar scale, with similar inputs, and with similar output as described in the Application Package, or which can otherwise demonstrate to NYSERDA's satisfaction to have a proven operating history specific to the ADG System design described in the Application Package.

**Customer:** The owner or tenant of a Host Site and who, generally, pays the RPS Program Surcharge.

**Effective Date:** The date appearing in the first paragraph of the Standard Performance Contract Agreement.

**Eligible Biomass Feedstocks:** Manure, agricultural residues and biomass, industrial organic wastes (i.e., food wastes), and municipal wastewater. [Landfill biogas is not eligible for this Program.]

**Eligible Existing ADG-fueled Electric Power Generation Equipment (Eligible Existing Equipment):** ADG-fueled Electric Power Generation Equipment purchased for, or installed at, the Host Site on or after 1/1/03, but before 2/12/07; or equipment that has been Substantially Upgraded since 1/1/03.

**Engine:** For the purpose of PON 1146, a device that converts thermal energy to mechanical work (e.g., internal combustion engine, microturbine).

**Facility:** The ADG-fueled Electric Power Generation Equipment.

**Host Site:** The site at which the ADG-to-Electricity System is located, ADG-fueled electricity is generated and used, and where the utility meter, which is generally interconnected with the grid, is located.

**Installation and Commissioning:** The completion of construction of the ADG-to-Electricity System, interconnection of the System with the utility grid, if applicable, at least one month of satisfactory operation of the system according to its design intent with a minimum 80% Capacity Factor, and demonstration of the ability to upload information to NYSERDA's CHP Website.

**kW:** One kilowatt of electrical power.

**kWh:** One kilowatt-hour of electrical energy (or electricity).

**Maintenance Incentives:** Performance Incentives for verified electric power produced by Eligible Existing ADG-fueled Electric Power Generation Equipment, which will be provided at \$0.02 per kWh.

**Measurement and Verification (M&V):** The process of monitoring, measuring, and verifying the electrical energy generated by the ADG-to-Electricity System, upon commencement of the Performance Phase of the Project.

**Net Energy Metering Law:** Law applicable to farm waste electric generating equipment contained in Article 4, section 66J of the New York State Public Service Law. Applicants are responsible for identifying and determining the applicability, operation and limitations of net metering tariffs in their

service territories; references to net metering in this PON are general and should not be taken as stating or interpreting any particular tariff or its applicability.

***New ADG-fueled Electric Power Generation Equipment (New Equipment):*** ADG-fueled Electric Power Generation Equipment purchased for, or installed at, the Host Site on or after 2/12/07, which results in an incremental increase in the ADG-fueled electricity generated at the Host Site compared to the Baseline Generation, if any, existing at the Host Site on 2/11/07.

***Peak Connected Load:*** Demonstrated peak kW load at the Host Site based on past utility bills, utility service rating (i.e., amps multiplied by volts) of the Host Site, planned load of equipment to be connected at the Host Site, or by other methods deemed acceptable to NYSERDA.

***Post-installation Site Inspection:*** NYSERDA or its Technical Consultant will conduct a Post-Installation Site Inspection to verify that the system specified in the approved Application Package has been installed properly and is operating according to its design intent.

***Procurement:*** Ordering and securing delivery of all major equipment associated with the ADG-to-Electricity System.

***Project:*** The ADG-to-Electricity System.

***Project Installation Report:*** The detailed description of the installed and commissioned ADG-to-Electricity System. The Project Installation Report includes updates to the information provided in the Application Package, which subsequently were used to develop the Standard Performance Contract Agreement, to reflect the installed System, including As-built Diagrams of the ADG-fueled Electric Power Generation Equipment.

***Renewable Portfolio Standard (RPS) Program:*** A program established by the New York State Public Service Commission to increase the proportion of renewable electricity used by New York Consumers to at least 25% by 2013.

***RPS Attributes:*** All environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations, howsoever characterized, denominated, measured or entitled, attributable to the generation of energy by the Facility through the use of eligible biogas. RPS Attributes include but are not limited to: (i) any direct emissions of pollutants to the air, soil or water; (ii) any avoided emissions of pollutants to the air, soil or water including but not limited to sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), particulate matter and other pollutants; (iii) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and other greenhouse gases (GHGs) that have been or may be determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (iv) all set-aside allowances and/or allocations made unnecessary for compliance under emissions trading programs, including but not limited to allocations available under 6 NYCRR §§ 204, 237 and 238; and (v) all credits, certificates, registrations, recordations, or other memorializations of whatever type or sort, representing any of the above.

***RPS Attributes Transfer Certificate:*** The instrument by which title to RPS Attributes will be transferred to NYSERDA. See Exhibit E to the Standard Performance Contract Agreement.

***RPS Surcharge:*** One of the delivery charges levied by National Grid, NYSEG, Rochester Gas and Electric, Orange and Rockland, Central Hudson Gas and Electric, and Consolidated Edison. The RPS Surcharge permits these companies to recover costs associated with providing financial incentives for the development of renewable resources in New York State. NYSERDA is the administrator of the RPS program.

***Substantially Upgraded:*** A major system upgrade that: 1) increases the capacity/electricity production of the existing ADG-fueled Electric Power Generation Equipment, 2) improves the functioning of the existing ADG-fueled Electric Power Generation Equipment such that it can resume operation at a Capacity Factor of 80%, and/or 3) improves the functioning of the existing ADG-fueled Electric Power Generation Equipment such that it can continue operation by being brought into compliance with relevant State and Federal emissions standards.

***Total Contracted Project Incentive:*** The dollar amount listed in *Exhibit A* of the Standard Performance Contract Agreement. It is the not-to-exceed amount that the Applicant can receive through the Agreement for delivering the Project.

## **X. APPENDICES**

Appendix A: Using the Incentive Estimation Tool

Appendix B1: Application Package Requirements

Appendix B2: Application Form

Appendix C: Measurement and Verification Requirements

Appendix D: Project Installation Report Requirements

Appendix E: Sample Standard Performance Contract Agreement