



New York State Energy Research
and Development Authority

**Project Implementation Funding for State Energy Program
American Recovery and Reinvestment Act (ARRA)
Request for Proposals (RFP) 1613
\$8,313,851M Available**

Proposals Due:
Round 3 –April 7, 2010 by 5:00 PM Eastern Time*

Program Summary

This Request for Proposals (RFP) provides funding for the installation of energy conservation measures including: energy efficiency, renewable energy, and clean fleet projects. This program is made available as part of NYSERDA’s administration of the State Energy Program (SEP) funded by the American Recovery and Reinvestment Act (ARRA). Eligible Proposers include: municipal governments, public K-12 schools, public universities or colleges (including SUNY, SUNY community colleges, CUNY, and CUNY community colleges), public and private hospitals, and not-for-profits (defined as a Internal Revenue Code Section 501(c)(3) qualifying organization formed prior to February 17, 2009).

Funding for this program is provided under the American Recovery and Reinvestment Act (ARRA) and the State Energy Program. If your organization receives funding under this Program, it may be subject to special terms and conditions, including but not limited to: detailed reporting requirements; audit of your organization’s use of ARRA funds; Buy American provisions; and Davis-Bacon prevailing wage requirements. Your organization will be required to provide certain information in a timely manner to meet ARRA requirements. See attachments for a list of special terms and conditions. Failure to comply may result in the loss of Federal funding.

Proposal Submission: Proposers must submit one (1) paper copy of your proposal and one (1) electronic copy on a CD. The paper copy must have a signed Proposal Checklist (Appendix A) attached to the front and must include an original signature. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, RFP 1613
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399**

All program questions should be directed to Ben Fox, 866-NYSERDA (866-697-3732), ext. 3444, bf2@nyserda.org. All contractual questions should be directed to Venice Forbes, 866-NYSERDA (866-697-3732), ext. 3507, vwf@nyserda.org.

No communication intended to influence this procurement is permitted except by contacting Ben Fox, 866-NYSERDA (866-697-3732), ext. 3444, bf2@nyserda.org. Contacting anyone other than this Designated Contact (either directly by the Proposer or indirectly through a lobbyist or other person acting on the Proposer’s behalf) in an attempt to influence the procurement: (1) may result in a Proposer being deemed a non-responsible offerer, and (2) may result in the Proposer not being awarded a contract.

*Late, incomplete, or unsigned Proposals will be returned. Faxed or e-mailed Proposals will not be accepted. Proposals 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.

I. Introduction

The American Recovery and Reinvestment Act (ARRA) included funding for the State Energy Program (SEP). SEP funds are distributed to states based on a formula allocation. NYSERDA administers the SEP funds in New York State pursuant to a program plan that has been approved by the U.S. Department of Energy. NYSERDA has developed this Request for Proposals (RFP) through which \$8.3 Million of New York's allocation of ARRA SEP funds will be awarded for eligible energy conservation projects on a competitive basis. Funds are to be used to implement the following types of energy conservation projects: energy efficiency, renewable energy, and clean fleet. Eligible Proposers include: municipal governments, public K-12 schools, Boards of Cooperative Educational Services (BOCES); public universities or colleges (including SUNY, SUNY community colleges, CUNY, and CUNY community colleges), public and private hospitals, and not-for-profits (defined as a Internal Revenue Code Section 501(c)(3) qualifying organization formed prior to February 17, 2009). Eligible Proposers agree to comply with all required Federal and State requirements for use of the funds.

An Energy Efficiency Project is defined as a project that achieves a cost per annual energy saved threshold of less than \$900 of total project cost per 10 million BTUs source energy savings.

A Renewable Energy Project is defined as a project that: achieves a cost per annual energy generated of less than \$8,000 of total project cost per 10 million BTUs generated or saved; is sited at the electric customer's location; is used primarily to serve the electric customer's load (i.e., not primarily exported to the utility grid); and the system as designed cannot generate more electricity than is consumed on-site annually (the combination of these qualifying conditions is commonly described as "behind the meter" generation).

A Clean Fleet Project is defined as a project that achieves a cost per annual energy saved threshold of less than \$5,000 of requested funding per 10 million BTUs source energy savings.

II. Program Rules and Requirements

Available Incentives

Due to the time requirements all ARRA funds are required to be completed by, preference will be given to Proposals that have an implementation schedule of 12 months or less.

For Energy Efficiency Projects and Renewable Energy Projects, a Proposer may request up to 100% of the cost of the project. For Clean Fleet Projects that request funding to purchase eligible vehicles, a Proposer may request up to 75% of the incremental purchase cost (defined as the increase in cost over a standard piece of equipment) for vehicles. For Clean Fleet Projects that request funding to purchase anti-idling or fueling and refueling/recharging equipment, a Proposer may request up to 75% of the purchase cost for the equipment.

Proposers may submit multiple proposals. A separate Proposal must be submitted for each Project type in accordance with Appendices G, H and I.

There is a category cap of \$500,000 for Clean Fleet Projects. There is a Proposer cap of \$1,000,000. A Proposer is defined as the highest corporate entity with the same federal ID number; provided, however, each SUNY and CUNY campus shall be considered a separate Proposer. Schools districts with a student population greater than 1,000,000 may propose for the total funding amount available in that region. Cities with population greater than 5,000,000 may propose for the total funding amount available in that region.

To ensure regional distribution of funds, regions were established and funding allocated to each region based on the number of unemployed people in that region. NYSERDA reserved the right to reallocate funds between sectors within a region or between regions, based on need. In the first two selection rounds, funding was allocated within each region to each of the four eligible sectors to ensure that each eligible sector would have the opportunity to receive funding. This is the third selection round of the program and with funding remaining for Region 1 and Region 7, all eligible sectors within those regions are now able to compete for these remaining funds.

Funding Available for Round 3

Region	Combined Sector of: Municipal Governments; Public K-12 Schools; Public Universities and Colleges; and Public and Private Hospitals and Not-for-Profits defined as (501(c)(3))
Region 1 (New York City)	\$6,761,968
Region 2 (Long Island)	\$0
Region 3 (Hudson Valley/Capital Region)	\$0
Region 4 (North Country)	\$0
Region 5 (Central New York)	\$0
Region 6 (Rochester/Finger Lakes)	\$0
Region 7 (Western New York)	\$1,551,883

See Appendix P for map of regions.

Program Steps

1. The Proposer submits a separate Proposal for each Energy Efficiency, Renewable Energy, and Clean Fleet Project being proposed. See Section III for full Proposal instructions.
2. NYSERDA’s Technical Evaluation Panel (TEP) reviews and ranks all complete Proposals received by the due date. NYSERDA notifies each Proposer of whether or not their organization’s Proposal has been accepted and will contact the successful Proposers to discuss the Measurement and Verification (M&V) Plan and the Schedule of Payments (based on what the Proposer identified in Appendix K of their Proposal) and possibly negotiate other terms, as necessary.
3. NYSERDA enters into an Agreement, incorporating the agreed upon terms, with the successful Proposer, including applicable requirements of Buy American, Davis-Bacon

- prevailing wages requirements, and all other applicable Federal and State requirements.
4. The Proposer performs the approved energy conservation project. Upon receipt of the required documentation, NYSERDA issues progress payments according to the Schedule of Payments incorporated into the Agreement.
 5. The Proposer cooperates with NYSERDA, and its consultant(s), in performing the M&V Plan and in all other required reporting requirements.

Competitive Selection Process

All complete Proposals submitted by the due date will be evaluated by a Technical Evaluation Panel (TEP). The TEP will evaluate each Proposal based on the selection criteria included in Appendix G, Appendix H, or Appendix I, as appropriate. Proposals will then be ranked and funded from the highest ranked project to the lowest ranked project as recommended by the TEP and as approved by NYSERDA. NYSERDA may award a contract based on proposals without discussion, or following limited discussion. NYSERDA may request additional data, materials, or forms from selected Proposers as part of this process.

Eligibility

Eligible Proposers

Eligible Proposers are all New York municipal governments, public K-12 schools, Boards of Cooperative Educational Services (BOCES), public universities or colleges (including SUNY, SUNY community colleges, CUNY, and CUNY community colleges), public and private hospitals, not-for-profits (defined as a Internal Revenue Code Section 501(c)(3) qualifying organization formed prior to February 17, 2009). Municipal governments must be included in the latest available Census of Governments as a currently incorporated government. The municipality must also have a governance structure with an elected official and governing body and must have the legal authority to implement the eligible activities. Sewer districts and other sub-components of eligible villages, towns, cities and counties are not eligible Proposers. Each campus of SUNY, SUNY community colleges, CUNY, and CUNY community colleges are considered separate Proposers.

Eligible Measures

All Projects will be required to comply with Davis-Bacon prevailing wage requirements. All Projects for public facilities or Public Works Projects will be required to comply with Buy American, and purchase iron, steel, and manufactured goods produced in the United States unless a waiver is obtained from the Department of Energy to be eligible. These Federal requirements may exclude some equipment and may have cost impacts that must be taken into account prior to a proposal being submitted to NYSERDA. Proposers may be audited for compliance with these requirements.

Eligible Proposers may request implementation funds for the following Project types:

- Energy Efficiency Project (A project that achieves a cost per annual energy saved threshold of less than \$900 per 10 million BTUs of source energy saved (see Appendix N for energy conversion factors).
 - Facility and non-facility integrated measures are eligible and may include, but are not limited to: lighting, cooling, heating, motors, building envelope, building or facility optimization, combined heat and power, geothermal systems, and other energy-efficiency technologies.
 - Retro-commissioning services are eligible, but they must be specifically focused on energy efficiency. For example: retro-commissioning of lighting, HVAC, and control systems may be eligible.

- Renewable Energy Project (A project that achieves a cost per annual energy generated of less than \$8,000 per 10 million BTUs of energy generated or saved), is sited at the electric customer's location, and is used primarily to serve the electric customer's load (i.e., not primarily exported to the utility grid), and that cannot generate more electricity than is consumed on-site annually (the combination of these qualifying criteria is commonly described as "behind the meter" generation).
 - A solar electric Project must have an installed DC capacity of 50 kW or less. In addition, a solar electric Project must use an installer who is: NABCEP certified; either a NYSERDA- approved installer (listed at www.powernaturally.org) or a LIPA approved installer (listed at www.lipower.org); and who has completed at least three (3) solar electric installations in LIPA or NYSERDA Programs
 - A wind Project must use a NYSERDA or LIPA approved installer, NYSERDA approved equipment, and use 20kW or smaller wind turbines to be eligible (see www.powernaturally.org for a current list of eligible installers and equipment). Note that, notwithstanding inclusion on the NYSERDA website, Proposers are also still required to ensure that any turbine being proposed is also in compliance with Buy American requirements.
 - A solar thermal Project that provides heating for domestic hot water, space heating, or other heating purposes is eligible.
 - A high-efficiency indoor boiler Project that uses wood pellets, wood chips, or firewood are eligible. A minimum thermal efficiency of 83% is required. Wood-fired boilers must measure thermal efficiency using either the EN 303-5 or ASHRAE 155P methods and use the lower heating value of wood.
 - A fuel cell Project is eligible.

- Clean Fleet Project (A Clean Fleet Project is a project that achieves a cost per annual energy saved threshold of less than \$5,000 of requested funding per 10 million BTUs of source energy saved.) Vehicle purchases requested under this RFP can be for vehicle replacement or fleet expansion.
 - Light-, medium-, or heavy-duty alternative fuel vehicles that are fueled by natural gas, propane, hydrogen, or use electricity either stored or generated on-board, as the primary motive force are eligible.
 - Medium and heavy-duty hybrid electric vehicles that use an electric motor directly connected to the drive train to provide traction force to the wheels are eligible.
 - Light-duty, plug-in (charge-depleting), hybrid-electric vehicles are eligible. However, the incremental cost for these vehicles is the cost compared to a charge-sustaining hybrid vehicle.
 - Fueling, and refueling and recharging equipment for alternative-fuel vehicles is eligible.
 - Anti-idling equipment is eligible.

Eligible Facilities and Locations

Eligible facilities and eligible locations for Energy Efficiency Projects and Renewable Energy Projects include facilities and property owned or leased by the Proposer. If the facility or property is leased, the Proposer must be authorized to implement the Project, and the Project must pay for itself within the remaining term of the lease. New facilities, and those that have undergone substantial renovations, must be fully operational and have been occupied by the Proposer for more than one year prior to requesting funding under this RFP.

Eligible Vehicles

Eligible vehicles include vehicles that are owned and operated by the Proposer. Vehicles must be licensed in New York and primarily driven in New York. Vehicle purchases requested under this RFP can be for replacement or fleet expansion purposes.

Ineligibility

Ineligible Projects and Costs

Projects to be completed for casino or other gambling establishments, aquariums, zoos, golf courses, or swimming pools are not eligible for funding under this RFP.

Projects that already have a fully executed contract to be funded or partially funded by other NYSERDA programs, LIPA programs, or any utility funded program, are not eligible for funding under this RFP.

Process related loads from wastewater treatment plants are not an eligible facility type for funding under this RFP. Implementation funds for these entities are available from NYSERDA through other programs.

Outdoor and low-efficiency wood boilers are not eligible for funding under this RFP. Low-efficiency wood boilers shall be defined as any boiler that does not meet or exceed a minimum thermal efficiency of 83 as measured by testing thermal efficiency using either the EN 303-5 or ASHRAE 155P methods, and using the lower heating value of wood. Wood boilers that would use a fuel source other than wood pellets, wood chips, or firewood are not eligible under this RFP.

Hydropower Projects are not eligible for funding under this RFP.

New construction and new construction commissioning is not eligible for funding under this RFP.

Power quality, power factor, and power conditioning improvements are not eligible for funding under this RFP.

Retro-commissioning services without the potential for significant energy savings are not eligible for funding. For example, retro-commissioning of fire suppression, security, or irrigation systems are not eligible for funding under this RFP.

Personal computers are not eligible for funding under this RFP.

Vehicles that are leased by the Proposer are not eligible for funding under this RFP.

The Proposer's staff time for developing, designing, or implementing the project is not eligible for reimbursement under this RFP.

Solar electric projects larger than 50 kW installed DC capacity are not eligible for funding under this RFP.

Wind projects larger than 20 kW installed DC capacity are not eligible for funding under this RFP.

In-kind services are not eligible for funding under this RFP and are not eligible to be considered as cost-sharing under this RFP.

Costs incurred for work and equipment purchased prior to having a signed contract in place with NYSERDA are not eligible for funding under this RFP.

Failure to meet Davis-Bacon prevailing wage and Buy American requirements will disqualify the Project for funding under this RFP.

For more information on Davis-Bacon, see:

http://apps1.eere.energy.gov/state_energy_program/davis_bacon_faqs.cfm

Changes in Project Scope

If a Proposal is selected, at any time the scope of work, schedule or budget changes, the Proposer must contact the NYSERDA project manager immediately. Changes in project scope, schedule or budget may change the amount of funds awarded by NYSERDA.

General Requirements

Payment Schedule

Proposers may request that NYSERDA issue progress payments of up to four (4) installments. To request progress payments, Proposers must submit a Progress Payments Request (Appendix K) as part of their proposal. The Progress Payments Request (Appendix K) must list the requested payment for each installment and propose a specific deliverable that the Proposer will submit to NYSERDA to justify each progress payment.

If a Project is selected for funding, NYSERDA may negotiate the proposed terms of the Progress Payments Request prior to issuing a contract. The approved Schedule of Payments will list the milestones and deliverables needed to trigger payment of each installment, and will list the amount of each installment. If a Proposer fails to meet specified deliverables, the Project may be terminated.

Requesting progress payments is not a factor used by the Technical Evaluation Panel (TEP) to select projects.

Project Completion Date

Due to the Federal source of the ARRA funds, Proposers must complete implementation and submit the required documentation to NYSERDA for payment on or before September 1, 2011. Failure to do so may result in termination of the Agreement.

Service Provider Selection

The Proposer is responsible for selecting its own Service Provider and must comply with all of its internal procurement requirements, including but not limited to State and Municipal Finance Laws, competitive bidding requirements and all applicable procurement requirements of the Proposer's organization. A Service Provider can be an independent third-party company, such as an energy service company (ESCO), energy consultant, engineering firm, utility company, construction company, or contractor. Projects can be self implemented; however, for all self implemented projects, only equipment costs are eligible for funding under this RFP. The Proposer is responsible for ensuring that its Service Provider complies with Davis-Bacon prevailing wage requirements and Buy American requirements.

D-U-N-S Number

A D&B[®] D-U-N-S number is a unique nine digit sequence for indentifying and tracking organizations. It is a Federal requirement to receive ARRA funds to have and provide a D-U-N-S number. NYSERDA will not enter into a contract with any eligible Proposer without a D-U-N-S number. Additional information can be found at:

http://www.dnb.com/US/duns_update/

Central Contract Registration

The Central Contractor Registration (CCR) is the primary registrant database for the U.S. Federal Government. CCR collects, validates, stores and disseminates data in support of Federal agency acquisition missions. Successful Proposers will be required to register in the CCR (<http://www.ccr.gov>) NYSERDA will not enter into a contract with a Proposer who has not confirmed their CCR registration.

National Environmental Policy Act (NEPA) Compliance

All Projects funded through programs receiving ARRA money must comply with NEPA requirements. DOE, as the federal agency distributing funds for the SEP program, provides guidance on the NEPA process. Successful Proposers will be required to comply with NEPA requirement. Additional information on NEPA can be found on DOE's website.

Cost sharing

Cost sharing is not required for Energy Efficiency Projects or Renewable Energy Projects, but is a selection factor that the TEP will use when evaluating Projects. The use of other Federal funds, including other ARRA grants, will not be considered as eligible cost sharing. A 25% cost sharing is required for all Clean Fleet Projects. Proposals must list all funding sources for the Project in the Funding Sources Form (Appendix J).

Other NYSERDA, LIPA and Utility Programs

Energy conservation projects funded by this RFP are not eligible for additional funding under other NYSERDA programs, LIPA programs, or any utility funded program. Proposers who

previously entered into a contract with any of these funding entities to implement a Project under a different program cannot cancel participation in that program in order to reapply to this RFP. If a project has been submitted to another NYSERDA or utility program, but no contract is in place, Proposers may choose to cancel participation in that program in favor of receiving funds from this Program.

Other ARRA Grants

Some Proposers may also be eligible to apply for Energy Efficiency and Conservation Block Grants (EECBG) directly from the U.S. Department of Energy to fund their project. Receipt of ARRA funding for the project being proposed to NYSERDA under other programs may result in a reduction in NYSERDA's incentive so that total grants and incentives of a proposed project do not exceed the cost of the Project. Proposers must also provide a complete listing of any other ARRA grants their organization is using for any energy projects.

EPA ENERGY STAR® Portfolio Manager

The EPA ENERGY STAR® Portfolio Manager is a free web-based evaluation tool that compares a building's energy use with similar buildings nationwide, and tracks a building's energy use over time. Energy Efficiency Projects and Renewable Energy Projects are strongly encouraged to benchmark the building(s) being submitted to this RFP for improvements using the EPA ENERGY STAR® Portfolio Manager at www.energystar.gov, as appropriate. Benchmarking is part of the selection criteria used by the TEP and is encouraged, but is not required.

Energy Conservation Construction Code of New York and Other Efficiency Requirements

Energy Efficiency Projects proposing to install high-efficiency indoor wood-fired boilers must measure thermal efficiency using either the EN 303-5 or ASHRAE 155p methods and use the lower heating value of wood.

Governor David A. Paterson has advanced legislation to amend the existing Energy Conservation Construction Code of New York State. This would require all commercial construction projects to meet or exceed the commercial building requirements of ASHRAE 90.1-2007, and all residential construction requirements to meet or exceed the residential requirements of the International Energy Conservation Code (IECC) 2009. Proposers are encouraged to develop a scope of work and propose Energy Efficiency Projects and Renewable Energy Projects that would meet the requirements of these advanced codes, as appropriate. Meeting these codes is part of the selection criteria for obtaining funding under this RFP for project implementation, but is not required. All projects must meet or exceed all applicable local, State and Federal codes and standards.

Measurement, Verification, and Commissioning

By requesting funding from this RFP, the Proposer agrees to provide NYSERDA, or NYSERDA-designated contractors, access to facilities, equipment, data (including metering and energy management system data), and personnel as necessary to facilitate measurement, verification and commissioning. If the Proposal is selected for an award, NYSERDA will notify the Proposer of the Measurement, Verification, and Commissioning Plan for the project. The Measurement, Verification, and Commissioning Plan itself will be conducted by NYSERDA or its contractor(s). The Proposer must cooperate with NYSERDA and its contractor(s) in

conducting the Measurement, Verification, and Commissioning Plan. The Schedule of Payments will explain the Measurement, Verification, and Commissioning requirements that must be met, prior to NYSERDA's making final payment, if applicable.

NYSERDA is in the process of engaging a third party contractor to review and evaluate the savings and claims resulting from Projects funded under this RFP. All awardees must provide all reasonable assistance and documentation to support this effort.

III. Proposal Requirements

A complete Proposal must include all of the following:

- Appendix A – Proposal Checklist
- Appendix B – Disclosure of Prior Findings of Non-responsibility Form
- Appendix C – Proposal Application Form
- A Project Description (see Appendix E for details and requirements)
- Appendix F - Project Summary
 - Including an energy audit of proposed measures
 - Including cost information
- Appendix G, H or I - Selection Criteria Form (Appendix G for Energy Efficiency Projects, Appendix H for Renewable Energy Projects, Appendix I for Clean Fleet Projects)
- Appendix J - Funding Sources Form
- Appendix K (optional) - Progress Payments Request
- Additional documentation as required to address selection criteria

Additional supporting documentation may be required by NYSERDA in accordance with the terms and conditions identified in this RFP.

Proposers must submit one (1) paper copy of a complete Proposal and one (1) complete electronic copy on a CD with all attachments, Appendices and other supporting information.

The paper copy of the complete Proposal must contain all original signatures. Faxed or e-mailed copies, or an electronic copy without an original signed paper copy will not be accepted. Late, incomplete, or unsigned Proposals will be returned. The paper copy must have a signed Proposal Checklist (Appendix A), a signed Disclosure of Prior Findings of Non-responsibility Form (Appendix B), and a signed Proposal Application Form (Appendix C) attached to the front and must include original signatures.

Funds will be awarded in up to four (4) rounds, or until funds are fully committed. Refer to NYSERDA's web site for the amount of funds still available in the sector of the Proposer's region.

To respond to this RFP, send a completed Proposal with all required original signatures, supporting attachments and documentation and the complete electronic copy to the attention of Roseanne Viscusi, at the address listed at the beginning of this RFP.

Proposals must not be excessively long or submitted in an elaborate format that includes expensive binders or graphics. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not be used in the evaluation of the Proposal. Each page of the Proposal should state the name of the Proposer, the number of this RFP (RFP 1613), and the page number.

IV. Proposal Evaluation

Funding for this program will be reserved for the successful Proposers on a competitive basis for the period of time designated in the Agreement (See Appendix D-Sample Agreement). Proposals that meet the RFP's requirements in each region will be evaluated by a Technical Evaluation Panel (TEP) based on the criteria in Appendices G, H and I. NYSERDA may award a contract based on Proposals without discussion, or following limited discussion on scope of work modifications or other negotiations. NYSERDA may request additional data, materials, or forms from Proposers as part of this process. Failure to comply with Agreement schedules may result in termination of the Agreement and loss of funding.

V. General Conditions

PROPRIETARY INFORMATION

Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, 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 Applicant 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. 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:

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

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

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

Limitation

This solicitation does not commit NYSERDA to award a contract, to pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

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 Service Provider may be subject to penalties for violation of any law which may apply in the particular circumstances. Applicants shall 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.

State Finance Law sections 139-j and 139-k - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

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). 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 prospective 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). The Department has developed guidance for contractors which is available at http://www.tax.state.ny.us/pdf/publications/sales/pub223_606.pdf.

Contract Award - NYSERDA anticipates making multiple awards under this solicitation. It may award a contract based on initial proposals without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each Proposal should be submitted using the most accurate cost and technical information available. NYSERDA may request additional data or material to support proposals. NYSERDA reserves the right to limit any negotiations or exceptions to standard terms and conditions to those specifically identified in the submitted Proposal. NYSERDA expects to notify Proposers in approximately 4 to 6 weeks from the Proposal due date whether each Proposal has been selected to receive an award.

VI. Attachments

Appendix A: Proposal Checklist

Appendix B: Disclosure of Prior Findings of Non-responsibility Form

Appendix C: Application Form

Appendix D: Sample Agreement (Not required as part of the Proposal)

Appendix E: Project Description

Appendix F: Project Summary

Appendix G: Energy Efficiency Project Selection Criteria Form

Appendix H: Renewable Energy Project Selection Criteria Form

Appendix I: Clean Fleet Project Selection Criteria Form

Appendix J: Funding Sources

Appendix K: Progress Payments Request

Appendix L: Pre Implementation Energy Use Data

Appendix M: Post Implementation Energy Use Data

Appendix N: Conversion Factors

Appendix O: Definition of Large Municipality

Appendix P: Regions Defined