

**Renewable Portfolio Standard (RPS) Technical Assistance
Request for Proposal (RFP) 2087
\$1,500,000 Available**

Proposals Due: November 4, 2010 by 5:00 PM Eastern Time*

The New York State Energy Research and Development Authority (NYSERDA) currently acts as the central procurement administrator for the implementation of the Renewable Portfolio Standard Program for New York State (RPS). The objective of this solicitation is to select one or more contractors in several support areas that can provide technical and analytical support to NYSEDA during the ongoing implementation of the Main Tier level of the RPS program.

Through this solicitation, NYSEDA expects to select contractors to provide as-needed consulting services in the following support areas:

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|---|---|
| 1. Central Procurement Design and Implementation | 5. Outreach and Education |
| 2. Energy Analysis | 6. Regional and Federal Policy Issues |
| 3. Financial Analysis | 7. Facility Certification and Compliance |
| 4. Energy Information Systems | 8. Reliability and Performance Studies |

Proposers may submit a proposal to provide support in one, all or any of the above support areas. NYSEDA anticipates entering into task order agreements, from time-to-time, (as defined in Section VI) with successful proposers for them to provide services within one or more of the broad categories above. The expected start date for work under this program is January 2011.

Proposal Submission: Proposers must submit ten (10) copies of the proposal with a completed and signed Proposal Checklist attached to the front of each copy, one of which must contain an original signature. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, RFP 2087
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399**

If you have technical questions concerning this solicitation, contact Michele Goyette at (518) 862-1090, ext.3506 or mg2@nyserda.org. If you have contractual questions concerning this solicitation, contact Nancy Marucci at (518) 862-1090, ext.3335 or nsm@nyserda.org.

No communication intended to influence this procurement is permitted except by contacting Michele Goyette (Designated Contact) at (518) 862-1090, ext. 3506 or mg2@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.

* Proposals must be received by NYSEDA on or before 5:00 p.m. on November 4, 2010. Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist may be returned. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any other NYSEDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSEDA's web site at www.nyserda.org.

I. Introduction

NYSERDA is a public-benefit corporation established by the State Legislature in 1975 to address the State's energy and environmental challenges. NYSERDA's principal mission is to use innovation and technology to solve some of New York's most difficult energy and environmental problems in ways that improve the State's economy.

In its September 24, 2004, RPS Order,¹ the New York State Public Service Commission (PSC) authorized NYSERDA, in conjunction with the staff of the Department of Public Service (DPS), to implement the RPS Program. In subsequent Orders,² the PSC directed the collection of revenues, through a non-bypassable RPS surcharge levied on the delivery portion of electricity bills for New York retail customers, to be administered by NYSERDA for the purpose of providing incentives to increase the percentage of electricity used by retail customers in the State that is derived from renewable resources from the then-current level of 19.3 percent to 30 percent by the year 2015. NYSERDA is to use such funds to procure rights to the environmental attributes associated with renewable energy (commonly referred to as "Renewable Energy Credits, or "RECs") produced in accordance with the provisions and rules of the RPS Program. NYSERDA implements both the Main Tier (large scale facilities) and the Customer Sited Tier (behind the meter systems) programs. This RFP 2087 seeks services with respect to the Main Tier. NYSERDA anticipates entering one or more agreements with selected proposers; work will be assigned through individual task orders.

The PSC orders and related proceeding documents can be accessed at the website, <http://documents.dps.state.ny.us/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=03-e-0188>. **To become familiar with the RPS program, proposers are encouraged to review these materials.**

II. Program Requirements

A. Support Areas

Proposers are invited to submit, in the format described in Section III, a proposal describing their skills, expertise, qualifications, and personnel rates in any or all of the following areas:

1. **Central Procurement Design and Implementation:** Proposers may be asked to provide services in support of NYSERDA in improving/altering the procurement model currently employed (sealed bid, pay as-bid auction) in order to more effectively implement the program. Specifically, support may be needed to evaluate and develop a standard offer approach or simply improve the current approach. Proposers may be asked to examine past bidding patterns and trends with a particular focus on competitiveness, the impacts of using a maximum acceptable bid price and the use of non-price evaluation criteria such as economic benefits, among other things in an effort to promote fair and efficient bidding behavior and bid selection. Proposers may also be asked to examine various pricing options under which NYSERDA may contract for Renewable Energy Credits (RECs). Options may include REC prices indexed to Locational Based Marginal Prices (LBMPs), Contract for Differences (CFDs), fixed REC prices or any variation of such options.

Proposers may be asked to evaluate the use and effectiveness of RFP/contract design features such as, but not limited to, the use of contract security, production/quantity obligation terms, default and termination provisions, and similar RFP/contract design features.

2. **Energy Analysis:** Proposers may be asked to conduct historical and/or forward-looking analyses of the energy and environmental markets, including analyses of natural gas and electricity prices associated with the electric markets administered by the NYISO, ISO-NE and PJM. Proposers may

¹ Case 03-E-0188 - Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard.

² *Id.*; see Orders issued April 14, 2005, January 8, 2010, and April 2, 2010.

also be asked to develop short term (2-3 years) and/or longer term (10+ years) forward price curves for natural gas and electricity, or other predictive models, as they relate to the revenue potential and outlook for RPS eligible projects. Proposers may be asked to develop forward, all-in costs for renewable technologies, prepare estimates of developable renewable resource potential and construct supply curves for the purposes of predicting program cost/funding requirements.

3. **Financial Analysis:** NYSERDA, in conjunction with the DPS, may be required, on a case by case basis, to evaluate the financial viability of resources with respect to their eligibility under the RPS Maintenance Tier. Proposers may be asked to assist in analyzing the current and historical records of plant operations including payroll, tax liabilities, revenues and proceeds, fuel purchases, and any other relevant financial or business record of the owner/operator of the facility in question as well as of the parent company. Proposers may also be asked to assist in developing a range of RPS subsidies that may be necessary to support continued plant operations under criteria set forth by the DPS and/or NYSERDA.

Proposers may be asked to assist NYSERDA in various efforts including but not limited to the collection of information, and verification of in-state economic benefits created by RPS contracted facilities. Proposers may also be asked to support the design and implementation of an overall economic benefits verification process; develop criteria to evaluate the actual economic benefits as compared to claimed amounts proposed by RPS contractors in the bid proposal process; and organize and analyze information provided by RPS contractors and/or third parties substantiating the creation of jobs, in-state purchases and consumption of services, property tax payments, land owner lease payments, biomass fuel purchases and similar economic benefits. Proposers may be asked to make recommendations to NYSERDA regarding the level of compliance by a RPS contractor, or recommendations to NYSERDA regarding additional information that may be needed to proceed with verification. Proposers may be required to interact with contractors as needed, as directed by NYSERDA.

4. **Energy Information Systems:** NYSERDA is involved with the DPS and the NYISO in developing an automated generation energy credit tracking system in support of competitive markets and, the New York State Environmental Disclosure Program (EDP). Proposers may be asked to assist NYSERDA, DPS and NYISO in analyzing the requirements and design of such a system, and in developing and administering an RFP to solicit a REC system administrator.

Proposers may be asked to assess REC accounting and tracking regimes in neighboring wholesale power markets including: the New England Power Pool (NEPOOL); and the Pennsylvania/New Jersey/Maryland Independent System Operator (PJM) in support of the design and implementation of such a system for New York. Specific areas of focus are expected to include advising NYSERDA, DPS and/or NYISO on: business and operating rules, user manuals, regulatory jurisdiction, resource qualification and characterization, interoperability of systems, interstate trading practices and voluntary market development.

5. **Outreach and Education:** Proposers may be asked to assist NYSERDA, in coordination with NYSERDA marketing staff, in various efforts to further inform customers of the RPS program goals, public benefits, accomplishments, and future plans.

Under this component of the RFP, proposers would assist NYSERDA with the development of technical content on the RPS Program and projects, annual program reports, and website content. Proposers may be asked to assist NYSERDA, DPS and the utilities in educating customers on the RPS program, its goals, relation to voluntary markets and power markets in general, program accomplishments and future plans and other outreach and consumer educational materials.

Throughout the duration of the RPS program, NYSERDA and the DPS may wish to plan, develop, and organize stakeholder workshops to facilitate discussion on elements of the RPS. Support would include organizing locations, managing logistics and invitation efforts as well as assisting with technical content.

Activities that could be considered include organizing and managing educational seminars or workshops and preparation of technical material for printed media (brochures etc.).

6. **Regional and Federal Policy Issues:** Proposers may be called upon to advise NYSERDA on the implications to New York State of draft and enacted or adopted federal legislation and/or regulations on energy and environmental markets and renewable energy standards, suggest appropriate responses to protect New York interests, and to design appropriate compliance mechanisms. Support may also be needed for similar state or regional policies.

Proposers may be asked to focus on regional resource eligibility, reciprocity in resource acceptance, resource tracking, and the integration of the NY RPS program with neighboring states' RPS programs, as well as how New York's RPS program would integrate with national clean air initiatives with respect to the valuation and treatment of RECs. Proposers may be asked to identify and recommend remedies to impediments or barriers to RPS compliance posed by competing regional policy initiatives. Proposers may also be asked to assess the mechanics of market operations and settlements in neighboring electric systems.

7. **Facility Certification and Compliance:** Contractors may be asked to assist in enhancing the appropriate forms and documents to effectuate facility provisional and operational certification as well as to assist in determinations and ongoing verification of operational compliance with eligibility rules.

Proposers may be asked to develop criteria, conduct analyses and prepare documentation to certify wind, biomass, hydro-power, landfill, and other RPS-eligible technologies. To ensure that certified facilities continue operating within program guidelines, proposers may be asked to audit generators for continued compliance with eligibility requirements. This may include document reviews and site visits. As part of the verification process, proposers may have to review pre-determined generator and fuel supplier-specific forest and harvest management plans, fuel supply reports and/or other specifications necessary for facility certification. Proposers may be asked to assess new resources (technology/fuel) with respect to RPS eligibility.

A major focus in this area will be on supporting the management of complex biomass contracts. Proposers will be asked to support the development of baseline consumption and incremental production methodologies and results for facilities that have invested in upgrades or facilities that are partially fueled by RPS-eligible sources (biomass, hydro, etc.). Proposers may be asked to conduct reviews of proximate and ultimate fuel analyses, review, validate and monitor comparative emissions measurement testing protocols, verify stack analyses and check fuel mass flow and heat rate data necessary to certify/verify fuel eligibility and establish baseline and incremental co-firing fractions by facility. Proposers may be asked to make assessments of capital investment and efficiency improvements to certify the eligibility of bid quantities and, upon operation, verify that invoiced RPS bid quantities remain compliant with pre-established baseline and incremental fuel/energy production calculations and methodologies. In some cases, Proposers may be asked to conduct market and project assessments in support of PSC proceedings in regard to fuel/facility eligibility and operation.

8. **Reliability and Performance Studies:** Under this component of the RFP, proposers will be asked to conduct scoping studies to identify critical gaps in information/data relative to long-term reliability of resources, particularly after the expiration of current RPS agreements. Support would include technical analysis and supporting data for conducting regional grid reliability assessments; assessing

locational or site-specific constraints or integration requirements; evaluation of FERC corridor designation; and related transmission and/or grid, or ancillary services infrastructure issues as such impact on the delivery of renewable energy within New York and adjacent control areas.

Proposers may also be asked to evaluate the actual performance of RPS projects compared to the quantities bid into the program and expected performance relative to the actual resource availability during the period of analysis. To accomplish this task the proposer may be asked to conduct qualitative and quantitative analyses of startup issues on project output, the evolution of industry production estimate methods over the past decade, publicly disclosed fleet issues, and site specific operational data including outages, equipment performance, and similar information. These factors would then be considered in establishing a prioritized set of recommendations for in-depth project reviews and/or modifications to contract terms and conditions containing in the RPS standard form contract. This review will focus on the use of plant production data available at NYSERDA (monthly and/or hourly revenue meter results), comparison with the original expected production (contractual commitment to NYSERDA), any available curtailment information if known, and publicly available project information. This review will be focused primarily on RPS projects, with a strong focus on wind facilities. Non-RPS projects may be included to the extent public information is available.

B. Funding and Schedule

Up to \$1,500,000 may be spent over approximately five years for services provided through Task Order Agreements (see Attachment D) resulting from this RFP (initial term to be three years; subject to extension at NYSERDA discretion). Additional funds could be added should NYSERDA's responsibilities in implementing the RPS change. Task Order Agreements will be negotiated soon after the notification of selection is delivered to successful proposers.

C. Services Requested

As a result of this RFP, NYSERDA expects to retain multiple qualified contractors to provide a variety of services in the areas outlined in Section II of this RFP. The number and type of services requested from the selected contractors will depend on the nature and complexity of the project, the contractor's expertise, the volume and frequency of the services requested by NYSERDA, and performance.

Proposers are permitted, but not required, to team with partners (subcontractors) they consider would offer complementary expertise in the support areas identified in Section II.

D. Task Order Agreements

One or more contractors will be selected through this RFP. NYSERDA will enter into a general Task Order Agreement with each contractor selected, with the flexibility to request services for a variety of activities. A Task Order Agreement is used because no estimate can be made in advance as to the type, amount, and complexity of the work each contractor will be required to perform.

The Task Order Agreements will not guarantee any specific amount of work, but may contain a maximum dollar amount. The amount of work assigned to each contractor will depend on their particular expertise, the amount of work requested in the contractor's technical area, past performance, current workload, deadline requirements, and the ability of the contractor to provide high quality, cost-effective, and timely services. NYSERDA reserves the right to negotiate among finalists to ensure access to specific expertise. If multiple contractors are selected with overlapping areas of expertise, NYSERDA may also ask selected contractors for proposals and bids on specific assignments.

Once a contractor(s) enters into a Task Order Agreement through this RFP, upon a request from NYSERDA on one or more of the support areas, contractor will prepare, and projects will be assigned and initiated through a written Task Order Plan, which will become a binding agreement for all parties. The Task Order Plan will be prepared by the contractor in cooperation with NYSERDA.

Task Order Plans shall include:

- The goals and objectives of the project
- The approach that will be taken outlined by tasks
- Any relevant background information
- Defined deliverables
- The project time frame
- The names and titles of individuals to work on the project
- The total not-to-exceed cost of the project, including a breakout by task and by title, hourly rate, hours, and non-labor costs
- The identification of measures and ability to track project success

The details of any Task Order Plan will be consistent with the level of complexity of the proposed project or activity. Hourly rates shall be those in the general Task Order Agreement. The Task Order Plan for projects is expected to be 1-5 pages depending on the complexity of each project. NYSERDA must review and approve all Task Order Plans before projects are implemented.

E. Contractor Responsibilities

NYSERDA expects to issue, to selected Contractors, requests for services in one or more of the support areas. For each such request, the selected contractor shall be required to:

- Prepare a Task Work Order Plan, with budget, for each project for review and approval by NYSERDA
- Negotiate the scope and cost of the technical assistance with NYSERDA;
- Upon agreement by all parties to the Task Work Order Plan, provide the required assistance within the required time frame;
- Submit any deliverables to NYSERDA for review and approval; NYSERDA's review will ensure that the deliverable conforms to the Task Work Order and;
- Provide required documentation of expenditures by task, based on the Task Work Order Plan, when seeking reimbursement from NYSERDA.

F. Compensation

Compensation will be based on the contractor's direct and indirect personal services costs (included in the proposal) plus allowable expenses. Fees will be based on the contractor's hourly rates for the appropriate level of staff. NYSERDA will negotiate each task order on the basis of demonstrated competence and qualifications, at fair and reasonable fees. Fee schedules shall be included in each proposal that identify rates for each member of the team by title. Proposers are asked to consider the length of the Agreement (three years) in proposing their fee schedules, which will be fixed for the duration of the three-year contract period. Should the Agreement be extended after the three-year contract period, rates may not escalate by more than 3% in each additional year.

Budgets for all work conducted will be included in the Task Work Order Plan and approved by NYSERDA. The Task Work Order Plan will also place a ceiling or not-to-exceed amount for each project. Contractors who accrue billable hours beyond the ceiling in the Task Work Order Plan, without approval in writing by NYSERDA, will do so at their own risk. **Contractors will not be compensated for time spent in the preparation of any Task Work Order Plan.** Preparation of the Task Work Order Plan is considered to be covered by the contractor's overhead expense.

III. Proposal Requirements

Proposers are invited to submit a proposal for one, all or any of the support areas.

A. Submittal

To be eligible for selection under this RFP, Proposers must submit a complete bid package and agree to the terms and requirements of this RFP. Proposers must submit **ten (10) copies** of the completed proposal to the attention of Roseanne Viscusi at the address on the front of this Program Opportunity Notice/Request for Proposal. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, one of which must contain an original signature. Proposals must be received by NYSERDA on or before 5:00 pm on November 4, 2010. **Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist may be returned.** Faxed or e-mailed copies will not be accepted.

B. Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k

Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The texts of the laws are available at: <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>). In compliance with §139-j and §139-k of the State Finance Law, for proposals submitted in response to this solicitation that could result in agreements with an annual estimated value in excess of \$15,000, additional forms must be completed and filed with proposals: (1) a signed copy of the Proposal Checklist including required certifications under the State Finance Law and (2) a completed Disclosure of Prior Findings of Non-Responsibility form. Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

C. Proposals should 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 influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, RFP 2087, and the page number.

D. All responses submitted as part of this RFP solicitation process become the property of NYSERDA. Proposers will not be reimbursed by NYSERDA for any costs associated with the preparation of their proposals. Proposals may be either single- or double-sided, but a page is considered one side of an 8-1/2" x 11" piece of paper. The font size shall not be smaller than 11 point.

E. Proposal Format

Each proposal shall contain, at a minimum, **the following:**

1. Cover Letter (1 page suggested)

Proposers shall submit a cover letter on company letterhead that:

- (a) references RFP 2087
- (b) specifies each specific support area, by name and number, where services are being offered
- (c) summarizes the proposer's ability to perform such services
- (d) is signed by a person with authority to enter into a contract with NYSERDA

Letters from subcontractors included in the proposal must be attached to the proposal and include the same information included in the proposer's cover letter.

2. Table of Contents (1 page)

Proposers should present a comprehensive table of contents that outlines the page number and section where each support area proposal can be found. Proposals will be evaluated independently for each support area. Proposals must be organized providing a separate section for each support area where services are being offered, even if information is provided for another section/support area.

Each support area being offered must include the items listed below, **regardless** if they have been

presented in another section:

- (a) Overall experience and capabilities
- (b) Personnel Qualifications
- (c) Fee Schedule

3. Overall Experience and Capabilities (2-3 pages)

Proposers must describe their expertise and ability as a team/firm to deliver services in the proposed support area. This should include the aggregate number of years working in this area and a brief summary of at least one and no more than three similar projects. The project descriptions should specify the level of involvement of the proposing firm and subcontractors and the results/deliverables of the project. For at least one of the projects mentioned, proposers must include customer contact names and phone numbers.

4. Personnel and Qualifications (1-2 pages, plus one-page résumés)

Proposers must identify and describe the company or organization that will be the prime contractor under this RFP and describe any personnel, teams, and subcontractors. Describe past relationships with team members and subcontractors. Include an organizational chart, if necessary. Describe the accomplishments, experiences, and expertise of the individuals comprising the proposing team relevant to this RFP.

Proposers must identify the project manager who will serve as the single point of contact as well as all personnel that may be involved with providing services under this RFP.

In this section include one-page résumés that highlight recent experiences of all individuals who will be directly involved in providing services.

5. Fee Schedule

Proposers must include a fee schedule for the services proposed under this RFP. Fee schedules for proposers and all subcontractors shall include: direct labor costs presented by job title, and a range for each job title's hourly rate; travel and per diem costs; overhead rates (basis rate and items included in overhead rate); general and administrative costs and basis for application; and other costs. If a proposer is not located in New York State, describe how travel costs will be minimized.

F. Indirect Cost

Attach supporting documentation to support indirect cost (overhead) rate(s) included in your proposal as follows:

1. Describe the basis for the rates proposed (i.e., based on prior period actual results; based on projections; based on federal government or other independently-approved rates).
2. If rate(s) is approved by an independent organization, such as the federal government, provide a copy of such approval.
3. If rate(s) is based on estimated costs or prior period actual results, include calculations to support proposed rate(s). Calculation should provide enough information for NYSERDA to evaluate and confirm that the rate(s) are consistent with generally accepted accounting principles for indirect costs.

NYSERDA reserves the right to audit any indirect rate presented in the proposal and to make adjustment for such difference. Requests for financial statements or other needed financial information may be made if deemed necessary.

IV. Proposal Evaluation

Proposers will be awarded contracts based on: experience; ability; qualifications to perform services in one or more of the areas targeted in this RFP; the ability to complete tasks on schedule; and cost.

Proposals that meet Proposal requirements will be reviewed by a Technical Evaluation Panel (TEP) consisting of NYSERDA staff and selected outside reviewers. Responses to this RFP will be reviewed and assigned scores based on the criteria highlighted below.

The following factors will also be considered during the evaluation:

- Response to NYSERDA's request as specified in this RFP.
- Adequacy/depth of corporate resources to provide requested services
- Qualifications and expertise of the personnel/team in relevant areas (listed in the Section II).
- Clear identification of staff that will be assigned to various project types.
- Previous experience in the conduct and delivery of similar or related services.
- Reasonableness of labor rates, associated fees, and overhead.
- Demonstrated ability to complete projects on schedule.
- Quality and relevance of previous work as evidenced by sample projects.
- Information provided by references.
- Other programmatic and management factors deemed appropriate by NYSERDA.

Further, as part of the evaluation process, proposers may be required to have appropriate representatives attend an interview in Albany, NY prior to final selection.

The number of proposers selected for contracting will be determined by the number of firms required to efficiently and effectively provide comprehensive services under this program. This number cannot be determined until all proposals are received and reviewed.

Conflicts: The firm, its principals, subcontractors, and any personnel of the firm must be free from any financial or similar interest in any product or service which may conflict with or appear to conflict with the objectivity of the services provided to NYSERDA. Please describe all of your product, manufacturer or service-related affiliations. If any affiliations exist, you must provide a statement verifying these affiliations do not conflict with or appear to conflict with the objectivity of providing services to NYSERDA and its customers. Non-disclosure of any affiliation can result in the termination of a contract, if awarded.

V. GENERAL CONDITIONS

- A. **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 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 exempt it from disclosure, including a written statement of the reasons why the information should be exempted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part

501 www.nyserda.org/about/nyserda.regulations.pdf. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

- B. **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

- C. **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.
- D. **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/2007/fillin/st/st220td_507_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.pdf>.
- E. **Contract Award** - NYSERDA anticipates making one or more awards under this solicitation. Each offer should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support applications. NYSERDA will use the Sample Agreement to contract successful proposals. NYSERDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal. NYSERDA expects to notify proposers in approximately eight weeks from the proposal due date whether your proposal has been selected to receive an award.

- F. **Limitation** - This solicitation does not commit NYSERDA to award a contract, 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.
- G. **Disclosure Requirement** - The proposer 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 a proposer 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. Proposers 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.

VI. Attachments:

- Attachment A:** Proposal Checklist
Attachment B: Disclosure of Prior Findings of Non-responsibility
Attachment C: Project Personnel and Rates
Attachment D: Sample Task Order Agreement