

Implementation Contractor for Federal Congestion Mitigation and Air Quality Vehicle Program Program Opportunity Notice (PON) 2441 Up to an estimated \$850,000 to be Available

Proposals Due: March 20, 2012 by 5:00 PM Eastern Time*

NYSERDA is developing several Congestion Mitigation and Air Quality (CMAQ) programs for transportation in New York State. These include incentive programs for installing diesel emission control device (DECD) equipment on medium and heavy-duty trucks and offering voucher-style incentives for the purchase of hybrid-electric, compressed natural gas (CNG), and battery electric medium and heavy-duty trucks (the Program). Through this solicitation NYSERDA seeks to select an Implementation Contractor (Contractor) to assist NYSERDA in addressing Program issues in developing, implementing, tracking and reporting for these efforts and integrating them into a single Program. The Contractor will support NYSERDA's Program initiatives, including its projects solicited under the Program. It is estimated that \$850,000 in funding will be available to support this PON 2441, however, this funding has not yet been fully committed. NYSERDA is currently negotiating the exact level of funding for this solicitation with a specific amount to be announced by the end of the first quarter 2012. NYSERDA is releasing this solicitation without a firm funding commitment because it seeks to maximize efficiency and best synchronize Program development efforts with the implementation and deployment programs. NYSERDA seeks to release the incentive programs in mid-June 2012. Contract award(s) under this PON will not be made until this funding has been finalized. Proposed activities of the contractor would include:

- <u>Program Development:</u> Assisting NYSERDA in developing the details of the program, including application criteria and methodology, incentive levels, Program marketing plans, and project reporting and tracking activities.
- **<u>Program Implementation:</u>** Assisting NYSERDA in reviewing Program applications and vehicle technologies, reviewing and approving invoices, and conducting site visits.
- Data Analysis: Perform data collection, analysis and review of projects to be funded under the Program.
- <u>Technology Transfer</u>: Outreach and information dissemination activities to include hosting conferences and bringing stakeholders together to inform them of the Program; and develop collaborations with other regional and national groups working on these issues. Develop reports on Program metrics and evaluation of the success of the Program.

Proposal Submission: Proposers must submit one (1) hard copy of the proposal with a completed and signed Proposal Checklist attached to the front that contains an original signature and one (1) copy of the proposal documents on a CD. Proposals must be clearly labeled and submitted to:

Roseanne Viscusi, PON 2441 NYS Energy Research and Development Authority 17 Columbia Circle Albany, NY 12203-6399

If you have technical questions concerning this solicitation, contact Patrick Bolton at (518) 862-1090, ext. 3322 or ppb@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 Patrick Bolton (Designated Contact) at (518) 862-1090, ext. 3322 or ppb@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 proposals and proposals lacking the appropriate completed and signed Proposal Checklist 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 web site at www.nyserda.ny.gov.

INTRODUCTION

Currently in the transportation sector the vast majority of class 3-8 trucks operate on diesel fuel. Mitigation of diesel emissions from these medium- and heavy-duty trucks is a primary focus for the State. Diesel emissions of particular concern include particulate matter and oxides of nitrogen (NOx). Particulate matter is widely considered to be carcinogenic, contributing to higher morbidity and mortality rates. NOx is a contributor to unhealthy levels of ozone. Deploying advanced vehicle technologies, such as diesel emission controls, CNG, hybrid and battery electric drives will help reduce the negative environmental and public health impacts of trucks that would otherwise operate on diesel.

New York State has a long history with the promotion and use of DECD and alternate fuels in the medium- and heavy-duty sectors of its fleets. The purpose of this Program is to continue to expand the use of DECD, CNG, hybrid-electric and battery electric medium- and heavy-duty trucks within fleets in New York State thereby reducing harmful emissions and the State's dependence on foreign petroleum. For over 10 years NYSERDA has been operating transportation deployment incentive programs utilizing federal CMAQ funds. In the past, these programs have operated under a competitive NYSERDA Program Opportunity Notice (PON) structure but are now transitioning to open enrollment style incentive programs.

The Contractor will be responsible for assisting NYSERDA with the following three upcoming initiatives:

1) Additional funding for the existing New York City Private Fleet Diesel Emission Reduction Program: \$4 million will be targeted towards integrating emission controls into fleets in New York City that reduce vehicle emissions in an area of the state that is an Environmental Protection Agency (EPA) designated ozone and particulate matter non-attainment area (the five boroughs of New York City). These funds will provide a continuation of the efforts begun under an existing program (PON 2058-A http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities/PON-2058A-New-York-City-Private-Fleet-Diesel-Retrofit-Program.aspx) that has so far led to 103 trucks being retrofitted with diesel particulate filters.

NYSERDA will fund up to 80% of the cost of purchasing and installing California Air Resource Board (CARB) or EPA verified/certified emission reduction equipment on medium- and heavy-duty diesel vehicles that are domiciled (registered and housed) and primarily operated in New York City (for the purposes of this Program, "primarily" means 70% of their operating time). Eligible equipment will include, but is not limited to, diesel oxidation catalysts, closed crankcase filters, diesel particulate filters, and diesel multi-stage filters.

Eligible applicants will include private-sector companies and non-profit entities that domicile and operate fleets primarily in New York City. Federal, State, and Municipal governments will not be eligible to apply. It is estimated an additional 200 trucks will have the DECD installed and although there is no cap on individual DECD equipment costs per truck, no applicant may receive more than \$500,000 of the available funds in the Program.

Funding will be awarded on a first-come first served basis until funding is exhausted. The NYSERDA implementation contractor will assist in program development, implementation, reporting and metrics tracking. NYSERDA will enter into contracts directly with participating fleets.

2) New York City Private Fleet AFV - Voucher Incentive Program (NYCAFV-VIP):

\$6 million will be targeted towards a new program effort encouraging the use of CNG, hybrid-electric and electric vehicles (EVs) by private and non-profit entities domiciling and primarily operating (for the purposes of this Program, "primarily" means 70% of their operating time) Class 3-8 vehicles in New York City. This program will support compliance with the Federal Clean Air Act and is also consistent with current New York State policy direction. Further, by encouraging an increased number of clean-fueled vehicles in the New York City vehicle mix, this program fully complements the New York State Implementation Plan for Air Quality and the State's goal of reducing petroleum dependency in the transportation sector.

The NYCAFV-VIP is designed to encourage the use of class 3-8 trucks that operate with CNG, hybrid-electric, or battery electric drive-trains in New York City. The incentives will be distributed in an open-enrollment format with stringent guidelines seeking proposals from eligible vehicle dealerships. Eligible dealerships will be those that sell CNG, hybrid-electric, and electric trucks into the NYC market. Repowering diesel powered trucks with CNG engines is also eligible. Vehicle eligibility will be limited to class 3-8 CNG, hybrid electric, and battery electric

trucks that meet all federal and state regulations to be sold and operated on highways in the state. Fleet eligibility will be limited to private and non-profit entities operating and domiciling vehicles in the five boroughs of New York City. This program is intended to operate in a similar manner to the California Hybrid Vehicle – Voucher Incentive Program. http://www.californiahvip.org/

The NYSERDA outline of how this portion of the Program will work is as follows:

- Eligible truck dealerships are entities that sell CNG, Hybrid Electric, battery electric, or repower diesel trucks
 to CNG trucks in the New York City market and are the targeted proposers to the Program. Acceptance into
 the Program and upon execution of a formal agreement with NYSERDA, would allow them to offer the
 voucher to fleet customers that meet the Program criteria. Contracted dealers will be given approval to market
 the incentives to eligible fleets.
- 2. The Contractor will provide assistance to NYSERDA to review and approve the incentive levels for separate vehicle types and dealers. All vehicles must be pre-qualified by NYSERDA for each dealer. The Contractor will assist NYSERDA pre-qualifying vehicles. Lease agreements will be eligible, as long as the term of the lease is not less than 7 years.
- 3. The eligible private or non-profit fleets, which own and operate vehicles within the 5 boroughs of New York City, will then execute a purchase/lease agreement with the dealership for an eligible vehicle. This purchase agreement will include NYCAFV-VIP participation documents that the fleet will have to sign and commit to in order for the incentive to be eligible for that vehicle purchase.
- 4. The dealer will submit this agreement to the Contractor which, upon review and approval by the Contractor, will forward the documentation to NYSERDA. Upon approval, NYSERDA will set aside a fixed incentive for that vehicle purchase (voucher). The voucher will be the lesser of \$40,000 or 80% of the net incremental purchase cost of the vehicle after all other incentives are accounted for.
- 5. Once the vehicle is delivered and paid for by the fleet, the Contractor will review and approve the invoice documentation and forward these documents to NYSERDA which will pay the incentive to the dealer.
- 6. The Contractor will perform a selection of site visits to confirm the vehicle is located where the fleet states it is located.
- 7. An estimated 175 to 200 vouchers will be issued.
- 8. An additional \$5.5 million in incentives and 140 vouchers may be added to this program before year 3 of the agreement. Proposers should include a budget for adding these Program funds and the corresponding responsibility to the Program. Proposers can describe a different Program administration template, if they believe a different Program administration would benefit the Program and NYSERDA.

3) New York State Electric Vehicle Voucher Incentive Program (NYSEV-VIP):

\$9 million will be targeted towards a new program effort encouraging the purchase/lease of class 3-8 trucks that operate solely with all electric batteries (EVs) in New York. NYSERDA will issue guidelines and eligibility criteria in a Program Opportunity Notice (PON) to be broadly disseminated to private, public and non-profit fleets, transportation organizations, and EV vehicle dealers. The PON will be open-enrollment with stringent proposal guidelines that will seek proposals from vehicle dealerships that sell program-eligible EVs into the NYS market. Vehicle eligibility will be limited to class 3-8 EV trucks that meet all federal and state regulations to be sold and operated on highways in the state. Fleet eligibility will be limited to private, public sector and non-profit entities operating and domiciling vehicles in any non-attainment and maintenance areas of New York (a total of 29 counties). See Attachment E.

EV dealers will be the target proposers for the program and acceptance into the program would allow them to offer the voucher to their fleet customers who meet the program criteria. Eligible proposers, upon execution of a formal agreement with NYSERDA, will be given approval to market the incentives to eligible fleets. These fleets will then execute a purchase agreement for a new eligible EV with the NYSERDA contracted dealer. This purchase agreement will include NYSEV-VIP participation documents that the eligible fleet will have to sign, and commit to in order for the incentive to be eligible for that vehicle purchase. The contracted dealer will submit this agreement to the Contractor which, upon approval, will forward the agreement to NYSERDA which will set aside a fixed incentive for that vehicle purchase (voucher). The voucher will be the lesser of \$20,000 or 100% of the net incremental purchase cost of the vehicle after all other incentives are accounted for. Once the vehicle is delivered and paid for by the fleet, NYSERDA will pay the incentive to the dealer. All vehicles must be pre-qualified by NYSERDA for each dealer. An estimated 450 vouchers will be issued. Lease agreements will be eligible, as long as the term of the lease is not less than 7 years.

In addition to the aforementioned incentive initiatives, New York City Department of Transportation (NYCDOT) is currently operating a similar program for fleets operating out of Hunts Point Market in New York City. Careful

attention will need to be maintained to ensure that fleets do not receive an incentive under both the NYCDOT program and the integrated NYSERDA Program. http://www.huntspointctp.com/

1.0 PROJECT REQUIREMENTS

NYSERDA will select an Implementation Contractor through this competitive solicitation to assist in the development of the Program, oversee the voucher approval process and develop and implement strategies to evaluate the effectiveness of this program. The consultant will also analyze data collected during the program and assist NYSERDA in reviewing vehicle technologies for applicability to the Program requirements. The consultant will calculate the emission reductions of the vehicles purchased and analyze these programs relative to similar deployment programs, including those operated in other states.

The consultant's activities will also include:

- Forging relationships with truck fleets, truck dealers, vendors and others, to both raise general interest in
 the Program and to enlist advocates and partners that share interests in the program technologies. This
 may include convening training seminars for truck dealers, creating dealer and vehicle eligibility training
 programs and hosting seminars for dealerships and fleets or other relationship-building tools such as
 direct marketing.
- Developing the Program parameters, rules, application forms, fleet and vehicle eligibility criteria.
- Developing a website that will provide a single entry point and application process for the three incentive programs. The website should also provide an online reporting format and system for fleets receiving incentives under the Program.
- Review voucher requests to ensure the vouchers meet the guidelines of the program and are only for the net incremental cost of the vehicle.
- Perform site visits to ensure the vehicles that have received the voucher funding are in compliance with the Program rules.
- Review invoice requests from dealers to ensure all proper documentation is included. Work with dealers to correct discrepancies.
- Track vehicle miles travelled for the vehicles funded under the Program and develop metrics to support
 calculations of lifetime vehicle miles, emissions avoided, fuels savings (both units and dollars), cost of
 systems, non-energy cost savings, net maintenance costs, and value of the Program to New York State.
 Prepare emission reduction reports to include electricity and alternative fuel usage, vehicle locations, and
 vehicle miles travelled for vehicles receiving funding under the Program.
- Develop project case studies and assist in reporting and technology transfer.
- Prepare a close-out report for the Program when funding is exhausted or the time limit for the Program funding has expired. Reports will detail the costs and the benefits of the Program.

1.1 ELIGIBILITY REQUIREMENTS

Any entity is eligible to apply for funding under PON 2441. Teaming arrangements or subcontracting of portions of the work scope is encouraged if a proposer believes that the project would benefit from the qualifications and participation of another party.

1.2 PROGRAM FUNDING

\$850,000 in NYSERDA funding is estimated to be available through PON 2441 to perform support tasks for the Program, such as Program development, conducting and compiling research, collecting data, Program reporting, and performing outreach about Program Incentives. Funds will be allocated on a competitive basis. NYSERDA reserves the right to award one or more contracts from this solicitation or make no awards. An individual award may include all or selected portions of a proposer's work scope.

It is anticipated that a single contract will be awarded from PON 2441 but NYSERDA reserves the right to portion out the work and award more than one agreement. The initial contract will be for a duration of three years with an option to extend the contract for up to an additional three years. NYSERDA may choose to add additional funding to the contract following Year 3 of the project. The agreement will be subject to a yearly review of the Contractor's work by NYSERDA. This review will include a go, no-go assessment on continuing the agreement.

2.0 PROPOSAL REQUIREMENTS

Proposers must submit one (1) paper copy and one (1) copy on CD of the completed proposal to the attention of Roseanne Viscusi at the address on the front of this Program Opportunity Notice. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, ONE OF WHICH MUST CONTAIN AN ORIGINAL SIGNATURE. Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will be returned. Faxed or e-mailed copies will not be accepted.

2.1 YOUR PROPOSAL MUST CONTAIN, IN THE FOLLOWING ORDER:

Attachment A - Proposal Checklist with AT LEAST ONE COPY with an original signature (Mandatory)

Attachment B - Disclosure of Prior Findings of Non-Responsibility Form (Mandatory)

Attachment C - Contract Pricing Proposal Form (Mandatory)

A proposal narrative as described in the following pages (Mandatory)

Letters of project commitment from all partners to the proposal are mandatory. Absence of signed commitment letters will be viewed as a lack of partnership commitment to the project proposal. Exceptions to NYSERDA standard terms and conditions (provided under Attachment D), if any.

NYSERDA will enter into a contract with a successful proposer(s) using the attached Sample Agreement (Attachment D). If you do not accept the standard terms and conditions, provide alternate terms with justification based on the risk and benefit to New York State. Any negotiation of terms will be at NYSERDA's sole discretion. If you do not include exceptions to these terms with your proposal and the proposal is awarded funding, no adjustment to these terms will be allowed in the NYSERDA contract. Attachment D does not need to be completed. It is provided only as a reference.

Proposals should not be excessively long (attempt to follow the page length suggestions provided below) 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, the PON number, and the page number. The proposal must contain a proposed statement of work and a list of proposed deliverables in the following format:

PROPOSAL NARRATIVE

A. INTRODUCTION/OVERVIEW

Provide a brief overview of the various tasks outlined in the proposal, the goals and anticipated results of the proposal, and the proposal team's makeup and experience. (Estimated Length 1 page)

B. PRIOR EXPERIENCE WORKING ON TRANSPORTATION PROGRAMS AND CMAQ FUNDING

Describe your experience in developing, operating, reporting, and reviewing similar programs. Discuss any experience you have developing similar transportation incentive programs utilizing CMAQ or other state or federal funds. Discuss any experience you have operating similar programs in the past either directly or on behalf of another entity. Discuss any successes or problems you have experienced in these programs. Discuss any experience you have managing NYSERDA projects in the past five years. (Estimated Length 2-3 pages)

C. PROJECT IMPLEMENTATION

Describe the process you would undertake to develop and finalize the implementation phase of the Program. Discuss how the Program parameters will be set and your ideas on how the Program should operate. Describe a plan for developing the Program guidelines for the integrated Program. Describe your experience working with key stakeholders, including eligible vehicle vendors, truck manufacturers, fleet operators, and DECD manufacturers and dealers. Include a detailed description of the types of information you would include in Program guidelines.

It is NYSERDA's intention that these separate initiatives will be combined into a single Program effort. Discuss how these programs can be integrated and the steps necessary to make this happen. Discuss your ability to

perform outreach activities to potential applicants and technology providers, receive and review applications, work with Program applicants to correct any application deficiencies, track incentive amounts, receive and review invoices and work with Program applicants to correct any invoice deficiencies, perform site visits to projects funded under the program, collect data on projects, develop reports for NYSERDA relating to data collected, and perform interim (approximately every 6 months) and final Program reports for NYSERDA. Any contracting activities with applicants, technology dealers, or technology manufacturers will be conducted by NYSERDA. All incentives will be paid by NYSERDA to the applicants, dealers or technology manufacturers.

Develop a draft Statement of Work (SOW) for the project. The SOW is the primary contractual document that outlines work activities and quantifies deliverables. It specifically delineates each step or procedure required to accomplish the project objectives. Therefore, each action needs to be identified, indicating who will perform it, how it will be performed and its intended result. At the end of each task description, specific task deliverable(s) must be listed. Be clear and specific: concentrate on "how" and not "why". Use "active voice" sentence structure to make clear who is responsible for specific actions; for example, use the following phrase to start the description of every task and subtask: "The Contractor shall...." (Estimated Length 4-6 pages)

D. DATA COLLECTION AND ANALYSIS

Describe the process you will undertake in tracking the projects in New York State, verifying the completion of projects under the Program, collecting data from vehicle projects in the State, and analyzing the data. Include details on how you will visit and track projects across the state and provide a schedule, proposed budget, list of anticipated subcontractors, and other relevant information. Describe how you will engage Program incentive recipients to ensure timely data submission. Include details on the types of trends and findings you will investigate when analyzing the data. List previous projects involving data collection and analysis you have completed that are relevant to this solicitation. Discuss what data is critical to understanding an alternative fuel vehicle or DECD project and how the project is evaluated. (Estimated Length 2-4 pages)

E. TECHNOLOGY TRANSFER

Describe a technology transfer plan for educating stakeholders and fleets about the Program that includes proposed meetings, outreach, training modules, marketing, and communications. Include descriptions of proposed events and initiatives. List potential members for a stakeholder panel and describe any previous work you have done with these stakeholders. (Estimated Length 2-3 pages)

F. PROJECT MANAGEMENT

Identify the Project Manager (main point of contact for NYSERDA) and key participants in the project. Describe their individual expertise and explain how each will contribute to the successful completion of the project. Provide brief biographies describing their management and technical expertise and relevant experience with CMAQ funded transportation programs, data collection, analysis and review, policy analysis and research, program implementation and outreach and information dissemination. List the tasks to be performed by the Project Manager and other key participants. Include resumes as an attachment. (Estimated Length 2-4 pages)

G. BUDGET

All cost information must be provided on the attached Contract Pricing Proposal Form (**Attachment C**). Proposers may photocopy the Contract Pricing Proposal Form if additional space is necessary. Note, no reimbursement will be provided for costs incurred prior to contract execution for proposals awarded funding.

In addition to the Contract Pricing Proposal Form, include the following:

Team Information

- Describe the people who will do the work, their relevant experience, and whether they are external subcontractors or internal personnel
- Hourly labor rates of the various team members and the anticipated number of hours each team member

will spend on each portion of the project. Provide justification or verification for the rate of pay proposed.

Attach supporting documentation to support indirect cost (overhead) rates 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 labor costs.

NYSERDA reserves the right to audit any 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.

(Estimated Length 2-3 pages)

Travel, Equipment and Administrative Costs

• Present anticipated travel, equipment, and administrative costs, along with a detailed description of each (Estimated Length 1-2 pages)

Cost share information

- The proposal may show non-NYSERDA funding, which is not required but will be a factor in evaluation (see Section 2.2 Proposal Evaluation). Cost-sharing can be from the proposer, other team members, and other government or private sources. All cost sharing must be confirmed by a letter from the cost share entity committing to providing the cost share. Contributions of direct labor (for which the laborer is paid as an employee) and purchased materials may be considered "cash" contributions. Unpaid labor may be considered "in-kind" contributions. NYSERDA will not consider as cost share efforts that have already been undertaken prior to the proposal award date.
- Requested funds, cash cost share, and in-kind contributions together must account for 100% of the cost
 of eligible expenses for implementing the project. Contributions can come from any source. Federal funds
 may be used as cost share and must be used directly to implement the project for which funding is sought
 under this Program and increase the value of the project.

All recipients of awards for projects will receive funds on a reimbursement basis based on submission of invoices and documentation of expenses.

H. SCHEDULE

Describe a schedule for conducting the work proposed in sections A through E in a Gantt chart or similar format. The timeline for the first phase of the project should be approximately three years. NYSERDA would like to have the Program operating by approximately June of 2012.

2.2 PROPOSAL EVALUATION

Proposals will be reviewed by a Technical Evaluation Panel (TEP) made up of NYSERDA personnel and outside experts and will be scored and ranked according to the following criteria:

- 1 Proposal Quality
 - Experience in developing, operating, reporting and evaluating similar programs
 - Knowledge of current state of transportation markets and regulations
 - Level of insight into how the Program should operate
 - Level of insight into the development of these three incentive initiatives into one program

- Ability of proposed technology transfer plan to reach target audiences and accomplish outreach goals
 of the Program
- Clarity and the detail of the SOW
- 2 Proposer Qualifications
 - Skill level and experience of the project team
 - References and Past Performance
 - Demonstrated relationships with relevant stakeholders
 - Demonstration of past timeliness in project completion
- 3 Project Value
 - Proportion of project cost dedicated to program completion (versus travel, equipment, and administration)
 - Reasonableness of labor costs
 - · Level of cost share provided
 - Schedule for completion of project

3.0 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 <u>substantial injury to the competitive position</u> 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

http://nyserda.ny.gov/~/media/Files/About/Contact/NYSERDARegulations.ashx

. 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

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.ny.gov/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.ny.gov/pdf/current forms/st/st220td 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.ny.gov/pdf/2006/fillin/st/st220ca_606_fill_in.pdf). The Department has developed guidance for contractors which is available at http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf.

Contract Award - NYSERDA anticipates making one award under this solicitation. It may award a contract based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. 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 10 weeks from the proposal due date whether your proposal has been selected to receive an award.

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.

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.

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 text of the laws is 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.

4.0 Attachments:

Attachment A – Proposal Checklist with AT LEAST ONE COPY HAVING AN original signature (Mandatory)

Attachment B - Disclosure of Prior Findings of Non-Responsibility Form (Mandatory)

Attachment C – Contract Pricing Proposal Form (Mandatory)

Attachment D - Sample Agreement

Attachment E - List of Non-Attainment and Maintenance Counties in New York