



**RENEWABLE PORTFOLIO STANDARD
CUSTOMER-SITED TIER
ANAEROBIC DIGESTER GAS-to-ELECTRICITY
DAIRY FARM and DAIRY PROCESSING WASTES PROGRAM
Program Opportunity Notice (PON) 2684**

Approximately \$23.6 million in New York State Renewable Portfolio Standard (RPS) funds and \$5 million in funds provided by the New York Power Authority (NYPA) are being made available to support the installation and operation of New Anaerobic Digester Gas (ADG)-to-Electricity Systems using dairy farm wastes and/or dairy product processing wastes in New York State. Funding is available on a first-come, first-served basis; up to \$2 million is available per host site, depending on project size. Application Packages must be received by NYSERDA on or before January 31, 2013 at 5:00 PM Eastern Standard Time, or until all funding has been fully committed, whichever comes first. NYSERDA may issue a subsequent ADG-to-Electricity solicitation in February 2013. Such new program may or may not offer incentives comparable to those offered herein. However it is anticipated that this future solicitation will be open to a wider range of project types, including those treating other organic feedstock types and those installing engine generators at existing digester facilities.

The New York State Energy Research and Development Authority (NYSERDA), administrator of the New York State RPS program and NYPA funds, is accepting applications for financial incentives to support the purchase, installation, and operation of New ADG-to-Electricity Systems in New York State that will use dairy farm wastes and/or dairy processing wastes for at least 50% of their annual input feedstock by weight. Both performance- and capacity-based electricity production incentives are available, subject to the limitations described in this Program Opportunity Notice (PON). Generally, only customers that pay the RPS Surcharge are eligible to receive funding through this program.

In order to participate in this program, Applicants/Program Participants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into a Standard Performance Contract Agreement (Agreement) with NYSERDA. (See Appendix D) Program Participants must also adhere to quality assurance/quality control (QA/QC) requirements throughout the term of the Agreement. (See Appendix C)

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

Roseanne Viscusi, PON 2684
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Application Packages must be received by NYSERDA on or before January 31, 2013 at 5:00 PM Eastern Standard Time, or until all funding has been fully committed, whichever comes first.

All Program Questions should be directed to: Tom Fiesinger, (518) 862-1090, ext. 3218, twf@nyserda.ny.gov, or Steve Hoyt, ext. 3587, sah@nyserda.ny.gov

All Contractual Questions should be directed to: Nancy Marucci, ext. 3335, nsm@nyserda.ny.gov.

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

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I. INTRODUCTION

Renewable Portfolio Standard (RPS) Program: Orders issued by the NYS Public Service Commission (PSC) provide that the RPS Program will support and promote an increase, to 30%, of the percentage of the electric energy consumed in New York State in 2015 that comes from renewable sources. The ADG-to-Electricity Program is issued under the Customer-Sited Tier (CST) portion of the RPS program. The CST is available to support projects commonly described as "behind the meter;" smaller-sized electric generation that is sited and used at the electric customer's location.

New York Power Authority (NYPA) funds: Additional funding provided via NYPA funds is intended to encourage the growth of the dairy production and processing industries in New York State by supplementing RPS ADG funding to allow a maximum of \$2 million in funding per project to anaerobic digester gas-to-electricity projects using animal manures and/or dairy processing wastes.

Funding via the RPS is made available to NYSERDA on an annual basis. The following amounts were designated by PSC order for the ADG-to-Electricity Program: \$12 million for 2012, \$11.6 million for 2013, \$10.2 million for 2014, and \$10.2 million for 2015. Funding via NYPA Anaerobic Digester Funds has been made available to NYSERDA on a one time basis. NYPA funding will be available until depleted, to support the increased incentives offered in this solicitation as a bridge mechanism until the Commission takes action on the petition submitted by NYSERDA seeking approval to allow for the maximum incentive from RPS funds to be raised to \$2 million per project.

Please refer to Section X for the Glossary of Terms used throughout this document.

II. INCENTIVES

Up to \$2 million is available per Host Site from this PON, depending on project size. The Total Contracted Project Incentive, the maximum incentive that will be offered per project, is capped at the sum of the Total Performance Incentive and the Total Capacity Incentive, or \$2 million, whichever is less (details follow). If any previous NYSERDA funding was received by the Host Site for any ADG-fueled Electric Power Generation Equipment and/or Anaerobic Digester Equipment either of which are replaced by the New ADG-to-Electricity System, the Total Contracted Project Incentive cap will be reduced by this amount. Projects that have received, or will receive Federal funding via the 1603 Treasury Grant, or NRCS/EQIP digester funding, will have their NYSERDA awards under this solicitation reduced by 50% of that additional funding with such a reduction allocated to capacity payments and/or performance payments in a manner to be determined by NYSERDA.

Only New ADG-to-Electricity systems are eligible for incentives under this program. New ADG-to-Electricity Systems (New Systems) are defined as ADG-to-Electricity Systems which result in an incremental increase in the ADG-fueled electricity generated at the Host Site compared to the Baseline Generation, if any. New Systems can include either newly manufactured engine-generators and anaerobic digester equipment; or engine-generators and anaerobic digester equipment that have been adequately reconditioned and upgraded to NYSERDA's satisfaction.

PERFORMANCE INCENTIVES

Performance Incentives are calculated based on the Contracted Capacity of the New System. The Total Performance Incentive is calculated by multiplying the Contracted Capacity (kW) by 8760 hours/year by ten (10) years by \$0.025 /kWh by 75% (capacity factor). Total Performance Incentives cannot exceed \$2 million. (The Contracted Capacity is based on the real power production capacity of the electric power generation equipment as defined in the PON Glossary.)

Performance Incentives will be paid based on the verified electricity generated by the New System.

CAPACITY INCENTIVES

The potential Capacity Incentive is determined by the total of incentives that are available for the different types of components to be included the New System. The amount of incentive for each component is based on a basic fixed incentive element and an additional variable incentive element calculated based on the Contracted Capacity of the ADG System. (Note: In most cases, NYSERDA will limit the Contracted Capacity of the project to the greater of (a) the eligibility capacity limit in the current Net Energy Metering Law (for projects eligible for Net Energy Metering), or (b) the approximate Peak Connected Load at the Customer's meter. However, where there are recognized public benefits, or where practical considerations suggest, NYSERDA may approve a larger Contracted Capacity. For example, NYSERDA may approve a Contracted Capacity larger than the Customer's Peak Connected Load due to the incremental sizes of electric power generation and ancillary equipment currently available, or to effectively use the maximum volume of biogas produced.)

Basic ADG System Incentives. Incentives are available for the two basic ADG System components, the digester and the engine generator, and for additional components that can enhance kWh output and economic viability of ADG Systems.

Additional Component Incentives. The incentives for additional components include incentives for equipment and management and operational techniques. These are briefly described below along with criteria that need to be met to be awarded the incentives for these components. Adequate plans for the implementation of any such additional components proposed for the New System must be included in the PON application. The adequacy of such plans for successfully implementing these components and the validity of including such incentives in the Contract will be determined by NYSERDA.

Higher Quality Biogas Clean-up: Anaerobic digester gas generally contains impurities that can significantly affect the operating and maintenance requirements as well as the overall performance of the ADG engine-generator system. Incentives can be provided for the installation of an effective biogas clean-up system for removal of hydrogen sulfide (H₂S) to a concentration less than 400 parts per million. Sufficient testing of the cleaned biogas will be required to establish the capability of the equipment to meet this specification.

High Cost Grid Upgrade: For some projects the costs of getting interconnected can present a significant hurdle to project implementation. These incentives can be provided for projects that have a completed CESIR or other documentation acceptable to NYSERDA showing that the project applicant will include grid upgrade costs exceeding \$100,000. Actual costs shall be reported to NYSERDA with the final invoice for Capacity Incentive to determine final eligibility.

Black Start Capability: Having the capability to use an ADG-to-Electricity System to provide back-up power to the host facility is an important capability in the event that the electrical grid is down. Projects with this incentive will be required to demonstrate that capability during installation and commissioning.

System Designed to Accept Significant Food Waste. In New York State a significant amount of food waste is landfilled. This results in methane emissions to the environment, loss of nutrient value and significant costs to food waste generators. Anaerobic digestion is an effective means of recycling the nutrient value of food waste and reducing emissions and may lower costs for food waste generators. Incentives will be available for projects that (1) are designed to accept more than 10% of anaerobic digester input feedstock (on a weight basis) by including appropriate elements such as additional input and output storage capacity and tanker truck access and (2) meet the applicable biogas supply milestones in Section 4.2 of this PON.

System with Contracts for the Digestion of Food Waste from Institutional Sources. Additional incentives will be available for projects that meet the above criteria for taking >10% of input feedstock from food waste generators (on a weight basis) when one or more contracts provides at least 5% of the input from food waste from institutional sources, such as government-operated residential facilities.

Cooperative Group Management: A significant element of the operation and management costs for an anaerobic digester can be reduced by shared management and operation services. Incentives will be available for projects that provide 5-year agreements and shared services plans with at least two other anaerobic digester facilities where these additional two digesters are operational within one year of the first of these to receive this incentive for this System component.

TOTAL CONTRACTED PROJECT INCENTIVE

The Total Contracted Project Incentive will be included as Exhibit A of the Standard Performance Agreement between NYSERDA and the Applicant/Project Participant. An example of the calculations follows for a Project with a Contracted Capacity of 200 kW:

Performance Incentive: To determine the performance incentive the Annual Contracted Generation is calculated first by multiplying the Contracted Capacity of 200 kW by 8760 hours per year and the capacity factor of 75%. This gives the Annual Contracted Generation of 1,314,000 kWh. This figure is then multiplied by \$.025 and 10 years to provide a Total Performance Incentive of \$328,500.

Capacity Incentive: For each component included in the New System, there is a fixed base incentive element to help address fixed costs of installing that component. In addition there is a variable incentive element per kW of Contracted Capacity to help with costs that are higher for larger systems. For example, for New Systems including the typical digester design component, the fixed base incentive for that component would be \$100,000 regardless of System size. The second element of the capacity incentive, the variable incentive, would be calculated for that component based on the rate of \$2,000 per kW of Contracted Capacity. For this example of a New System installing a typical digester and having a Contracted Capacity of 200 kW, the incentive for the digester component would be the \$100,000 base incentive plus \$400,000 from the variable incentive element for a total of \$500,000.

A similar formulation would apply to the engine-generator component of the New System. For this same example, if the engine generator component was a new, then the incentive for that component would be \$50,000 for the fixed base incentive plus \$500 per kW of Contracted Capacity or \$100,000 based on the 200 kW Contracted Capacity. The total Capacity Incentive for the engine-generator component would then be \$150,000.

Considering these two basic components of digester and engine generator, the total calculated Capacity Incentive for the New System would be a total of \$650,000. The Capacity Incentive is limited to the remaining amount after the Total Performance Incentive is subtracted from \$2 million which is \$1,675,000. As \$650,000 is less than \$1,675,000, then \$650,000 remains unchanged as the maximum Total Capacity Incentive. Combining the Total Capacity Incentive and the Total Performance Incentive results in a Total Contracted Incentive for the project of \$978,500.

The text box below shows how the incentives for this example would appear in the Standard Performance Contract Agreement as Exhibit A:

EXHIBIT A TOTAL CONTRACTED PROJECT INCENTIVE				
Contractor Name: ABC Dairy Farm Agreement Number: ADG 687N Project Name: ABC Dairy Farm ADG-to-Electricity Project				
Contracted Capacity (kW)	Annual Contracted Generation ¹ (kWh/year)	Total Performance Incentive ² (\$)	Total Capacity Incentive ³ (\$)	Total Contracted Project Incentive ⁴ (\$)
200	1,314,000	\$328,500	\$650,000	\$978,500
<p>Notes:</p> <p>1) The Annual Contracted Generation is calculated by multiplying the Contracted Capacity by 8760 hours/year by a 75% Capacity Factor.</p> <p>2) The Total Performance Incentive is calculated by multiplying \$0.025/kWh times 10 years times the Annual Contracted Generation.</p> <p>3) The Incentive Calculation Tool is used to perform the Total Capacity Incentive calculation. The maximum limit for Capacity Incentives available to a project is determined by first calculating the Performance Incentive and then subtracting the Performance Incentive from \$2 million. Any remaining amount provides the maximum limit to the funds available for the Capacity Incentives.</p> <p>4) The Total Contracted Project Incentive is capped at the sum of the Total Capacity Incentive and the Total Performance Incentive or \$2 million whichever is less.</p>				

Limitations on Capacity Incentives

The maximum limit for Capacity Incentives available to a project is determined by first calculating the Performance Incentive and then subtracting the Performance Incentive from the \$2 million total incentive cap per project.

If funding has been received from NYSERDA for the purchase and/or installation of components of an ADG-to-Electricity System at the Host Site, such components are not eligible for any incentives through this solicitation.

For all components, if a project does not meet the criteria for award of that component incentive, the incentives to the project will be reduced by the amount of the incentives for that component in a manner determined by NYSERDA.

Projects that have received or will receive Federal funding via the 1603 Treasury Grant or NRCS/EQIP anaerobic digester funding will have their awards under PON 2684 reduced by 50% of that additional funding in a manner to be determined by NYSERDA.

INCENTIVE CALCULATION TOOL

NYSERDA has developed an Incentive Calculation Tool for Applicants to use to develop their Total Contracted Project Incentive. NYSERDA will use this, in addition to the other information provided in the Application Package, to develop the Standard Performance Contract Agreement. A copy of the Tool is included in Appendix B of this PON; it may be downloaded from NYSERDA's website <http://www.nyserda.ny.gov/en/Funding-Opportunities/Current-Funding-Opportunities.aspx>, under the PON 2684 header; or it may be requested from Tom Fiesinger, (518) 862-1090, ext. 3218, twf@nyserda.ny.gov or Steve Hoyt, ext. 3587, sah@nyserda.ny.gov. If a proposed project does not fit into the constraints of the Incentive Calculation Tool (e.g., Applicants have received prior NYSERDA funding, Existing Equipment will remain in operation or be removed), but NYSERDA determines it meets the requirements of the Program, alternative methods of estimating the Total Contracted Project Incentive will be considered on a case by case basis; please contact Tom Fiesinger or Steve Hoyt to discuss; contact information is provided above.

III. ELIGIBILITY

Applicants/Program Participants must meet the eligibility requirements set forth in both the New York State Public Service Commission's "Order on Customer-sited Tier Implementation," issued and effective June 28, 2006, and "Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program," issued and effective April 2, 2010. The Orders may be accessed through the weblinks at the end of this section The salient points of these orders are included in the list below.

To participate in the Program, the following criteria must be met:

- Host Sites must be located in New York State;
- New Systems must be located at Host Sites owned or operated by Customers who currently pay the NYS RPS Surcharge.
- Generally, ADG-fueled electricity must be generated and used by the Host Site in conjunction with a utility meter that is interconnected with the grid and on which the customer pays the RPS Program surcharge. Program Participants are strongly encouraged to install generators that are capable of operation to meet Host Site needs during natural disasters and events resulting in grid outage;
- ADG Systems must consist of Commercially Available Technologies;
- The ADG-fueled Electric Generation Equipment must result in an incremental increase in the ADG-fueled electricity generated at the Host Site compared to any Baseline Generation;
- NYSERDA will not approve an application for an incentive if the major components of the ADG system have already been delivered to the site or a staging area.
- Eligible Biomass Feedstocks include manure, agricultural residues and biomass, industrial organic wastes (e.g., food wastes), municipal wastewater and municipal organic solids. [Note: Electricity generated by landfill biogas is not eligible for the ADG-to-Electricity Program.]
- Applicants/Program Participants (and Host Sites, if different) must comply with all applicable:
 - Federal, State and Local codes and regulations;
 - Federal, State and Local permitting requirements;
 - Federal, State and Local emissions limits; and
 - Concentrated Animal Feeding Operation (CAFO) requirements.

Eligibility Note 1: Third party ownership of an ADG-to-Electricity System is permitted under this Program contingent upon: the electric power generation equipment being located at a Host Site owned or operated by a Customer who currently pays the RPS Program Surcharge and the Host Site (e.g., farm, waste water treatment plant or business) agreeing to contract terms with the third party. Generally, ADG-fueled electricity must be generated and used by the Host Site in conjunction with a utility meter that is interconnected with the grid.

Eligibility Note 2: ADG-fueled Electric Generation Equipment fueled by ADG from a dedicated ADG pipeline may be eligible to participate in the Program whether or not the anaerobic digester(s) producing the ADG are located at the Host Site(s) of the ADG-fueled Electric Generation Equipment.

Eligibility Note 3: To participate in this PON 2684 the New System must:

- (a) digest dairy farm wastes and/or dairy product processing wastes for at least 50% of their annual input feedstocks;
- (b) have a Contracted Capacity of 100 kW or more;
- (c) include both a new engine generator and either a new digester or major upgrade of a municipal or industry waste treatment system to allow for eligible feedstocks; and
- (d) have a schedule for installation and electricity production by December 31, 2013.

Eligibility Note 4: For potential participation in this PON 2685, projects that are currently contracted with NYSERDA under PON's 1146, 2138 or 2276, but have not purchased any equipment or begun construction may apply to this program. If the project is awarded funding, NYSERDA may issue a contract modification to the current contract to reflect the incentive structure and requirements of this PON.

Links to NYS PSC Orders:

<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C4FA8087-B9C9-4E0B-8C6E-A3A272DC05B6}>

<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C05CD0D6-8EA5-4CB9-A9FA-6ADD3AECB739}>

IV. HOW THE PROGRAM WORKS

This section describes the steps of participation in the ADG-to-Electricity Program - from submitting an application to requesting Performance Incentive payments for verified ADG-fueled electricity generation.

1. Submit Application Package

A completed Application Package must be submitted to NYSERDA; procedures are described in Section V of this PON. NYSERDA or its Technical Consultant may request additional information in support of the Application Package and/or may conduct a site inspection to verify the accuracy of the information provided. Currently contracted projects that have not purchased any equipment or begun construction may also apply to this program by using the new Incentive Calculation Tool to calculate the potential incentives and by submitting any new project information needed to update information sent previously.

2. Sign Standard Performance Contract Agreement

Upon approval of a completed Application Package, NYSERDA will forward the Applicant a Standard Performance Contract Agreement. The Agreement will specify the approved Total Contracted Project Incentive. Funds will not be committed to a project until after NYSERDA receives the signed Agreement from the Applicant and NYSERDA countersigns it. A fully executed copy, with a specified “Effective Date” of the Agreement, will be returned to the Program Participant. A sample Agreement is included as Appendix D.

3. Develop Quality Assurance/Quality Control (QA/QC) Plan

The Program Participant is responsible for developing the QA/QC Plan in conjunction with a Technical Consultant, who will be assigned to the project by NYSERDA. Guidance on developing the QA/QC Plan is included in Appendix C and a sample QA/QC Plan can be obtained from the NYSERDA contacts identified in this PON.

4. Milestones to Procurement and Installation

This section defines milestones leading to procurement and successful installation of the New System. NYSERDA may terminate this Agreement for failure to complete the milestones by the listed milestone time limits.

If the Contractor finds it necessary to seek an extension to any of the milestone time limits, a request for an extension should be submitted in writing to NYSERDA no less than 30 calendar days prior to the expiration of the applicable deadline. The request for an extension must describe the reasons for the delay and the expected timeframe to completion of the milestone. Extensions may be granted or denied at NYSERDA’s sole discretion. NYSERDA will notify the Program Participant in writing whether or not the extension has been granted. The Contractor shall schedule project progress meetings with NYSERDA at approximately 4 months and 8 months from the Effective Date.

4.1. Interconnection with the Utility Grid. The Contractor shall provide adequate documentation of steps completed to interconnect the New System with the utility grid; such documentation shall include:

- (a) within two (2) months of the Effective Date, a copy of the Interconnection Application submitted to the utility as described in “Step 3: Potential Applicant Files an Application” of the “New York State Standardized Interconnection Requirements and Application Process for New Distributed Generators 2 MW or Less Connected in Parallel with Utility Distribution Systems” (SIR);
- (b) within three (3) months of the Effective Date, documentation that a complete detailed interconnection design package as defined in the SIR in “Step 5: Applicant Commits to the Completing of the CESIR” has been submitted to the utility;

4.2. Documentation of Adequacy of Biogas supply. The Contractor shall provide adequate documentation of steps taken to secure sufficient digester feedstock for the ADG System to generate adequate biogas for annual power production at least at a 75% capacity factor; such documentation shall include:

- (a) Within 3 months of the Effective Date (1) written documentation from sufficient sources of such feedstock(s) of the quantity and availability of such feedstock(s) throughout the year and the characteristics of the feedstock(s) affecting both biogas potential (e.g. volatile solids content) and disposition of digester effluent (e.g. Nitrogen and Phosphorus content) and (2) assumptions and calculations using the characteristics and quantities of sufficient feedstock streams planned for digestion to show that adequate biogas will be produced ;
- (b) (For Concentrated Animal Feeding Operations) Within 4 months of the Effective Date written documentation from a Certified Agricultural Environmental Management Planner of the ability of the

Host site and Contractor to provide for acceptable disposition of the effluent from the digester with the digestion of such feedstock(s); and

(c) Within 5 months of the Effective Date, copies of required regulatory approvals or permits for accepting the feedstock(s).

4.3. Financing of the New System. Within four (4) months of the Effective Date, the Contractor shall provide adequate documentation of steps taken to secure the financing necessary to successfully install and commission the New Equipment; such documentation shall include:

(a) Written documentation from funding sources of the amounts of funding available;

(b) A statement of the Contractor and Host Site (if different) that the Economic Evaluation of the project shows adequate net benefits for installation and operation and continuing operation of the New System .

4.4. Procurement. Procurement of major equipment must be completed, and sufficient documentation of Procurement must be provided to NYSERDA, within eight (9) months of the Effective Date. Major equipment includes the ADG-fueled engine, generator, engine/generator controls, biogas clean-up system, as well as major components of the anaerobic digester, if applicable. Sufficient documentation of Procurement may include but may not be limited to invoices, Bills of Lading, etc.

4.5 System Installation Within eleven (11) months of the Effective Date, the Contractor shall be responsible for the installation of the New System including the interconnection with the utility grid and production of electricity by the power generation equipment in accordance with the approved QA/QC Plan.

4.6 System Commissioning Within twelve (12) months of the Effective Date, the Contractor shall be responsible for Commissioning of the New System, which shall include documentation of satisfactory operation of the New Equipment, which is defined as operating with a minimum average 75% Capacity Factor of the Total Contracted Capacity for at least 7 consecutive days, and demonstration of the ability to upload information to NYSERDA’s CHP Data Integration Website (“CHP Website”).

5. Request First Capacity Incentive Payments

The Program Participant may request a payment of the approved Total Capacity Incentive stipulated in the Total Contracted Project Incentive according to the following distribution:

Percentage of Total Capacity Incentive	Payment Milestones	Summary of Deliverables
15%	Down-payments made for major equipment and for design, CESIR process, and other engineering work.	Proof of payment
25%	Delivery of power generation equipment on-site and approval of QA/QC Plan.	Delivery receipt and approved QA/QC Plan
20% for New Anaerobic Digester/New Waste Storage Cover Digester Installations.	New Anaerobic Digester/New Waste Storage Cover Digester – Completed installation	Digester - Site inspection by technical contractor. Also QA/QC completed.
20% For New Power Generation Capacity.	New Power Generation Capacity – Operational, interconnection completed.	New Power Generation Capacity – Acceptance test by utility.

		Also QA/QC completed.
20%	Commissioning of New Power Generation using Anaerobic Digester Gas.	Successful upload of data to CHP website.

Notes:

- 15% of the Total Capacity Incentive upon providing sufficient documentation that down payments of major equipment components including the engine generator system, the anaerobic digester system, the anaerobic digester cover, the gas scrubbing equipment and other major components have been paid to suppliers; and/or fees for system design, engineering, CESIR study, and other ‘soft costs’ have been paid to service providers;
- 25% of the Total Capacity Incentive upon sufficient documentation, including delivery receipt, photos or other documentation acceptable to NYSERDA, of delivery of new power generation equipment to site;
- 20% of the Total Capacity Incentive upon verification by NYSERDA or NYSERDA contractors that the installation of the anaerobic digester system is complete and operational in accordance with the approved QA/QC Plan.
- 20% of the Total Capacity Incentive upon providing sufficient documentation that interconnection approval has been obtained and that the new power generation equipment is complete and operational in accordance with the approved QA/QC Plan
- 20% of the Total Capacity Incentive upon successful commissioning and operation of the new power generation system at a minimum average of 75% capacity factor for at least 7 consecutive days and demonstration of the ability to upload information to NYSERDA’s DG/CHP Integrated Data System website (“DG Website”). A Project Commissioning Report documenting the completion of all elements of the Commissioning process required by the QA/QC Plan is required prior to payment of this final Capacity Incentive payment.
- A statement must be included with each invoice affirming whether or not a Federal Grant under 1603 Treasury and/or NRCS/EQIP Programs has been received regarding one or more components of the project.

6. Submit Annual Performance Reporting

The total performance period of the Standard Performance Contract Agreement shall be ten (10) consecutive years. The first year’s (consecutive 12-month) performance period must begin no later than the 30th day after NYSERDA’s approval of the Project Commissioning Report. If NYSERDA determines that data collected prior to approval of the Project Commissioning Report is satisfactory, the first year’s performance period may begin at an earlier date approved by NYSERDA

Within 60 days from the end of the first year’s performance period, the Program Participant must submit an Annual Performance Report to NYSERDA, which will become the basis for the first Performance Incentive payment. Details on annual performance reporting requirements shall be established in the QA/QC Plan approved by NYSERDA. Performance data may be downloaded from the NYSERDA DG Website. Annual Performance Reports must also be submitted to NYSERDA within 60 days from the end of the performance periods for the remainder of the 10 years. The Program Participant is responsible for ensuring that data provided in the Annual Performance Reports accurately represent the operation of the ADG-to-Electricity System.

7. Request Performance Incentive Payments

The Program Participant will be eligible for ten (10) annual Performance Incentive payments for the verified electricity generated during each of the ten (10) years of the total performance period. These payments will be made after the following:

- The Annual Performance Report has been approved by NYSERDA;
- An invoice has been submitted to NYSERDA for payment.

- A statement must be included with each invoice affirming whether or not a Federal Grant via 1603 Treasury Grant and/or NRCS/EQIP digester funding has been received regarding one or more components of the project.

In general based on actual production 10% of the Total Performance Incentive will be paid by NYSERDA for each of the ten (10) years of the total performance period, not to exceed a cumulative total of 100% of the Total Performance Incentive. The percentage paid in a given year will be the ratio of the actual verified electricity produced by the New System compared to the Total Contracted Generation. The cumulative percentage paid in any year shall not exceed the fraction of the Total Performance incentive determined by multiplying the Total Performance Incentive times the year of the performance period being invoiced and dividing by ten. (This allows Contractors to make up for any deficits in production in earlier years and the resulting reduced performance payments.)

V. APPLYING FOR THE PROGRAM

APPLICATION PACKAGE

Detailed Application Package requirements are included in Appendix A of this PON. In general, the Application Package consists of the following:

- Application Form - included in Appendix B of this PON; it may also be downloaded from NYSERDA's website <http://www.nyserda.ny.gov/en/Funding-Opportunities/Current-Funding-Opportunities.aspx>, under the PON 2684 header or requested from Tom Fiesinger, (518) 862-1090, ext. 3218, twf@nyserda.ny.gov or Steve Hoyt, ext. 3587, sah@nyserda.ny.gov;
- System Description
- Economic Evaluation
- Project Schedule
- Implementation plans for any additional incentive components to be included
- Description of Permitting Requirements
- Environmental Assessment Form: and
- Supplemental Information as enumerated in Appendix A.

Two (2) hard copies of all Application Package materials, one (1) electronic copy of the Application Form and any calculation worksheets that support the Economic Evaluation must be sent to the following address: Roseanne Viscusi, PON 2684 NYS Energy Research and Development Authority 17 Columbia Circle Albany, NY 12203-6399 **Application Packages that are not signed by the Applicant will be returned.** NYSERDA will date-stamp and log all program materials as they are received. NYSERDA recommends that all program materials be sent via delivery service, certified or registered mail. It is the sole responsibility of the Applicant to ensure that NYSERDA applicable due date. Applicants should retain proof of delivery (such as a return receipt for certified, registered, or overnight mail) for all program materials submitted. NYSERDA will accept application packages until January 31, 2013 at 5:00 PM Eastern Standard Time, or until all funding has been fully committed, whichever comes first.

VI. APPLICATION PACKAGE REVIEW AND APPROVAL; PROJECT CONTRACTING

Upon receiving an Application Package, NYSERDA and/or its Technical Consultant will review the materials to ensure that the project meets the ADG-to-Electricity Program and Eligibility requirements. After reviewing the Application Package, NYSERDA will either approve it as submitted, request clarification or additional information, or reject it. NYSERDA may reject an application that it determines does not meet the eligibility requirements, the requirements listed above under “Application Package,” or any other requirements of this PON. NYSERDA may work with the Applicant to make revisions to the package that NYSERDA deems necessary. NYSERDA will notify the applicant when it has determined that the Application Package and any supplemental application materials constitute a complete application in compliance with PON requirements.

NYSERDA anticipates that there may be times when there will be more requests for funds than there are funds available. NYSERDA has therefore developed the following procedure for establishing and managing the queue of Application Packages received to the program, which is described as follows: Upon receipt of an Application Package, it will be entered into the queue in the order it was received, and will remain in that position provided that after reviewing the Application Package NYSERDA deems it to be complete and compliant with the terms of the PON. NYSERDA will notify each applicant of the status of their Application Package within approximately 6 weeks of receiving the Application Package.

If an Application Package is determined to be incomplete or noncompliant, NYSERDA will request additional information from the applicant. Incomplete or noncompliant Application Packages will be removed from the queue until the Application Package has been sufficiently revised to become complete and compliant. Revised Application Packages will be placed at the rear of the queue based on the time and date of receipt of the supplemental Application Package materials that make the Application Package complete and compliant.

If two or more Application Packages are deemed to be complete and compliant on the same day, the position in the queue for each Application Package will be determined by the time and date that the Application Package was surrendered to a carrier service that provided a tracking number that can be used to track a shipment on-line, or the time and date received by NYSERDA if such a carrier service was not used or if a suitable tracking number was not provided.

If funding needed for applications in the queue exceeds available funds, such unfunded Application Packages will retain their position in the queue until sufficient funds are made available.

VII. ADDITIONAL INFORMATION AND REQUIREMENTS

RPS ASSESSMENT AND REPORTING

Orders issued by the NYS Public Service Commission provide that the RPS Program will support and promote an increase, to 30%, of the percentage of the energy consumed in NYS that comes from renewable sources. When assessing and reporting on progress towards that goal, or on the composition of the energy generated and/or consumed in NYS, NYSERDA and the NYS Department of Public Service will include all electrical energy created by any project receiving funds through the NYS RPS Customer-Sited Tier Program, for the life of such projects, and the environmental attributes associated with the production of such electrical energy, whether metered or projected, as a part of any report, evaluation, or review of the RPS Program, whenever any such report, evaluation, or review may be conducted or issued, as renewable energy consumed in NYS. No party, including

but not limited to Host Sites, owners, lessees/lessors, operators, and/or associated contractors shall agree to or enter any transaction that would or may be intended to result in the exportation or transmittal of any electrical energy created by any project receiving funds through the NYS RPS Customer-Sited Tier Program to any party or system outside of New York State.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

NYSERDA is required, under SEQRA, to consider the environmental implications of all funded projects. All proposals must include a completed SEQRA Environmental Assessment Form along with supporting documentation. If any local governmental entity has discretionary permitting or approval authority, the Program Participant must complete the appropriate SEQRA Environmental Assessment Form and submit it to that local governmental entity. Attach a copy of the completed and signed Environmental Assessment Form to the Application Package.

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

EMISSION STANDARDS FOR BIOGAS-FUELED DISTRIBUTED GENERATION SYSTEMS

The U.S. Environmental Protection Agency has adopted numerical emission standards and requirements for new biogas-fueled spark ignition engines (“Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Final Rule January 18, 2008”) (“Rule”). The Rule requires initial compliance testing for such engines which have not been certified as compliant by the manufacturer and additional compliance testing every 8760 hours of operation for such engines exceeding 373 kW. All engines are subject to recordkeeping of maintenance. More information about these standards and subsequent EPA actions relating to them may be found on the following website: <http://www.epa.gov/ttn/atw/nsps/sinsps/sinspspg.html>

All spark ignition internal combustion engines installed in New Systems must be capable of achieving these standards, except where not required in accordance with the provisions of this Rule. For all technologies proposed, NYSERDA reserves the right to review emissions performance and determine whether the technology meets all environmental standards. NYSERDA prefers the use of the cleanest technologies available.

PREVENTION OF FUGITIVE DIGESTER EMISSIONS

New Systems should be designed and installed in accordance with standard engineering practice and the manufacturer’s recommendations. The installation must include a flare (with a minimum capacity equal to the anticipated maximum biogas production) to burn collected gas not beneficially used, unless an alternative method of biogas emissions control is approved by NYSERDA.

VIII. GENERAL CONDITIONS

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

The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87 (2) (d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause www.nyserda.org/nyserda.regulations.pdf. However, NYSERDA cannot

guarantee the confidentiality of any information submitted substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501

Omnibus Procurement Act of 1992 - It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement agreements. Information on the availability of New York subcontractors and suppliers is available from:

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

A directory of certified minority- and women-owned business enterprises is available from:
Empire State Development
Minority and Women's Business Development Division
30 South Pearl Street
Albany, NY 12245

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a perspective contractor prior to contacting and filed with NYSERDA. See, ST-220-CA (available at http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf). 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 – Application Packages will be processed on a first-come, first-served basis and will be accepted until 5:00 p.m., Eastern Standard Time, on January 31, 2013, or until all funds are committed, whichever comes first. NYSERDA may request additional data or material to support Application Packages. NYSERDA may elect to inspect any and all projects prior to final approval.

Limitation - This solicitation does not commit NYSERDA to award any contract, pay any costs incurred in preparing an Application Package, or to procure or contract for services or supplies. NYSERDA reserves the right, in its sole discretion to accept or reject any or all Application Packages received, to negotiate with all qualified sources, or to modify or cancel PON 2684 in part or in its entirety at any time.

Disclosure Requirement - The Applicant shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five (5) years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When an Applicant is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSERDA after the award of a contract, NYSERDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Applicants must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

IX. OTHER OPPORTUNITIES

NY Sun Competitive PV (Geographic Balance) Program – PON 2589

NYSERDA is administering this competitive program which will make available \$150 million for customer-sited renewable biogas-fueled electric generation projects and solar photovoltaic projects in the region including Zones G, H, I & J of the NY Independent System Operator (NYISO). For each year from 2011 through 2015 up to \$30 million will be made available each year; \$5 million of which is to be awarded for projects installed in Zones G&H, and \$25 million for projects in Zone I&J. Incentives will be awarded based on evaluation of proposals submitted in response to the PON. It is anticipated that in addition to the multiple rounds of PON 2589, subsequent PONs will be issued through 2105. A map of NYISO zones can be found at this NYISO web address:

http://www.nyiso.com/public/webdocs/market_data/zone_maps_graphs/nyca_zonemaps.pdf

Further information on the PON can be found at NYSERDA's website at www.nyserda.ny.gov.

RPS – Main Tier Program

NYSERDA also administers the RPS Main Tier Program which consists primarily of medium to large-scale electric generation facilities that deliver their electrical output into the wholesale market administered by the NYISO. The program also allows for behind-the-meter renewable electric generation projects. Electricity produced from anaerobic digestion can also be eligible for this program. Generally solicitations under the Main Tier are released annually. Information on upcoming program announcements can be found at NYSERDA's website:

<http://www.nyserda.ny.gov/Program-Planning/Renewable-Portfolio-Standard/Main-Tier-Solicitations.aspx>

X. GLOSSARY OF TERMS

ADG-fueled Electric Power Generation Equipment: The ADG-fueled engine, generator and related equipment used for such functions as engine/generator control, biogas handling, biogas clean-up, emissions control, performance monitoring, and interconnection to the utility grid, including any required grid upgrades.

ADG System: Anaerobic digester equipment and procedures used for the anaerobic digestion and production of ADG from Eligible Biomass Feedstock(s). Installation of a gas tight cover over an existing waste storage structure for the purpose of producing and collecting biogas is considered an ADG system for purposes of this PON. Landfills are not ADG Systems for the purposes of this PON.

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

The ADG may be produced at the Host Site or delivered to the ADG-fueled Electric Power Generation Equipment by means of a dedicated ADG pipeline.

Agreement: This Standard Performance Contract Agreement, including Exhibits A (Total Contracted Project Incentive), B (Standard Terms and Conditions), C (Prompt Payment Policy Statement), D (final completed Application Form and Quality Assurance/Quality Control Requirements), E (Metrics Reporting Guide – On-site Power Generation) and NYSERDA PON, which is incorporated herein and made part hereof as though herein set forth in full, except as may be modified by the terms of this Standard Performance Contract Agreement with Effective Date of _____, 201_ and its Exhibits A, B, C, D and E.

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

Annual Contracted Generation: The number of kilowatt-hours (kWh) calculated by multiplying the Contracted Capacity by 8760 hours per year by a 75% Capacity Factor. **Annual Performance Report:** A report submitted annually to NYSERDA for a period of ten (10) consecutive years. The report provides data that should demonstrate clearly to NYSERDA whether or not an installed project is generating the amount of electricity projected in the Standard Performance Contract Agreement.

Applicant: The Customer or third party who is submitting the Application Package and thus intends to sign the contract with NYSERDA.

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

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

Baseline ADG-fueled Electricity Generation (Baseline Generation): The projected average amount of electricity that would be generated by the Host Site from ADG without the New Equipment as demonstrated by historical data or by other methods deemed acceptable to NYSERDA.

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

Capacity Factor: The ratio of the gross electricity generated, for the period of time considered, to the energy that could have been generated at continuous full-power operation during the same time period at the Contracted Capacity. For the purpose of calculating incentives for this PON a capacity factor of 75% shall be assumed.

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

Contracted Capacity: The real power production capacity of the New Equipment as determined by the rated kW output of the generator at a power factor of 1.0, except as may be limited by (a) a lower power output of the engine at 100% load, with consideration of the generator efficiency, (b) equipment limiting generator output, and (c) any other factors, all as determined in a manner satisfactory to NYSERDA.

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

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

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

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

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

Installation and Commissioning: The completion of construction of the ADG-to-Electricity System, interconnection of the System with the utility grid, at least seven consecutive days of satisfactory operation of the system according to its design intent with a minimum average of 75% Capacity Factor, and demonstration of the ability to upload information to NYSERDA's CHP Website.

kW: One (1) kilowatt of electrical power.

kWh: One (1) kilowatt-hour of electrical energy (or electricity).

Net Energy Metering Law: Law applicable to farm waste electric generating equipment contained in Article 4, section 66J of the New York State Public Service Law. (Program Participants are responsible for identifying and determining the applicability, operation and limitations of net metering tariffs in their service territories; references to net metering in this PON are general and should not be taken as stating or interpreting any particular tariff or its applicability. For further information please contact a representative of the relevant electric utility.)

New ADG-to-Electricity System (New System): ADG-to-Electricity Systems which result in an incremental increase in the ADG-fueled electricity generated at the Host Site compared to the Baseline Generation, if any.

Peak Connected Load: Demonstrated peak kW load at the Host Site based on past utility bills, utility service rating (i.e., amps multiplied by volts) of the Host Site, planned load of equipment to be connected at the Host Site, or other methods deemed acceptable to NYSERDA, including possible consideration of all other loads that will be included in net metering in accordance with the remote net metering provisions of Chapter 35 of the Laws of 2011, all in a manner satisfactory to NYSERDA.

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

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

Program Participant: The Customer or third party who has executed a Standard Performance Agreement Contract with NYSERDA.

Project: The installation and operation of the New System for its useful life.

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

Quality Assurance/Quality Control (QA/QC): The process of documenting that the New System has been installed and commissioned as specified in the contract and monitoring, measuring, and verifying the electrical energy generated by the New System.

Renewable Portfolio Standard (RPS) Program: A program established by the New York State Public Service Commission (NYSPSC) to increase the proportion of renewable electricity used by New York Consumers to at least 30% by 2015.

RPS Surcharge: One of the delivery charges ordered by the NYSPSC and collected by National Grid, NYSEG, Rochester Gas and Electric, Orange and Rockland, Central Hudson Gas and Electric, and Consolidated Edison. The RPS Surcharge establishes a pool of funds to be used for providing financial incentives for the development of renewable resources in New York State. NYSERDA is the administrator of the RPS program.

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

Total Production Performance Period: The ten (10) consecutive years during which the annual kWh production is compiled for use in determining the amounts of the annual performance payments.

XI. APPENDICES

Appendix A: Application Package Requirements

Appendix B: Application Form

Appendix C: Quality Assurance/Quality Control (QA/QC) Requirements

Appendix D: Sample Standard Performance Contract Agreement