



**Industrial Strategic Energy Management: Implementation Contractor (Energy Coach)  
Request for Proposal (RFP) 3352**

**Funding: Competitive**

*NYSERDA reserves the right to extend and/or add funding to the Solicitation should other program funding sources become available.*

**Proposals Due: December 19, 2016 by 5:00 PM Eastern Time\***

**Program Summary:** The New York State Energy Research and Development Authority (NYSERDA) requests proposals from contractors interested in providing program support services for the upcoming Industrial Strategic Energy Management (SEM) Pilot, including cohort training and market dissemination activities. NYSEDA is requesting proposals from contractors to serve as an Energy Coach for the three years of the Pilot to develop SEM training materials, guide participants through the SEM process and monthly cohort sessions, and provide technical support to assist participants in achieving key SEM milestones. NYSEDA anticipates awarding one contract through this RFP, although multiple awards may be made.

**Informational Meeting:** NYSEDA will hold one (1) non-mandatory, informational session for potential proposers as a question and answer session for the RFP. It is encouraged that questions be submitted in advance. Please visit RFP 3352 at <http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx> for the date, time, instructions, and details. The questions and responses will be posted under this funding opportunity on NYSEDA's website at <http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>.

**Proposal Submission:** Electronic submission is preferable. NYSEDA will also accept proposals by mail or hand-delivery. If submitting electronically, proposers must submit the proposal in either PDF or MS Word format with a completed and signed Proposal Checklist and Disclosure of Prior Findings of Non-Responsibility. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility, rather than scanning. For ease of identification, all electronic files must be named using the proposer's entity name in the title of the document. Proposals may be submitted electronically by following the link for electronic submissions found on this RFP's webpage, which is located in the "Current Opportunities" section of NYSEDA's website (<http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>). Instructions for submitting electronically are located as Attachment F to this RFP.

If mailing or hand-delivering, proposers must submit two (2) paper copies of their proposal with a completed and signed Proposal Checklist, along with one (1) electronic copy (CD or DVD) of the proposal in readily accessible formats (Word, Excel, PDF), following the above guidelines. Mailed or hand-delivered proposals must be clearly labeled and submitted to:

**Jillina Baxter, RFP 3352  
NYS Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399**

No communication intended to influence this procurement is permitted except by contacting Kathleen Dooley (Designated Contact) at (518) 862-1090, ext. 3475, or [Kathleen.Dooley@nyserda.ny.gov](mailto:Kathleen.Dooley@nyserda.ny.gov); or Megan Fisher at (212) 971-5342 ext. 3627 or [Megan.Fisher@nyserda.ny.gov](mailto:Megan.Fisher@nyserda.ny.gov) for technical questions. If you have contractual questions concerning this solicitation, contact Nancy Marucci (Designated Contact) at (518) 862-1090, ext. 3335 or [Nancy.Marucci@nyserda.ny.gov](mailto:Nancy.Marucci@nyserda.ny.gov). Contacting anyone other than the Designated Contacts (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 will be returned. Incomplete proposals may be subject to disqualification.** It is the proposer's responsibility to ensure that all pages have been included in the proposal. 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](http://www.nyserda.ny.gov).

## I. INTRODUCTION

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The New York State Energy Research and Development Authority (NYSERDA) is a public benefit corporation established by the New York State Legislature in 1975. NYSEDA's principal mission is to use innovation and technology to solve some of New York's most difficult energy and environmental problems in ways that improve the State's economy. In 2016, the New York State Public Service Commission (PSC) approved the Clean Energy Fund (CEF) which is designed to deliver on New York State's commitment to reduce ratepayer collections, drive economic development, and accelerate the use of clean energy and energy innovation. The Industrial Strategic Energy Management (SEM) Pilot is part of NYSEDA's CEF portfolio.

NYSERDA is seeking support to develop and administer the SEM pilot including cohort trainings and materials, technical and program support services to cohort participants, and assistance with the market dissemination activities to support the adoption of SEM in New York's industrial sector. It is anticipated that there will be two (2) SEM cohorts. Each cohort will consist of no more than eleven industrial facilities from large and medium sized industrial sites<sup>1</sup>, and may include key industries such as: chemicals and pharmaceuticals, printing and publishing, automotive, food processing, and forest products. Each cohort training plan will include roughly ten (10) training sessions over the course of twelve (12) months. Visit PON 3352 at <http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx> for additional information on the SEM cohorts. The goal of this pilot is to provide cohort participants the knowledge and tools to adopt SEM at their facilities long-term; and develop market dissemination materials and activities for SEM to promote uptake and transformation in the New York State industrial market.

## II. DEFINITIONS

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**Participant:** The industrial facility selected to participate in an Industrial SEM cohort. Participants may partner with a consultant who may also participate in the trainings with them and support the implementation of SEM at the applicant's facility.

**Energy Champion:** The person responsible for attending the cohort sessions, receiving training from the *Energy Coach*, sharing information with the *Energy Team*, and leading the SEM effort at their facility.

**Energy Coach:** The firm selected by NYSEDA through this RFP to provide SEM training at each cohort session, technical assistance to participants throughout the program, and assist with market dissemination efforts. It is expected that the Energy Coach will consist of a qualified team to provide support for all the areas outlined in this RFP.

**Energy Team:** The group of individuals from multiple functions within the manufacturing organization who have knowledge about existing systems (production, capital project planning, facilities and maintenance, financial, etc.) and management support to participate in this effort. An *Energy Team* usually includes the *Energy Champion*, an executive sponsor, and key staff within the facility.

## III. PROGRAM REQUIREMENTS – SCOPE OF SERVICES

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### A. Services Requested

NYSERDA seeks to select an Energy Coach to support the execution of the Industrial Strategic Energy Management Pilot and subsequent market dissemination activities as outlined below. NYSEDA anticipates awarding one contract through this RFP, although multiple awards may be made. Further detail about specific tasks and sub-tasks can be found in *Section B: Statement of Work* below.

The SEM Pilot will consist of two (2) 12-month-long cohorts, each comprised of approximately eleven (11) industrial facilities from across the state. The cohorts are anticipated to occur sequentially, but may overlap slightly to accommodate market demand or other circumstances. It is expected that there will be at least ten (10)

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<sup>1</sup> Large sites are defined as greater than \$1,000,000 total annual energy (all fuels) spend and medium sites are sites with \$500,000 to \$1,000,000 total annual energy spend.

training sessions delivered by the Energy Coach over twelve (12) months, and the trainings may be a combination of group, in-person, and web-based events. Market dissemination activities are expected to be completed no more than one year after the conclusion of the second cohort. The term of the resulting agreement will be for three (3) years to coincide with the term of the Pilot which is expected to be three years to encompass the two one-year long cohorts, plus one additional year of market dissemination activities.

### ***Cohort Training***

The Energy Coach will be responsible for the development, preparation, and delivery of the training sessions. This includes developing the training schedule for the cohorts, planning the curriculum and identifying supporting tools and materials, and conducting the training sessions. To the extent possible, it is requested that existing and publically available tools are used rather than proprietary materials and that all materials developed under the resulting agreement will be the property of NYSERDA. The training sessions may incorporate lectures, cases/readings, discussions, and facility tours in which cohort participants learn and begin to apply core concepts of SEM. In addition, it is expected that the Energy Coach will deliver training content and materials to NYSERDA four weeks prior to each cohort training session for review and approval.

Working with NYSERDA, the Energy Coach will develop and administer a means for participants to provide feedback on training content and delivery at the conclusion of each training session. Feedback will be incorporated, as appropriate, into subsequent sessions.

### ***Technical and Program Support to Cohort Participants***

The Energy Coach will provide one-on-one coaching to assist and empower cohort participants, as needed, to successfully complete the training session assignments and to apply SEM concepts and frameworks in their facilities. An estimated two (2) sessions per participant is anticipated and may take place as on-site facility visits, in-person meetings or conference call work sessions.

In addition, the Energy Coach will provide post-cohort support to participants for one year following the cohort trainings, for activities such as energy model maintenance, project implementation support, metric tracking support, and quarterly progress calls to ensure the facility continues to engage in SEM.

### ***Market Dissemination***

The Energy Coach will assist NYSERDA in market dissemination efforts. Data gathered from the cohorts will be used to develop content for educational and marketing tools and materials that NYSERDA will use to support wider SEM market transformation activities. Data gathering and analysis may begin during the first cohort as it becomes available. Potential market dissemination materials and activities are outlined in *Section B: Statement of Work* below.

### ***Project Management***

The Energy Coach will provide monthly project status reports to NYSERDA detailing progress with SEM training and implementation, participant attendance and engagement, completion of training assignments, and progress toward the ultimate goal to establish and implement a SEM system at each participant facility. Additionally, the Energy Coach will coordinate with NYSERDA on SEM activities through weekly conference calls.

## **B. Proposer Eligibility and Qualifications**

NYSERDA anticipates awarding one contract through this RFP, although multiple awards may be made. Proposers may be a single company or team of companies but must, in their response, clearly identify the key employees, subcontractors, or relevant affiliates of all entities who are proposed to fulfill the requirements of this RFP. The successful proposer must demonstrate that they have a clear understanding of SEM and experience in providing trainings to industrial manufacturers. Proposers must demonstrate the ability to provide, at a minimum, all services as outlined in this RFP, including the ability to be flexible and responsive to changing program needs; and any previous experience in the successful management of pilot programs (on time and within budget).

### ***Experienced Team***

Proposers must clearly demonstrate their ability to provide the necessary technical expertise and programmatic support described in this RFP. The selected contractor will provide NYSERDA with a dedicated

team of high-level professionals who will support the SEM program from design through delivery and post-cohort activities. Assigned personnel must demonstrate relevant content knowledge, including knowledge of the industrial sector in New York State and relevant market segments, practical experience, training capabilities, experience developing market dissemination materials and activities.

***Dedicated Personnel***

Proposers shall identify one or two qualified team members who will be responsible for leading the initiative outlined in this RFP including all of the trainings, interfacing with the cohort participants, and developing market dissemination materials and activities. The identified personnel must have previous experience in these areas that resulted in concrete, measurable success for participants and their organizations.

***Ability to Travel***

Assigned personnel must be able to travel throughout New York State as necessary to deliver training and coaching to cohort participants.

**C. NYSERDA Responsibility**

NYSERDA will maintain overall management and control of the SEM Pilot, and the NYSERDA Project Manager will be responsible for overseeing and managing all tasks undertaken by the selected contractor. The major responsibilities of NYSERDA are to:

- Market SEM cohort participation opportunities to industrial facilities through existing outreach contractors;
- Screen and select SEM cohort participants;
- Assist the Energy Coach in reviewing cohort training deliverables;
- Assist the Energy Coach in scheduling the cohort trainings;
- Monitor the progress of the Energy Coach through ongoing telephone contact and review of project status reports for the purpose of meeting customer needs, identifying problems, and initiating corrective action;
- Ensure adherence to NYSERDA's established policies and procedures; and
- Promptly process properly documented project payment requests and Energy Coach invoices.

**D. Available Funds, Limitations, and Contracting**

The initial contract will be for a three-year period, with two, one-year options to renew at NYSERDA's discretion. Proposals should document a three-year statement of work and budget based on services requested. Contract renewal will be based on performance and need. Confidential and proprietary customer information shared with the Energy Coach while providing services is to be kept confidential by the selected Energy Coach. Such information shall not be shared with other parties or used by the Energy Coach for any purpose outside of this contract.

NYSERDA reserves the right to:

- Terminate at any time due to under performance;
- Incorporate necessary program changes by modifying or adding to the services required;
- Tailor the services as needed within the scope of the contract; and
- Add necessary, additional funds and time to the contract at any time.

NYSERDA anticipates award of the contract within eight weeks of the proposal due date, after which NYSERDA and the selected contractor will work together to negotiate the final statement of work, budget, and timeframes. NYSERDA will negotiate the contract for services in fulfillment of the needs of this RFP on the basis of demonstrated competence and qualifications. Contract negotiations may include the selected proposer's fee schedules to ensure work is accomplished at fair and reasonable rates. The contractor shall demonstrate the ability to successfully begin implementation of the training program within 60 days of being awarded the contract.

**IV. PROPOSAL REQUIREMENTS**

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Proposers must submit their proposal through either the electronic submission process described on the front of this RFP and in Attachment F or submit two (2) paper copies of their proposal with a completed and signed Proposal Checklist, along with one (1) electronic copy (CD or DVD) of the proposal in readily accessible formats (Word, Excel, PDF), to the address on the front of this Request for Proposals.

Proposals should not be excessively long or submitted in an elaborate format that includes expensive binders or graphics. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Suggested page limits for each section are provided below in parentheses. Proposals that grossly exceed the page limits or fail to follow the format guidelines may be rejected as nonresponsive. Proposals should concisely present the information needed to fully address the evaluation criteria (see Section V). Each page of the proposal should state the name of the proposer, the RFP number, and the page number. If you believe proprietary information must be submitted to present an adequate proposal, please contact the Designated Contact listed at the beginning of this RFP, indicate as such on the Proposal Checklist, and comply with the Section VI instructions for submitting proprietary material.

The electronic version of the proposal should contain the following files:

1. The entire proposal in electronic format, preferably in a single Word or PDF file, although multiple files are acceptable if necessary;
2. Attachment C as a stand-alone Excel file;
3. The proposed statement of work as a stand-alone Word file; and
4. The proposed budget as a stand-alone Excel file.

The proposal must be in the following format and should present the items in the sequence indicated below.

### **1. Proposal Checklist**

A completed Proposal Checklist (Attachment A), signed by an individual who is authorized to commit the organization, must be attached as the front cover of your proposal. Late proposals and proposals lacking the completed and signed Proposal Checklist will be returned. Faxed or e-mailed copies will not be accepted. Note the following:

- NYSERDA will enter into a contract with successful proposer(s) using the attached Sample Agreement (Attachment G). Indicate whether you accept the standard terms and conditions as contained in the attached Sample Agreement. 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. NYSERDA reserves the right to consider only exceptions to terms that are specifically included with the proposal. Any negotiation of terms will be at NYSERDA's sole discretion. Note: Attachment G does not need to be completed; it is provided only for review per the discussion above.
- Do not leave any blanks. If a specific question is not applicable, indicate N/A.
- Be sure the individual signing the Proposal Checklist is authorized to commit the proposer's organization to the proposal as submitted.

### **2. Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k**

In compliance with §139-j and §139-k of the State Finance Law (see Section VI, General Conditions below for additional information), 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 (Attachment B). Failure to include a signed copy of the Proposal Checklist referenced in this solicitation may disqualify your proposal.

### **3. Contract Pricing Proposal Form**

A Contract Pricing Proposal Form (CPPF), with associated instructions, is provided as Attachment C. Each proposal must include a completed CPPF. The net cost to NYSERDA is one of the evaluation criteria and will be closely considered. If other entities such as subcontractors or other teaming entities will receive NYSERDA funding, they must also complete a CPPF form.

### **4. Proposal Narrative**

The Proposal Narrative includes the core details of the proposal. The Proposal Narrative should include the following sections:

#### ***Section A: Executive Summary (2-page limit)***

Proposers must summarize and exhibit a thorough understanding of this RFP and the general approach to fulfilling and supporting the services requested. Proposers must summarize why NYSERDA should select the

proposer's firm by including a list or summary of specific services they can provide, as well as any acknowledgements or accolades recently received.

In addition, proposers must identify all collaborating entities participating in the proposal, including a summary of any co-proposers and the services they provide. Proposers should provide a brief summary of key information about their organization, and all other organizations that may be part of the proposer's team. Proposers may subcontract with appropriate individuals or firms and all parties must be identified in Letters of Commitment in the proposal. Proposals that include teaming arrangements must designate one party as the prime contractor who will be responsible for the administration of the contract.

Lastly, if any firm is not based in New York State, discuss the mechanism which will guarantee its ability to deliver services in New York State in a cost-effective manner.

**Section B: Statement of Work (15-page limit)**

The Statement of Work (SOW) is the primary contractual document that outlines work activities and specifies deliverables. It delineates each step 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.

The SOW should highlight how the proposer will deliver services using their own creative approach. Proposers will be selected based on their proposed ideas for both the cohort training and market dissemination of this pilot. If a proposal is selected, NYSERDA may choose to move forward with some tasks but not others, based on in-house capabilities, timing, and available budget. Because of this, proposals should be constructed as a menu of tasks, with clearly assigned budget estimates for each task.

The Statement of Work must:

- Be a stand-alone document identifying assumptions and detailed descriptions of tasks. In the electronic version, please include the SOW as a stand-alone file in Word format.
- Be clear and specific: concentrate on "how" and not "why." Use "active voice" sentence structure to make clear who is responsible for specific actions. Use the following phrase to start the description of every task and subtask: "The Contractor shall..."
  - Include information regarding responsible staff for each task, including any subcontractors.
  - Include a timeline and connect to the requested work plan.
  - Include a detailed budget that shows hours and dollars allocated to each task of the scope of work. Budget Worksheet Template (Attachment E) or equivalent must be completed.
  - Include the tasks below; additional tasks to enhance the training experience and/or market dissemination efforts may be added.
  - Follow the format outlined in Attachment D – Statement of Work Template

Tasks that should be included in the SOW are:

1. Cohort Training
  - a. This includes all activities related to pre-training activities such as developing the schedule, planning the curriculum, and coordinating logistics for both cohorts; and
  - b. Providing the training to the cohort participants. Make sure to include the format (e.g. web-based, in-person, etc.), required participants for each session (e.g. Energy Champion, Energy Team, Executive Sponsor, etc.), training objective, activities, required documentation from participants, and deliverables.
2. Technical Coaching and Support
  - a. This includes assistance during the cohort for site visits to participant facilities, coaching and support to help participants complete deliverables following training sessions, and project implementation support; and
  - b. Post-cohort participant support including activities such as model maintenance support, project implementation support, metric tracking support, and progress calls with NYSERDA and the participant for up to one year following the cohort.
3. Market Dissemination
  - a. This includes development of lessons learned and best practices to be included in market materials;

- b. Development of case studies on participants in the NYSERDA cohorts;
  - c. Preparation of educational SEM resources including SEM webinars and online training modules, a SEM workbook of readings and activities, online templates and/or tools for SEM activities and performance tracking, etc.; and
  - d. Other options to increase knowledge, awareness, and adoption of SEM in the market
4. Project Management
- a. This includes regular calls with the NYSERDA project manager and
  - b. Monthly reporting on SOW task progress and completion

**Section C: Proposer's Qualifications and Past Experience (4-page limit + Appendices)**

A description of the proposer's experience, skills, and abilities relative to the tasks in Section III: Program Requirements above should be provided here. In addition, each proposer should include a description of past or current SEM Energy Coach services provided to the industrial market. These services should have been provided within the past five (5) years and should demonstrate the firm's experience in servicing the targeted customer base. The descriptions should specify the level of involvement of the proposing firm and the results of the SEM intervention. Include customer contact names and phone numbers for these projects, and a list of the key personnel and their respective involvement on the project. In addition to highlighting technical qualifications, the proposer should also demonstrate experience developing market dissemination materials and activities to promote market uptake and transformation.

Appendices to this section may include: examples of SEM program outlines, materials, management plans, and data tracking or reporting conducted for similar programs; and case studies, tool development, and other educational materials for market dissemination.

**Section D: Staffing Plan and Experience of Key Personnel (2-page limit + Appendices)**

Identify the main point of contact for NYSERDA and key participants in the project. Describe their individual expertise and explain how each will contribute to a successful SEM pilot. Describe the team's management and technical expertise and relevant experience with SEM, industrial energy efficiency, training, technical support, program management, data collection and analysis, and market dissemination. List the tasks to be performed by key participants. Please include an organization chart showing the relationship among all personnel and subcontractors.

Resumes of key personnel highlighting relevant experience should be included as appendices. **Individual resumes shall not exceed two (2) pages.** All individuals involved in the proposal must be free of financial interest in any product or service which may be, or appear to be, in conflict with NYSERDA's services to its customers. If any affiliations exist, please describe them and verify that they do not conflict with the objectivity provided to NYSERDA and its customers.

**Section E: Budget**

In addition to the CPPF, please provide a budget table as a stand-alone file in Excel format, using the Budget Worksheet Template (Attachment E), that includes the anticipated number of hours each role will spend on each task and an hourly rate of pay.

Award recipients will receive funds on a reimbursement basis based on costs incurred, as evidenced by submitted invoices, in accordance with a mutually agreed-upon Statement of Work. No reimbursement will be provided for costs incurred prior to the contract execution date.

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

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

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

**Section F: Schedule/Work Plan**

Prepare a schedule for conducting the work proposed in the SOW in a Gantt chart or similar format in terms of weeks and months. Proposers should allow time for correspondence with and approval of tasks by NYSERDA. Note that hours allocated in the work schedule must be consistent with those in the budget and Statement of Work.

**5. Letters of Commitment**

If proposers are relying on any other organization to do some of the work or provide services or resources, they should include a letter from that organization describing its planned participation. Absence of letters of commitment may be interpreted as meaning that the proposer does not have support from the subject parties.

**6. Appendices**

Include any resumes, company qualifications, or ancillary information which is deemed necessary to support your proposal.

**V. PROPOSAL EVALUATION**

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Proposals that meet solicitation requirements will be reviewed by a Scoring Committee using the Evaluation Criteria below. At NYSERDA's discretion, proposers may be requested to interview with all or part of the Scoring Committee to address any potential questions or clarifications outlined in the proposals. Proposers will be notified if they are requested to participate in an interview.

**Services Requested**

- Demonstrates an understanding of SEM and the NY industrial sector
- Demonstrates an understanding of the range of services requested, desired program results, ability to successfully deliver
- Provides creative or innovative training, coaching and/or market dissemination ideas
- Demonstrates understanding of NYSERDA's data tracking needs and communication requirements

**Proposer Qualifications**

- Demonstrates organizational experience in developing and conducting SEM trainings and engaging the industrial sector
- Demonstrates team members have relevant experience in SEM, industrial energy efficiency, training, technical support, program management, data collection and analysis, and/or market dissemination, and are organized in a manner that will contribute to a successful pilot
- Provides one or two dedicated resource(s) with a range of experience qualifying him/her/them to lead the initiative

**Schedule/Work Plan**

- Demonstrates the ability to address and deliver NYSERDA program needs on an appropriate and realistic timeline

**Proposal Value**

- Allocates an appropriate proportion of project cost dedicated to program completion (versus travel, equipment, and administration)
- Provides experienced staff performing appropriate tasks at industry comparable rates
- Includes innovative processes, structure, or methods to reduce program implementation and operation costs
- Demonstrates the level of service provided is in line with the proposal cost

## VI. GENERAL CONSIDERATIONS

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**Proprietary Information** - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to 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 <http://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSERDA-Regulations.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  
625 Broadway  
Albany, NY 12207

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

Empire State Development  
Minority and Women's Business Development Division  
625 Broadway  
Albany, NY 12207

**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](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/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_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** - NYSEDA 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. NYSEDA may request additional data or material to support applications. NYSEDA will use the Sample Agreement to contract successful proposals. NYSEDA may at its discretion elect to extend and/or add funds to any project funded through this solicitation. NYSEDA 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 (see Proposal Checklist). Proposers should keep in mind that acceptance of all standard terms and conditions will generally result in a more expedited contracting process. NYSEDA expects to notify proposers in approximately 8 weeks from the proposal due date whether your proposal has been selected to receive an award. NYSEDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSEDA agreement.

**Limitation** - This solicitation does not commit NYSEDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSEDA 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 NYSEDA's best interest. NYSEDA 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. NYSEDA reserves the right to disqualify proposers based upon the results of a background check into publicly available information and the presence of a material possibility of any reputational or legal risk in making of the award.

**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 NYSEDA after the award of a contract, NYSEDA 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.

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## VII. Attachments

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- Attachment A: Proposal Checklist (Mandatory)
- Attachment B: Disclosure of Prior Findings of Non-Responsibility (Mandatory)
- Attachment C: Contract Pricing Proposal Form (Mandatory)
- Attachment D: Statement of Work Template
- Attachment E: Budget Worksheet Template
- Attachment F: Instructions for Electronic Proposal Submission
- Attachment G: Sample Agreement

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