



New York State Strategic Gasoline Reserve Prequalified Purchaser Program
(Downstate Region)
Request for Qualifications (RFQL) 2928

Open Enrollment Through May 27, 2015 by 5:00 PM Eastern Time*

New York State relies on the continuous availability and resupply of transportation fuels to maintain public safety, commerce and the well-being and economic vitality of its citizens, businesses, and governments. In 2012, Superstorm Sandy damaged petroleum fuel assets and caused prolonged power outages throughout the New York metropolitan region, resulting in significant disruption to the availability and resupply of petroleum fuels. Through the Fuel NY initiative, NYSERDA has established a Strategic Gasoline Reserve (SGR) for the Downstate Region with NIC Holding Corp. and Northville Industries Corp. (collectively, "Northville") which is located at the Northville Terminal in East Setauket, NY and distribution facility in Holtsville, NY. NYSERDA is and will be solely responsible for all sales and any allocations of the SGR located at Northville's Holtsville facility. Upon declaration by New York State of an energy supply emergency, fuel from the SGR may be sold to wholesale fuel distributors to provide fuel for emergency responders, municipal and governmental customers, and retail outlets as determined for the emergency event. While designed and targeted for use on Long Island, fuel from the SGR may become available to other parts of New York State, according to needs and circumstances.

The purpose of the SGR is to increase the resiliency of the gasoline distribution system in times of a declared State emergency by bridging the gap in a supply disruption, until an adequate level of market deliveries can be restored. In order to sell and distribute this fuel quickly and easily during emergency events, relationships with prequalified purchasers must be established in advance. This Request for Qualifications (RFQL) seeks to prequalify potential purchasers of fuel from the SGR so as to expedite the sale and distribution of gasoline in the event of a disruption of fuel supplies. To pre-qualify, applicants to the program will need to complete several steps, which include:

- Demonstration that they are qualified industry participants in the wholesale purchase and distribution of gasoline in New York;
- Certify that they are a licensed and registered motor fuel carrier in New York State that meets or exceeds all local, state, and federal codes, laws, and regulations, including all safety and environmental regulations, governing motor gasoline transportation, distribution, and handling;
- Complete NYSERDA's Credit Application Packet; and
- Execute a Terminal Access Agreement with Northville.

Applicants are encouraged to send qualifications as soon as possible to expedite the prequalification process and be prepared for any potential SGR release.

Upon demonstration of qualifications to NYSERDA, a confirmation letter from NYSERDA will describe the sales provisions and procedures. This will include a sample Sales Agreement, a sample Notice of SGR Release document, a sample Expression of Interest Form that will be required to be provided in the

event of Notice of SGR Release in order to receive a potential allocation of gasoline from the SGR release, and any other necessary documentation.

Information required for prequalification includes the company's transportation capacity to deliver fuel, or ability to obtain transportation services, to gasoline stations or other fuel distribution facilities or outlets that serve retail markets. Additionally, eligible participants include wholesale fuel distributors that provide fuel to public entities such as New York State, county, and municipal government entities, and those who provide fuel for emergency responder activities. Entities enrolled through this solicitation will have the option, but not the obligation, to purchase fuel from the SGR when declared for sale by the State of New York. Only prequalified purchasers will be permitted to participate in the SGR allocation process upon a declaration of sale. One or more companies may become pre-qualified from this solicitation. This no-cost contract is for one year, and may be extended into the future upon the determination of NYSERDA. NYSERDA reserves the right to discontinue the program in whole or in part at any time.

Proposal Submission: Potential purchasers must submit one [1] clearly labeled, completed and signed proposal as detailed in Section III of this Solicitation to:

NYS SGR Prequalified Purchaser Program RFQL 2928
Attn: Charles Wesley, Program Manager
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Proposal questions may be directed to Matthew Milford at (518) 862-1090, ext. 3416 or matthew.milford@nyserda.ny.gov. Please reference RFQL 2928 when contacting NYSERDA with questions.

All Contractual questions should be directed to Elsyda Ahmed at (518) 862-1090, ext. 3232 or elsyda.ahmed@nyserda.ny.gov. If you have technical questions concerning this solicitation, contact Matt Milford at (518) 862-1090, ext. 3416 or matthew.milford@nyserda.ny.gov.

No communication intended to influence this procurement is permitted except by contacting Matt Milford at (518) 862-1090, ext. 3416 or matthew.milford@nyserda.ny.gov. Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

Incomplete proposals may be subject to disqualification. It is the bidder's responsibility to ensure that all pages have been included in the proposal. Faxed 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.

I. Introduction

This RFQL will prequalify potential purchasers of fuel from the SGR (Downstate Region) so as to expedite the sales and distribution of fuel in the event of a disruption of fuel supplies and a declaration by New York State of an energy emergency. If released, the SGR fuel, in the form of finished motor gasoline, including ethanol, will be made available by and through NYSERDA at Northville's Holtsville truck rack facility. Gasoline will be made available for sale to eligible prequalified gasoline distributors during declared energy emergencies in which commercial supplies of gasoline are disrupted. For this Program, access to Northville's Holtsville truck rack facility will only be permitted to qualified gasoline distributors who have a properly executed Terminal Access Agreement with Northville prior to the emergency declaration. The determination of sale, allocation volumes, prices and other potential requirements will be made by NYSERDA, and will be made available at the time of a declaration of sale.

II. Program Requirements

It is intended that the fuel sold from the SGR by NYSERDA to wholesale fuel suppliers will be resold to end-use customers in the Downstate Region, although fuel could be made available to other parts of New York State, according to needs and circumstances. NYSERDA reserves the right to release fuel, pursuant to a declaration, in response to the nature, duration, location and other conditions of a supply disruption or gap in routine resupply. Such conditions for release will be made publicly known at the time of declaration. Preference may be given to companies who can deliver fuel to New York State selected locations, including locations that have back-up power generation capabilities.

Sale of SGR fuel during a declared fuel supply emergency may generally follow this process:

- **Notice of Strategic Gasoline Reserve (SGR) Release:** New York State will make a determination of need and NYSERDA will issue a Notice of SGR Release to its prequalified purchasers that SGR fuel will be made available for sale. Emergency conditions permitting,¹ the Notice of SGR Release will be emailed to the prequalified distribution list, as well as posted to NYSERDA's website. Companies may specify preferred contact methods, in order of preference, for the receipt of the Notice of SGR Release. The total volumes, timeline for sale, pricing, and targeted customer groups and geographic markets will be identified at this time. This Notice will request responses in the form of Expressions of Interest to purchase fuel.
- **Expressions of Interest:** Prequalified potential purchasers should respond to New York State indicating the volumes requested as well as identifying the target customer groups and markets into which the fuel will be supplied. Companies will have established lines of credit with NYSERDA through the prequalification process. Additional credit terms will be specified in the Sales Agreement.
- **Allocation Determination:** New York State will determine allocation volumes and notify purchasers of the volumes that will be available and the timeline for sale and disbursement.
- **Purchase and Pickup:** Only companies with an executed Terminal Access Agreement with Northville as well as a completed Credit Application Packet with NYSERDA prior to the emergency declaration will be able to purchase and pickup fuel from the fuel loading truck racks. Sales transactions will be finalized through executed sales agreements which will specify

¹ In the event of an emergency, NYSERDA will make every effort to contact participating wholesale fuel distributors electronically, or by the provided preferred contact methods as provided by the company and on file.

payment terms, method, and conditions. Fuel will be made available at the Holtsville truck racks for pick-up by customers. If customers do not lift allocated product within a set period of time, which will be communicated to the customer through the Sales Agreement, then NYSERDA reserves the right to reduce or remove the allocated volume to permit the full use of the SGR by other qualified parties.

- Fuel Distribution and Tracking: Truck manifests or other forms of documentation will be required to be provided to New York State to verify fuel delivery addresses and volumes including the name of the purchaser, method and size of delivery, date and time for delivery, and any other pertinent information to the transaction.

III. Proposal Requirements

Proposals are required to include:

1. Company Description
 - a. Company Name and Address.
 - b. General Business Point of Contact, Phone and Email.
 - c. Company's Principal(s) and/or Senior Manager of Company Name, Phone and Email.
 - d. 24/7 Emergency Point of Contact, Phone and Email.
 - e. Business Description and History.
 - f. Transportation capacity, including owned assets or contractual services for wholesale supply and distribution of gasoline. Proposals should provide owned truck capacity and a list of the names and capacities of common carriers used.
 - g. General description of customer base, including public and private customers served with wholesale supply of gasoline. Proposals should provide a checklist along with a general description of the following categories of customers.
 - (1) Retail stations
 - (2) Municipal services and governments including but not limited to police, fire, ambulance, emergency management, public works, etc.
 - (3) Critical care facilities including hospitals and nursing homes
 - (4) School districts
 - (5) Public transportation services
 - (6) Electric and gas utilities
 - h. Geographic range.
 - i. Approximate annual sales volumes of gasoline in the Long Island and New York City downstate area.
 - j. Existing relationships or access agreements with downstate fuel terminals.
2. Appropriate licenses as a wholesale gasoline distributor.
 - a. Bulk fuel supplier etc.
 - b. Transportation licenses.
3. Completed Credit Application Packet with NYSERDA (Attachment C).
4. Executed Terminal Access Agreement with Northville (Attachment D).

New York State's sales allocation decisions will be driven by the gasoline resupply needs resulting from a declared emergency event and other circumstances at the time of a resupply gap. Selection as a

prequalified purchaser does not guarantee that SGR fuel will be made available to any specific prequalified company or to all prequalified companies, in the event of a declared emergency. Each release of the SGR fuel will be conducted in a manner specific to the facts and circumstances of that emergency event. Sales allocation decisions from one declared emergency event do not guarantee similar sales allocation decisions for a future event.

Proposers must submit the appropriate number of copies of the completed proposal to the attention of NYS SGR Prequalified Purchaser Program Manager at the address on the front of this Request for Qualifications. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, one of which must contain an original signature. **Proposals lacking the appropriate completed and signed Proposal may be returned. Faxed copies will not be accepted.**

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

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

IV. Proposal Evaluation

Proposals that meet the Proposal Requirements will be reviewed by a Technical Evaluation Panel (TEP) using the Evaluation Criteria below:

1. Company capacity to transport or arrange for the transportation and distribution of motor gasoline and geographic scope of services in the downstate region.
2. Alignment of customer base with the intended use of the SGR.
3. Ability to respond to emergencies including 24/7 availability.
4. Financial soundness, including completed credit application.
5. Approximate annual sales volumes of gasoline in the Long Island and New York City downstate area.
6. Other factors, as determined by New York State.

V. GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an

agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to exempt it from disclosure, including a written statement of the reasons why the information should be exempted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <http://nysesda.ny.gov/~media/Files/About/Contact/NYSERDAREgulations.ashx>. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

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

Information on the availability of New York subcontractors and suppliers is available from:

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

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

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

State Finance Law sections 139-j and 139-k - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html> The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. *See*, ST-220-TD (available at

http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf).

Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSERDA. *See*, ST-220-CA (available at http://www.tax.ny.gov/pdf/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 - NYSERDA anticipates making one or more qualifications under this solicitation. It may qualify applicants based on initial applications without discussion, or following limited discussion or negotiations. Each application should be submitted using the most favorable technical terms. NYSERDA may request additional data or material to support applications. NYSERDA will provide a confirmation letter for successful qualifications. NYSERDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal (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. NYSERDA expects to notify proposers in approximately (3) weeks from the date when the application is received whether your qualifications have been accepted. NYSERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSERDA agreement.

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

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

VI. Attachments:

Attachment A: Proposal Checklist

Attachment B: Disclosure of Prior Findings of Non-Responsibility

Attachment C: NYSERDA Credit Application Packet

Attachment D: Northville Terminal Access Agreement