



Emerging Technologies and Accelerated Commercialization for the Commercial/Institutional Sector (ETAC-CI) – Focused Demonstrations and Energy Performance Validation

Program Opportunity Notice (PON) 2689
\$3.3 Million Available

Applications are accepted on a first-come, first-served basis through March 1, 2016 or until funds are exhausted.

Program Summary

The ETAC-CI program supports market adoption of commercially available yet under-used energy-saving and load-reduction technologies or approaches in commercial, institutional, and non-process-related industrial settings.

Emerging energy efficiency and load management solutions provide expanded opportunities for electric and gas energy efficiency and load management in commercial and institutional buildings. Until market acceptance is gained, these emerging technologies and approaches may face barriers such as higher upfront costs, limited customer or contractor awareness, or the lack of supply chain development. Through ETAC-CI, promising technologies and approaches will be demonstrated to clarify and address barriers to increased market adoption, prove in-field performance, and increase market and customer awareness.

The ETAC-CI program also encourages collaboration among market innovators to facilitate in-field demonstrations and sharing of results. Demonstrations will incorporate commercially available, under-used technologies and approaches into energy efficiency projects, then monitor, validate, and publicize project performance.

This solicitation offers project applicants two participation paths:

Focused Demonstrations – This path supports multiple demonstrations of selected technologies or approaches that are commercially available, yet under-used, in order to accelerate market penetration. For successful applicants, NYSERDA will provide funding for up to 60% of installation costs, capped at a maximum of \$250,000 per project, and will fund and provide performance validation services at the demonstration host sites. Demonstration project eligibility is limited to technologies and approaches that a) provide independent performance data from previous project(s), and b) are included in the Focused Demonstration Targeted Categories posted on NYSERDA's website at: nyserda.ny.gov/etac-ci.

Energy Performance Validation – This path supports validation of multiple demonstrations implemented by project developers, manufacturers, building owners or others seeking independent verification of performance and energy savings for a product, technology, or approach that is commercially available, yet under-used. For successful applicants, NYSERDA will fund and provide performance validation services at the demonstration project sites. Demonstration project eligibility is limited to technologies and approaches that provide performance data from previous project(s). Applicants are responsible for all project development and implementation costs, except for NYSERDA-provided performance validation.

The ETAC-CI program is designed primarily to provide a proving ground that leads to expanded market share for promising technologies and approaches. Project Participants should plan to identify a clear path to market and expect to participate in a variety of outreach activities, which may include development of case studies, press releases, site tours, presentations at webinars, etc.

Application Submission: Program application forms are posted on NYSERDA's website at: nyserda.ny.gov/etac-ci. See website for additional submission instructions.

All Program questions should be directed to: Scott Smith, 866-NYSERDA, ext. 3344, etac-ci@nyserda.ny.gov
All Contractual questions should be directed to: Venice Forbes, 866-NYSERDA, ext. 3507, vwf@nyserda.ny.gov.

Late, incomplete, or unsigned applications will be returned. See website for additional submission instructions. If changes are made to this solicitation, notification will be posted on NYSERDA's website at www.nyserda.ny.gov.

I. INTRODUCTION

The ETAC-CI program supports market adoption of commercially available yet under-used energy-saving and load-reduction technologies or approaches in commercial, institutional, and non-process-related industrial settings.

ETAC-CI is funded through NYSERDA's Technology and Market Development (T&MD) portfolio of programs, and is included under the \$75 million Advanced Building Technologies initiative. Building energy use accounts for nearly two-thirds of New York State's total energy consumption, and 50% of the State's greenhouse gas emissions. Expanding the clean energy options and choices for performance proven technologies and approaches and increasing energy efficiency in buildings delivers system efficiency, energy intensity, greenhouse gas reductions, and cost savings to ratepayers. For more information on the Advanced Building Technologies initiative, please see NYSERDA's [Operating Plan for T&MD Programs \(2012 – 2016\)](#), Section 9.2.

NYSERDA offers several types of support for clean energy product development and market adoption. Deployment programs (e.g., Energy Efficiency Portfolio Standard-funded programs) are aimed at supporting commercialized technologies and approaches, R&D programs support development of pre-commercial products and technologies, and the ETAC programs support performance validation and accelerated market adoption of commercially available yet underused technologies and approaches. Developers of pre-commercial technologies seeking funding for research, product development, and pilot demonstrations are invited to review [NYSERDA Program Opportunity Notice 2606 – Advanced Building Program](#).

Emerging energy efficiency and load management solutions provide expanded opportunities for electric and gas energy efficiency and load management in commercial and institutional buildings. Until market acceptance is gained, these emerging technologies and approaches may face barriers such as higher upfront costs, installation or commissioning challenges, lack of performance validation, limited customer or contractor awareness, and the lack of supply chain development. Through ETAC-CI, promising technologies and approaches will be demonstrated to identify barriers to increased market adoption, prove in-field performance, and increase market and customer awareness.

The ETAC-CI program also encourages collaboration among market innovators to facilitate in-field demonstrations and sharing of results. Demonstrations will incorporate commercially available, under-used technologies into energy efficiency projects, then monitor, validate, and publicize project performance.

This solicitation offers applicants two participation paths:

Focused Demonstrations – This path supports demonstrations (at a minimum of two sites) of selected technologies or approaches that are commercially available, yet under-used, in order to accelerate market penetration. For successful applicants, NYSERDA will provide funding for up to 60% of installation costs, capped at a maximum of \$250,000 per project, and will fund and provide performance validation services at the demonstration project sites. Demonstration project eligibility is limited to technologies and approaches that a) provide independent, third-party validated performance data from previous project(s), and b) are included in the Focused Demonstration Targeted Categories posted on NYSERDA's website at: nyserda.ny.gov/etac-ci. NYSERDA reserves the right to make periodic adjustments to this list.

Energy Performance Validation – This path supports validation of demonstrations (at a minimum of two sites) implemented by project developers, manufacturers, building owners or others seeking independent verification of performance and energy savings for a product, technology, or approach that is commercially available, yet under-used. For successful applicants, NYSERDA will fund and provide performance validation services at the demonstration project sites. Demonstration project eligibility is limited to technologies and approaches that provide performance data* from previous project(s). Applicants are responsible for all project development and implementation costs, except for NYSERDA-provided performance validation.

*Independent, third-party validated performance data is not required.

The ETAC-CI program is designed primarily to provide a proving ground that leads to expanded market share for promising technologies and approaches through demonstrations at multiple locations. In addition to managing and funding or co-funding the installation of the technology (or implementation of the approach), Project Participants should expect to identify a clear path to market and to participate in commissioning, measurement, verification, reporting, and outreach activities for a New York State audience (which may include press events and releases, site tours, and presentations at webinars or conferences, etc.). The primary work of performance validation (including measurement and verification) will be funded and provided by NYSERDA.

The remainder of this solicitation is organized into the following sections:

- II. Definitions
- III. Eligibility and Project Requirements
- IV. Available Funds
- V. Program Steps
- VI. General Conditions
- VII. Attachments

II. DEFINITIONS

Adjusted Project Incentive – The payment that will be made to the Participant, based on adjustments to the Project Incentive once Project Participant provides documentation of actual eligible project costs and Participant Team cost-share. Adjusted Project Incentive shall not exceed \$250,000.

Applicant – The entity submitting an application form to the NYSERDA ETAC-CI program.

Commercial building – Includes commercial, institutional and industrial facilities, to the extent that the Emerging Technology or Approach being demonstrated is not process-related.

Commercially available – The technology or approach has been available in the marketplace for at least six months, can be accessed through retail or distributional outlets, has manufacturer or independent third-party performance data available, has been successfully demonstrated or installed, and marketing and sales efforts are underway.

Demonstration Host Site – A new or existing commercial or institutional building that hosts the demonstration of an Emerging Technology or Approach. An Applicant or Project Participant may own or otherwise have an existing business relationship with a Demonstration Host Site.

Eligible Project Costs – Project costs eligible for either funding from NYSERDA or inclusion as Participant Team cost-share include equipment purchase and installation, engineering and design costs, commissioning costs, direct labor (for which laborer is paid as an employee), unpaid (in-kind) labor, and in the case of approaches not directly involving equipment installation, costs for project implementation or other NYSERDA-approved costs.

Emerging Technology or Approach – For the purposes of the ETAC-CI program, a commercially available product, technology, or approach that has minimal market penetration, and provides new or expanded opportunities for electric and/or gas energy efficiency and/or load management in commercial and institutional buildings. Some examples of approaches are, for instance, a novel combination of energy-saving technologies, or actionable web-based tools and training, or a financing strategy that measurably supports greater implementation of efficiency measures.

Load Management – The reduction of building electric load via means including demand response, peak demand reduction, demand management and/or energy storage.

Path to Market – A cohesive set of strategies and actions aimed at increasing the technology or approach's market share, including a) identification of market or regulatory obstacles and avenues to address/overcome them; b) identification of target market, including the customer and building types for

which the technology or approach is most appropriate; c) activities to develop the supply chain (manufacturers, distributors, installers, service and maintenance professionals); and d) establishment of targeted outreach/marketing (such as sales documents and/or marketing and product information) to potential end users or buildings owners.

Performance Validation Technical Consultant (TC) – A consultant hired by NYSERDA to perform measurement and verification (M&V) and monitor and validate performance in each demonstration project. The TC will, in addition to the verification role, act in an advisory role to the Participant Team to support project success and help to amplify replication opportunities. This could include support for Participant Team’s mitigation and resolution of project issues/obstacles, sharing lessons learned to the extent applicable from TC experience, assisting Participant Team in cases where an obstacle and/or opportunity may be broader than this single project (e.g. regulatory or utility concerns), and/or serve as an impartial sounding board for the Participant Team and NYSERDA.

Participant Team – The Project Participant, Demonstration Host Sites, and any other entities that have committed to the project.

Project Incentive – For Focused Demonstration projects, the amount of NYSERDA funding requested by the Applicant to support eligible project costs. Participant Team must provide a cost-share of at least 40% of eligible project costs. Project Incentive shall not exceed \$250,000.

Project Participant – The entity that has entered into an agreement with NYSERDA.

III. ELIGIBILITY AND PROJECT REQUIREMENTS

Any company, entity, or team is invited to participate; teaming is encouraged. Applicants may include, but are not limited to:

- Developers, manufacturers, or vendors of new technologies or approaches;
- Building owners;
- Trade or professional organizations or utilities.

NYSERDA seeks to demonstrate technologies and/or approaches that:

- provide electric and/or gas energy efficiency and/or load management benefits compared to current standard technology or practices; and
- demonstrate a clear market understanding and path to market; and
- are replicable across New York State; and
- can provide information on payback, return on investment, and/or lifecycle costs to Demonstration Host Sites; and
- provide performance data from a previous project or projects.

For both **Focused Demonstrations** and **Energy Performance Validation** projects, Project Participants must:

- recruit multiple Demonstration Host Sites (defined as a minimum of two separate or discrete project sites). All Demonstration Host Sites must be located in New York State, and the majority of project benefits (e.g., kWh, MMBtu, and/or kW savings) must occur at Demonstration Host Sites that pay into the electric or gas System Benefits Charge (SBC). A minimum of two sites is required, but including more sites and/or a diversity of building types in the project is encouraged, in order to provide a meaningful dataset for performance validation. If an insufficient number or variety of sites is included, project validation reports and outreach materials may have to present limited or constrained findings. The Applicant must obtain a written commitment from each Demonstration Host Site, in which the Demonstration Host Site agrees to

participate in the project and provide access to NYSERDA and its technical consultants to gather data and perform performance validation. (See *Demonstration Host Site Participation Agreement*, posted on NYSERDA's website at: nyserdera.ny.gov/etac-ci.) **Note:** NYSERDA reserves the right to waive the requirement for multiple demonstration sites on a case-by-case basis for projects including Demonstration Host Sites that meet the definition of "new construction" or "substantial renovation" as defined by NYSERDA's [New Construction Program](#).

- identify and articulate a clear path to market for the technology or approach. As part of the project application, Project Participants must: identify market or regulatory obstacles and avenues to address/overcome them; identify target market, including the customer and building types for which the technology or approach is most appropriate; identify and plan activities to develop the supply chain (manufacturers, distributors, installers, service and maintenance professionals); and identify and plan targeted outreach/marketing (such as sales documents and/or marketing and product information) to potential end users or buildings owners.
- develop and implement the project, including installation of the technology or implementation of the approach.
- support the performance validation process planned and executed by the assigned TC contracted by NYSERDA. Participant Team must provide reasonable access to relevant data, staff, and equipment. Participant Team will coordinate with NYSERDA and the TC in identifying barriers and opportunities for project replication, and in sharing information pertinent to project performance. Performance validation will include evaluation of barriers and performance factors, and measurement and verification (M&V) of energy savings. M&V will generally follow the accepted standards of the International Performance Measurement and Verification Protocol (IPMVP); however, more rigorous data collection methods or longer collection periods (typically, 1-2 years) may be required.
- provide a project performance report to NYSERDA at project completion, as well as interim semi-annual reports, to share findings such as commissioning results, project performance, costs, barriers and lessons learned.
- perform outreach activities related to the project, such as webinars, press events and releases, site tours, reports and articles, case studies, and presentations at conferences and seminars. As project results become available, NYSERDA will work with the Participant Team to identify appropriate outreach activities, including Project Participant's path to market activities. For projects where the performance validation determines that the technology or approach is not sufficiently proven or mature or does not produce significant documented energy savings, a brief case study will be prepared and shared on the NYSERDA website, and no additional outreach activities will be required.

For **Focused Demonstration** projects, in addition to the requirements above,

- a) the technology or approach must be included in the Focused Demonstration Targeted Categories posted on NYSERDA's website at: nyserdera.ny.gov/etac-ci.
- b) independent performance validation is required at the time of application. Examples of independent performance validation include prior demonstration projects, case studies, or energy savings estimates conducted by energy efficiency program administrators, utilities, state energy offices, national laboratories, independent research laboratories, colleges and universities, regulatory bodies, trade or professional associations, etc.

Note: NYSERDA reserves the right to waive the independent performance data requirement for certain Targeted Categories.

Ineligible Projects

Mature technologies or services, or opportunities or services that do not primarily deliver electric and/or gas energy efficiency and/or load management savings, are excluded. The program seeks to avoid duplication of

support offered through other NYSERDA or utility programs. Please refer to <http://www.nyserda.ny.gov/Funding-Opportunities.aspx> or the links below for other potential NYSERDA funding opportunities.

The following project types may be eligible for other NYSERDA programs but are not eligible for ETAC-CI:

- **stand-alone renewable energy technologies** such as solar electric or solar thermal, wind turbines, fuel cells, or anaerobic digesters. See: [Customer-Sited Renewables](#).
- **transportation projects and vehicle-charging stations**. See: [Transportation](#).
- **biomass-related** projects. See: [Biomass](#).
- technologies already generally accepted in the marketplace, or technologies that are eligible for incentives through NYSERDA's Existing Facilities or New Construction programs [See [Existing Facilities Program Pre-qualified incentives](#) worksheets or [New Construction Program Pre-qualified incentives \(PON 1601\)](#)], unless integrated within an otherwise eligible project;
- marketing or behavioral strategies lacking demonstrable on-site implementation at multiple Demonstration Host Sites.
- "one-off" or **single-site demonstrations**. **Note:** NYSERDA reserves the right to waive this requirement on a case-by-case basis for projects including Demonstration Host Sites that meet the definition of "new construction" or "substantial renovation" as defined by NYSERDA's [New Construction Program](#).
- **certain technologies** that do not match the scope or goals of the program. See exclusions on NYSERDA's website at www.nyserda.ny.gov/etac-ci-participation#ineligible.
- Any project where **installation/implementation of the emerging technology or approach has already taken place** at the Demonstration Host Site.

This program will not pay for the installation of an energy efficiency measure at a Demonstration Host Site where the Applicant or the Demonstration Host Site(s) has applied for or received an incentive or other compensation from an energy efficiency program administered by a utility company or NYSERDA for that same energy efficiency measure.

IV. AVAILABLE FUNDS

Focused Demonstration – Approximately \$3.3 million in funding is available. Applicants, if selected, are eligible to receive up to \$250,000 in cost-shared funding from NYSERDA, as well as performance validation services funded by NYSERDA. Applicant (or applicant team) must provide a minimum of 40% of eligible project costs, and NYSERDA will provide up to 60% of eligible project costs. Participant Team cost-share may include in-kind contributions by both Project Participant and Demonstration Host Sites. The Project Incentive will be identified in the project approval letter and may be subject to adjustment after documentation of project costs and Participant Team cost-share are submitted by the Project Participant.

Two milestone payments will be made after Project Participant provides deliverables as outlined below:

- First Milestone Payment – 75% of Adjusted Project Incentive after a) NYSERDA inspection or approval of installation or implementation, including equipment and/or communications necessary for performance validation, and b) provision by the Project Participant of an interim project report that includes documentation of project implementation and deliverables, (including a commissioning report where applicable), project costs and Participant Team cost-share.
- Second Milestone Payment – 25% of Adjusted Project Incentive after final project performance report, project case study and other outreach activities are completed.

Energy Performance Validation – NYSERDA will fund performance validation services for Project Participants in Energy Performance Validation projects. Project Participants in this ETAC-CI validation path are responsible for all project development and implementation costs except for project costs for performance validation

V. PROGRAM STEPS

Focused Demonstrations

1. Complete Application

Complete an application form (posted on NYSERDA's website at nyserdera.ny.gov/etac-ci), and provide participation agreements from a minimum of two Demonstration Host Sites (posted on NYSERDA's website at nyserdera.ny.gov/etac-ci).

2. Application Review/Approval

NYSERDA reviews the application to ensure the proposed project meets program requirements and either approves it as submitted, requests clarification or additional information, or rejects the application. NYSERDA may reject any application if it does not meet ETAC-CI program requirements. Upon approval of a completed application, NYSERDA issues a project approval letter, specifying the Project Incentive.

3. Performance Validation Plan

The NYSERDA-assigned TC will visit Demonstration Host Sites and develop a Performance Validation Plan for the proposed project. The Performance Validation Plan will include evaluation of barriers and performance factors, and measurement and verification (M&V) of energy savings. M&V will follow the protocols of the IPMVP but will be customized to the project, and is generally broader in scope and longer in duration than standard M&V protocols. Typically, one to two years of monitoring will be required. For reference, a sample Performance Validation Plan template is posted on NYSERDA's website at: nyserdera.ny.gov/etac-ci.)

Exception: If, after review of the project application and site inspections, NYSERDA identifies "fatal flaws" in the project (for instance, resulting from building code or health and safety issues), which cannot be resolved through a mutually acceptable solution (e.g. substitution of a different Demonstration Host Site), NYSERDA reserves the right to cancel the project at this stage.

Energy Performance Validation

1. Complete Application

Complete an application form (posted on NYSERDA's website at nyserdera.ny.gov/etac-ci), and provide participation agreements from a minimum of two Demonstration Host Sites (posted on NYSERDA's website at nyserdera.ny.gov/etac-ci).

2. Application Review/Approval

NYSERDA reviews the application to ensure the proposed project meets program requirements and either approves it as submitted, requests clarification or additional information, or rejects the application. NYSERDA may reject any application if it does not meet ETAC-CI program requirements. Upon approval of a completed application, NYSERDA issues a project approval letter.

3. Performance Validation Plan

The NYSERDA-assigned TC will visit Demonstration Host Sites and develop a Performance Validation Plan for the proposed project. The Performance Validation Plan will include evaluation of barriers and performance factors, and measurement and verification (M&V) of energy savings. M&V will follow the protocols of the IPMVP but will be customized to the project, and is generally broader in scope and longer in duration than standard M&V protocols. Typically, one to two years of monitoring will be required. (For reference, a sample Performance Validation Plan template is posted on NYSERDA's website at: nyserdera.ny.gov/etac-ci.)

Exception: If, after review of the project application and site inspections, NYSERDA identifies "fatal flaws" in the project (for instance, resulting from building code or health and safety issues), which cannot be resolved through a mutually acceptable solution (e.g. substitution of a different Demonstration Host Site), NYSERDA reserves the right to cancel the project at this stage.

Project Participant provides written acceptance of the Performance Validation Plan before project installation/ implementation begins. Some M&V measurements may be required prior to installation of new equipment or project implementation.

4. First Milestone: Project Installation/ Implementation

The Project Participant is responsible for project installation/implementation (and all associated costs) at Demonstration Host Sites. NYSERDA will schedule a site visit to inspect the installations to verify satisfactory operation of new equipment, or other evidence of project implementation, as well as satisfactory installation or operation of any equipment and/or communications necessary for M&V. The Project Participant submits an interim project report that includes documentation of project implementation and deliverables, (including a commissioning report where applicable), and documentation of project costs, including Participant Team's contribution of at least 40% of such costs. NYSERDA may adjust the Project Incentive if eligible project costs differ from those submitted at time of Application. Upon review and approval of submitted documentation, NYSERDA will issue a payment for 75% of the Adjusted Project Incentive (First Milestone Payment).

For projects that do not include on-site installation of equipment, the Performance Validation Plan will identify the appropriate project stage at which the First Milestone Payment will be paid.

5. Performance Validation and Reporting

The TC conducts performance validation tasks with support from the Participant Team, such as providing access to relevant data and equipment. The TC then prepares a Project Final Report documenting performance validation results. The Project Participant is responsible for providing interim reports semi-annually to NYSERDA, as well as a final project performance report at project completion, to share findings such as commissioning results, project performance, costs, barriers identified and remedies tried and recommended, pathways to successful project replication in New York State, and other lessons learned.

Project Participant provides written acceptance of the Performance Validation Plan before project installation/ implementation begins. Some M&V measurements may be required prior to installation of new equipment or project implementation.

4. Project Installation/Implementation

The Project Participant is responsible for project installation/implementation (and all associated costs) at Demonstration Host Sites. NYSERDA will schedule a site visit to inspect the installations to verify satisfactory operation of new equipment, or other evidence of project implementation, as well as satisfactory installation or operation of any equipment and/or communications necessary for M&V. The Project Participant submits an interim project report that includes documentation of project implementation, cost and deliverables (including a commissioning report where applicable).

5. Performance Validation and Reporting

The TC conducts performance validation tasks with support from the Participant Team, such as providing access to relevant data and equipment. The TC then prepares a Project Final Report documenting performance validation results. The Project Participant is responsible for providing interim reports semi-annually to NYSERDA, as well as a final project performance report at project completion, to share findings such as commissioning results, project performance, costs, barriers identified and remedies tried and recommended, pathways to successful project replication in New York State, and other lessons learned.

6. Case Study and Outreach

The Project Participant prepares a case study for the project, with assistance from NYSERDA. The case study presents an overview of the technology or approach demonstrated, and performance results (e.g., energy savings, non-energy benefits, identification of market barriers, etc.) of the demonstration. A template for the case study will be provided by NYSERDA.

With the exception noted below, all Participant Teams are required to identify and lead two or more outreach activities (in addition to the case study). Outreach activities will be targeted to a New York State audience and may include, but not be limited to: press events and releases, site tours, and

6. Second Milestone: Case Study and Outreach

The Project Participant prepares a case study for the project, with assistance from NYSERDA. The case study presents an overview of the technology or approach demonstrated, and performance results (e.g., energy savings, non-energy benefits, identification of market barriers, etc.) of the demonstration. A template for the case study will be provided by NYSERDA.

With the exception noted below, all Participant Teams are required to identify and lead two or more outreach activities (in addition to the case study). Outreach activities will be targeted to a New York State audience and may include, but not be limited to: press events and releases, site tours, and presentations at webinars or conferences. Depending on project progress and outreach opportunities that arise, outreach activities may be undertaken during or following the performance validation period. NYSERDA will approve outreach activities in advance. Upon completion of these outreach activities, NYSERDA issues a payment for 25% of the Adjusted Project Incentive (Second Milestone Payment).

Exception: For projects where performance validation reveals that savings or performance are substantially below anticipated levels, Project Participant is required only to complete the case study. No additional outreach activities are required.

presentations at webinars or conferences. Depending on project progress and outreach opportunities that arise, outreach activities may be undertaken during or following the performance validation period. NYSERDA will approve outreach activities in advance.

Exception: For projects where performance validation reveals that savings or performance are substantially below anticipated levels, Project Participant is required only to complete the case study, and no additional outreach activities are required.

Please note: Any mention of any particular product, strategy or manufacturer as part of the ETAC-CI Program should not be construed as an implied or expressed endorsement by NYSERDA, the State of New York, or any contractors providing services on behalf of NYSERDA. The information, statements, representations, graphs and data presented in any reports provided to participants of the ETAC-CI Program are provided by NYSERDA as a service to those participants. NYSERDA, the State of New York, and any contractors providing services on behalf of NYSERDA make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately-owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of any particular product or manufacturer referred to or reliance on any information or report provided during the implementation of the ETAC-CI Program.

VI. 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://nyserda.ny.gov/~media/Files/About/Contact/NYSERDARegulations.ashx>. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

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

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

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

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

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

Limitation - This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest.

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.

VII. ATTACHMENTS

Attachment A – Terms and Conditions, Prompt Payment Policy Statement, and General Conditions