

BRRFP23-1

Responses to Written Questions

(Updated 12/5/2023)

NYSERDA issued the Build-Ready Request for Proposals (BRRFP23-1) for the Benson Mines Solar Project on October 2, 2023. The RFP requested interested participants submit questions by October 27, 2023. This document includes the questions received and the responses provided.

It is important to note that some questions requested project specific information that will only be made available to Proposers that qualify for Step Two of the RFP. Therefore, these questions were not included in this document.

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Category	No.	Question	Response
Project, Contract Requirements	1	Could the Power Purchase Agreement (PPA) tenor be increased to 30-35 years?	There is no PPA associated with this project. Securing offtake is the responsibility of the Awardee. The project is eligible for a 20-year Renewable Energy Certificate (REC) Agreement with NYSERDA. There is no flexibility to extend the REC Agreement contract tenor. Eligible Proposers for Step Two should reflect a 20-year REC contract tenor in their submitted Bid Price as part of their Step Two Bid Proposal.
Project, Environmental	2	What environmental studies were conducted for the project? When will bidders receive access to these studies.	NYSERDA conducted a Phase I Environmental Site Assessment (ESA) and is completing a refresh of the Phase I ESA. NYSERDA is in the process of finalizing the Phase II ESA. The Phase I and Phase II ESA will be included in the data room for Step Two Eligible Proposers.
Project, Environmental	3	Could you please outline what the classification of "N" and "C" mean for the installation and operation on the BR Facility on the Benson Mine and J&L Steel Site, respectively? From NYSERDA's Q&A document: "The Benson Mine and J&L Steel sites do not have USEPA Superfund site designations or codes. The Benson Mine site is listed under the NYSDEC Superfund Program as Site No. 645051 and classified as "N", or No Further Action at this time. The J&L Steel is listed under the NYSDEC Superfund Program as Site No. E645029 and classified as a "C" site, meaning that the NYSDEC determined that remediation has been satisfactorily	For the BR Facility, the classification "N" on the Benson Mines site means "No Further Action at this time." The classification "C" for the J&L Steel Site stands for "Completed." Proposers that are eligible for Step Two will receive access to the data room where they can review the Phase I ESA, Phase II ESA, and other project documentation.



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		completed under a remedial program."	
Project, Environmental	4	What, if any, remediation will need to be done at the site? If no remediation is needed, then will the Awardee receive a legal document that exempts them from liability as it relates to remediation? Can Bidders review this document?	<p>NYSERDA is in the process of finalizing the Phase II ESA. The results of the Phase II ESA will be made available in the data room for Eligible Step Two Proposers.</p> <p>NYSERDA has not obtained a legal document to waive the Awardee from legal liability for remediation responsibilities. This is a point that can be further discussed with Eligible Proposers during Step Two.</p>
Project, Financing	5	Has NYSERDA coordinated financial support for the project with the New York Green Bank?	No. Build-Ready has not coordinated project specific financial support with the New York Green Bank. It is the Proposer’s responsibility to secure financing for the project.
Project, Financing	6	Is NYSERDA offering any funding to develop the project or is there other funding available for the project?	<p>No. NYSERDA is not offering any funding that the Awardee can use to develop the project. It is up to the Proposer to secure the project funding. The only funding NYSERDA offers is the REC payments paid by NYSERDA to the Awardee through the 20-year REC Agreement. The REC payments provide an additional cashflow to the project during project operations.</p> <p>Another funding opportunity for Proposers to consider is the US Department of Energy (DOE) Loan Program Office (LPO) Title 17 Clean Energy Financing Program. NYSERDA entered into an MOU with the DOE LPO to support financing for large-scale renewable energy projects. The DOE LPO Title 17 Clean Energy Financing Program can support four categories of projects including State Energy Financing Institution (SEFI)-Supported projects. SEFI supported projects are projects that support deployment of qualifying clean energy technology and receive meaningful financial support or credit enhancements from an entity within a state agency or financing authority. The DOE LPO may, subject to obtaining required credit approvals, provide financing to eligible projects for up to 80 percent of eligible project costs, with a tenor dependent on project needs and expected asset life, and in any event, not exceeding 30 years.</p> <p>Solar PV projects are a qualifying clean energy technology. An entity that enters into a REC</p>



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			<p>Agreement with NYSERDA will demonstrate meaningful financial support from a state agency. The BR Facility Awardee will need to demonstrate they meet the other Title 17 Clean Energy Financing Program Requirements.</p> <p>To find out more about the NYSERDA-DOE LPO MOU please visit here: https://www.nyserderda.ny.gov/About/Newsroom/2023-Announcements/2023-09-28-Governor-Hochul-Announces-Partnership-Between-US-Department-of-Energy.</p> <p>To find out more about the SEFI Supported Program, please visit here: https://www.energy.gov/lpo/state-energy-financing-institutions-sefi-supported-projects</p>
Project, Geotechnical	7	Is there any information available on the existing conditions of the tailings pile?	<p>NYSERDA's consultants conducted a geotechnical investigation and provided a geotechnical report. Build-Ready ran a request for information (RFI) on the Benson Mines solar project in May 2022 and made the geotechnical report (Appendix 4) available to interested participants. The geotechnical report can be found on the Build-Ready RFI webpage and will also be made available to Eligible Proposers in the project data room during Step Two.</p>
Project, Insurance	8	What are the insurance requirements the Proposers must demonstrate?	<p>Please see Attachment A - BRRFP23-1 Draft Standard Form REC Agreement, Appendix A, Article XII, Insurance for the insurance requirements.</p>
Project, Interconnection	9	The Request for Proposals (RFP) for the Build-Ready Benson Mines Solar Project (BRRFP23-1) states that a System Impact Study (SIS) was completed for the project in July 2023. May we have a copy of the July 2023 SIS to consider as we complete our due diligence and prepare a proposal?	<p>During Step Two, Eligible Proposers will receive access to the SIS in the BR Facility data room.</p>
Project, Interconnection	10	When do you expect the Expedited Deliverability Study (EDS) to be completed?	<p>We anticipate the EDS kicking-off in Q1 2024. The EDS may not be complete by the time of project transfer, and it will be up to the Awardee to complete the EDS.</p>
Project, Key Personnel	11	Please describe what will happen if one of the key personnel, such as the Project Manager, Design and Engineering Team Lead, or Construction Team Lead, is no longer available to work on the project?	<p>Please refer to Section 2.1.2 of the RFP and Section 8.07 of Attachment A - BRRFP23-1 Draft Standard Form REC Agreement.</p>



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Project, Labor	12	Are there labor requirements that will govern the project?	Yes, please see Attachment A - BRRFP23-1 Draft Standard Form REC Agreement, Appendix A, Article XVIII, Additional Provisions, Section 18.10 Prevailing Wage, 18.12 Project Labor Agreement, Section 18.13 Labor Peace Agreement, Section 18.14 MWBE and SDVOB Requirements. It is also advised to review Exhibit A and Exhibit J of the Draft Standard Form REC Agreement as both Exhibits include labor related provisions.
Project, Lease Option Agreement	13	How is the lease option agreement with Benson Mines Inc. structured? When are payments due? Can payments be deferred until the solar PV system is installed and operational?	The lease option agreement with Benson Mines Inc. will be made available in the Step Two data room and Eligible Proposers can review the terms. The lease option agreement requires annual payments during three distinct periods: an option term, a development and construction period, and an operating term. Based on how the lease option agreement is structured, the option payments and the development and construction payments cannot be delayed until the system is installed and operational.
Project, MWBE	14	Is there any preference for minority or women owned business entities?	Please refer to section 3.1.4.4 of the RFP.
Project, Permitting	15	There are many stakeholders involved in this project. Is there one authority having jurisdiction (AHJ) responsible for the approval process?	There are several stakeholders that have regulatory jurisdiction over the project including the Adirondack Park Agency, the Town of Clifton, and St. Lawrence County, among other agencies. The project is located in the Adirondack Park and was required to go through the Adirondack Park Agency (APA) permitting process. The project also received local site plan approval from the Town of Clifton Site Plan Review Board and from the St. Lawrence County Planning Board. The Awardee will be responsible for securing outstanding permits. Information on secured and outstanding permits was shared during the webinar - please see the webinar slides and recording posted on the Build-Ready RFP webpage (https://www.nyserda.ny.gov/All-Programs/Build-Ready-Program/Build-Ready-Request-for-Proposal). More information on permitting will also be provided to Eligible Proposers in the data room during Step Two.
Project, Permitting	16	Who is responsible for construction permits?	The Awardee will be responsible for securing the construction permits.
Project, Permitting	17	The BR Facility was permitted at 20 MW and is described as a 12 MW project in the RFP. Is there any work	The existing permits and approvals support a project up to 20 MW. At this time, NYSERDA does not anticipate any changes or amendments to the permits



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		<p>needed to revise permits or amend applications for a 12 MW project?</p> <p>Does this change the terms of the purchase agreement in any way?</p>	<p>or approvals being necessary to support a 12 MW project.</p> <p>No, adjusting the size of the project from 20 MW to 12 MW does not change any terms to the purchase agreement - the MIPA and the purchase price remain the same.</p>
Project, PILOT	18	<p>Section 1.4.9 of the RFP states that “NYSERDA is advancing terms of a 20-yr PILOT....” Since these unknown terms could have a significant effect on the project economics, will they be finalized and made public well in advance of the final proposal deadline OR will there be a price adjustment mechanism that will allow Proposers to adjust their bid price after the Proposal is submitted?</p>	<p>The terms of the PILOT will be shared with Eligible Proposers during Step Two via the BR Facility data room. Proposers should use this information to inform their Bid Price for their Step Two Bid Proposal. There is no PILOT Bid Price adjustment mechanism that allows Proposers to adjust their Bid Price due to changes in the PILOT after the Proposal is submitted. There is an interconnection and inflation Bid Price adjustment mechanism that allows Proposers to request an adjustment of their Bid Price to reflect changes in interconnection costs and inflation after the Proposal is submitted. Please see Section 3.1.5.3 Interconnection Cost Adjustment and Section 3.1.5.4 Inflation Risk Adjustment of the RFP. Please see Section 5.03 and 5.04 of Attachment A - the Draft Standard Form REC Agreement.</p>
Project, Program Eligibility	19	<p>Is this project eligible for New York State's the Value of Distributed Energy Resources (VDER) tariff, the Community Distributed Generation (CDG) Program, or the Remote Crediting Program?</p>	<p>No, this project is not eligible for the VDER tariff, the CDG Program or the Remote Crediting Program. This is not a DG scale project. This is a 12 MWac, large-scale solar PV project that will participate in NYISO's wholesale market. The incentive the project is eligible for is a REC Agreement with NYSERDA. Step Two Bid Proposals must include an Index REC or Fixed REC Bid Price. If awarded the project, the Awardee will enter into a 20-year REC Agreement with NYSERDA for the Bid Price included in the Awardee's Bid Proposal.</p>
Project, Purchase Price	20	<p>Is NYSERDA looking to recover its costs in developing the project? What have been the costs of the studies conducted?</p>	<p>As required by the NY Public Service Commission Build-Ready Program Order, Build-Ready aims to recover the costs incurred by the Program through project auctions. NYSERDA's purchase price for the BR Facility covers NYSERDA's costs to develop the project.</p>
Project, Purchase Price	21	<p>Step Two Proposers need to submit an Index or Fixed REC Bid Price. Is there any other price component to the RFP?</p>	<p>Yes, see section 4.4 of the RFP and Article 2 of Attachment B - the Draft MIPA. The purchase price for the project is \$3,400,000. The purchase price corresponds to NYSERDA's costs of developing the BR</p>



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			<p>Facility through the date of purchase under the MIPA. The purchase price will be due by the Awardee in full on the Closing Date of the transaction.</p> <p>In addition, during Step Two, Build-Ready will provide some project cost assumptions that are identified in Appendix 5, Step Two Bid Proposal Form, that Proposers can use in developing their Bid Price.</p>
Project, Schedule	22	Is there a project timeline or schedule for this project?	Please refer to Table 1 in the RFP for the RFP schedule. There is no required timeline or schedule for this project. The Step Two Bid Proposal requires Proposers to submit a Project Execution Plan, which includes a schedule for the project. Please refer to section 3.1.3, specifically section 3.1.3.3 Project Schedule, in the RFP.
Project, Technology Requirements	23	Are Proposers required to include battery energy storage as part of the project?	No, the BR Facility is designed and permitted as solar PV only. The NYISO interconnection studies reflect a solar PV only project. Proposers should not include battery energy storage as part of their Step Two Bid Proposals.
Step One, Evaluation	24	How will Step One Eligibility Applications be evaluated? Is there a weighted evaluation rubric to score Step One applicants beyond meeting the minimum eligibility requirements? More specifically, what is the relative importance to NYSERDA of Project Team Description and Structure, Key Personnel and Other Personnel, and Previous Project Experience and References?	<p>Please see section 2.1 of the RFP for the Step One Eligibility Application Requirements including the minimum eligibility qualifications for each requirement and section 2.2 of the RFP for the Step One Eligibility Application Evaluation. The Step One Eligibility Application requires Proposers to submit information and demonstrate they meet the minimum eligibility requirements for: Project Team and Description, Key Personnel and Other Personnel, Previous Project Experience and References, Financial Qualifications, and provide several required attachments.</p> <p>The Step One Eligibility Applications are evaluated on a pass/fail basis. There is no scoring or weighting associated with the evaluation of each of the Step One requirements.</p> <p>Build-Ready will first review applications for completeness. After the completeness check, Build-Ready will review the application materials and determine whether they meet the minimum eligibility qualifications for each requirement. If the Proposer's Step One Eligibility Application is complete and meets</p>



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			the minimum eligibility qualifications for each requirement the Proposer will receive a notice of qualification and be invited to Step Two. For incomplete or unclear Step One Eligibility Applications, Proposers will have an opportunity to cure any deficiencies.
Step One, Proposer Qualifications	25	Is it expected that the Proposer can construct, own, and operate the project? Will NYSERDA provide any support in identifying firms that could provide any of the requested services?	Yes, it is expected that the Project Team the Proposer submits as part of the Step One Eligibility Application will be able to carry out the remaining project development steps, finance, construct, own and operate the project. Firms are allowed to Team or enter a Joint Venture to provide the requested services. If a Proposer submits a Step One Eligibility Application and is not able to perform one of the requested services, the Proposer will not qualify for Step Two. NYSERDA is not providing support to firms in identifying potential teaming partners. It is up to the Proposer to establish their team.
Step One, Requirements	26	Does the Step One Eligibility Application require Proposers to submit project design documents? For example, a 10% design block diagram or a feasibility study?	No, the Step One Eligibility Application does not require Proposers to submit project design documents. For Step One, Proposers must include qualifications of a Design Team lead that meet the minimum eligibility requirements outlined in the RFP.
Step Two, Access to Data	27	When will Eligible Proposers receive access to the BR Facility data room?	Please refer to Table 1 in the RFP for the RFP Schedule. Barring any changes to the schedule, NYSERDA will open the Step Two Bid Proposal and data room to Eligible Proposers on January 11, 2024.
Step Two, Access to Data	28	Can interested parties receive copies of the engineering studies, permits, interconnection studies, etc. that have been completed?	Proposers that are eligible for Step Two will receive access to the BR Facility data room which will include the completed project engineering studies, environmental studies, permits, and interconnection studies, among other documents.
Step Two, Evaluation	29	How will Step Two Proposals be evaluated? What is the weighting of price vs non-price factors?	Please refer to Section 3.2 of the RFP. The price component is the Fixed REC Bid Price or Index REC Bid Price. The price component is weighted at 55% of the overall score. The non-price components have a combined weight of 45% of the overall score. The 45% non-price evaluation component is divided into three categories and weights: (1) Incremental Economic Benefits to New York State with a weighting of 15%, (2) Proposer Qualifications with a weighting of 10%, and (3) Project Execution Plan with a weighting of 20%.
Step Two, Process	30	Can NYSERDA reimburse Proposers for the cost of proposal development?	No, NYSERDA does not cover the cost of proposal development.



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Step Two, Process	31	Can NYSERDA pay for any additional required studies?	No.
Other	32	Is NYPA involved in this project?	No, NYPA is not involved in this project.
Project Information	33	Are there any project documents publicly available?	Yes. Build-Ready ran a request for information (RFI) on the Benson Mines solar project in May 2022 and included project background information including a project information memo, a draft project design set, a geotechnical report, the draft landscape development plan, the wetland delineation report, and an independent interconnection feasibility report. Some of these documents and updated versions of these documents will be included in the Step Two data room. Other documents will not be included because they are no longer relevant.
Step One Eligibility Application	34	In Appendix 1, Part III – Project Experience & References, in the reference section it refers to Authorities Having Jurisdiction. Who is the intended reference person?	In this section of the form, Proposers need to provide information on their project experience and a reference for the project. The intent is for the reference to be the local government official that was most involved with the review or approval of the project. For example, this could be the Town Supervisor, Municipal Attorney, Chair of the Planning and Zoning Board, etc. It is suggested that Proposers include the local official that is best placed to provide a reference for the project and discuss their interactions with the Proposer.
Non-Disclosure Agreement	35	Why should the “Authorized Person” be a party to Appendix 3. Non-Disclosure Agreement (NDA)?	An updated NDA is available on the Build-Ready RFP webpage and NYSERDA’s solicitation webpage. The updated NDA clarifies the role of the Proposer and “Authorized Person(s)”. The NDA now only requires the Proposer to be a party to the agreement but requires the Proposer to list all Authorized Persons in Schedule 1.



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Letter of Credit, Step One Eligibility Application	36	<p>In Section 2.1.4 Financial Qualifications of the RFP, Proposers are directed to provide, “A letter from a commercial bank or other financial institution confirming that it is prepared to issue a letter of credit on behalf of the Proposer, in the form of Annex B to Exhibit B of the REC Agreement, for the full amount of the contract security referenced in Section 15.01 of the REC Agreement (\$1,500,000).”</p> <p>However, Annex B of Exhibit B of the REC Agreement is labeled as a “Payment Certificate.” Can you clarify which form letter should be used to satisfy this requirement?</p>	<p>This section of the RFP should have referenced Exhibit B, Letter of Credit, of the REC Agreement. Not Annex B, the Payment Certificate. Please disregard the reference to Annex B and only refer to Exhibit B in the REC Agreement.</p>