



## 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 December 30, 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](http://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](http://nyserda.ny.gov/etac-ci). See website for additional submission instructions.

All Program questions should be directed to: Liz Hanna, 866-NYSERDA, ext. 3358, [etac-ci@nyserda.ny.gov](mailto:etac-ci@nyserda.ny.gov)  
All Contractual questions should be directed to: Venice Forbes, 866-NYSERDA, ext. 3507, [vwf@nyserda.ny.gov](mailto: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](http://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: [nyserdera.ny.gov/etac-ci](http://nyserdera.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](http://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](http://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.nyserderda.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.nyserderda.ny.gov/etac-ci-participation#ineligible](http://www.nyserderda.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 [nyserderda.ny.gov/etac-ci](https://nyserderda.ny.gov/etac-ci)), and provide participation agreements from a minimum of two Demonstration Host Sites (posted on NYSERDA's website at [nyserderda.ny.gov/etac-ci](https://nyserderda.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: [nyserderda.ny.gov/etac-ci](https://nyserderda.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 [nyserderda.ny.gov/etac-ci](https://nyserderda.ny.gov/etac-ci)), and provide participation agreements from a minimum of two Demonstration Host Sites (posted on NYSERDA's website at [nyserderda.ny.gov/etac-ci](https://nyserderda.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: [nyserderda.ny.gov/etac-ci](https://nyserderda.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.

#### **6. Second Milestone: Case Study and**

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

## **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

## **Attachment A**

### **EXHIBIT A – ETAC-CI PROGRAM TERMS & CONDITIONS**

#### **1. Energy Performance Validation Projects**

Sections 2, 4, 5, and 9 of these Terms and Conditions shall not apply to Projects in the Energy Performance Validation category.

#### **2. Amounts Payable**

The Purchase Order is an amount, based on the Project Participant's estimate of project installation or implementation costs at the time of application (Project Incentive). The final payment (Adjusted Project Incentive) will be based on acceptable documentation of the project installation and implementation costs and cost-share provided by the Project Participant and Demonstration Host Site(s) (collectively, the "Participant Team"). In no case shall payment exceed \$250,000.

#### **3. Inspections, Follow-up Visits and On-Site Monitoring**

(a) NYSERDA reserves the right for NYSERDA or its contractors to make a reasonable number of pre-and post-installation or implementation visits to the Demonstration Host Site(s). Such visit(s) will be at a time convenient to the Project Participant and made with at least one week advance notice to the Project Participant by NYSERDA. (b) Generally, the purpose of the visit(s) is to perform measurement and verification activities, to verify satisfactory installation or operation of equipment, and to evaluate the installed Project in order to determine the actual performance and energy savings for both project validation and program evaluation purposes, which may occur well after the Project is installed or implemented. (c) The scope of review by NYSERDA of the design and installation of the Project is limited to solely determining the energy savings, performance data, and whether program conditions have been met. It does not include any kind of safety, quality, or other review.

#### **4. Project Incentive Payments**

NYSERDA shall pay the Project Incentive in two Milestone Payments, in accordance with and subject to the provisions of NYSERDA's Prompt Payment Policy upon the Project Participant's meeting the requirements of the ETAC-CI Program. This includes, but is not limited to:

For the First Milestone Payment: (1) installation or implementation of the Project in the identified buildings (or sites) is completed, (2) NYSERDA has verified satisfactory installation or operation of any equipment or communications protocols necessary for Performance Validation, (3) an interim project report is provided, and (4) documentation of project costs, including Participant Team's contribution of at least 40% of such costs, is provided, all in accordance with the specifications of the Program; and

For the second Milestone Payment: (1) Project Participant has submitted semi-annual interim project reports and a final project performance report, (2) Project Participant has prepared a Case Study for the project, and (3) Participant Team has engaged in or completed required Outreach activities.

75% of Project Incentive (adjusted if necessary) will be paid after First Milestone deliverables are met, and the remaining 25% will be paid after Second Milestone deliverables are met.

#### **5. Cost and Invoice Documentation**

Upon completion of the post-installation inspection, and at any other time upon NYSERDA's request, the Project Participant shall provide NYSERDA copies of all invoices (including all materials, labor, and equipment discounts) reflecting the costs of purchasing and installing the Project. The invoices shall include a breakdown of all equipment purchased for installation, or other identified project costs, under this Agreement (the application and these Terms and Conditions). In addition, NYSERDA may request any other reasonable documentation or verification of the cost to the Project Participant of purchasing and installing the equipment or implementing the project.

#### **6. Reporting**

The following project reports are required: (1) following project installation or implementation, an interim project report (including a commissioning report where applicable), (2) thereafter, semiannual interim project reports, and (3) a final project performance report to NYSERDA 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.

#### **7. Outreach**

The Project Participant will prepare a Case Study for the project, with assistance from NYSERDA and/or the Performance Validation Technical Consultant, based on a template to be provided by NYSERDA. All Participant Teams will be required to take part in at least two additional outreach activities. NYSERDA will approve outreach activities in advance, and they will be coordinated with NYSERDA's ETAC-CI Program Staff and Director of Communications. For projects where Performance Validation reveals that savings or cost-effectiveness are substantially below anticipated levels, Project Participant will be required only to complete the Case Study, and no additional outreach activities will be required.

#### **8. Indemnification**

The Project Participant shall protect, indemnify, and hold harmless NYSERDA and the State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation,

attorneys' fees and expenses) imposed upon or incurred by or asserted against NYSERDA or the State of New York resulting from, arising out of or relating to the performance of this Agreement. The obligations of the Project Participant under this section shall survive any expiration or termination of this Agreement.

#### **9. Release by the Project Participant**

The acceptance by the Project Participant of final payment shall release NYSERDA from any and all claims and liability the Project Participant, its representatives, and assigns might otherwise have relating to this Agreement.

#### **10. No Warranties**

NYSERDA does not make any representations of any kind regarding the results to be achieved by the Project or the adequacy or safety of such measures. Any mention of any particular product or manufacturer during the implementation 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.

#### **11. Changes in the Program**

The Terms and Conditions may be changed by NYSERDA at any time without notice. Approved participants, however, will be processed to completion under the Terms and Conditions in effect at the time of application to NYSERDA.

#### **12. Limit of Incentive Payments**

NYSERDA reserves the right, for any reason, to stop approving program applications at any time without notice.

#### **13. Vendor Selection**

The Demonstration Host Site is responsible for selecting its vendor(s) and implementation contractor(s). NYSERDA has the right to disallow a vendor or contractor from participation in this program. The Contractor shall at all times during program participation remain responsible. The Contractor agrees, if requested by NYSERDA or its designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. NYSERDA, in its sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when it discovers information that calls into question the Responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as NYSERDA issues a written notice authorizing a resumption of performance under the Contract. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate NYSERDA officials or staff, this Agreement may be terminated by NYSERDA at the Contractor's expense where the Contractor is determined by NYSERDA to be non-Responsible. In such event, NYSERDA may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

#### **14. Title to Equipment**

Title to all of the equipment purchased under this Agreement shall not vest with NYSERDA.

#### **15. Removal of Equipment**

The Project Participant agrees, as a condition of participation in the program, to remove and dispose of the equipment being replaced by the Project in accordance with all laws, rules, and regulations.

#### **16. Maintenance of Records and Audit**

The Project Participant shall keep, maintain, and preserve for a period of three years after receipt of the incentives, full and detailed books, accounts, and records pertaining to the performance of this Agreement.

NYSERDA shall have the right from time to time and at all reasonable times during this period to inspect and audit any and all books, accounts and records at the office or offices of the Project Participant where they are then being kept, maintained and preserved. Any payment made under this Agreement shall be subject to retroactive reduction for amounts included therein that are found by NYSERDA on the basis of any audit of the Project Participant by an agency of the United States, State of New York or NYSERDA not to constitute an allowable change or cost hereafter.

#### **17. Miscellaneous**

(a) This Agreement (the application and these Terms and Conditions) is the entire agreement between the parties and supersedes all other communications and representations. (b) If either NYSERDA or the Project Participant desires to modify this Agreement, the modification must be in writing and signed by an authorized representative of the party against which enforcement of the modification is sought. (c) NYSERDA reserves the right to cancel this Agreement in the case that program terms and conditions are not met.

## EXHIBIT B PART 504 PROMPT PAYMENT POLICY STATEMENT

### 1. Section 504.1: Purpose and Applicability

(A) The purpose of this Part is to implement section 2880 of the Public Authorities Law by detailing the authority's policy for making payment promptly on amounts properly due and owing by the authority under contracts. This Part constitutes the authority's prompt payment policy statement as required by that section.

(B) This Part generally applies to payments due and owing by the authority to a person or business in the private sector under a contract it has entered into with the authority on or after May 1, 1988. This Part does not apply to payments due and owing:

- (1) under the Eminent Domain Procedure Law;
- (2) as interest allowed on judgments rendered by a court pursuant to any provision of law except Section 2880 of the Public Authorities Law;
- (3) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government, including but not limited to counties, cities, towns, villages, school districts, special districts or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;
- (4) if the Authority is exercising a legally authorized set-off against all or part of the payment; or
- (5) if other State or federal law or rule or regulation specifically requires otherwise.

### 2. Section 504.2: Definitions as used in this part, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(A) "Authority" means the New York State Energy Research and Development Authority.

(B) "Contract" means an enforceable agreement entered into between the Authority and a contractor.

(C) "Contractor" means any person, partnership, private corporation, or association:

- (1) selling materials, equipment or supplies or leasing property or equipment to the Authority pursuant to a contract;
- (2) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for, or on behalf of, the Authority pursuant to a contract; or
- (3) rendering or providing services to the Authority pursuant to a contract.

(D) "Date of payment" means the date on which the Authority requisitions a check from its statutory fiscal agent, the Department of Taxation and Finance, to make a payment.

(E) "Designated payment office" means the Office of the Authority's Controller, located at 17 Columbia Circle, Albany, New York 12203.

(F) "Payment" means provision by the Authority of funds in an amount sufficient to satisfy a debt properly due and owing to a contractor and payable under all applicable provisions of a contract to which this Part applies and of law, including but not limited to provisions for retained amounts or provisions that may limit the Authority's power to pay, such as claims, liens, attachments or judgments against the contractor that have not been properly discharged, waived or released.

(G) "Prompt payment" means a payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Part in order for the Authority not to be liable for interest pursuant to Section 504.6.

(H) "Payment due date" means the date by which the date of payment must occur, in accordance with the provisions of Sections 504.3 through 504.5 of this Part, in order for the Authority not to be liable for interest pursuant to Section 504.6.

(I) "Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered, in such form, and supported by such other substantiating documentation, as the Authority may reasonably require, including but not limited to any requirements set forth in the contract; and addressed to the Authority's Controller, marked "Attention: Accounts Payable," at the designated payment office or submitted electronically to [invoices@nysesda.org](mailto:invoices@nysesda.org).

(J) (1) "Receipt of an invoice" means:

(i) if the payment is one for which an invoice is required, the later of:

(a) the date on which a proper invoice is actually received in the designated payment office during normal business hours; or

(b) the date by which, during normal business hours, the Authority has actually received all the purchased goods, property or services covered by a proper invoice previously received in the designated payment office.

(ii) if a contract provides that a payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

(2) For purposes of this subdivision, if the contract requires a multifaceted, completed or working system, or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced the Authority for the portion working, completed or delivered, the Authority will not be in receipt of an invoice until the specified minimum amount of the systems, goods, property or services are working, completed or delivered.

(K) "Set-off" means the reduction by the Authority of a payment due a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the Authority.

### **3. Section 504.3 Prompt payment schedule**

Except as otherwise provided by law or regulation or in Sections 504.4 and 504.5 of this Part, the date of payment by the Authority of an amount properly due and owing under a contract shall be no later than 30 calendar days, excluding legal holidays, after such receipt.

### **4. Section 504.4 Payment procedures**

(A) Unless otherwise specified by a contract provision, a proper invoice submitted by the contractor to the designated payment office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the designated payment office during normal business hours, such invoice shall be date-stamped. The invoice shall then promptly be reviewed by the Authority.

(B) The Authority shall notify the contractor within 15 calendar days after receipt of an invoice of:

- (1) any defects in the delivered goods, property or services;
- (2) any defects in the invoice; and
- (3) suspected improprieties of any kind.

(C) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

(D) If the Authority fails to notify a contractor of a defect or impropriety within the 15 calendar day period specified in subdivision (b) of this section, the sole effect shall be that the number of days allowed for payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the contractor. If the Authority fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the payment due date shall be calculated using the original date of receipt of an invoice.

(E) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, the Authority shall make payment, consistent with any such correction or resolution and the provisions of this Part.

**5. Section 504.5 Exceptions and extension of payment due date** The Authority has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Part, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the payment due date:

(A) If the case of a payment, which a contract provides will be made on a specific date or at a predetermined interval, without having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by the contract or other State or federal mandate has not been submitted to the Authority on a timely basis, then the payment due date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to the Authority and the date when the Authority has actually received such matter.

(B) If an inspection or testing period, performance verification, audit or other review or documentation independent of the contractor is specifically required by the contract or by other State or federal mandate, whether to be performed by or on behalf of the Authority or another entity, or is specifically permitted by the contract or by other State or federal provision and the Authority or other entity with the right to do so elects to have such activity or documentation undertaken, then the payment due date shall be extended by the number of calendar days from the date of receipt of an invoice to the date when any such activity or documentation has been completed, the Authority has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(C) If an invoice must be examined by a State or federal agency, or by another party contributing to the funding of the contract, prior to payment, then the payment due date shall be extended by the number of calendar days from the date of receipt of an invoice to the date when the State or federal agency, or other contributing party to the contract, has completed the inspection, advised the Authority of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

(D) If appropriated funds from which payment is to be made have not yet been appropriated or, if appropriated, not yet been made available to the Authority, then the payment due date shall be extended by the number of calendar days from the date of receipt of an invoice to the date when such funds are made available to the Authority.

### **6. Section 504.6 Interest eligibility and computation**

If the Authority fails to make prompt payment, the Authority shall pay interest to a contractor on the payment when such interest computed as provided herein is equal to or more than ten dollars. Interest shall be computed and accrue at the daily rate in effect on the date of payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a payment shall be computed for the period beginning on the day after the payment due date and ending on the date of payment.

### **7. Section 504.7 Sources of funds to pay interest**

Any interest payable by the Authority pursuant to this Part shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related contract payment.

### **8. Section 504.8 Incorporation of prompt payment policy statement into contracts**

The provisions of this Part in effect at the time of the creation of a contract shall be incorporated into and made a part of such

contract and shall apply to all payments as they become due and owing pursuant to the terms and conditions of such contract, notwithstanding that the Authority may subsequently amend this Part by further rulemaking.

**9. Section 504.9 Notice of objection**

Unless a different procedure is specifically prescribed in a contract, a contractor may object to any action taken by the Authority pursuant to this Part that prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to the Authority. Such notice shall be signed and dated and concisely and clearly set forth the basis for the objection and be addressed to the Vice President, New York State Energy Research and Development Authority, at the address set forth in Section 504.2(e). The Vice President of the Authority, or his or her designee, shall review the objection for purposes of affirming or modifying the Authority's action. Within 15 working days of the receipt of the objection, the Vice President, or his or her designee, shall notify the contractor either that the Authority's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period exceed 30 working days.

**10. Section 504.10 Judicial Review**

Any determination made by the Authority pursuant to this Part, which prevents the commencement of the time in which interest will be paid is subject to judicial review in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Part or any other review procedure that may be specified in the contract or by other law, rule, or regulation.

**11. Section 504.11 Court action or other legal processes**

**(A)** Notwithstanding any other law to the contrary, the liability of the Authority to make an interest payment to a contractor pursuant to this Part shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

**(B)** With respect to the court action or other legal processes referred to in subdivision (a) of this section, any interest obligation incurred by the Authority after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

**12. Section 504.12 Amendments**

These regulations may be amended by resolution of the Authority, provided that the Chair, upon written notice to the other Members of the Authority, may from time to time promulgate nonmaterial amendments of these regulations.

## EXHIBIT C 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.

### **NYSERDA**

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