



## RENEWABLE, CLEAN ENERGY and ENERGY EFFICIENCY PRODUCT MANUFACTURING INCENTIVE PROGRAM

Program Opportunity Notice (PON) No. 1176

**\$10 MILLION AVAILABLE**

**Proposals will be accepted through June 30, 2011 by 5:00pm Eastern Time or until funds run out, whichever is first. \***

**Proposals will be evaluated on a first come, first served basis as they are received.**

**Program Summary.** The New York State Energy Research and Development Authority (NYSERDA) seeks to expand the level of manufacturing of renewable, clean, and energy-efficient products in New York. This program is designed to provide New York electricity consumers with greater access to renewable, clean-energy, and energy-efficient products by providing financial assistance for developing manufacturing facilities to manufacture these eligible products in New York State. This program invites proposals requesting funding to *develop or expand a facility* to manufacture eligible products. Incremental additions or modifications to existing manufacturing lines will not be considered.

**Eligible products** include: (1) renewable or clean-energy products that produce or support the production of renewable or clean electricity; (2) energy-efficient end-use technologies that use electricity as a principal input and result in a substantial increase in the efficient use and or conservation of electricity compared to the status quo; or (3) electric storage technologies for grid-connected applications. In order to be eligible, products should be beyond the prototype stage and mature enough to warrant designing and building or expanding a commercial manufacturing facility.

**Proposals.** Proposals may be submitted by individual companies or teams. Proposals must include a description of the product to be manufactured, a description of the proposed facility or expansion, and the applicability of the technology to the New York market. Other information from the Proposer that is necessary to adequately evaluate proposals includes a business plan, corporate financial information and letters of support from all team members.

**Funding.** Available NYSERDA funding for this solicitation is \$10,000,000 and maximum per project is \$1,500,000. Incentive payments will include the following restrictions: 1) up to 25% of project funding will be based on milestones achieved in *Phase 1: Facility and Site Characterization* and *Phase 2: Project Development and Construction*, and 75% or more will be based on product sales in *Phase 3: Project Commercial Operation*; 2) a requirement for local-source content; 3) a limit of five years; and 4) a requirement that the Proposer must actively pursue all other incentive and economic development assistance as part of this program. Cofunding by the Proposer of 50% or more is required for Phases 1 and 2 and 75% or more is required for Phase 3.

**Proposal Submission.** Proposers must submit twelve (12) copies of the proposal with a completed and signed Proposal Checklist attached to the front of each copy, one of which must contain an original signature. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, PON No. 1176  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, New York 12203-6399**

If you have technical questions concerning this solicitation, contact Jennifer Harvey at (518) 862-1090, ext. 3264 or [jlh@nyserda.org](mailto:jlh@nyserda.org), or contact Joe Borowiec at (518) 862-1090 ext. 3381 or [jcb@nyserda.org](mailto:jcb@nyserda.org). If you have contractual questions concerning this solicitation, contact Diane Vogel at (518) 862-1090, ext. 3299 or [drv@nyserda.org](mailto:drv@nyserda.org).

No communication intended to influence this procurement is permitted except by contacting Jennifer Harvey (Designated Contact) at (518) 862-1090, ext. 3264 or [jlh@nyserda.org](mailto:jlh@nyserda.org). Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

\*Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will be returned. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any other NYSERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSERDA's web site at [www.nyserda.org](http://www.nyserda.org).

# I. INTRODUCTION

## PROGRAM OBJECTIVE

The program is designed to expand the manufacturing of renewable, clean, and energy-efficient products in New York. The program will ultimately provide New York consumers with greater access to these products by developing manufacturing facilities in New York State. Benefits of this program may include increasing the availability of renewable, clean, and energy-efficient products for the New York market, developing a stronger clean-energy industry and creating new jobs. This program should lead to an increase in the deployment of “made in New York” technologies.

## II. PROGRAM REQUIREMENTS

### I.

#### WHO MAY PROPOSE

Proposers may include, but are not limited to, current manufacturers of an eligible product. All proposers must demonstrate their intention to manufacture a product or products in New York State. Teaming arrangements are encouraged when necessary to meet project goals. Proposing teams should include members who have manufacturing and plant-operation experience.

Consistent with restrictions associated with the **New York Energy \$mart<sup>SM</sup>** program, only proposals for project development in the service territories of Rochester Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Central Hudson Gas and Electric Corporation, New York State Electric and Gas Corporation, National Grid Company, and Orange and Rockland Utilities, Inc. will be eligible for an award under this PON. The proposed facility must pay the System Benefits Charge, through either a mandatory or voluntary contribution, in order to receive an award.

#### ELIGIBLE PRODUCTS

Eligible products include: (1) renewable or clean-energy products that produce or support the production of renewable or clean electricity; (2) energy-efficient end-use technologies that use electricity as a principal input and result in a substantial increase in the efficient use and or conservation of electricity compared to the status quo; or (3) electric storage technologies for grid-connected applications. Components that are an integral part of an eligible product and are largely specific and unique to the eligible product are also eligible. In order to be eligible, products should be beyond the prototype stage and mature enough to warrant designing and building a commercial manufacturing facility.

#### PROGRAM SUMMARY

This program will provide funding for renewable, clean, and energy-efficient product manufacturers to develop or expand a facility to produce eligible products. Maximum available funding is ***\$1,500,000 for each project***. The manufacturing facility can be located at Saratoga Technology + Energy Park (STEP) or other locations in New York consistent with restrictions associated with the **New York Energy \$mart<sup>SM</sup>** program. NYSERDA expects the facility to operate after this project has been completed and NYSERDA's funding participation is over.

The program is divided into three phases:

### **PHASE 1- Facility and Site Characterization**

Up to 5% of the NYSERDA funding requested by a proposer (up to a maximum of \$75,000) for site characterization activities. Site characterization activities in Phase 1 must be completed within three months of contract award. Proposer(s) must complete a facility and site characterization study, including expected plant capacity, employment and site requirements before any authorization for project development under Phase 2 or 3 will be made. Funding for Phases 2 and/or 3 shall be contingent on the proposing team identifying and securing a site and completing initial facility design. At least 50% cost-sharing from the proposing team is required for Phase 1 activities; higher levels of cost sharing are preferred.

### **PHASE 2 - Pre-Production Development**

Up to 20% of the NYSERDA funding requested by a proposer (up to a maximum of \$300,000) may be used to support pre-production development (Phase 2) subject to the Proposer's satisfying defined project milestones. Cost-sharing from the proposing team is required for Phase 2 activities. At least 50% cost-sharing from the proposing team is required for Phase 2 activities; higher levels of cost sharing are preferred.

### **PHASE 3 - Production Incentive Payments**

At least 75% of the NYSERDA funding requested by the Proposer must be based on the sale of clean-energy products produced at the facility. Proposals with more than 75% of NYSERDA funding based on product sales are desired and will be given additional weight during the evaluation. NYSERDA funding for Phase 3 will be contingent on the Proposer's satisfying Phase 1 and 2 milestones.

Production incentive payments by NYSERDA will be made based on a percentage of New York content of the product. New York content of the product is defined as the value of NY-manufactured components plus the value-added to the product(s) manufactured at the facility (see Attachment D Milestone Payment Schedule). This production incentive is limited to a maximum of 25% of the total New York content of the product. Proposals requesting production incentives lower than 25% of the total New York content of the product are preferred.

## **PROPOSAL SUBMISSION AND EVALUATION**

In order to accommodate proposers' schedules for facility development and construction, this program invites proposals on an ongoing basis. Proposers are encouraged to submit proposals as soon as practical to ensure funding is available. Plan on a six to eight week review period prior to notification of results.

## **OTHER ASSISTANCE OPPORTUNITIES**

Proposers are encouraged to seek other NYSERDA opportunities to enhance their businesses. Check <http://www.nyserda.org/funding/funding.asp?i=2> for a list of current NYSERDA funding opportunities and check <http://www.getenergysmart.org/ContractorsPartners/ResidentialContractors/trainings.aspx> for information on workforce training.

For information on economic assistance programs offered by Empire State Development, check [www.nylovesbiz.com](http://www.nylovesbiz.com).

## PROGRAM LIMITATIONS

- Incremental additions or modifications to existing manufacturing lines in New York State will not be eligible under this solicitation.
- Proposals to manufacture products that are not beyond the prototype stage or mature enough to warrant designing and building a commercial manufacturing facility are not eligible.
- A proposal must explain the applicability of the technology to the New York clean-energy market.
- Renewable or clean-energy projects that do not produce electricity will not be eligible for this solicitation.
- Energy-efficient technologies that do not use electricity as a principal input and result in a substantial increase in the efficient use and or conservation of electricity compared to the status quo will not be eligible for this solicitation.
- Energy storage technologies that are not grid-connected will not be eligible for this solicitation.
- Power-plant projects, including those that use biodiesel and ethanol as fuels, are not eligible for this solicitation.
- Proposals that produce fuels or feedstocks are not eligible for this solicitation.

## III. PROPOSAL REQUIREMENTS

Proposers must submit (twelve) (12) copies of the completed proposal to the attention of Roseanne Viscusi at the address on the front of this Program Opportunity Notice/Request for Proposal. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, one of which must contain an original signature. **Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will be returned.** Faxed or e-mailed copies will be not be accepted.

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

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

**Proposal Format:** Proposals should not be excessively long or submitted in an elaborate format

that includes expensive binders or graphics. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, the PON number, and the page number. The proposal must be in the following format:

## **Section I. Technical Proposal**

### **Technical Project Information and Benefits --**

- ***Product Description*** - Describe the product(s) and related technology or technologies to be produced. Include a discussion of any patents or licensing agreements associated with the product. Describe the status of development of the product, including the number of prototypes produced and results of prototype testing. Indicate the status of product certification to relevant standards, such as UL. Indicate whether the product(s) is currently commercially available and, if so, where it is currently manufactured. Indicate whether any independent testing has been performed or is planned. Indicate whether the product(s) has undergone or will undergo a certification process such as Underwriters Laboratories.
- ***Facility Description*** – Describe the physical requirements for the proposed manufacturing facility. Indicate whether the company currently owns or has control of any of the assets that are required for the facility. Indicate whether the facility has or will have expansion potential. Indicate major equipment that will be purchased. Describe any anticipated environmental issues and permits that will be required and identify your approach for addressing the issues and obtaining the permits.
- ***Production Estimate*** – Provide an estimate of the maximum expected plant capacity (in number of units) per quarter that the proposed project will be able to provide over the first five years of production (the incentive payment term). Include assumptions such as number of shifts and days per week. Note that this is not the same as the sales projections requested in the Business Plan. This estimate assumes that the plant is operating at full capacity.
- ***Benefits to New York State*** – Explain the applicability of the technology to the New York clean-energy market. Include an estimate and provide support for the total New York State-manufactured component and value-added content. Estimate and provide support for the measurable benefits expected for each of the first five years after completion of the project including: number of jobs impacted (created, displaced, or saved), costs reduced, productivity increased, units sold, etc. Discuss how the project will continue after NYSERDA funding ends. Describe the impact NYSERDA payments are expected to have on the project’s development and performance.

### **Business Development Plan –**

Provide a business plan that includes, at a minimum, these elements:

- ***Market Analysis*** - Describe the marketing rationale for the product. Describe the target market for this product. Characterize the market size for the product. Describe the

competition and include a description of leading competitors. Describe the competitive advantage this product will have over its competition. Describe why people will purchase the product.

- **Marketing Strategy** - Indicate when you expect commercial sales of the product to begin. How will you market the product? Describe your methods for distributing the product, including whether you have or plan to establish a New York distribution network. Include projected annual sales (in number of units and dollars) for each year through Year Five.
- **Manufacturing Plan** – Describe your corporate manufacturing strategy. Include information on locations of other existing or planned manufacturing facilities (if any), location or locational requirements for the proposed manufacturing facility, and the relationship between the proposed facility and other facilities (if other facilities exist). If the location of the facility is not yet identified, indicate the strategy and time-frame for locating the facility. If the corporate headquarters are not in New York, describe the factors other than this award that are driving the decision to consider locating the manufacturing facility in New York. If the corporate headquarters or technical expertise is not located in New York, describe how the Proposer will ensure appropriate technical and/or business oversight at the manufacturing facility.
- **Cash Flow Projections** - A projected five-year cash flow analysis for the project. The pro forma analysis must include information and assumptions on development and construction costs, the cost of capital, proposed sales prices or rental rates, sale and rental revenues for all uses, projected occupancy, other revenues, operating expenses, and the basis for these costs. Proposers must demonstrate a viable financial structure for the development over the life of the Ground Lease.
- **Financing** - Describe sources of financial resources that will be used by the Proposer to perform the proposed work. Indicate the sources of financing for the project and describe the relationship between sponsor (Proposer) and parties who intend to fund the project. If a bank or leasing company financing is included, please include a copy of an executed commitment letter. Identify all other incentives and economic development assistance that have been secured or are being pursued. Provide financial statements complete with all schedules and attachments for the prior three years for the Proposer, its parents and related entities. Include balance sheets and cash flow analyses for the company and the plant. Describe any liens, judgments, pending lawsuits or other legal claims, tax claims or other outstanding financial claims against the Proposer, or its parent or any of its related entities or key management.
- **Risk Assessment** - Identify the technical, engineering, and business risks associated with the project and provide evidence that such risks are accounted for and adequately addressed.
- **Corporate and Ownership Structure** – Describe the structure of your corporation and the ownership structure.

## **Proposer or Proposing Team Qualifications -**

- ***Proposing Team Profile*** - Include a brief company description including date founded, history, size, product portfolio, and location. Also include an explanation of why the proposed company or team is the best qualified to perform/implement the project. Identify any other company qualifications relevant to the proposed work. If identified, describe the site development firm and its experience with such facilities.
- ***Organizational Chart*** - Prepare an organizational chart listing all team members, including the project manager and any subcontractors and other sponsors involved in the project, showing their roles and responsibilities.
- ***Team Qualifications*** - State how the proposing team's individual and combined expertise will enable successful completion of this project. Identify specific technical and business expertise. Submit resumes of all key project team members, including those of officers, Board members, and proposed subcontractors. Include education and experience that are relevant to the proposed work.
- ***Previous Experience*** - Describe the proposing team's experience in developing and operating production facilities, marketing clean-energy products, and other relevant areas. List related projects that have been undertaken and successfully completed by the Proposer and/or subcontractors. For each project, provide a brief project summary and the name and phone number of a client contact. NYSERDA reserves the right to contact anyone so listed.

## **Statement of Work –**

A sample Statement of Work is included in Attachment C. The Statement of Work is the primary contractual document that outlines work activities and required performance for payment by NYSERDA. It specifically delineates each step or procedure required to accomplish the project objectives. Therefore, each action shall be identified, indicating who will perform it, how it will be performed and its intended result. Be clear and specific; concentrate on “how” and not “why.” Modify the sample Statement of Work as necessary to fit your project and to provide additional information.

## **Section II. Project Budget, Terms and Schedule**

**Cost-Sharing Summary** - Cost sharing by the Proposer is required. For Proposals requesting funding for Phases 1 or 2, cost sharing of at least 50 percent is required for each of these phases. Cost sharing of at least 75 percent is required for Phase 3. Cost sharing can be from the proposer, other team members, and other government or private sources. Contributions of direct labor (for which the laborer is paid as an employee) and purchased materials may be considered "cash" contributions. Unpaid labor, indirect labor, or other general overhead may be considered "in-kind" contributions. NYSERDA will not pay for efforts which have already been undertaken. The proposer or proposing team cannot claim as cost-share any expenses that have already been incurred. Present cost-sharing in the following formats (expand table as needed):

<b>Cost Sharing Summary by Phase</b>				
<b>Source</b>	<b>Phase 1</b>	<b>Phase 2</b>	<b>Phase 3</b>	<b>Total</b>
<b>NYSERDA</b>				
<b>Proposer</b>				
<b>Other (list individually)</b>				

<b>Cost Sharing Summary For Total Project Separating Cash and In-Kind</b>			
	<b>Cash</b>	<b>In-Kind</b>	<b>Total</b>
<b>NYSERDA</b>			
<b>Proposer</b>			
<b>Others (list individually)</b>			

**Milestone Payment Schedule** - A sample Milestone Payment Schedule is included in Attachment D. The Milestone Payment Schedule is the contractual document that identifies contract deliverables and the payments that will be made upon NYSERDA's receipt of the deliverables. It also delineates the schedule for the work. The Milestone Payment Schedule should provide effective financial incentives for on-time installation and start-up of the plant.

Fill out the schedule and milestone payment columns in the Milestone Payment Schedule. If milestones are added or deleted, or if other changes are made to the Milestone Payment Schedule, provide an explanation for the change. Maximum available NYSERDA funding per project is \$1,500,000. Maximum or minimum funding percentages for certain milestones are included in the sample Milestone Payment Schedule. Lower percentage of funding compared to the maximum for Phase 1 and Phase 2 compared to Phase 3 are preferred .

**Project Expenditure Time Line** - Submit a table in the format below identifying expected total, NYSERDA, and cost-sharing project expenditures for each quarter of Phases 1 and 2 and for the total project, broken down into the following categories at a minimum:

<b>Project Expenditure Time Line</b>								
<b>Activity</b>	<b>Phase 1</b>	<b>Phase 2 Q1</b>	<b>Phase 2 Q2</b>	<b>.....</b>	<b>Phase 2 last Q</b>	<b>Phase 1 and 2 Total</b>	<b>NYSERDA Budget</b>	<b>Cost Sharing</b>
Site Characterization and assessment, and Securing site lease or purchase (Task								

3 & 5)								
Financial Plan (Task 4)								
Land costs and taxes (Task 4)								
Facility design and engineering (Task 6)								
Permits & approvals (Task 7)								
Equipment procurement (Task 8)								
Site improvements and construction (roads, buildings, etc.) (Task 8)								
Install, test, and optimize equipment (Task 8)								
Complete and commission facility (Task 8)								

\* Note that task numbers refer to tasks in Attachment C, Sample Statement of Work.

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

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

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

**Contract Pricing Proposal Forms (CPPF)** - Proposals requesting funding for Phase 1 or Phase 2 activities must submit a completed form for the each of these phases requesting funding,

including in-kind contributions. [The CPPF, with associated instructions, is provided as Attachment D to this PON.]

**Letters of Commitment** - Include letters of commitment, signed by a person authorized to contractually obligate the organization, for all participating organizations and cofunders.

**Exceptions to the Terms and Conditions** - If you do not accept the standard terms and conditions (including the recoupment provisions) as contained in the attached Sample Agreement, provide alternate terms with justification based on the risk and benefit to NYSERDA and New York State.

## IV. PROPOSAL EVALUATION

Proposals that meet requirements will be reviewed and evaluated for technical merit, commercialization potential and cost-value relationship, including cost-sharing or co-funding, based on the criteria below, by a Technical Evaluation Panel (TEP) consisting of NYSERDA staff and selected outside reviewers. In order to be funded, the TEP must answer 'yes' to each question labeled as a '*critical question*'. Questions below each '*critical question*' provide guidance to help the TEP answer each '*critical question*'. In addition, final decisions may be based on programmatic and management considerations, such as those identified below.

**Overall and New York State Impact** – Will the project result in significant economic, energy and/or environmental benefits to New York State? (*critical question*)

- What is the likelihood of the proposal achieving its stated goals?
- How likely is it that the benefits will be realized?
- Are the economic benefits, such as jobs, quantified and are they significant?
- How well does the Proposer understand the project?
- What is the likelihood of the plant operating beyond the 5-year project operational period?
- What is the value-added percentage of the product to be manufactured in New York?
- Are there markets for the product in the New York State?
- Does the Proposer have or plan to develop a New York distribution network?
- If the Proposer received a previous award under a NYSERDA Manufacturing Incentive Program (PONs 827, 959, 1115, or 1176), does this proposal provide significant energy and/or environmental benefits over and above work done in the previous project?

**Technical Project Information** – Is the proposed technology or product technically viable and ready for commercialization? Is the proposed facility and manufacturing process appropriate and will the facility result in commercial success of the proposed project and business? (*critical questions*)

- Does the product meet an acceptable standard as a clean technology?
- Is the product ready for commercial production?
- Will the product perform as expected?
- If the proposal is for a component of an eligible product, is it an integral part of the product and will the component be used primarily in eligible products?
- Are the proposed facilities appropriate to do the work proposed?
- What is the plant capacity?
- Does the site offer expansion capacity?
- Is the Proposer's approach to addressing permitting and environmental issues appropriate?

- Is the Statement of Work well-organized, clear, complete, and is the level of detail provided sufficient to adequately describe the work to be accomplished?

**Business Development Plan** – Is the business plan credible and are the proposed results likely to be achieved? (*critical question*)

- Has the Proposer demonstrated that it has adequate financial resources to perform the proposed work?
- Are the corporate and ownership structures suitable to meet the goals of the project?
- Are the corporate and manufacturing business plans reasonable and clearly supported by the data?
- Have the risks been identified and addressed?
- What is the likelihood of obtaining project financing?
- Is the Proposer's approach to marketing appropriate?
- Has the Proposer demonstrated sufficient markets and demand for the product to justify the forecasted sales?
- What are the forecasted sales?
- Is the sales forecast reasonable and likely to be achieved, based on the market assessment?

**Proposer or Proposing Team Qualifications** - Does the proposing team have the appropriate commitment, structure, expertise, experience and track record to successfully complete the project and achieve the business plan goals and objectives? (*critical question*)

- How qualified is the Proposer to develop the project, based on the evidence provided?
- Does the team show an appropriate balance of business development, technical, manufacturing operations, marketing, and administrative expertise?
- Are the Proposer's financial qualifications (including its proven ability to obtain financing for projects of similar size, experience with institutional lenders and evidence of the willingness of such lenders to finance the proposed development) adequate?
- Will there be appropriate business and technical oversight at the manufacturing facility?
- Is there evidence of a good performance record on other relevant projects?
- Are roles of responsibility for individual project personnel clearly defined?

**Project Cost and Schedule** - Are the financial costs and risks to NYSERDA addressed and appropriately balanced with the likely benefits of the project? (*critical question*)

- How much plant capacity will be developed for each dollar of NYSERDA's funding?
- What is the ratio of NYSERDA funds for Phases 1 and 2 compared to Phase 3?
- Are the proposed milestones and milestone payment schedules during Phases 1 and 2 appropriate for the work proposed?
- Are the proposed milestone payment schedules during Phases 1 and 2 likely to be effective in ensuring facility development and reliable performance?
- Is the amount of equity or personal risk the Proposer intends to contribute or assume for the project adequate?
- Are other sources of funding identified and reasonably secure?
- Has the Proposer adequately pursued other incentive and economic development assistance?
- Is the proposed cost sharing higher than the minimum required under this program?
- Is the schedule reasonable?

NYSERDA management will consider programmatic and management issues in the development of a portfolio of funded research projects. Examples of programmatic and management issues include, but are not limited to, the following: technological diversity of the R&D program, geographic diversity, availability of funds, replication potential in New York State and acceptance of NYSERDA's contractual terms and conditions.

## V. GENERAL CONDITIONS

**Proprietary Information** - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to accept it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 [www.nyserda.org/nyserda.regulations.pdf](http://www.nyserda.org/nyserda.regulations.pdf). However, NYSERDA cannot guarantee the confidentiality of any information submitted.

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

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

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

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

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

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

**Tax Law Section 5-a** - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. *See*, ST-220-TD (available at [http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf)). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such

certification with the Department. The Department has created a second form that must be completed by a perspective contractor prior to contacting and filed with NYSERDA. *See*, ST-220-CA (available at [http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf) ). The Department has developed guidance for contractors which is available at [http://www.tax.state.ny.us/pdf/publications/sales/pub223\\_606.pdf](http://www.tax.state.ny.us/pdf/publications/sales/pub223_606.pdf).

**Contract Award** - NYSERDA anticipates making multiple awards under this solicitation. It may award a contract based on initial proposals without discussion, or following limited discussion or negotiations. Each offer should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support proposals. NYSERDA will use the Sample Agreement to contract successful proposals. NYSERDA expects to notify proposers in approximately 10 weeks from the proposal submission date whether your proposal has been selected to receive an award.

**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. NYSERDA reserves the right to change this solicitation at any time. If changes are made to this solicitation, notification will be posted on NYSERDA's web site at [www.nyserda.org](http://www.nyserda.org).

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

## VI. ATTACHMENTS

Attachment A - Proposal Checklist

Attachment B - Disclosure of Prior Findings and Non Responsible Form

Attachment C - Sample Statement of Work

Attachment D - Milestone Payment Schedule and Contract Proposal Pricing Form (CPPF) and Instructions

Attachment E – Optional Intent to Propose Form

Attachment F - Sample Agreement