



**FIT-UP and EQUIPMENT INCENTIVES FOR TENANTS at
107 HERMES ROAD
SARATOGA TECHNOLOGY + ENERGY PARK®
MALTA, NY
Program Opportunity Notice (PON) No. 1524**

Revised August 28, 2009

Summary of Revisions

- Proposals will be accepted through December 31, 2009;
- Open enrollment, with funding awarded on a first-come first-serve basis; and
- Available space at 107 Hermes Road has been updated



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MALTA, NY
Program Opportunity Notice
PON No. 1524**

PROPOSALS DUE: Proposals Accepted Through December 31, 2009 by 5:00 PM Eastern Time*

Program: The New York State Energy Research and Development Authority (NYSERDA) is seeking to assist companies that have a fully executed lease for space at 107 Hermes Rd, Saratoga Technology + Energy Park® (STEP®), Malta, NY, by providing funding assistance for tenant fit-up and/or the purchase of equipment.

Funding: Up to \$600,000 in funding is available under this PON on a first-come first serve basis. All, or none, of these funds could be allocated, and more than one award may be made. The maximum award is \$600,000, with the recipient(s) providing a minimum 10% equity. Funding is tied directly to job creation and retention, lease term, and project cost. An initial \$300,000 will be funded at such time as employment at 107 Hermes Rd reaches a minimum of 135 full time employees. The second \$300,000 will be funded once employment reaches a minimum of 200 employees. Employment is aggregated among all tenants, regardless of award. Lease term must extend to or past January 1, 2015. If employment levels are not reached, then there will be no awards funded.

Eligibility: Companies must provide a fully executed lease for office, research and development, manufacturing, and/or incubation space, at 107 Hermes Rd. Eligible Companies must be involved in the fields of clean-energy or environmental technology, and meet the STEP Tenant Criteria, Attachment C.

Proposal Submission: Proposers must submit six (6) 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 1524
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399**

If you have technical questions concerning this solicitation, contact Kevin Hunt at (518) 862-1090, ext. 3259 or klh@nyserda.org, or Mitchell Khosrova at (518) 862-1090, ext. 3380, or mk2@nyserda.org. If you have contractual questions concerning this solicitation, contact Venice Forbes at (518) 862-1090, ext. 3507 or vwf@nyserda.org.

No communication intended to influence this procurement is permitted except by contacting Kevin Hunt (Designated Contact) at (518) 862-1090, ext. 3259 or klh@nyserda.org, or Mitchell Khosrova (Designated Contact) at (518) 862-1090, ext. 3380, or mk2@nyserda.org. Contacting anyone other than the Designated Contacts (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.

I. INTRODUCTION

The New York State Energy Research and Development Authority (NYSERDA) is a public benefit corporation established in 1975 under Title 9 of New York State's Public Authorities Law. Among the statutory purposes of NYSERDA are developing and implementing new energy technologies consistent with economic, social, and environmental objectives and promoting, encouraging and assisting in the construction of industrial, commercial, and research facilities at the Saratoga Technology + Energy Park® (STEP®). The 280-acre STEP site is located 10 miles south of Saratoga Springs and 23 miles north of Albany, in the Town of Malta, New York. STEP is located 1.5 miles east from Exit 12 of I-87 (the Northway), off Dunning Street onto Hermes Road.

STEP was created as one of the first technology parks designated and designed for research, development, and light manufacturing of clean-energy and environmental technologies. The organization of STEP is a comprehensive knowledge-based economic development strategy that takes advantage of the expertise of NYSERDA, and its clients and partners, to add value beyond the facilities—in relationships, technology development services, and business funding.

The mission of STEP is to help foster the success of clean-energy and environmental technology companies by providing not only a physical site, but a fully-integrated knowledge community that includes programs, services, partnerships, amenities, and collaboration opportunities. In addition, STEP will demonstrate a comprehensive array of sustainable design features, and ideally will be itself a model for sustainability.

II. PROGRAM AND PROGRAM REQUIREMENTS

NYSERDA, through a grant with the Empire State Development Corp. (ESD), will be receiving up to \$600,000 in two installments of \$300,000 each. Proceeds are to be used to fund tenant fit-up and equipment purchases for tenants at 107 Hermes Rd.

Receipt of payments from ESD is tied to employment levels at the building. Funding under this solicitation will *only* be made to awardees upon receipt of funds from ESD to NYSERDA once the employment levels have been met AND grant proceeds have been received by NYSERDA. The first \$300,000 will be released by NYSERDA *only* at such time as there are 135 full-time employees (FTEs) on-site AND grant proceeds have been received by NYSERDA. The second installment of \$300,000 will be released by NYSERDA *only* at such time as there are 200 FTEs on-site AND grant proceeds have been received by NYSERDA. Additionally, there must be 138 new FTEs employed at 107 Hermes Rd, and 62 FTEs- building-wide- must be retained as of January 1, 2013. Employment levels will be aggregated from all tenants throughout the building, regardless of participation in this PON. Companies (Proposers) that are awarded funding will be required to take occupancy of its space before it receives any funds.

FTE is defined as (i) a full-time, permanent, private sector employee on the Recipient's payroll, who has worked at 107 Hermes Rd for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the Proposer to other employees with comparable rank and duties; or (ii) two part-time, permanent, private sector employee's on Proposer's payroll, who have worked at 107 Hermes Rd for a combined minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Recipient to other employees with comparable rank and duties

ESD will be entitled to recoup all or a part of ESD's grant if employment levels are not maintained in accordance with ESD's grant agreement with NYSERDA.

Projects that are eligible for funding include all tenant fit-up (walls, carpeting, painting, doors, electrical, hvac, etc), and capital equipment. Selected Proposers will be reimbursed up to 90% of the cost, based on receipt of paid invoices and employment projections.

Proposers will be required to

1. Submit a fully executed lease with the proposal. The lease must be dated on or before December 31, 2009, with a lease termination date of January 1, 2015, or later;
2. Identify at the time of submission to this PON the nature of the funding request (fit-up vs. capital equipment), and the approximate cost. This may be in the form of a third party *detailed* construction estimate, or third party quotes for equipment;
3. Contribute 10% equity into the project being funded;
4. Indicate the number of FTEs the company will have on-site at time of occupancy, and annual employment projections through January 1, 2015;
5. Agree to re-pay the grant if the Proposer's employment projections are not reached and retained *AND* ESD requests repayment from NYSERDA. If the Proposer's employment projections are reached and the jobs retained, then the Proposer will not be responsible for repayment should ESD so request; and
6. Meet the Tenant Selection Criteria found in Attachment A.

Existing tenants at 107 Hermes Rd are eligible to propose under this PON. However, any award made will be based on future fit-up expenses or equipment purchases. Any expenses paid prior to June 1, 2009, will not be eligible for funding.

Awards will be made in-full, after the Proposer has taken possession of its space, NYSERDA has been presented with paid invoices, and funding is received by ESD. As indicated, Proposers will be required to provide employment projections through January 2015, and provide annual employment reports to NYSERDA. Proposers receiving funding must make their best efforts to retain the created full time jobs through January 1, 2015.

Funding under this solicitation will be awarded based on a combination of jobs created between the time of occupancy through January 1, 2013, and project cost.

III. 107 Hermes Rd

107 Hermes Rd, owned by The United Group of Companies, Inc. (United), is a +/- 108,000 sf multi-use, one- and two-story structure constructed in 2007. The building contains office and manufacturing/R&D/incubation space. The building owner is seeking LEED™-silver certification.

The building is configured to support a flexible multi-tenant concept to facilitate a variety of tenant functions, including business office, research lab, scale-up light manufacturing or pilot plant, and light manufacturing.

Scale-up and light manufacturing operations typically use the single story, high-bay building space, whereas the office functions can occur in a multistory configuration. Laboratory operations can occur in either high-bay or multistory space depending on mechanical and utility support requirements. Common areas, including the conference rooms, toilet facilities, entrance lobby, elevator, and stairways are provided within the multistory component.

As of the time of this issuance, the following rentable square feet is available at the building:

First Floor:	Office, Unfinished	+/- 3,360 sf
	Office, Unfinished	+/- 6,604 sf
	Office, Finished	+/- 3,087 sf
	Office, Finished	+/- 5,836 sf
	Warehouse/Manufacturing, Vacant	+/- 8,324 sf
	Warehouse/Manufacturing, Vacant	<u>+/- 18,764 sf</u>
Total, First Floor:		+/- 45,975 sf
Second Floor:	Office, Finished	+/- 5,074 sf
	Office, Unfinished	+/- 2,960 sf
	Mezzanine, Unfinished	<u>+/- 6,686 sf</u>
Total, Second Floor		+/- 14,720 sf
Total Available		+/- 60,695 sf

For additional information regarding 107 Hermes Rd, contact Graham Thompson at 687-7316, or Graham.Thompson@ugoc.com.

IV. PROPOSAL REQUIREMENTS

Proposers must submit **six (6)** copies of the proposal. A completed and signed Proposal Checklist (refer to Attachment A) must be attached to the front of all **six (6)** copies. **Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will not be accepted.** At least one copy of the Proposal Checklist must contain an original signature. Be sure that the individual signing the checklist is authorized to commit the Proposer's organization to the proposal as submitted. Each page of the proposal should state the name of the Proposer, the PON number, and the page number. NYSERDA reserves the right to request additional data or material to support proposals. All material submitted in response to the PON will become the property of NYSERDA.

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

Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The text of the laws is available at: <http://www.ogs.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 (See Attachment B). Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

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:

A. THE PROPOSER

1. **Company Information** – All Proposers must, if such exists, provide the following information for each member of the proposed development team:
 - Name of Business Entity (including any "Doing Business As" names)
 - Headquarters/Parent Company Locations

- History of Firm
 - Internet Web Site Address (if any)
 - Details of Entity's Business Structure (Corporation, Partnership, LLC)
 - Date Founded
 - Organization Chart of Business Entity
 - Office Locations in New York and elsewhere and Total Number of Employees at each
 - Home office address and telephone number and local address and phone number
 - List of any outstanding litigation that would threaten the viability of the firm or the performance of this contract
 - NYSERDA contracts awarded or pending (if applicable)
2. **Lease-** the Proposer must provide a fully executed lease for manufacturing/office/R&D/incubator space at 107 Hermes Rd, with a lease term through January 1, 2015. Refer to Attachment D, Lease Summary and Employment Projections.
 3. **Employment** – The Proposer is to indicate the initial employment level at time of occupancy, and must provide annual employment projections through January 1, 2015. Refer to Attachment D, Lease Summary and Employment Projections.
 4. **Funding Request-** the Proposer is to identify the total amount of funding requested, and the purpose. The Proposer is to provide a detailed estimate for tenant fit-up, and/or a quote for the cost of equipment. Refer to Attachment E, Funding Request.
 5. **Repayment-** should, as of January 1, 2015, the Proposer fail to create or retain the number of projected jobs at 107 Hermes Rd, and should ESD require grant repayment from NYSERDA due to lack of job retention; the Proposer must agree to repay NYSERDA for the amount of the award. The Proposer will not be required to repay the grant if, as of January 1, 2015, the Proposer meets or exceeds its employment projections; or if ESD does not request repayment from NYSERDA.
 6. **Viability-** of importance is the on-going viability of the Proposer. The Proposer is to provide the most recent 3 years annual CPA-prepared financial statement, complete with all schedules and attachments, for NYSERDA's review.
 7. **Tenant Selection Criteria-** Proposer is to describe how it meets the Tenant Selection Criteria.

V. SELECTION CRITERIA

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

Proposals submitted in response to this PON shall be reviewed, and award determined based on the information provided.

The following factors shall be considered, not in any priority, when reviewing proposals.

1. Fully executed lease with a lease term extending to or past January 1, 2015;
2. Employment projections- the anticipated number of jobs created, the number of jobs retained;
3. Project cost- is the cost realistic; is proper documentation provided;
4. Equity- is the Proposer contributing a minimum 10% equity into the project;
5. Repayment- does the Proposer agree to repay the award should ESD require repayment from NYSERDA AND the Proposer did not create or retain the jobs projected;
6. Completeness of proposal- does the proposal include all documentation and attachments;
7. The Proposer's on-going viability, as determined by NYSERDA; and
8. Does the Proposer meet the Tenant Selection Criteria.

NYSERDA reserves the right to consider criteria other than the foregoing and to assign to each of the above and to such other criteria as are considered such weight as NYSERDA may in its absolute discretion determine (all criteria used by NYSERDA being collectively called the "Selection Criteria").

VI. SELECTION PROCESS

NYSERDA shall review each proposal as received for completeness and compliance with the terms and conditions of this PON, and may request from any or all of the Proposers additional material, clarification, confirmation or modification of any proposal. Except at the request of NYSERDA, Proposers will not be entitled to change their proposals once submitted. Submission of a proposal shall constitute the Proposer's permission to NYSERDA to make such inquiries concerning the Proposer, in its sole discretion, as NYSERDA deems useful or appropriate.

The proposals will be evaluated by an evaluation panel that will make a recommendation to NYSERDA management. NYSERDA will select the proposal that, in the sole discretion of NYSERDA, most successfully fulfills the Selection Criteria.

VII. 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 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 - NYSEDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSEDA 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). Prior to contracting with NYSEDA, the prospective contractor must also certify to NYSEDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSEDA. *See*, ST-220-CA (available at 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.

Contract Award - NYSEDA anticipates making one or multiple awards under this solicitation, though it is possible that no awards may be made. It may award a contract based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each offer should be submitted using the most favorable cost and technical terms. NYSEDA may request additional data or material to support applications. NYSEDA will use the Sample Agreement to contract successful proposals. NYSEDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal. NYSEDA expects to notify proposers in approximately eight weeks from the proposal due date whether your proposal has been selected to receive an award.

Limitation - This solicitation does not commit NYSEDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSEDA 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 NYSEDA's best interest. NYSEDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

Disclosure Requirement - The proposer shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When a proposer is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSEDA after the award of a contract, NYSEDA 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.

VIII. ATTACHMENTS:

- Attachment A – Proposal Checklist (pdf)
- Attachment B – Disclosure of Prior Findings of Non-Responsibility (pdf)
- Attachment C -- Tenant Criteria (pdf)
- Attachment D – Lease Summary and Employment Projections (pdf)
- Attachment E – Funding Request (pdf)
- Attachment F- Sample Agreement (pdf)

