

**Update to Renewable Energy Standard Purchase of New York Tier 1 Eligible Renewable Energy
Certificates Request for Proposals (RFP) No. RESRFP22-1 RFP**

Original Release Date: September 21, 2022

UPDATE EFFECTIVE January 13, 2023

Summary of Revisions

1. The Step Two Bid Proposal due date has been extended from February 9, 2023 to April 12, 2023. The Bid Fee Submission deadline has also been extended to April 11, 2023. The RFP has been updated to reflect these changes to the solicitation schedule.
2. Clerical clarification that the Draft Field Screening for Wetlands and Water Resources Delineation may be submitted as one document inclusive of both a desktop and field effort screening.
3. Updates/clarifications to Attachment A – RESRFP22-1 Standard Form Agreement.



NYSERDA

**Purchase of New York Tier 1 Eligible
Renewable Energy Certificates (RECs)
Request for Proposals (RFP) No. RESRFP22-1
RFP Release Date: September 21, 2022**

**Step One Eligibility Applications Due:
November 30, 2022, by 3:00 p.m. Eastern Time (ET)
Step Two Bid Proposals Due:
April 12, 2023, by 3:00 p.m. ET**

**NYSERDA SEEKS TO ACQUIRE APPROXIMATELY 4.5 MILLION NEW YORK TIER 1 ELIGIBLE
RENEWABLE ENERGY CERTIFICATES ANNUALLY**

The New York State Energy Research and Development Authority (NYSERDA) seeks to procure approximately 4.5 million Tier 1 eligible Renewable Energy Certificates (RECs) from Bid Facilities that meet the eligibility requirements described in this Request for Proposals (RFP or RESRFP22-1).

RESRFP22-1 will be implemented through a two-step process, consisting of:

1. **Step One Eligibility Application:** A qualifying step through which the Proposer must provide evidence that the Bid Facility is Tier 1 eligible and other general information about the Proposer and the Bid Facility.
2. **Step Two Bid Proposal:** A competitive Bid Proposal step, through which NYSERDA will: (1) examine Bid Proposals to determine whether they demonstrate that the Bid Facility and Proposer meet the Minimum Threshold Requirements; and (2) for Bid Proposals that meet those Minimum Threshold Requirements, a competitive evaluation based on price and non-price factors.

Only those Proposers found eligible under Step One will be permitted to submit a Step Two Bid Proposal. Only those Proposals found to have met all Minimum Threshold Requirements will be evaluated under Step Two.

Step One Eligibility Application: Step One Eligibility Applications must be **received by NYSERDA by 3:00 p.m. ET on Wednesday, November 30, 2022 via electronic submission**. NYSERDA staff will be available to support Proposer inquiries regarding Step One Eligibility Applications prior to the deadline.

NYSERDA will open the [solicitation website](#) and the Step One Eligibility Application submission process on October 12, 2022 (see Section 1.3) following the Proposers' Webinar. Applications may be submitted electronically by following the link for electronic submissions found on [NYSERDA's Solicitations for Large-scale Renewables webpage](#)¹ or [NYSERDA's Current Funding Opportunities website](#),² located in the "Current Funding Opportunities" section of NYSERDA's website at that time.

¹ <https://www.nyserdera.ny.gov/ces/rfp>

² <http://www.nyserdera.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>

NYSERDA intends to notify all prospective Proposers as to their eligibility status by Wednesday, December 14, 2022. Eligible Proposers will receive a Notice of Qualification and will be provided with detailed instructions for submitting a Step Two Bid Proposal.

Step Two Bid Proposal: Step Two Bid Proposals must be **received by NYSERDA by 3:00 p.m. ET on Wednesday, April 12, 2023, via electronic submission**. Instructions for submitting electronically and the link for electronic submissions will be included in a Proposer's Notice of Qualification. Additional information regarding NYSERDA's Renewable Energy Solicitations can be found on [NYSERDA's Renewable Energy Solicitations Standard \(RES\) Tier 1 website](#).³

NYSERDA recommends that Proposers set aside ample time, well in advance of each deadline, to gather the required information and documentation and to understand the requirements to complete the above processes. NYSERDA recommends that Proposers mark any commercially sensitive materials as "Confidential" or "Proprietary" in any submission made to NYSERDA pursuant to this RFP.

Each Proposer has sole responsibility for reviewing this RFP and all attachments hereto and for investigating and informing itself with respect to all matters pertinent to this RFP, including the [NYGATS Operating Rules](#) and NYISO's Open Access Transmission Tariff (OATT) and market rules, or those of the control area into which the Bid Facility may interconnect. Each Proposer is solely responsible for informing itself regarding all transmission wheeling and scheduling provisions set forth in the OATT of relevance in any external control area, including Canada, the NYGATS rules as they apply to Tier 1 imports,⁴ and the External Facility Electricity Delivery Requirements in the RES Standard Form Agreement.

Prior to the opening of the [solicitation website](#) and the Step One Eligibility Application, all questions regarding RESRFP22-1 must be directed to res@nyserda.ny.gov.

All general questions about this RFP may be submitted in writing via email to res@nyserda.ny.gov or via the Q&A feature of the solicitation website.⁵ Project-specific questions may be addressed to res@nyserda.ny.gov or to the Messages feature on the solicitation website (preferred once registration is opened), which will be available following the Proposers' Webinar.

No communication intended to influence this procurement is permitted except by contacting the Designated Contacts. Questions about this solicitation should be directed to the RESRFP22-1 Designated Contacts: Abbey DeRocker, Bram Peterson, Marci Brunner, Brian Newton, Jeremy Wyble, Liz Hanna, Mac Farrell, Jenn Phelps, Georges Sassine, Thomas King, Alex Stein, and Nate Chumley. Contacting anyone other than the Designated Contacts (either directly by the Proposer or indirectly through a consultant or lobbyist or other person acting on the Proposer's behalf) to influence the procurement: (1) may result in a Proposer being deemed a non-responsible offeror, and (2) may result in the Proposer not receiving an award.

Proposers should rely only on information provided in this RFP and any associated written updates posted on [NYSERDA's Renewable Energy Standard website](#) and the [solicitation website](#) when preparing

³ <https://www.nyserda.ny.gov/ces/rfp>

⁴ See Section 11 of the [NYGATS Operating Rules](#).

⁵ The Q&A page is intended for general questions which are suitable for public review.

Proposals. Each Proposer shall be solely responsible for and shall bear all costs incurred in the preparation of its Proposal and/or participation in this RFP.

Incomplete submittals will be subject to disqualification. It is the Proposer's responsibility to ensure that all required forms and attachments have been completed and submitted. Late Step One Eligibility Applications and Step Two Bid Proposals will not be accepted and those lacking a completed and signed Step Two Bid Proposal form may be returned. Faxed, mailed, or e-mailed packages will not be accepted.⁶ RFP responses will not be accepted by hand delivery at any NYSERDA location.

If changes are made to this solicitation, notification will be posted on [NYSERDA's Renewable Energy Standard website](#), the [solicitation website](#) under the Announcements tab, and provided to those that provide their email address to NYSERDA via the [solicitation website](#) or [NYSERDA's Large-Scale Renewables Email List Sign-Up Page](#).⁷

⁶ Unless otherwise agreed to by NYSERDA. Contact a Designated Contact for more information if needed.

⁷ <https://www.nyserdera.ny.gov/all-programs/clean-energy-standard/renewable-generators-and-developers/large-scale-renewables-email-list>

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[Appendix 2 – Permitting Plan Requirements and Guidelines](#)

[Appendix 3 – Field Screening for Wetlands and Water Resources Delineation Report Guidelines and Requirements](#)

[Appendix 4 – RESRFP22-1 Smart Solar Siting Scorecard](#)

[Appendix 5 – Energy Deliverability Study Requirements](#)

ACRONYMS AND DEFINITIONS

94-c – Section 94-c of the New York State Executive Law, which consolidates the environmental review and permitting of major renewable energy facilities in New York State under the Office of Renewable Energy Siting (ORES).

Active Agricultural Production – Total amount of Cultivated Crops, Hay Land and Pasture on the Facility Area as assessed using the two most recent available updates to the National Land Cover Database (NLCD) datasets (e.g., 2022 if available, 2019, 2016).

Actual Annual Eligible Production – The amount, in MWh, of the Actual Eligible Production that the Bid Facility produces during a Contract Year.

Actual Eligible Production – For new Bid Facilities, equal to the Actual Production. For Upgrade Bid Facilities, the product of (a) the Actual Production, multiplied by (b) the Incremental Upgrade Percentage. For Repowering Bid Facilities, the product of (a) the Actual Production multiplied by (b) the Tier-1 Percentage for the applicable period.

Actual Production – The amount, in MWh, of the total electric energy production from the Bid Facility during any period within the Contract Delivery Term, in MWh delivered to the Injection Point.,

AGM – New York State Department of Agriculture and Markets.

Agreement – RES Standard Form Agreement, provided as Attachment A, including Exhibits A – H if applicable.

Agricultural Mitigation Payment – Calculated payment that may be required from the Proposer to a designated fund if the Bid Facility overlaps with mineral soil groups (MSG classifications 1-4). Payment amounts may be adjusted and/or deferred pending co-agricultural opportunities and based on the final site configuration (reduced or expanded Facility Area acreage).

Authority Having Jurisdiction (AHJ) – The town(s) or city(ies) within which the Bid Facility is located.

Annual REC Cap – The maximum number of RECs that NYSERDA is obligated to purchase from Seller in any Contract Year as defined in the Agreement.

Applicable REC Price Method – The method employed by NYSERDA in each month for determining the Monthly REC Price as determined in Article IV of the Agreement.

Applicable Zone – The NYISO load zone that includes the Delivery Point.

Award Notification Date – The date upon which NYSERDA provides written confirmation to a Proposer indicating that a Bid Facility has been selected for contract negotiations.

Bid Capacity – Equal to (i) the Nameplate Capacity of the Bid Facility as bid to NYSERDA multiplied by (ii) the Bid Quantity Percentage. For Upgrade Bid Facilities, also multiplied by (iii) the Incremental Upgrade Percentage. For Repowering Bid Facilities, also multiplied by (iii) the Tier 1 Percentage.

Bid Facility – An electric generating station that has been submitted by the Proposer for consideration in response to this RFP.

Bid Price – The price per REC offered by Proposer, offered either as a Fixed REC Price or an Index REC Price.

Bid Proposal – An offer to sell a Bid Quantity of RECs from a Bid Facility at a proposed Price Structure and Contract Tenor.

Bid Quantity – The annual quantity of RECs that the Proposer proposes to deliver under an Agreement with NYSERDA.

Bid Quantity Percentage – The percentage of the Bid Facility's Actual Annual Eligible Production that will be committed by the Proposer to performance under the Bid Proposal. The Bid Quantity Percentage must be at least 50% and may not exceed 100% of the Annual Production and will be applied to Annual Production in any period during the Contract Delivery Term to establish compliance with contract requirements.

Benchmark LNRC – The confidential maximum price levels for the Fixed REC and Index REC offers that NYSERDA will employ in its determination of potential award(s).

CES – Clean Energy Standard.

Climate Act – Climate Leadership and Community Protection Act.

Climate Justice Working Group (CJWG) – An advisory group in the Climate Action Council process, responsible for providing strategic advice for incorporating the needs of Disadvantaged Communities.

Commercial Operation – A state of operational readiness under which (i) generating capacity is available and physically producing electric energy and associated Tier-1 RECs, and (ii) all rights, abilities, permits and approvals to schedule and deliver energy to the Injection Point have been obtained.

COMD – Commercial Operation Milestone Date.

Commercial Timber Harvest – The cutting or removal, or both, of timber or other solid wood Forest products for a commercial purpose.

Committed Upgrades – Elective upgrades or improvements to the local electrical transmission / infrastructure system, the scope and cost of which have been confirmed by a completed Facilities Study that has been approved by the interconnecting utility.

Construction Activities – The physical activities associated with the construction of any on-site structure or civil site works including, but not limited to, the clearing, grubbing, grading, staging, installation, erection and placement of the Bid Facility, Energy Storage Component and electrical interconnection, as well as start-up and commissioning of the Bid Facility.

Contract Delivery Term – The period of performance under the Agreement. The Contract Delivery Term commences on the first day of the month after the Bid Facility commences Commercial Operation. For Bid Facilities in Commercial Operation as of the Award Notification Date, the Contract Delivery Term

shall commence on the first day of the month after the Effective Date of the Agreement. The Contract Delivery Term shall extend for the term of the Contract Tenor.

Contract Tenor – The duration, in years, of the Contract Delivery Term.

Contract Year – A 12-month period commencing with the beginning of the Contract Delivery Term and each anniversary thereof during the Contract Delivery Term. The phrase “Contract Year” followed by a number shall refer to a discrete Contract Year within the Contract Delivery Term such that “Contract Year 1” refers to the first 12-month period commencing with the beginning of the Contract Delivery Term, “Contract Year 2” refers to the second such 12-month period, and so on.

Cultivated Crops – Land used for raising crops as assessed using the two most recent available updates to the National Land Cover Database (NLCD) datasets (e.g., 2022 if available, 2019, 2016).

Delivery Point – For Bid Facilities that inject energy directly into the New York Control Area, the generator bus or location where (a) the administrator of the wholesale power market, or (b) the operator of the transmission/distribution utility, public authority or municipal electric company, measures, or otherwise determines, energy production from the Project. For Projects that inject energy outside of the New York Control Area, the generator bus or location where the NYISO measures energy delivery from the Project into the New York Control Area.

Disadvantaged Communities – The Climate Act directs the [Climate Justice Working Group](#) (CJWG) to establish criteria for identifying Disadvantaged Communities. On March 9, 2022, [a draft set of Disadvantaged Communities criteria established by the CJWG was released for public input](#). The Disadvantaged Communities criteria is expected to be finalized in Fall 2022; until then, New York State has specified interim criteria for Disadvantaged Communities, which includes two types of communities, those: (i) located within census block groups that meet the U.S. Housing and Urban Development (HUD) 50% area median income (AMI) threshold of the top quartile of census block groups in New York, ranked by the percentage of low and moderate income (LMI) households, defined as households with annual incomes at or below 50% of the AMI of the county or metro area where the census block group resides, that are also located within the [DEC Potential Environmental Justice Areas](#); or (ii) located within [New York State Opportunity Zones](#). See <https://www.nyserda.ny.gov/ny/disadvantaged-communities> for more information including updates and links to GIS maps. Projects proposed prior to the finalization of the Disadvantaged Communities criteria shall reference the interim criteria when considering impacts to these communities. NYSERDA will provide updates on the status of the Disadvantaged Communities criteria, including when the final Disadvantaged Communities criteria will be adopted.

Disadvantaged Community Commitments – Shall be those commitments contained in the Seller’s Bid Proposal and described in Section 6.10 of the Agreement.

Energy Deliverability Study – A study provided by the Proposer to substantiate that the Bid Facility is interconnecting at point of interconnection with sufficient capability to deliver the project’s Bid Quantity without adverse impacts to deliverability and incremental curtailment to other large-scale renewable projects operating or under development and under contract with NYSERDA.

Energy Storage Component – A commercially available resource capable of receiving electric energy and storing that energy or a portion of that energy for later injection of electricity to the grid regardless of where the resource is located on the electrical system. The Energy Storage Component must be

constructed and operated in accordance with Article VI and Article IX of the [NYSERDA Bulk Storage Incentive Program Manual](#) (Exhibit F to the Agreement).

Environmental Attributes – All environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations, howsoever characterized, denominated, measured or entitled, attributable to the generation of Actual Production by a Bid Facility, consistent with the delineation of attributes set forth in the Agreement

EO 16 – Executive Order No. 16, Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia, issued and effective March 17, 2022.

Expected Dollars/MW – The total dollar amount of Incremental Economic Benefits per MW of Bid Capacity, as presented in the Bid Proposal and accepted by NYSERDA, expected to accrue to New York as a result of the development, construction, modification, and operation of the Bid Facility from the RESRFP22-1 Release Date through the end of the first three Contract Years.

Expected MWBE and SDVOB Dollars/MW – The total dollar amount per MW of Bid Capacity expected to accrue specifically to New York State Certified Minority or Women-Owned Business Enterprises (MWBE) and Service-Disabled Veteran-Owned Businesses (SDVOB). MWBE businesses must be [certified by the Division of MWBE](#) and SDVOB businesses must be [certified by NYS Office of General Services](#).

Expected U.S. Iron and Steel Dollars/MW – The total dollar amount per MW of Bid Capacity associated with expenditures for iron and steel components of the Bid Facility manufactured in the United States using iron and steel from steel mills located in the United States.

Facility Area – All land occupied during the commercial operation of the generation facility, the associated interconnection equipment and, if applicable, energy storage equipment as verified through the Operational Certification process. Generally, this will include all areas within the facility's perimeter security fence(s) and the applicable facility related improvements outside of fenced areas. The Facility Area shall include the area "inside the fence" of the project including all fencing inclosing the mechanical equipment such as the solar arrays, inverters, location of any combiner boxes, fuses, switches, meters, distribution boards, monitoring systems such as Balance of Systems components, interconnection equipment, and stormwater controls. The Facility Area shall additionally include improvements of the project "outside of the fence" including access roads, parking areas, stormwater controls and other permanent facilities, or structures installed at the Facility Area, except vegetative landscape screenings or appropriately buried utilities such as electrical conductors or conduit(s).

FEAF – Full Environmental Assessment Form

Fixed REC Price – A fixed, as-bid price in dollars per REC as described in Section 4.02 of the Agreement.

FOIL – New York's Freedom of Information Law, Public Officers' Law Article 6.

Forest – Areas dominated by trees generally taller than five meters tall, and greater than 20% of total vegetation cover.

Hay Land – Land where grass was grown to be made into hay as assessed using the two most recent available updates to the National Land Cover Database (NLCD) datasets (e.g., 2022 if available, 2019, 2016).

Host Community Benefit Program – A Program providing benefits to utility customers in Host Communities in which future Major Renewable Energy Facilities are located.

Incremental Economic Benefits – Those economic benefits within the categories specified in Section 4.2 that a Proposer can demonstrate: (1) will accrue subsequent to an award under this RFP, and (2) would not have accrued but for the award of a contract under this RFP.

Incremental Upgrade Percentage – For Upgrade Bid Facilities, the percentage of the Actual Production that is Tier-1 eligible resulting from the Upgrade as initially established through the NYGATS Provisional Statement of Qualification process, and as may be updated through the submission of engineering documentation during the Statement of Qualification and Operational Certification processes, in accordance with NYSERDA's New York State Clean Energy Standard RES Tier-1 Certification Submission Instructions and Eligibility Guidelines.

Index REC Price – An adjustable price in dollars per REC that nets the Index REC Strike Price monthly against a reference price expressed in a market index pursuant to Section 4.01 of the Agreement.

Index REC Strike Price – The fixed as-bid price in dollars per REC as described in Section 4.01 of the Agreement.

Injection Point – For Bid Facilities that interconnect directly into the New York Control Area, the Injection Point is the Delivery Point. For Bid Facilities that interconnect outside of the NYCA, the Injection Point shall be the generator bus or the location where the administrator of the local Control Area measures energy delivery from the Bid Facility into the local market.

Installed Capacity – Equal to (i) the Nameplate Capacity of a Bid Facility that receives an SoQ and achieves Commercial Operation multiplied by (ii) the Bid Quantity Percentage. For Upgrade Bid Facilities, also multiplied by (iii) the Incremental Upgrade Percentage. For Repowering Bid Facilities, also multiplied by (iii) the Tier 1 Percentage.

Levelized Net REC Cost (LNRC) – A means of comparing Proposals with different Bid Prices, Bid Quantities, and Commercial Operation Dates, as described in Section 5.4.

Long-Term Jobs – Jobs lasting three or more years.

LSE – Load-serving entity

Major Renewable Energy System – Any renewable energy system with a nameplate generating capacity of twenty-five thousand kilowatts or more, and any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission system, including all associated appurtenances to electric plants as defined under Section 2 of the New York State Public Service Law, including electric transmission facilities less than ten (10) miles in length in order to provide access to load and to integrate such facilities into the state's bulk electrical transmission system.

Mature Forest – Forest and area containing trees with greater than 12-inch average diameter at breast height, not including individual standalone trees outside a Forested area or hedgerows.

MW or MWac – A megawatt of alternating current electric energy generating capacity.

MWdc – A megawatt of direct current electric energy generating capacity.

MWh – A megawatt-hour of electric energy.

Mineral Soil Groups (MSG) 1-4 – To establish a uniform statewide land classification system the Department of Agriculture and Markets uses differences in soil productivity and capability as the common denominator in classifying all New York State farmland. A soil rating methodology has been developed based primarily on differences in the inherent ability of soils to support crop production. A map of MSG 1-4 is available on [NYSERDA's Solicitations for Large-scale Renewables webpage](#).

Mitigation Fund Payment (Mitigation Payment) – The Mitigation Fund Payment acts as the estimated benchmark that the Proposer would expect to pay based on the proposed site configuration (Facility Area), knowledge of on-site conditions and before any other action to decrease this payment amount. Payment amounts may be adjusted through consultations with the New York State Department of Agriculture and Markets (AGM) regarding co-agricultural opportunities, and based on the final site configuration (reduced or expanded facility occupied acreage).

Monthly REC Price – A price in dollars per REC determined by NYSERDA for each month of the Contract Delivery Term. If the Applicable REC Price Method is the Index REC Price, the Monthly REC Price shall be calculated pursuant to Section 4.01 of the Agreement. If the Applicable REC Price Method is the Fixed REC Price, the Monthly REC Price shall be calculated pursuant to Section 4.02 of the Agreement.

Nameplate Capacity – The gross generating capacity of the entire Bid Facility in MW. For Upgrade and Repowering Bid Facilities, this value represents the gross generating capacity of the entire Bid Facility after completion of the Upgrade or Repowering.

New Storage Technologies – Nonelectrical battery energy storage facilities such as electrolytic hydrogen or experimental energy storage technologies. These are differentiated from energy storage components in that they are not constructed and operated in accordance with Article VI and Article IX of the [NYSERDA Bulk Storage Incentive Program Manual](#) (Exhibit F to the Agreement).

New York Control Area (NYCA) – The control area that is under the control of the NYISO, which includes transmission facilities listed in the ISO/Transmission Owner Agreement Appendices A-1 and A-2, as may be amended from time to time.

New York Generation Attribute Tracking System (NYGATS) – The tracking system that records electricity generation attribute information within New York State, and processes generation attribute information from energy imported and consumed within New York State, as a basis for creating generation attribute certificates, including Tier 1 RECs. NYGATS will create exactly one Tier 1 REC per MWh of RES eligible generation.

NYGATS Forward Certificate Transfer – An automated monthly transfer of Tier 1 RECs to NYSERDA as described in Section 9.3 of the [NYGATS Operating Rules](#).

New York Independent System Operator (NYISO) – Administrator of the wholesale power markets in New York and manages the physical electrical operations of the NYCA.

NYSERDA Consultants – Consultants engaged by NYSERDA to assist with the evaluation of Bid Proposals.

OATT – NYISO’s Open Access Transmission Tariff.

Operating Rules – The NYGATS Operating Rules, the General Terms of Use and other guidelines posted to the NYGATS website at: <https://www.nyserda.ny.gov/All-Programs/nygats/registration-documents>.

Orders – August 1, 2016 CES Framework Order (Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, “Order Adopting a Clean Energy Standard,” issued and effective August 1, 2016), January 16, 2020 Tier 1 Modification Order (Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, “Order Modifying Tier 1 Renewable Procurements,” issued and effective January 16, 2020), October 15, 2020 CES Modification Order (Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, “Order Adopting Modifications to the Clean Energy Standard,” issued and effective October 15, 2020) and January 20, 2022 PGS Order (Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, “[Order on Power Grid Study Recommendations](#),” issued and effective January 20, 2022).

ORES – New York State Office of Renewable Energy Siting, website is <https://ores.ny.gov/> and the regulations can be found at <https://ores.ny.gov/regulations>.

Quantity Obligation – For any period during the Contract Delivery Term, the number of MWh calculated as the Bid Quantity Percentage multiplied by the Actual Production.

Pasture – Land where animals fed on the grass as assessed using the two most recent available updates to the National Land Cover Database (NLCD) datasets (e.g., 2022 if available, 2019, 2016).

Plantation – Forested areas artificially established by seeding or planting. The trees usually belong to the same specie (whether native or introduced), have the same age and are regularly spaced.

Prevailing Wage – Shall have the meaning set forth at and shall be interpreted in accordance with Section 18.10 of the Agreement.

Price Structure – Either a Fixed REC or Index REC price.

Proposer – The business entity that submits a Bid Proposal in response to this RFP.

PSoQ – NYGATS Provisional Statement of Qualification.

Reference Capacity Price – An index of NYISO Capacity Market prices as set forth in Section 4.01 of the Agreement.

Reference Energy Price – An index of zonal NYISO Energy Market prices as set forth in Section 4.01 of the Agreement.

Renewable Energy Certificate (REC) – The electronic record of generation data created by NYGATS and representing all of the attributes, including all Environmental Attributes, of one MWh of electric generation from a Renewable Energy System delivered into the New York Control Area and registered with the NYGATS tracking system. The attributes represented in each REC include all environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations,

howsoever characterized, denominated, measured or entitled, attributable to the generation of Actual Eligible Production by a Project, including but not limited to: (i) any direct emissions or any avoided emissions of pollutants to the air, soil or water including but not limited to sulfur oxides (Sox), nitrogen oxides (Nox), carbon monoxide (CO), particulate matter and other pollutants; (ii) any direct or avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases (GHGs) that have been or may be determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (iii) all set-aside allowances and/or allocations from emissions trading programs made unnecessary for compliance in such program as a result of performance under the Agreement, including but not limited to allocations available under 6 NYCRR §§ 204, 237 and 238; and (iv) all credits, certificates, registrations, recordations, or other memorializations of whatever type or sort, representing any of the above.

Renewable Energy System – As defined in the Climate Act, and for purposes of this RFP, a system that generates electricity through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

Repowering – The investments made to the existing Bid Facility associated with the improvements that meet the repowering requirements of the 2020 CES Order (as may be amended by the PSC), as proposed by Seller in the Application for Qualification and Bid Proposal in response to RESRFP22-1 and determined through the Statement of Qualification and the Operational Certification process.

Seller – A Proposer selected by NYSERDA who has executed an Agreement to sell Tier 1 RECs to NYSERDA pursuant to this RFP.

SEQR – New York State Environmental Quality Review Act.

Short-Term Jobs – Jobs lasting less than three years.

SoQ – NYGATS Statement of Qualification.

Summer Capability Period – The period commencing May 1 through October 31 of each year.

Technical Evaluation Panel (TEP) – Members of NYSERDA Staff, New York State Department of Public Service Staff, and competitively-selected Independent Evaluators (outside reviewers who possess proficiency in the evaluation of energy generation projects) responsible for evaluating Bid Proposals received through this RFP.

Tier 1 Percentage – For Repowering Bid Facilities, the quantity of generation from the Bid Facility, expressed as a percentage associated with specific date ranges, that meets the Repowering requirements of the CES Modification Order, as may be amended by the PSC.

UCAP Production Factor (UPF) – The UCAP Production Factor multiplied by the Bid Facility's installed capacity is a proxy for the NYISO UCAP in MW. The UCAP Production Factor will be specified separately for a Winter Capability Period (November through April) and a Summer Capability Period (May through October). These fixed seasonal UCAP Production Factors will be utilized for the duration of the contract

tenor. Proposers are encouraged to consider current guidance from the NYISO's [Installed Capacity Manual](#). Proposers are permitted to select any UCAP Production Factor value between 0 and 1.

Upgrade – The investments made to the existing Bid Facility associated with the improvements that cause an increase in renewable generation incremental to a historical baseline level of generation by the Bid Facility, as proposed by Seller in the Application for Qualification and Bid Proposal in response to RESRFP22-1 and determined through the Statement of Qualification and the Operational Certification process.

Winter Capability Period – The period commencing November 1 of each year through April 30 of the following year.

NEW ITEMS & IMPORTANT NOTES

1. Commercial Operation Milestone Date

The initial Commercial Operation Milestone Date (COMD) for RESRFP22-1, the date by which Bid Facilities must enter commercial operation, is May 31, 2025, which may be extended through May 31, 2028.

2. Solicitation Target and Resource Mix

Per the CES Modification Order, NYSDA is authorized to procure approximately 4.5 million Tier 1 RECs annually through 2026, and therefore has set a non-binding procurement target of 4.5 million Tier 1 RECs for RESRFP22-1. The RESRFP22-1 non-binding procurement target is intended to be comprised of a diverse resource mix that will complement the existing fleet of operating renewable energy generators in New York and the portfolio of under development large-scale renewable energy projects contracted by NYSDA, with the goal of maintaining a pipeline of large-scale renewable projects that will support the goal to achieve a 70% renewable electric grid by 2030. Proposers are encouraged to review past and recent reports and Orders that detail the resource mix that will best enable to New York to achieve a 70% renewable electric grid by 2030, including the [CES White Paper Appendix](#),⁸ the [Draft Climate Action Council Scoping Plan](#)⁹ (see [Appendix G. Integration Analysis Technical Supplement](#)),¹⁰ and the most recent draft [NYISO System & Resource Outlook Report](#).¹¹

3. New Legal and Contractual Requirements

For RESRFP22-1, Proposers must adhere to several new legal and contractual requirements, including:

- Executing a certification in compliance with EO 16 (See Section 11.11);
- Sourcing a certain portion of steel for the Bid Facility from domestic sources based on the Nameplate Capacity of the facility (see Section 2.5.4);
- Paying prevailing wage, or executing a Project Labor Agreement, for the construction of the Bid Facility, pursuant to recently enacted Labor Law § 224-d (see Sections 2.5.1 and 2.5.2);
- Entering into a Labor Peace Agreement under certain circumstances for the operations and maintenance of the Bid Facility, pursuant to recently enacted Public Service Law § 66-p (see Section 2.5.3); and
- For solar PV Bid Facilities, signing the Solar Energy Industries Association (SEIA) Forced Labor Prevention Pledge and evidence this commitment as part of the Step Two Bid Proposal.

⁸ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DCA9763C-D2DA-4FD1-9801-D859E7ED8FE3}>

⁹ <https://climate.ny.gov/Our-Climate-Act/Draft-Scoping-Plan>

¹⁰ <https://climate.ny.gov/-/media/Project/Climate/Files/Draft-Scoping-Plan-Appendix-G-Integration-Analysis-Technical-Supplement.pdf>

¹¹ <https://www.nyiso.com/documents/20142/32663964/2021-2040+System+Resource+Outlook+Report+DRAFT+v15+ESPWG+Clean.pdf/99fb4cbf-ed93-f32e-9acf-ecb6a0cf4841>. Additional information on the System & Resource Outlook, including more recent drafts if available, can be found in the [meeting materials for the NYISO Electric System Planning Working Group](#) (<https://www.nyiso.com/espwg>).

4. Minimum Threshold Requirements & Non-Price Evaluation

The Step Two Bid Proposal Minimum Threshold Requirements include updated requirements for the Interconnection, Energy Deliverability, and Permitting subcategories, and the new Agricultural Land subcategories. See Sections 4.1 and 8.3.4 for requirement-specific details. Additionally, several Minimum Threshold Requirement subcategories that were previously used for evaluation will now serve only as eligibility requirements- see Section 4.1 and Table 6 for additional detail.

5. Energy Deliverability Study Requirement

All Proposers will be required to provide as part of the Step Two Bid Proposal an Energy Deliverability Study that aligns the requirements set forth in Appendix 5 to RESRFP22-1 unless the Proposer can evidence to NYSERDA's satisfaction that the Bid Facility, at the point of interconnection depicted by the Proposer, will not pose deliverability constraints or incremental curtailment to the existing operating large-scale renewable projects in New York or the development pipeline of large-scale renewable projects under contract with NYSERDA. The requirement for each Bid Facility will be clearly detailed in the Notice of Qualification sent to eligible Proposers following the review of Step One Eligibility Applications, however Proposers are encouraged to reach out to NYSERDA (via res@nyserda.ny.gov or the [solicitation website](#)) as soon as feasible to confirm if the subject Bid Facility will be required to provide an Energy Deliverability Study as part of the Step Two Bid Proposal.

6. On-Site Wetlands Screening Requirement

All Bid Facilities that have not yet received a final wetlands jurisdictional determination of the Bid Facility's planned Facility Area will be required to have conducted an on-site wetlands screening as described in Appendix 3 to RESRFP22-1. The wetlands and waterbodies screening will be required to employ desktop and field effort screenings, with the field effort serving as a field-verified approximation of the wetlands and waterbodies identified via the desktop screening. See Appendix 3. NYSERDA Guidance for Wetland and Stream Screenings for Large-Scale Renewable Energy Projects for the full requirements of the screening, which will be required at the time of the Step Two Bid Proposal submission.

7. Agricultural Land Requirements

NYSERDA adopted an approach starting under the RESRFP20-1 solicitation to address concerns relating to solar development on, and the protection of, agricultural lands in Agricultural Districts. Under this approach, awardees may be responsible for making an agricultural mitigation payment to a designated fund based on the extent to which the solar project footprint overlaps with Mineral Soil Groups (MSG) classifications 1-4. For the RESRFP22-1 solicitation, Proposers may indicate their intent to defer this payment to the extent that the Seller elects to adopt agricultural co-utilization measures in their Step Two Bid Proposal. Proposers are advised to reference Section 4.1 of the RFP, Section 6.11 of the Agreement, Appendix 2. Permitting Plan Requirements and Guidelines, and Appendix 4. RESRFP22-1 Smart Solar Siting Scorecard to understand the approach in full and assess the applicability of a potential Agricultural Mitigation Fund Payment to their Bid Facility(ies). As in previous solicitations, in addition to a potential Mitigation Fund Payment, all solar awardees are to adopt and employ the provisions of the [Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands](#) document (see Exhibit E to the Agreement).

8. Optional Alternate Inflation Risk Adjusted Bid Proposal

Under RESRFP22-1, Proposers may elect to submit a new Alternate Step Two Bid Proposal type (in addition to previously permitted Alternate Bid Proposals which allow for Bid Proposals with varying Nameplate Capacity and/or Bid Proposals with and without an Energy Storage facility). Under RESRFP22-1, Proposers may elect to submit an Inflation Risk Adjusted Bid Proposal. This Alternate Bid Proposal implements a price structure mechanism where the Index REC Strike Price or Fixed REC Price would be subject to a one-time adjustment to reflect changes to a pre-determined price index subsequent to the Step Two Bid Proposal deadline. Additional details on this adjustment mechanism are provided in Sections 2.4.4 and 5.2.2 of RESRFP22-1 and in Section 5.03 of the Agreement. Proposals that include this adjustment will be evaluated using a price adder reflecting NYSDA's inflation expectation as further described in Section 5.5.

9. Economic Benefits to New York State

Proposers are strongly encouraged to explore innovative ways in which short- and long-term economic benefits can be provided to New York State. The Inflation Reduction Act of 2022 has provided tremendous opportunities for renewable energy growth and Proposers are asked to utilize this monumental investment in the clean energy transition to their creative advantage, in particular relative to New York State job creation, manufacturing, and economic growth opportunities. Economic benefits evaluation under this solicitation will include all eligible expenditures beginning from the RFP Release Date (see Section 8.3.5), which maintains the categories of eligible economic benefits claims utilized in RESRFP21-1 with several clarifications. Proposers are also encouraged to familiarize themselves with the updated requirements and guidance related to directing incremental economic benefits to Disadvantaged Communities. NYSDA will more favorably evaluate economic benefits to New York State that will be realized in part or in full by Disadvantaged Communities as part of the development of the Bid Facility. Under RESRFP22-1, incremental economic benefits to New York State that will be realized in part or in full by MWBE and SDVOB will be more favorably evaluated. Benefits afforded to Disadvantaged Communities, MWBE, and SDVOB that are committed to as part of the Step Two Bid Proposal will be treated as a separate category of incremental economic benefits in the Agreement.

10. RES Standard Form Agreement

The RES Standard Form Agreement (the "Agreement") associated with RESRFP22-1 is published as Attachment A to this solicitation. The Agreement is a legally binding document; Proposers are advised to consult with an attorney, and all Proposers should familiarize themselves with the structure, terms and conditions of the Agreement prior to participating.

1 INTRODUCTION

1.1 The New York Clean Energy Standard and Renewable Energy Standard

On July 6, 2015, the New York State Energy Planning Board issued the 2015 State Energy Plan (SEP)¹² which stated the goal to achieve 50% of the State's electricity generated from renewable resources by 2030 (50x30 goal).

The Public Service Commission's (PSC) [Order Adopting the Clean Energy Standard](#) (CES Framework Order) issued on August 1, 2016, along with additional orders and implementation plans issued under Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (Orders), established the Renewable Energy Standard (RES) as the State's principal means of achieving the 50x30 goal. A component of the RES consists of a Tier 1 obligation on load serving entities (LSE) to procure Renewable Energy Certificates (RECs)¹³ associated with new renewable energy resources.

In furtherance of the Orders and targets established in the CES, on July 18, 2019, New York State adopted the Climate Leadership and Community Protection Act (Climate Act), which includes the goal for New York State to achieve 70% renewable energy generation by 2030, incremental to reducing 100% of the electricity sector's greenhouse gas emissions by 2040, among other clean energy targets.¹⁴

RES Tier 1 procurements were further amended on January 16, 2020 by the [Order Modifying Tier 1 Renewable Procurements](#) (Tier 1 Modification Order), whereby the PSC directed NYSERDA to offer bidders an Index REC price option in future RES solicitations, beginning with RESRFP20-1.

The Accelerated Renewables Act became law on April 2, 2020, and made major changes in the forum and permitting process for large-scale renewable projects. Specifically, the bill established a new renewable siting structure to be managed by a new office within the Department of State.¹⁵

On October 15, 2020, the PSC issued its [Order Adopting Modifications to the Clean Energy Standard](#) (CES Modification Order) in Case 15-E-0302. In the CES Modification Order, the PSC adopted several modifications to the CES to align it with the Climate Act mandates. Modifications affecting Tier 1 solicitations include setting annual procurement targets to achieve the 70 by 30 target, allowing rejection of projects that are not presently viable, combining of the Project Viability and Operational Flexibility and Peak Coincidence evaluation factors, approving the development of portfolio risk factors, and clarifying the CES delivery requirements.

On January 20, 2022, the PSC issued its [Order on Power Grid Study Recommendations](#) (PGS Order) in Case Nos. 20-E-0197, 18-E-0071, and 15-E-0302. The PGS Order concurs with the Power Grid Study finding that energy storage on Long Island and New York City will play an important role in integrating

¹² 2015 New York State Energy Plan is available from <http://energyplan.ny.gov/>

¹³ While the PSC's August 1, 2016 Order references renewable energy "credits," NYGATS creates renewable energy certificates, and therefore that term is used in this RFP. The NYGATS certificates are created in one MWh denominations and are in all other ways consistent with the Order.

¹⁴ [New York State Senate Bill S6599](https://www.nysenate.gov/legislation/bills/2019/s6599), <https://www.nysenate.gov/legislation/bills/2019/s6599>

¹⁵ [New York State Announces Passage of Accelerated Renewable Energy Growth and Community Benefit Act as Part of 2020-2021 Enacted State Budget](#)

offshore wind generation. The coordinated planning process undertaken in the Power Grid Study proceeding will allow the PSC to anticipate system needs and respond to them in a timely manner, including implementation of local transmission upgrades and invocation of the NYISO's Order 1000 process where bulk solutions are necessary.

On September 9, 2021, the PSC addressed the Utilities' proposed policy recommendations in its Order on Local Transmission and Distribution Planning Process and Phase 2 Project Proposals (Phase 2 Order).¹⁶ Among other things, the Phase 2 Order found the Utilities' proposed investment criteria required certain modifications, and directed additional work to develop a coordinated grid planning process (which includes a revised benefit cost analysis framework, enhanced stakeholder engagement and a participant funding agreement to share CLCPA project costs across the state on a volumetric load ratio share basis). In addition, the Phase 2 Order adopted the Department of Public Service Staff's (Staff) recommended modifications to the calculation of headroom and directed the investor-owned utilities to provide updated headroom data to stakeholders.

The Orders authorize NYSERDA, as central procurement administrator, to offer long-term contracts to generators for the purchase of Tier 1-eligible RECs, in the form of Tier 1 NYGATS certificates. Pursuant to the Orders, NYSERDA seeks to accomplish the RES objective by contracting with suppliers, through a series of competitive RFPs, for only the RES Tier 1 RECs created by eligible generation resources.¹⁷ For the avoidance of doubt, NYSERDA seeks to acquire Tier 1-eligible RECs only, and will not have any claim to associated energy, capacity, or ancillary services associated with the RECs.¹⁸

The RECs generated from the Bid Facility offered to NYSERDA through this RFP, up to the Annual REC Cap (defined in the Agreement), may not be contractually committed to any other entity over the Contract Tenor. Awardees will retain ownership and all rights to RECs generated that exceed the Annual REC Cap.

The CES/RES Orders can be accessed from the [NYS Public Service Commission's website](https://www.psc.state.ny.gov/PublicServiceCommission/Website).¹⁹ All Proposers are strongly advised to review the Orders before participating in this RFP. Information regarding

¹⁶ LT&D Planning Proceeding, Order on Local Transmission and Distribution Planning Process and Phase 2 Project Proposals (September 9, 2021) (Phase 2 Order).

¹⁷ Directives pertaining to NYSERDA's RES Central Procurement role are contained in the February 22, 2017 [Order Approving the Phase 1 Implementation Plan](#) and the [Final Phase 1 Implementation Plan](#) filed by NYSERDA on March 24, 2017, the November 17, 2017 [Order Approving the Phase 2 Implementation Plan](#) and the [Final Phase 2 Implementation Plan](#) filed by NYSERDA on December 18, 2017, and the December 14, 2018 [Order Approving the Phase 3 Implementation Plan](#) and the [Final Phase 3 Implementation Plan](#) filed by NYSERDA on January 11, 2019. The March 9, 2017 [Order on the Value of Distributed Energy Resources](#) further clarifies the treatment of certain distributed energy resources (DERs) such resources under the CES and their eligibility to participate in NYSERDA's long term procurements for RECs. The January 16, 2020 [Order Modifying Tier 1 Renewable Procurements](#) directs NYSERDA to include an additional option for bidders to offer an Index REC price. An Implementation Plan will be filed by NYSERDA in response to the January 2020 Order in April 2020.

¹⁸ RECs represent the environmental attributes, including but not limited to estimated avoided carbon dioxide emissions, associated with electricity generated by facilities that meet the Tier 1 eligibility criteria established in the CES Framework Order.

¹⁹ <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-e-0302>

NYSERDA's implementation of the RES and prior solicitations under the RES, RESRFP17-1, RESRFP18-1, RESRFP19-1, RESRFP20-1, and RESRFP21-1, can be found on [NYSERDA's RES Solicitation website](#).²⁰

Information on the Renewable Portfolio Standard (RPS), the precursor to the CES, and past Main Tier solicitations can be found on [NYSERDA's RPS webpage](#).²¹

1.2 Background on NYSERDA and NY Green Bank

NYSERDA was created in 1975 by the New York State Legislature as a public authority and public benefit corporation. As designated in the CES Framework Order, NYSERDA acts as the Central Administrator of the RES program. Under the RES, each LSE is obligated to serve their retail customers by procuring new renewable resources, evidenced by the procurement of Tier 1 RECs from NYSERDA or other sources, or by making Alternative Compliance Payments (ACPs), in increasing quantities to satisfy the State's greenhouse gas emissions reduction goals. Through this RFP, NYSERDA will purchase RECs from the contracted Bid Facilities, on behalf of the LSEs in New York State, and will then sell the RECs to the LSEs for compliance with the LSEs' Tier 1 obligations.

NY Green Bank, a division of NYSERDA, is a \$1 billion specialized financial investment fund working with the private sector to increase investments into New York's clean energy markets, creating a more efficient, reliable and sustainable energy system. NY Green Bank steps in to fill gaps in the market where financing might not be available from conventional lenders, potentially due to barriers such as limited precedent, small deal sizes, challenges in evaluating technology risk, asset structures and/or business models unfamiliar to banks and institutional investors, and/or deal structuring and underwriting complexities.

Supporting the expansion of large-scale renewables in New York is a strategic priority for NY Green Bank. NY Green Bank is prepared to support project developers and investors with a range of credit products and structures through various project financing stages, including and not limited to:

- Interconnection deposit financing;
- Long lead equipment financing;
- Construction financing; and
- Term loans, including subordinated debt to increase tenor and leverage.

NYGB will evaluate contracted revenues, including various NYSERDA incentive payments, as well as wholesale power and capacity sales to support long-term financing.

²⁰ <https://www.nyserda.ny.gov/ces/rfp>

²¹ <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Portfolio-Standard/Past-Main-Tier-Solicitations>

1.3 Schedule

The schedule for RESRFP22-1 is as follows (all times ET):

Table 1. RFP Schedule

RFP Release Date	Wednesday, September 21, 2022
Proposers' Webinar	Thursday, October 6, 2022
NYSERDA opens Step One Eligibility Application	Monday, October 12, 2022
Deadline to complete an application requesting a Resource Eligibility Determination in NYGATS	Wednesday, November 2, 2022
Deadline for Step One Eligibility Application Submission	Wednesday, November 30, 2022 by 3:00 p.m.
NYSERDA responds with Notice of Qualification Determinations	Wednesday, December 14, 2022
Deadline for Bid Fee Submission	Tuesday, April 11, 2023
Deadline for Step Two Bid Proposal Submission	Wednesday, April 12, 2023 by 3:00 p.m.
NYSERDA notifies Proposers receiving Awards	Q3 2023

Please note that the above dates are subject to change. Notification of any changes to the solicitation schedule or documents will be posted on [NYSERDA's RES website](#) and sent via email to those parties who have submitted contact information to NYSERDA's RESRFP22-1 [solicitation website](#).

1.4 Eligibility & Contractual Requirements

Information on Bid Proposal eligibility and contractual requirements is detailed in Section 2 below. This includes details regarding Tier 1 eligibility guidelines, Energy Storage facility eligibility, and contractual provisions made mandatory for 2022 in New York State's FY 2022 enacted budget.

1.5 Bid Fee

Each Step Two Bid Proposal must be accompanied by a Bid Fee, in the form of electronic wire (preferred) or certified funds, in an amount determined by the Nameplate Capacity in megawatts (MWac) of the Bid Facility in accord with Table 2.

Table 2. Bid Fees by Nameplate Capacity

Nameplate Capacity (MW)	Bid Fee
Less than 5.00 MW	\$5,000
5.00 – 19.99 MW	\$20,000
20.00 – 49.99 MW	\$50,000
50.00 MW or more	\$100,000

See Section 8.4 for additional details and instructions for submitting the Bid Fee.

1.6 Proposers' Webinar and Inquiries

NYSERDA will [hold a webinar for Proposers](#) on Thursday, October 6, 2022 at 1:00 p.m. ET (Albany, NY time). During the webinar, NYSERDA will review the Step One Eligibility Application and Step Two Bid Proposal requirements, the Agreement, and highlight changes to the 2022 solicitation process. Questions will be taken and, to the extent possible, responses will be provided during the webinar. **Proposers who intend to participate must register prior to the webinar on NYSERDA's RES website.**²²

Proposers are encouraged to submit questions prior to the webinar via email to res@nyserda.ny.gov, and during the Proposers' Webinar using the built-in Q&A feature. Written responses will be posted to the solicitation website and will supersede any responses given by NYSERDA during the Proposers' Webinar. All questions regarding the RFP documents or the process must be directed as indicated. NYSERDA will post submitted questions anonymously, along with NYSERDA's responses, on the solicitation website under the Q&A feature, which is accessible to all Proposers, following the webinar.

Questions may not be submitted directly to any individual at NYSERDA other than the Designated Contacts. Questions should not be submitted to DPS Staff, or to individuals working for or on behalf of NYSERDA that are not listed as Designated Contacts.

Bid Facility-specific questions must be submitted through the Messages feature of the solicitation website following Proposers' registration. Questions that reveal a Proposers' identity and/or commercial information should be submitted through the Messages feature of the solicitation website. Proposers must register on the solicitation website to gain access to the Messages feature. The Messages feature of the solicitation website is available only to Proposers and is a secure communication between each Proposer and NYSERDA's Designated Contacts.

1.7 Modification or Cancellation of the RFP and Solicitation Process

Notification of any changes in RFP process or documents will be posted on [NYSERDA's RES Tier 1 website](#), the solicitation website under the Announcements tab, and sent via email to parties that have submitted contact information to NYSERDA's RESRFP22-1 solicitation via the solicitation website. Prospective Proposers are encouraged to check the website frequently to be advised of any RFP changes or other news.

The terms and conditions of this RFP may, at any time, be changed, postponed, withdrawn, and/or canceled, including any requirement, term or condition of this RFP, without any liability to NYSERDA.

1.8 Updates to the Eligibility Application and/or Bid Proposal

Proposers will not have an opportunity to refresh or restate submissions after the corresponding submission deadline for each Step. If a Proposer wishes to modify an already submitted submission before the submission deadline for that Step, the Proposer should follow the posted instructions for editing a submission and may contact NYSERDA's Designated Contacts with questions or issues.

After the submission deadline, Proposers may provide information that was not available at the time of their submission at NYSERDA's request under Section 1.9. These requests are for informational purposes

²² To sign up for the Proposers' Webinar please register here: [RESRFP22-1 Proposers' Webinar](#)

only and will not be treated by NYSERDA as a change or revision to the submission. However, if there are any material events that affect the validity of a submission, Proposers must promptly notify NYSERDA in writing.

1.9 Requests for Additional Information and/or Interview

Following the submission of Proposals, NYSERDA and the Technical Evaluation Panel may request clarification and additional information from Proposers at any time throughout the duration of the evaluation process. Such information will be subject to protection of proprietary information as described in Section 9, consistent with other Proposal submission materials. If the Proposer does not respond promptly to such information requests or does not provide adequate information, the affected Proposal(s) will be evaluated based on the information as originally submitted.

1.10 Coordination with Non-Jurisdictional Load-Serving Entities

The Order Adopting a Clean Energy Standard provides for NYSERDA to conduct regularly scheduled solicitations for the procurement of Tier 1 RECs on behalf of the State's jurisdictional LSEs. The New York Power Authority (NYPA) and/or the Long Island Power Authority (LIPA) may choose to issue their own solicitations and/or contract with NYSERDA for a long-term commitment to purchase a percentage of the Tier 1 RECs that may be procured under this solicitation to fulfill their proportional shares of the statewide Tier 1 targets.

1.11 Coordination with NYSERDA's T4RFP21-1

On January 13, 2021, NYSERDA issued T4RFP21-1, a solicitation to procure the unbundled environmental attributes in the form of Tier 4 RECs for renewable energy delivered into New York City (NYISO Zone J) pursuant to the CES Modification Order. On November 30, 2021, NYSERDA submitted contracts with the Clean Path NY and Champlain Hudson Power Express projects to the PSC for approval and public comment. The PSC approved the contracts on April 14, 2022, subject to limited contract clarification and similar requirements as laid out in its [Order Approving Contracts for the Purchase of Tier 4 Renewable Energy Certificates](#) Order. The selected projects will deliver renewable energy sourced from wind, solar and hydropower to New York City. Information about the projects is available on [NYSERDA's Tier 4 website](#).²³

Facilities that do not have a Tier 1 agreement and are included as a component of an awarded Tier 4 proposal (or subsequently added to an awarded Tier 4 project through modification of the Tier 4 Agreement) may participate in RESRFP22-1 and/or future Tier 1 solicitations subject to Tier 1 eligibility requirements.

For facilities participating in RESRFP22-1 that are included in a Tier 4 contract, economic benefits claimed under the awarded Tier 4 proposal may also be claimed as part of a Tier 1 Bid Proposal. Should a Bid Facility be awarded under both solicitations, NYSERDA will work with the awarded Proposer to ensure that claims are not double counted under the contractual economic benefits claims (See Expected Dollars/MW definition in the Agreement).

²³ <https://www.nyserda.ny.gov/All-Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/Tier-Four>

1.12 Forced Labor Prevention

In order to ensure an ethical and sustainable supply chain for renewable energy, NYSERDA is requiring all RESRFP22-1 awardees to sign SEIA's [Forced Labor Prevention Pledge](#) (Pledge), opposing forced labor practices and heightening awareness of human rights abuses against Uighurs, an ethnic minority living in the Xinjiang region of China. Companies that sign the Pledge agree to conduct their business in an ethical manner. Proposer's will be required to evidence that they have signed the Pledge as part of their Step Two Bid Proposal submission.

2 STEP ONE & STEP TWO COMPONENTS; ELIGIBILITY & EVALUATION

RESRFP22-1 will be implemented through a two-step process. Submissions for both steps are required for all participating Bid Facilities and must be made via the [solicitation website](#). The solicitation website will open for submissions on October 12, 2022. The requirements for each step are summarized in the table below, consisting of:

1. **Step One: A qualifying step** through which the Proposer submits an Eligibility Application providing evidence that the Bid Facility is Tier 1 eligible and other information regarding the Proposer and the Bid Facility. See **Section 7** for detailed instructions about how to prepare and submit a Step One Eligibility Application.
2. **Step Two: A competitive Bid Proposal step**, through which the Proposer submits a Bid Proposal. NYSERDA will: (1) examine each Bid Proposal to determine whether the Proposal demonstrates that the Bid Facility and Proposer meet the Minimum Threshold Requirements; and (2) for Bid Proposals that meet those minimum requirements, perform a full competitive evaluation based on price and non-price factors. See **Section 8** for detailed instructions about how to prepare and submit a Step Two Bid Proposal.

Table 3. Submission Requirements

Step One Eligibility Application	Step Two Bid Proposal
Due Date: Wednesday, November 30, 2022 by 3:00 p.m.	Due Date: Wednesday, April 12, 2023 by 3:00 p.m.
Requirements for Submission: <ul style="list-style-type: none"> • Tier 1 eligibility certification (PSoQ or SoQ), obtained via NYGATS. • Key Proposer and Bid Facility characteristics (location, point of interconnection, capacity, energy storage, <i>etc.</i>). • Overview of how Bid Facility will meet all eligibility requirements by Step Two Bid Proposal deadline. • Executive Order No. 16 certification forms • Executive Order No. 192 certification forms 	Requirements for Submission: <ul style="list-style-type: none"> • Expanded project characteristics and details, interconnection and environmental mitigation cost estimates. • Binding Bid Price and Bid Quantity data. • Minimum Threshold Requirements documentation (Site Control, Interconnection, <i>etc.</i>) • Expected benefits and burdens to Disadvantaged Communities. • Permitting Plan • Community Engagement Plan • Operational Flexibility and Peak Coincidence documentation (P(50) 8760, energy storage details, <i>etc.</i>). • If applicable, Incremental Economic Benefits claims, including identification of specific claims that will benefit Disadvantaged Communities. • Proof of Bid Fee payment

Proposers submitting Step One Eligibility Applications that are determined to be qualified will be invited to submit a Step Two Bid Proposal. Step Two Bid Proposals that are determined to meet the Minimum

Threshold Requirements will be evaluated and scored based on: (1) the Fixed REC Bid Price or Index REC Bid Price, weighted at 70% of the overall score, and (2) non-price factors, which have a combined weight equaling 30% of the overall score.

Please note that the Minimum Threshold Requirements apply only to items within the Project Viability, Operational Flexibility and Peak Coincidence (Project Viability and OpFlex) category. There are no minimum requirements for Incremental Economic Benefits to New York State.

The 30% non-price evaluation component is divided into two categories:

- 1) 20% Project Viability, Operational Flexibility and Peak Coincidence (beyond the Minimum Threshold Requirements); and
- 2) 10% Incremental Economic Benefits to New York State.

Pursuant to the February 22, 2017, PSC [Order Approving the Phase 1 Implementation Plan](#) and the subsequent Orders, a Technical Evaluation Panel (TEP), consisting of NYSERDA staff, DPS Staff, and Independent Evaluators, all of whom will execute a non-disclosure agreement, will evaluate and award points for the non-price evaluation components of each Bid Proposal.²⁴ NYSERDA may also enlist other state agencies, authorities, and subject-matter experts to inform the non-price evaluation conducted by the TEP. The Bid Price evaluation will be conducted by NYSERDA.

Non-Price Minimum Threshold Requirements and determinations, and the Non-Price evaluation are detailed in Section 4; Price evaluation is detailed in Section 5.

Instructions and requirements on how to submit a Step One Eligibility Application and Step Two Bid Proposal are detailed in Sections 7 and 8, respectively.

2.1 Eligibility & Evaluation

To be eligible, a Bid Facility must be a Tier 1 RES eligible resource technology type qualifying under the updated Clean Energy Standard Tier 1 eligibility requirements outlined in the CES Modification Order and described herein.²⁵ Pursuant to the CES Framework Order, to participate an eligible Bid Facility must also: (1) be located within the New York Control Area (NYCA) or in an adjacent control area and supply energy into New York State, in accordance with the RES Delivery Requirements in the Agreement, and (2) have first commenced Commercial Operation on or after January 1, 2015, or (3) must produce new, incremental energy and Tier 1 RECs from new Bid Capacity above a historical baseline.

Upgrade Bid Facilities are eligible to the extent that they produce incremental generation that exceeds the Bid Facility's historical generation levels as verified by a third-party engineering report.

²⁴ The Order and subsequent Plans are available on NYSERDA's CES Orders, Reports, and Filings website: <https://www.nyserra.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Important-Orders-Reports-and-Filings/Filings-Orders-and-Reports>

²⁵ Proposers should note that the Climate Act definition of renewable energy systems as adopted by the CES Modification Order excludes certain resources previously eligible under the CES Framework Order, including biomass, biogas, liquid biofuels, fuel cells using natural gas and anaerobic digesters, among others, and should review the RFP and Agreement prior to commencing a request for a Provisional Statement of Qualification.

The full generation produced by Repowering Bid Facilities is eligible if the Bid Facility has reached the end of their useful life (e.g., 20 years for wind and solar Bid Facilities, 50 years for hydroelectric Bid Facilities) and have met the requirements to (i) replacing each prime mover,²⁶ resulting in an overall increase of 15% or more in the production of the generation unit, and (ii) making capital expenditures in excess of 80% of the Repowering Bid Facility's tax basis (not including its property and tangible assets). Proposers are encouraged to reference Section 7.6 Repowering Project of the [New York State Clean Energy Standard RES Tier 1 Certification Submission Instructions and Eligibility Guidelines](#) to review the full scope of requirements for Tier 1-eligible Repowering Bid Facilities and the requirements for third-party engineering reports needed to demonstrate provisional Tier 1 eligibility.

Bid Facilities that have not reached the end of their useful life may be eligible for a portion of their generation to be Tier 1 eligible prior to the end of the useful life based on the results of the required third-party engineering report. Prior to the end of the Bid Facility's useful life, the percentage increase in generation attributable to the Repowering will be Tier 1 eligible. Once the useful life of the original project is met, all generation (100%) from the Repowering Bid Facility will be Tier 1 Eligible. See Table 4 below for an illustrative example of a Repowering Bid Facility that will be partially Tier 1 eligible prior to the end of the 20-year useful life.

Table 4. Illustrative Example of Pre-End of Useful Life Tier 1 Eligible Generation

Calendar Date	Useful Life	Original Project (Projected Generation)	Repowering Bid Facility (Projected Generation)	% Increase in Generation	Tier 1 % Applicability	Non-Tier 1 % Applicability	Tier 1 Eligibility Applicable to Generation Dates
7/1/19-6/30/20	17	762,120	914,544	20%	20%	80%	
7/1/20-6/30/21	18	744,600	914,544	23%	23%	77%	4/1/21-6/30/21
7/1/21-6/30/22	19	727,080	914,544	26%	26%	74%	7/1/21-6/30/22
7/1/22-6/30/23	20	709,560	914,544	29%	29%	71%	7/1/22-6/30/23
7/1/23-6/30/24	21	n/a	914,544	n/a	100%	0%	7/1/23-6/30/24

The Proposer is required to submit Step One Applications and Step Two Bid Proposals for each Bid Facility with and without Energy Storage. Additional Step One Applications and Step Two Bid Proposals can be submitted for the Bid Facility at the Proposer's option. Each Bid Proposal must utilize only one price structure (Fixed REC or Index REC), however separate Bid Proposals for the same Bid Facility may utilize different price structures if the Bid Facility has material differences among the Bid Proposals, such as for a Bid Facility bid with and without Energy Storage, and/or a Bid Facility bid with two different Bid Capacities (MW). Proposers are encouraged, but not required, to submit a Bid Proposal with Energy Storage for Bid Facilities with alternate configurations.

A Proposer may not condition the acceptance of one Proposal based on the withdrawal or acceptance of other Proposals. NYSEDA will not award more than one Bid Proposal for the same Bid Facility.

Tier 1 eligible RECs or environmental attributes that are the subject of a current NYSEDA RES contract, or that were the subject of an award under NYSEDA's RESRFP21-1 solicitation, are not eligible under this RFP. Additionally, Proposers that are seeking or have secured funding through a separate NYSEDA

²⁶ For purposes of this requirement, "prime mover" is defined as follows: for wind Bid Facilities, the wind turbine, including the generator, gearbox (if any), rotor and blades; and for solar PV Bid Facilities, the modules and inverters. Hydroelectric Bid Facilities are not subject to the requirement to replace the prime mover, but must meet the other Repowering eligibility requirements.

incentive program (e.g., NY-Sun for solar facilities, NYSERDA funding for geothermal facilities) are not eligible to participate under this RFP.

Proposers whose Step One Applications are found to be complete and that demonstrate eligibility will receive a Notice of Qualification, which will provide Proposers with a description of and access to the process and forms to be used to submit a Step Two Bid Proposal.

2.2 Subsequent Tier 1 Eligibility Changes

Bid Facilities selected for an award under this RFP will not be subject to subsequent changes in RES eligibility rules; however, if the Bid Facility fails to maintain eligibility consistent with the RES requirements as they existed at the time of an award,²⁷ such ineligibility will extend to the RECs associated with the Bid Facility's production throughout the entire period in which the Bid Facility fails to maintain eligibility.

Bid Facilities selected for an award under this RFP will be subject to any ongoing PSC proceedings related to Tier 1 eligibility, and awards may be made to Bid Facilities conditional upon confirmation from the PSC that the resource is Tier 1 eligible.

2.3 Conformance with NYGATS Operating Rules

If awarded under RESRFP22-1, Proposers must maintain a valid NYGATS ID, obtain a Statement of Qualification, achieve Operational Certification, and operate in conformance with the [NYGATS Operating Rules](#).²⁸ Proposers must implement a Forward Certificate Transfer of Tier 1 RECs in NYGATS, up to the Annual REC Cap, into NYSERDA's NYGATS Account. NYSERDA will make payment for Tier 1 RECs from the Bid Facility delivered to NYSERDA's NYGATS account.

For Bid Facilities located in adjacent control areas, Proposers must ensure that if awarded under a Tier 1 solicitation that the electricity associated with their RECs is (1) scheduled, transmitted, delivered, and settled in the NYISO energy market on an hourly basis, and (2) accompanied by documentation of a unit-specific contract path between the injection point in the control area of origin to the delivery point in New York.

Documentation of a unit-specific contract path must indicate the provision of transmission rights for delivering the generation via the NYISO using the North American Electric Reliability Corporation (NERC) tag fields "Sending and Receiving Control Areas," "Purchasing/Selling Entity Name," and "Number." For imported RECs to be flagged as eligible for Tier 1, projects located in an adjacent control area will need to continuously demonstrate the delivery of energy and RECs into New York State through the requirements laid out in the Final Phase 1 Implementation Plan. Tier 1 eligible energy scheduled and delivered from external control areas must be accompanied by the NERC tag information from an outside organization such as the Open Access Technology International (OATI) System identifying the importing project as the source for the scheduled and transmitted electricity into the NYISO, which NYSERDA uses to ensure that the requirements set forth in the Final Phase 1 Implementation Plan have been satisfied.

²⁷ Refer to Section 1.3.

²⁸ [New York Generation Attribute Tracking System \(NYGATS\)](#)

All Import projects must apply for Provisional Eligibility and provide a sample tag. Once approved as Operational, NERC tag information must be emailed to res@nyserda.ny.gov directly from OATI or similar system.

2.4 Alternate Bids

Proposers may submit Alternate Applications and Bid Proposals for a Bid Facility that include a different configuration, energy storage, or inflation adjustment. Step Two Bid Proposals may contain one or more of the components that comprise an Alternate Application/Bid Proposal.

2.4.1 Bid Facility Configurations

Bid Facility configurations representing different Nameplate Capacities may be submitted as Alternate Bids. A separate PSoQ is not required, but all Bid Facility Nameplate Capacities must be smaller than the Nameplate Capacity associated with the PSoQ.

2.4.2 Energy Storage Bid Proposals

Energy Storage facilities do not need to be registered in NYGATS, regardless of whether the facility is co-located or separately located from the Bid Facility. All Energy Storage facilities must be located within the NYCA.

To be eligible, the Energy Storage must be constructed consistent with Section VI, “Quality Assurance” (including the [Battery Energy Storage System Guidebook](#) referenced therein), Section VII, “Measurement and Verification,” and Section IX, “Technical Requirements” of [NYSERDA’s Bulk Storage Incentive Program Manual](#), including any changes to the Technical Requirements, which are expected to evolve as the industry develops. Energy Storage may be either:

- 1) co-located with the generation behind a single wholesale or retail meter, or
- 2) co-located with the generation behind a separate wholesale or retail meter, or
- 3) located in a separate location from the generation.²⁹

In addition:

- The Energy Storage equipment must consist of commercial products carrying a manufacturer’s warranty. The warranty must cover the entire energy storage system including ancillary equipment and power electronics. Experimental, beta, or prototype equipment is not eligible.
- The Energy Storage system must be certified to meet minimum safety requirements by a Nationally Recognized Testing Laboratory as evidenced by specific UL listings defined in the Program Manual. These will evolve to meet current best practices in the storage industry. These UL listings must be received by the time that the system enters commercial operation.
- Energy Storage systems and components must comply with all manufacturers’ installation requirements, applicable laws, regulations, codes, licensing, and permit requirements. This includes, but is not limited to, SEQRA; Article 10; the Accelerated Renewables Act, the International Building Code Series as amended by the New York State Uniform Code Supplement; the National Electric Code 10; New York State’s Standard Interconnection

²⁹ Separately located energy storage facilities do not require a separate Tier 1 eligibility request.

Requirements; and all applicable State, city, town, or local ordinances or permit requirements, and any additional requirements of the local authority having jurisdiction (AHJ), and demonstrate compliance with the requirements in the [New York Battery Energy Storage System Guidebook](#).

- Energy Storage systems must be installed as proposed and remain in place for the life of the Contract Tenor.

Successful Proposers awarded a Contract Tenor in excess of 10 years must, prior to the commencement of construction, provide an executed Energy Storage operations and maintenance agreement for a term which is greater than or equal to the proposed Contract Tenor.

Note that, under the Agreement, NYSERDA will make payment only for Tier 1 RECs delivered to NYSERDA's NYGATS Account. If the Energy Storage is charged from the co-located renewable generation, the energy discharged from the storage will generate Tier 1 RECs that will be eligible for payment. Should the Bid Facility/Energy Storage facility receive an award, the Proposer will be required, at the time of contracting, to demonstrate to NYSERDA's satisfaction that the project will be configured and metered in a way that will ensure that Tier 1 RECs are created only based on energy generated by the Tier 1 Bid Facility.³⁰ Energy Storage facilities that are located separate from the Bid Facility may store energy from the grid but will not create Tier 1 RECs and therefore the associated stored energy will not be eligible for payment under the Agreement.

Awarded Proposers not including Energy Storage may add an Energy Storage facility in the future, subject to fulfilling all existing terms of the Agreement, provided that such Energy Storage component will not be used to re-price a Bid Facility that initially lacks Energy Storage. Energy Storage advanced after the time of an award may participate in the NYSERDA Bulk Storage Incentive program or New York State Investor-Owned Utility competitive procurements for bulk-sited energy storage.

The following Energy Storage projects are not eligible for an award under this solicitation:

- An Energy Storage project for which either the Energy Storage or associated Bid Facility is owned by a regulated utility, the New York Power Authority, or the Long Island Power Authority;
- An Energy Storage project that has been awarded a utility Bulk Dispatch Rights Contract;
- An Energy Storage project that receives a NYSERDA Retail Storage Incentive, a NYSERDA Bulk Storage Incentive;
- An Energy Storage project with a point of interconnection outside of the NYCA;
- An Energy Storage project subject to a previous NYSERDA award or contract;
- Pumped hydroelectric storage.

Energy Storage projects that are awarded under RESRFP22-1 may not be eligible for future NYSERDA funding opportunities, when and if they become available.

Energy storage projects participating in a utility Bulk Dispatch Rights solicitation or other NYPA/LIPA/utility-managed competitive offer are eligible to participate in RESRFP22-1, however no facility is eligible for award under RESRFP22-1 if it is selected by a utility-managed solicitation or other competitive offer. NYSERDA will coordinate with the manager of any other active solicitation prior to

³⁰ See [Intermittent Power Resources: Frequently Asked Questions](#) and the [FERC Order Accepting Co-located Storage Resources \(CSR\) Revisions](#) for additional resources.

issuing final awards under RESRFP22-1 to ensure that projects participating in multiple offers are not prematurely deemed ineligible.

Alternative energy storage applications not covered in the Energy Storage definition of this RFP may be considered under Incremental Economic Benefits to New York as decarbonization, clean energy industry or energy transition investments as further described in Section 4.2. New storage technologies, such as electrolytic hydrogen, which do not directly inject to the electrical grid will not be subject to Energy Storage eligibility and viability criteria as described in this section.

For more on how the Index REC Strike Price will be adjusted in relation to Energy Storage, please see Section 5.02 (e) of the Agreement.

2.4.3 Inflation Risked Adjusted Bid Proposal

Proposers may submit an Alternate Bid Proposal with a price structure where the Index REC Strike Price or Fixed REC Price would be subject to a one-time adjustment to reflect changes in a pre-determined price index subsequent to the Step Two Deadline for Submission of Proposals. Additional details on this adjustment mechanism are provided in Section 5.2.1 of this RFP and in Section 5.03 of the Agreement. Proposals that include this adjustment will be evaluated using a price adder reflecting NYSEDA's inflation expectation as further described in Section 5.4 of this RFP.

2.5 Contractual Commitments

2.5.1 Prevailing Wage Requirement

In accordance with Labor Law § 224-d (2), and NYSEDA's requirements as contained in the Agreement, and unless otherwise provided in a Project Labor Agreement (PLA) covering the construction of the Bid Facility that complies with the requirements of Labor Law § 222, all laborers, workmen and mechanics (within the meaning of those terms under New York State Labor Law Article 8) performing Construction Activities with respect to the Bid Facility, including, but not limited to, the assembly, staging, installation, erection, and placement of the Bid Facility as well as those construction activities related to start-up and commissioning of the Bid Facility, whether through long-term or short-term employment, must be paid wages and benefits in an amount not less than the Prevailing Rates (as determined under New York State Labor Law § 220). No less than six months prior to the commencement of Construction Activities, Seller must notify NYSEDA of its intent to commence construction activities, and in cooperation with the New York State Department of Labor, generate a prevailing wage determination for the Bid Facility, as will be updated from time to time. Unless relieved of such requirements by entering into a duly executed PLA in accordance with New York State Labor Law § 222 & 224-d(2), Seller will be responsible for complying with all prevailing wage requirements (including but not limited to reporting requirements) under New York State Labor Law §§ 220, 220-b, and 224-d. For more, see Section 18.10 of the Agreement and New York State Labor Law § 224-d.

2.5.2 Project Labor Agreement

As referenced herein, a Project Labor Agreement (PLA) refers generally to a single collective bargaining agreement (including a pre-hire agreement) covering both contractors in the construction industry working on a Bid Facility and a bona fide building and construction trade labor organization representing the craft workers on that Bid Facility. Bid Facilities constructed under a PLA that meets the requirements of Labor Law §222 and the Agreement, specifically, Exhibit J to the Agreement, are not subject to the

aforementioned prevailing wage requirements. For more, please see Sections 18.10 and 18.11 of the Agreement, Exhibit J to the Agreement, and Labor Law §§ 220, 220-b, 222 and 224-d.

2.5.3 Labor Peace Agreement

New York State Public Service Law § 66-r (3) requires that the Agreement include a stipulation that the Seller, as owner of the Bid Facility, or a third party acting on the Seller's behalf, stipulate that it will enter into a Labor Peace Agreement (LPA) where a bona fide labor organization is actively representing, or attempting to represent, employees providing operations and maintenance services for the Bid Facility. As described more fully in Section 18.13 of the Agreement, pursuant to and to the extent legally required by New York State Public Service Law § 66-r (3), the maintenance of such an LPA shall be an ongoing material condition of any continuation of payments under the Agreement.

2.5.4 U. S. Iron and Steel (Buy-American)

New York State Public Service Law (PSL) § 66-r (4) (a) (the Buy-American Act) requires public entities to include within the terms and conditions of any covered contracts a contractual requirement that "iron and structural steel used or supplied in the performance of the Contract or any subcontract thereto[,] and that is permanently incorporated into the public work, [be] produced or made in whole or substantial part in the United States, its territories or possessions." However, PSL § 66-r (4) (b) provides that the Buy-American requirement "shall not apply if the head of the department or agency constructing the public works, in his or her sole discretion, determines that the provisions would not be in the public interest, would result in unreasonable costs, or that obtaining such steel or iron in the United States would increase the cost of the contract by an unreasonable amount, or such iron or steel, including without limitation structural iron and structural steel cannot be produced or made in the United States in sufficient and reasonably available quantities and of satisfactory quality." The Buy-American Act requires the soliciting agency to make such determination in each RFP.

In the context of RESRFP22-1, NYSEDA finds that "structural" iron and steel subject to PSL §66-r includes the following components. For onshore wind, NYSEDA determined that the following were "structural" iron and steel components: (1) the tower supporting the turbine, inclusive of any platforms, transition pieces, or other similar structural elements permanently affixed to the tower ("tower"); and (2) elements incorporated into or comprising the foundation supporting the tower, including reinforcing iron or steel ("rebar"). Similarly, NYSEDA determined that the following components are operational by nature and are therefore not "structural" iron or steel components that are "permanently incorporated" into an onshore/land-based wind project, and therefore are not subject to the PSL §66-r: (1) rotor hub; (2) main shaft; (3) main frame (transition from nacelle to tower); (4) yaw system; (5) rotor blades; (6) rotor bearings; (7) gearbox; (8) generator; (9) pitch system; (10) power converter (11) transformer; (12) brake system; (13) nacelle housing; (14) electrical equipment; and (15) cables, screws, and other fasteners.

For utility-scale solar, NYSEDA determined that the following were "structural" iron and steel components: (1) the iron or steel piers, piles, or ground screws that are driven into the ground to provide support to the solar system racking; and (2) the solar system racking that is mounted to the system foundation and provides support to the solar photovoltaic modules and other electrical systems. Similarly, NYSEDA determined that the following components are operational by nature and are therefore not "structural" iron or steel components that are "permanently incorporated" into a utility-scale solar project, and therefore are not subject to the PSL §66-r: (1) solar modules; (2) wiring; (3)

trackers systems; (4) inverters; (5) transformers; (6) electrical equipment; and (7) cables, screws, nuts, bolts, clamps, and other fasteners.

In accordance with the objectives of the Buy-American Act, NYSEDA has undertaken a study to examine the implications of the Buy-American Act as applied to the Large-Scale Renewables Facilities and associated Bid Facility components anticipated to be the subject of Proposals submitted in response to this RFP (RESRFP22-1). On the basis of this study, NYSEDA has determined that that due to the potential for increased costs, schedule delay, current market dynamics, manufacturer availability, and steel availability, including the requirement in RESRFP22-1 would not be in the public interest.³¹ Requiring all structural iron or steel to be sourced domestically would not be in the public interest, as it may result in unreasonable increased costs and schedule delays. The study also examined the feasibility of contractual requirements to use domestic structural iron and steel. The study found that a contractual requirement for reasonable minimum amount of U.S. iron and steel to be used in each Bid Facility would align with New York State's policy goals to incentivize utilization and growth of the renewable energy supply chain, including the U.S. steel industry that supports it, and reduce embodied carbon.

The President and CEO of NYSEDA hereby determines to not require all structural iron or steel to be produced in the United States for utility-scale solar PV and onshore wind energy generation systems; however, use of iron and steel that is produced in New York, and in the United States, is valued by NYSEDA. Accordingly, as a matter of procurement policy in promoting the intent of the New York Buy American Act, any onshore wind Bid Facility awarded a contract in RESRFP22-1 is required to establish that it expends a minimum of \$54,000 per MWac on iron and/or steel components that are manufactured in the U.S. with iron and steel produced by U.S. steel mills for use in the Bid Facility. Any solar Bid Facility awarded a contract in RESRFP22-1 is required to establish that it expends a minimum of \$30,000 per MWdc on iron and/or steel components that are manufactured in the U.S. with iron and steel produced by U.S. steel mills for use in the Bid Facility. Claimed expenditures associated with purchasing commitments for U.S. iron and Steel per MW of Bid Capacity will be entered in the Agreement as Expected U.S. Iron and Steel Dollars/MW. For Upgrades and Repowering Bid Facilities of utility-scale solar PV and onshore wind, the Expected U.S. Iron and Steel Dollars/MW will be determined by NYSEDA in cooperation with Proposers prior to the Step Two Bid Proposal deadline.

To the extent a Bid Facility falls short of the minimum dollar requirement determined for the project, any shortfall will be addressed through the remedy provided in Section 5.02 (f) of the Agreement.

For Bid Facilities that utilize technology other than utility-scale solar PV or onshore wind, and have yet to be constructed, NYSEDA will determine the compliance obligation in advance of the Step Two Bid Proposal deadline.

2.5.5 Disadvantaged Communities Economic Benefit Commitments

Proposers are encouraged to make elective commitments in their Step Two Bid Proposals that will commit the Proposer to a certain dollar amount of expenditures per MW of nameplate capacity that will

³¹ For more, see Appendix 3. RESRFP22-1 Preliminary Determination Memorandum, Public Service Law (PSL) § 66-r (the New York "Buy-American" law), revised September 2022, available at <https://prod-cm.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/Clean-Energy-Standard/NYSEDA-Buy-American-Supplemental-Study-Onshore-Wind-UtilityScale-Solar.pdf>

accrue to Disadvantaged Communities. Such commitments will be evaluated favorably and be incorporated into the Agreement as Disadvantaged Community Commitments. To the extent a Bid Facility falls short of the minimum dollar requirement set forth in the Agreement, any shortfall will be addressed through the remedy provided in Section 5.02 (f) of the Agreement.

2.5.6 MWBE and SDVOB Economic Benefit Commitments

Proposers are also encouraged to make elective commitments in their Step Two Bid Proposals that will commit the Proposer to a certain dollar amount of expenditures per MW of nameplate capacity that will accrue to MWBE and SDVOB. Such commitments will be evaluated favorably and be incorporated into the Agreement as Expected MWBE and SDVOB Dollars/MW. To the extent a Bid Facility falls short of the minimum dollar requirement set forth in the Agreement, any shortfall will be addressed through the remedy provided in Section 5.02 (f) of the Agreement.

3 STEP ONE: ELIGIBILITY DETERMINATION

Step One Eligibility Applications must be submitted via the [solicitation website](#) and will be examined for completeness and to determine whether the Proposer and Bid Facility meet the eligibility requirements outlined in Sections 1.4 and 2. In order to meet the eligibility criteria, the Proposer must:

- Be located within NYCA or in an adjacent control area and deliver energy into New York State in accordance with the RES Delivery Requirements in the Agreement and NYGATS Operating Rules, and have first commenced Commercial Operation on or after January 1, 2015, or must produce new, incremental energy and Tier 1 RECs from new Bid Capacity above a historical baseline;
- Provide the letter received in the Proposer's NYGATS account from NYSERDA confirming that the application for Tier 1 eligibility (SoQ or PSoQ) has been approved;
- Complete the Step One Eligibility Application electronic form on the solicitation website providing required information about the Bid Facility and an outline of how the Proposer will substantiate that all Minimum Threshold Requirements have been achieved as part of the Step Two Bid Proposal.

Proposers are advised that the Tier 1-eligible technology types have been amended per the CES Modification Order, and include the following technologies:

Table 5. Eligible Tier 1 Technology Types

Technology	Source	Other Requirements
Solar Photovoltaics and Thermal		
On-land and offshore wind	Wind turbines	
Hydroelectric	Low-Impact Run-of-River Hydroelectric; Upgrades	No new storage impoundments; eligibility for Upgrades limited to the incremental production associated with the upgrade.
Fuel Cells	Solid Oxide Fuel Cells (SOFC) Molten Carbonate Fuel Cells (MCFC) Proton Exchange Membrane Cells (PEM) Phosphoric Acid Fuel Cells (PAFC)	Must utilize a non-fossil fuel resource, such as hydrogen (or other fuel), that has been produced using a "renewable energy system" ³² as a primary source.
Tidal/Wave/Ocean	Tidal and Ocean Wave or Current (turbines and other rotary motion devices); Ocean Thermal Pumped Storage Hydro Powered by Tidal	
Geothermal Electric		
Geothermal Ground Source Heat		

³² A system that generates electricity through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

Proposers are advised that the Tier 1 eligibility requirements regarding Repowering have also been updated pursuant to the CES Modification Order.

Prior to the end of an existing Bid Facility's useful life (20 years for wind and solar Bid Facilities, 50 years for hydroelectric Bid Facilities), only incremental generation can qualify for Tier 1 as an Upgrade Bid Facility, to the extent it exceeds the Bid Facility's historical generation levels as verified by a third-party engineering report.

After the existing Bid Facility has reached the end of its useful life, the entire capacity can be eligible as a Repowering Bid Facility if the following requirements are met:

- The Repowering must include replacement of each prime mover, and result in an overall increase of 15% or more in the production of the generation unit compared to its projected future output. For purposes of this requirement, "prime mover" is defined as follows: for wind Bid Facilities, the wind turbine, including the generator, gearbox (if any), rotor and blades; and for solar PV Bid Facilities, the modules and inverters. Hydroelectric Bid Facilities are not subject to the prime mover replacement requirement but are subject to the 15% production increase requirement.
- The Repowering must have the result that 80% of the tax basis per Generally Accepted Accounting Principles (GAAP) from the completed Repowering Bid Facility (not including its property and tangible assets) is derived from capital expenditures made on or after October 15, 2020. An independent audit and verification will be required. Certification will be required and submitted at the time of the resource eligibility determination under Tier 1 of the RES.

Additionally, Bid Facilities that have not reached the end of their useful life may be eligible for a portion of their generation to be Tier 1 eligible prior to the end of their useful life based on the results of the required third-party engineering report. Prior to the end of the Bid Facility's useful life, the percentage increase in generation attributable to the Repowering will be Tier 1 eligible. Once the useful life of the original project is met, all generation (100%) from the Repowering Bid Facility will be Tier 1 eligible.

Proposers seeking to participate in RESRFP22-1 with an Upgrade or Repowering Bid Facility are strongly encouraged to contact the Large-Scale Renewables team at res@nyserda.ny.gov prior to starting a Tier 1 request in NYGATS. NYSERDA also strongly encourages submitting a Tier 1 request as soon as possible if seeking to participate in RESRFP22-1. Proposers must submit a Tier 1 request for a Provisional Statement of Qualification (PSoQ), if under development, or Statement of Qualification (SoQ), if operational. Proposers seeking to submit a Step Two Bid Proposal for an Upgrade or Repowering Bid Facility must submit a Tier 1 request for Provisional Statement of Qualification (PSoQ) if the upgraded or repowered actions have not yet been constructed for the Bid Facility. See Section 7 for additional details on completing a Step One Eligibility Application. In Attachment E. P(50) 8760 Template, Proposers will enter the Bid Facility's full generation profile and annual Tier 1 Upgrade Percentage to calculate estimated Tier 1 RECs. Proposers should also re-submit the historical generation data submitted with the request for PSoQ with the Step Two Bid Proposal to verify the application of the Tier 1 eligibility percentage in Attachment E.

Proposers should ensure that their proposed Bid Facility(ies) meets the Tier 1 eligibility requirements to participate in RESRFP22-1, and their Bid Facility(ies) is registered in the New York Generation Attribute

Tracking System (NYGATS) as early as possible to ensure that the facility is eligible to submit a Step One Eligibility Application.

Interested Proposers may access [the Tier 1 Certification Submission Instructions and Eligibility Guidelines here](#), and are strongly encouraged to register their Bid Facility(ies) in NYGATS by following the instructions posted on the Clean Energy Standard website: [RES Tier 1 Certification](#). Interested Proposers may register their facilities in NYGATS at any time (open, rolling enrollment), including prior to the issuance of RESRFP22-1.

Incomplete Step One Eligibility Applications will be subject to disqualification. It is the Proposer's responsibility to ensure that all required forms and attachments have been completed and submitted. Late submissions will not be accepted. Proposers deemed qualified to submit a Step Two Bid Proposal will be emailed a Notice of Qualification and notified via the solicitation website.

Proposers whose Step One Eligibility Applications are found not to satisfy the eligibility requirements or to be deficient in some other respect will receive notification that they are not eligible to submit a Step Two Bid Proposal. It is incumbent upon Proposers to make their Step One Eligibility Applications as comprehensive as possible in substantiating how the Minimum Threshold Requirements will be demonstrated such that the Bid Facility will be eligible for evaluation upon submission of the Step Two Bid Proposal. NYSERDA will attempt to contact any Proposers with deficient Step One Applications prior to issuing a notice that the Bid Facility is not eligible to submit Step Two Bid Proposal.

4 STEP TWO: NON-PRICE EVALUATION & MINIMUM THRESHOLD REQUIREMENTS

Step Two Bid Proposals must be submitted via the [solicitation website](#) and will first be examined to determine whether they demonstrate that the Proposer and Bid Facility meet the Minimum Threshold Requirements.

In order to be eligible for evaluation under Step Two, the Bid Proposal must demonstrate that the Proposer and the proposed Bid Facility meet all the Minimum Threshold Requirements detailed in this section. Proposers that submit a Step Two Bid Proposal that does not meet all the Minimum Threshold Requirements will be removed from consideration and will not be eligible for an award. Proposers will also be required to provide a Bid Fee payment for each Bid Facility. See Section 8.4 for additional details and instructions for submitting the Bid Fee.

NYSDERDA will contact Proposers regarding any instances where it is unclear if a Minimum Threshold Requirement has been achieved and may provide the Proposer with a one-time opportunity to cure the deficiency prior to removing the Bid Facility from consideration following the submission of the Step Two Bid Proposal(s).

4.1 Project Viability, Operational Flexibility and Peak Coincidence

Bid Proposals that demonstrate progress exceeding the Minimum Threshold Requirements will be eligible to receive points under the 20% Project Viability, Operational Flexibility and Peak Coincidence category (Viability & OpFlex) as well as for the other non-price component of the Bid Proposal (Incremental Economic Benefits to New York State). This category is intended to reward renewable resources that are more advanced through project development, demonstrate project feasibility/a high likelihood of bringing the project to commercial operation, provide grid services that contribute to cost minimization and/or grid reliability by addressing integration issues resulting from increased penetration of intermittent renewables, better match generation to load, and dispatchable resources to balance the electric system, optimize generation dispatch, minimize operating reserve requirements, and address grid congestion and constraints.³³

Points will be awarded to Bid Proposals to the extent that they demonstrate progress exceeding the Minimum Threshold Requirements in selected subcategories, as shown in Table 6. As an example, for Interconnection, the Minimum Threshold Requirement is completion of the draft System Reliability Impact Study (SRIS) or System Impact Study (SIS). Evaluation points are available to the extent that the Bid Proposal is at a more advanced step of the interconnection process such as the Facilities Study (or equivalent) being in progress.

³³ See the CES Final Phase 1 Implementation Plan: <https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/Clean-Energy-Standard/2017-03-24-Phase-1-Implementation-Plan.pdf>.

Table 6. Project Viability, Peak Coincidence and Operational Flexibility Subcategories

Subcategory	Use in Evaluation
Energy Deliverability	Minimum Threshold and Evaluation
Peak Coincidence	Minimum Threshold and Evaluation
Interconnection	Minimum Threshold and Evaluation
Energy Storage	Minimum Threshold and Evaluation
Permitting	Minimum Threshold and Evaluation
Agricultural Land	Minimum Threshold and Evaluation
Project Development, Financing and Creditworthiness	Minimum Threshold and Evaluation
Site Control	Minimum Threshold Only
Community Engagement	Minimum Threshold Only
Resource Assessment and Energy Production Estimate	Minimum Threshold Only
Emissions and Embodied Carbon	Minimum Threshold Only

Operating Facilities will only need to demonstrate that the Minimum Threshold Requirement for the Energy Deliverability, Peak Coincidence, Resource Assessment and Energy Production Estimate and Energy Storage (if applicable) sub-categories have been met and will otherwise receive full non-price evaluation points for the remaining scored sub-categories.

A full description of the Minimum Threshold Requirements and the considerations upon which the TEP may award evaluation points are detailed below by subcategory.

4.1.1 Energy Deliverability

Minimum Threshold: The Proposer must provide all required interconnection data as part of the Step Two Bid Proposal to enable NYSERDA to coordinate with the NYISO, Distribution Utilities, and other subject matter experts to assess each Bid Facility's estimated energy deliverability potential for the current grid and future states of the grid based on reasonable assumptions of a 70x30 electric grid. Required interconnection data to be provided via the electronic Step Two Bid Proposal form will include the Bid Facility's:

- Point of Interconnection (POI) name and voltage
- POI location, physical address (if available) and latitude/longitude
- Nameplate Capacity (MWac and MWdc)
- Expected Annual Generation (MWh) and Bid Quantity (MWh)
- Net Capacity Factor
- Maximum Net Export Capability at POI (MW)
- Assumed Operating Power Factor
- 20-year 8,760 hourly generation profile, provided via Attachment E. P(50) 8760 Template

As part of the Resource Assessment and Energy Production Estimate submitted with the Step Two Bid Proposal, any generation bid to NYSERDA under Step Two of RESRFP22-1 must be substantiated by the Proposer as deliverable by submitting an Energy Deliverability Study aligned with Appendix 5 to RESRFP22-1. Proposers are encouraged to review the Utilities' Revised Headroom Calculations, filed in NYPSC Case No. 20-E-0197 on August 1, 2022, and Appendix 5 to this RFP, which additionally reflects the headroom impacts of renewable generators that are contracted by NYSERDA but not included in the utilities' calculations.

To substantiate deliverability, all Proposers will be required to provide an Energy Deliverability Study with respect to their proposed Bid Facility as part of the Step Two Bid Proposal unless the Proposer can demonstrate to NYSERDA's satisfaction that the Bid Facility is interconnecting at point of interconnection with sufficient capability to deliver the project's Bid Quantity without adverse impacts to deliverability and the rate and/or quantity of significant incremental curtailment to other large-scale renewable projects operating or under development and under contract with NYSERDA. In general, if a Bid Facility intends to interconnect in an area that has either zero or negative headroom, or less headroom than the Nameplate Capacity of the proposed Bid Facility, the Proposer will likely not be relieved of the requirement to provide an Energy Deliverability Study evidencing that the Bid Facility is fully deliverable at the proposed Bid Quantity without causing adverse incremental curtailment to currently operating large-scale renewable projects or large-scale renewable projects under development and awarded by NYSERDA.

The Energy Deliverability Study must model all electrically local (i.e., within the same Utility District and all bordering Utility Districts of the Bid Facility's point of interconnection, as further described in Appendix 5 to RESRFP22-1), under-development projects with active NYSERDA contacts as part of the base case development, regardless of interconnection or NYISO Class Year status. NYSERDA will confirm the need for an Energy Deliverability Study as part of the Notice of Qualification sent to the Proposer if the Bid Facility is deemed eligible to submit a binding Step Two Bid Proposal. NYSERDA has made available to Proposers data associated with operating or under development large-scale renewable projects as part of Appendix 5 to RESRFP22-1.³⁴ NYSERDA will reserve the right to ask clarifying requests regarding the development and production of the Energy Deliverability Study.

Exceeding the Threshold: In this category, the TEP will evaluate and award points to Bid Proposals based on the benefits afforded to the electric grid in light of the CES goals to expand the share of renewable energy as a portion of total energy consumed in New York State to 70 percent by the year 2030 ("70x30"), including benefits to address grid congestion and delivery constraints, and the extent to which a Proposer can demonstrate that the Bid Facility can deliver firm power (e.g., Bid Quantity as proposed to NYSERDA) to the electrical system without adversely impacting the generation output profile of both existing and planned renewable generators.

Proposers should familiarize themselves with NYISO's proposed energy deliverability metric that was recently approved by FERC in tariff updates to enhance the Economic Planning Process. The energy deliverability metric "will provide information about the ability of each Resources, individually and taken collectively with other Resources, to be able to deliver its fully energy capability to the system and the degree of, and the conditions that are expected to lead to, any curtailment thereof."³⁵

In consultation with subject matter experts, NYSERDA and the TEP will proportionally allocate points based on the modeled benefits to the grid and future estimated energy deliverability potential based on reasonable assumptions of a 70x30 electric grid. Bid Facilities that plan to interconnect to the electric grid where congestion and curtailment of renewable generators is more likely to occur on a 70x30 electric grid will receive fewer evaluation points compared to Bid Facilities that will interconnect to the electric grid in areas where congestion and curtailment is less likely to occur. The TEP will also consider

³⁴ Large-Scale Renewable Projects Reported by NYSERDA: Beginning 2004 is available on [OPEN NY](#).

³⁵ See NYISO tariff section 31.3.1.3.5.7 as filed and approved in FERC Docket No. ER21-1074-000.

interconnection studies and/or an Energy Deliverability Study provided by Proposers as part of their Step Two Bid Proposals, if provided by the Proposer.

NYSERDA may employ analyses to identify potential impacts that proposed Bid Facilities may create on the energy deliverability of renewable energy projects that are operating, under development, and/or under contract to deliver energy for end use in New York State, including curtailments or direction from the NYISO or Scheduling Coordinator that forces a renewable generator to reduce output. These potential impacts will be assessed in part based on current conditions and in part based on the expected grid limitations that will present themselves on a 70x30 grid. NYSERDA will coordinate with NYISO and the distribution/transmission owners to employ relevant analyses to estimate potential congestion and curtailment impacts resultant from the portfolio of bids submitted to RESRFP22-1. These analyses will also inform the decision to employ Portfolio Risk Factors authorized under the CES Modification Order (See Section 6.2).

While required for certain Bid Facilities, all Proposers are strongly encouraged to demonstrate with currently available knowledge that their proposed point of delivery into the NYCA, along with their proposed interconnection and transmission and/or distribution upgrades, is sufficient to ensure full energy dispatch of the Bid Facility's expected generation output to provide the binding Bid Quantity (in Megawatt-hours) bid to NYSERDA. Please note that this includes energy and is not limited to capacity. Proposers are also strongly encouraged to submit a deliverability study or other third-party assessment of the Bid Facility's interconnection and deliverability potential as part of their Step Two Bid Proposal submission(s) to demonstrate the energy deliverability of a Bid Facility. Bid Facilities that can exhibit to NYSERDA that the project is energy-deliverable under clear and reasonable assumptions will be awarded more points by the TEP.

Proposers are strongly encouraged to familiarize themselves with all ongoing work to identify areas of current and future congestion on the electric grid, including the DPS and NYSERDA [New York Power Grid Study](#), inclusive of Distribution and Local Capital Plans and a Bulk Transmission Investment Plan, the [System & Resource Outlook study](#) and outputs,³⁶ and other similar studies conducted by the state, NYISO, and/or the transmission owners. NYSERDA and the TEP will use the most recent and pertinent modelling assumptions available for evaluation purposes to assess energy deliverability and allocate points. Updated assumptions and outputs published by DPS, NYSERDA, NYISO, and other parties may become available during the course of this solicitation, including outputs published under the Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act (AREGCBA).³⁷

The TEP may consider the quality of an energy deliverability study for firm power delivery and network upgrade costs, if provided by the Proposer, for evaluation. Full energy deliverability may be

³⁶ The System & Resource Outlook study is the new name for the CARIS Phase 1 study under the proposed changes to NYISO's Economic Planning Process.

³⁷ Matter 20-00905, Case Number 20-E-0197, Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act; <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=20-E-0197&submit=Search>

demonstrated by upgrade costs described and included in the Bid Facility's bid price and a deliverability assessment.

The TEP may also consider the potential benefits to deliverability that are afforded by repurposing existing or retired fossil fuel facilities. Proposers that can demonstrate material energy deliverability benefits as a result of interconnecting the Bid Facility at an existing or retired fossil fuel facility may be eligible for additional points in the evaluation of Energy Deliverability.

If applicable, Proposers may also include Committed Upgrades to the transmission system that may enhance the deliverability of the Bid Facility if such upgrades have been identified as part of a Facilities Study completed by the control area operator and interconnecting utility. Committed Upgrades should be clearly identified and detailed in the Energy Deliverability Study, and Proposers will be required to submit additional data in a form designated by NYSERDA as part of the Notice of Qualification to enable NYSERDA to adequately assess the impacts of the Committed Upgrades following the submission of Step Two Bid Proposals. Proposers will be required to substantiate the estimated costs of the Committed Upgrades as part of the Step Two Bid Proposal.

Bid Facilities located outside of the NYCA or NYISO Market Zone (External Facilities) are not eligible for evaluation points in this category.

4.1.2 Peak Coincidence

Minimum Threshold: The Proposer must provide all required interconnection data as part of the Step Two Bid Proposal as noted for the Energy Deliverability Minimum Threshold Requirements.

Exceeding the Threshold: The TEP will allocate points based on how closely the Bid Facility's expected generation profile matches future estimates of NYISO load net of the portfolio of already operating and contracted, under development renewable and zero-emissions generation in New York State. Future expected load shapes (e.g., 2030, 2040) for evaluation purposes will be based on the most recent available NYISO Resource & System Outlook Study. Bid Facilities that complement the existing portfolio of operating/under development projects more significantly will receive greater scoring compared to Bid Facilities that do not afford the same level of complementary generation compared to future load.

4.1.3 Interconnection

Minimum Threshold: The Proposer must have a valid, submitted Interconnection Request with NYISO or the Bid Facility's interconnecting control area or utility and (1) have received a draft SRIS or SIS from NYISO or a third-party, or the equivalent interconnection progress with the Bid Facility's interconnecting control area or utility, or (2) have conducted a third-party interconnection study performed in alignment with the SIS/SRIS study procedures outlined in Attachment X. Standard Large Facility Interconnection Procedures (LGIP) or Attachment Z. Small Generator Interconnection Procedures (SGIP) of the NYISO Open Access Transmission Tariff (OATT), as applicable based on the Nameplate Capacity of the Bid Facility, such that an independent, third-party cost estimate for the cost to interconnect the Bid Facility has been received.

Documentation provided to NYSERDA by the Proposer of the Bid Facility's interconnection status must be consistent with the Bid Facility as proposed. Documentation that does not reflect the Bid Facility as

proposed may be rejected.³⁸ For Bid Facilities interconnecting to NYISO, the NYISO Zone of the Bid Facility should align with the zone being studied by NYISO as a planned point of interconnection. If a draft SRIS or SIS from a third party is provided to meet the Minimum Threshold Requirement, the study must be consistent with the Bid Facility's planned point of interconnection as submitted to NYISO.

The specific Minimum Threshold Requirements vary by the size and location of the Bid Facility:

- All Bid Facilities under the jurisdiction of NYISO: A draft SRIS or SIS has been received by the Proposer.
- Bid Facilities utilizing a FERC-jurisdictional interconnection process in an adjacent U.S. control area:
 - PJM Generation Interconnection: Draft System Impact Study received by the Proposer.
 - ISO-New England: Draft System Impact Study received by the Proposer.
 - Hydro-Québec: Draft Interconnection Study received by the Proposer.
 - Ontario Independent Electricity System Operator: Draft System Impact Assessment (SIA) received by the Proposer.
- Small Bid Facilities (less than or equal to 20 MW) with a Non-Federal Energy Regulatory Commission (FERC) Interconnection:³⁹ Draft Interconnecting utility company Coordinated Electric System Interconnection Review (CESIR), or equivalent, has been received by the Proposer.
- Behind-the-Meter Bid Facilities: Draft of interconnecting utility company Coordinated Electric System Interconnection Review (CESIR), System Impact Study, System Reliability Impact Study or equivalent by interconnecting utility/ISO has been received by the Proposer.⁴⁰

Exceeding the Threshold: Evaluation will be based on the demonstration of progress in the relevant interconnection process beyond the Minimum Threshold Requirements, as evidenced through documentation from NYISO, Utility or other applicable interconnection authority, such as a completed final System Impact Study (or equivalent), or evidence that a Facilities Study (or equivalent) is in progress or completed.

Proposals that can describe all interconnection and transmission upgrade costs required to ensure full energy dispatch, including transmission upgrades that may need to occur beyond the point of interconnection, will be awarded more points by the TEP based on the reasonableness of the costs provided and modeled assumptions.

4.1.4 Energy Storage

Minimum Threshold (*Applicable only to Alternate Bid Proposals Including Energy Storage*): Whether co-located with the Tier 1 eligible generation or located in a separate location from the Tier 1 eligible generation, the Proposer must have at least an executed exclusivity agreement or letter of intent with

³⁸ The Bid Facility's Bid Capacity must be at minimum the capacity submitted with the Interconnection Request.

³⁹ Connecting Transmission Owner Interconnection under state jurisdiction (typically, utility distribution less than 5 MW).

⁴⁰ Not all Behind-The-Meter facilities are eligible to create Tier 1 RECs. Please see the [RES Tier 1 Eligibility and Certification Guidelines](#) for full eligibility requirements.

the Energy Storage site owner(s). The full site needed for the Energy Storage must be covered by the exclusivity agreement(s) and/or letter(s) of intent.

If submitting a Bid Proposal that includes a co-located and /or separately located energy storage facility, the Proposer must demonstrate that at least one team member or partner has experience in developing at least one Energy Storage system of similar or larger scale using the same technology as proposed. To qualify, the previously developed Energy Storage facility does not yet need to be in commercial operation to meet this Minimum Threshold Requirement.

The Proposer must have discussed Energy Storage with the relevant interconnecting utility company and have identified the applicable requirements. Proposer has either: (1) submitted a valid Interconnection Request for Energy Storage and demonstrates that all initial fees have been paid, or (2) prepared drafts of all initial Energy Storage interconnection application documents such that the Interconnection Request can be submitted within 3 months following an award from NYSERDA.

Exceeding the Threshold: In this category, the TEP will evaluate and award points to Bid Proposals based on the benefits afforded to the electric grid by the Bid Facility if proposing with Energy Storage, including the Energy Storage Capacity and relative level of Energy Storage Capacity to the Bid Facility Nameplate Capacity.

Evaluation will be based in part on the amount of Energy Storage included in the Bid Proposal, and in part on the cost and benefits associated with the addition of energy storage to the Bid Proposal. Bid Facilities paired with Energy Storage may be co-located with the renewable generator or separately located in the NYCA. NYSERDA and the TEP will award more points to Bid Facilities with larger Energy Storage Capacity (MWh), and with a larger relative Energy Storage Capacity (MWh) in relation to the renewable generator Nameplate Capacity (MW).

NYSERDA's evaluation will also attribute more points to Step Two Bid Proposal packages that include Energy Storage. The evaluation will reflect the current costs of energy storage facilities and will examine the benefits afforded by energy storage facilities to transmission-constrained areas of the state's electric grid. The TEP will preferentially evaluate Energy Storage Alternate Bid Proposals that are cost competitive and appropriately sized to the size of the paired generating Bid Facility. The TEP will review the price premiums associated with Alternate Bid Proposals including Energy Storage relative to the corresponding Base Bid Proposals in comparison with current energy storage capital expenditure expectations and with funding available through NYSERDA's Bulk Storage Incentives program. Bid Proposals with lower Energy Storage premiums in dollars per REC will be awarded more points by the TEP than Bid Proposals with higher Energy Storage premiums. Bid Proposals that can be demonstrated to serve acute congestion and/or deliverability needs will be awarded more points by the TEP than Bid Proposals that do not afford similar benefits to the electric grid.

All Proposers are encouraged to explore the feasibility of pairing their Tier 1 Bid Facility with a co-located and/or separately located energy storage facility. Energy storage facilities located in NYISO Zones J and K will be given the greatest weighting increase due to the disproportionate presence of existing generators in Disadvantaged Communities in these regions and in accord with the [PGS Order](#). Energy storage facilities that are strategically sited to alleviate congestion or transmission bottlenecks are preferred and will receive greater weighting. Proposers should also consider the potential grid reliability implications of the energy storage siting and avoid adverse reliability impacts.

Tier 1 Bid Facilities that are paired with co-located and/or separately located energy storage facilities or New Storage Technologies are now eligible to submit Incremental Economic Benefits associated with the awarded energy storage facility. See section 8.3.5 for more information. Proposers are advised that New Storage Technologies are not eligible for Project Viability evaluation, which only applies to electrical energy storage, and that New Storage Technologies will only be eligible for non-price points under the Incremental Economic Benefits to New York State category.

Any Energy Storage facility that has been awarded a utility Bulk Dispatch Rights Contract is not eligible to be paired with a Tier 1 generator, however facilities actively seeking such a contract remain eligible to receive Tier 1 REC Agreement funding. NYSDERDA will coordinate with any utility-led solicitations for energy storage to ensure that participating Proposers remain eligible in each solicitation prior to the final determination of awarded contracts.

Only energy storage facilities located in New York State are eligible for evaluation points in this category due to the associated Operational Flexibility benefits afforded to the electric grid.

The TEP may also consider the potential benefits to deliverability that are afforded by repurposing existing or retired fossil fuel facilities. Proposers that can demonstrate material energy deliverability benefits as a result of interconnecting the Energy Storage facility at an existing or retired fossil fuel facility may be eligible for additional points in the evaluation of Energy Deliverability.

4.1.5 Permitting Viability

Minimum Threshold: Proposers must (1) complete a minimum level of permitting studies based on the expected permitting process of the proposed Bid Facility, (2) submit a complete Permitting Plan that demonstrates awareness of all applicable permitting requirements, includes a reasonable timeline for obtaining permits and authorizations that is consistent with the development plan, and adequately addresses other expected permitting obstacles and/or input from the Bid Facility's host community, and (3) following NYSDERDA, TEP, and Specialist Reviewers' assessment of the permitting studies and Permitting Plan, have proposed a Bid Facility that does not have an unreasonably low probability of receiving required permits.

The minimum level of permitting due diligence needed to meet the Minimum Threshold Requirement, determined according to the Bid Facility's expected permitting process:

- Bid Facilities proceeding through the [Office of Renewable Energy Siting](#) (ORES) must substantiate as part of the Step Two Bid Proposal that the following studies have been completed for the Bid Facility site:
 - Wildlife Site Characterization Report⁴¹
 - Draft Field Screening for Wetlands and Water Resources Delineation⁴²

⁴¹ [Office of Renewable Energy Siting Regulations and Uniform Standards and Conditions](#) §900-1.3 Pre-application procedures (g) NYS threatened or endangered species.

⁴² Ibid, implemented through a field effort which would involve preliminary identification and a general description of wetland and water resources, spot checking of soils, shallow hydrography and vegetation at selected locations, apparent functional status, and ground-truthing of various color tones and corresponding ecotones on aerial photographs and maps.

- Phase IA Archeological Desktop Survey⁴³
- Bid Facilities proceeding through the [New York State Environmental Quality Review Act \(SEQR\)](#)⁴⁴ must substantiate as part of the Step Two Bid Proposal that a 1) Full Environmental Assessment Form (FEAF)⁴⁵ has been completed and is prepared to be or has been submitted to the applicable lead agency and applicable New York State Department of Environmental Conservation (NYS DEC) Division of Environmental Permits office, or that 2) a finding of no jurisdiction has been provided by NYS DEC following the submission and review of the FEAF for the Bid Facility.
- For Bid Facilities in external control areas, the Proposer will be required to substantiate that an equivalent level of pre-development due diligence has been conducted for the Bid Facility site prior to the submission of a Step Two Bid Proposal. The documentation to be provided to substantiate the Permitting Minimum Threshold Requirements must be outlined by the Proposer in the Step One Eligibility Application such that NYSERDA can confirm or modify any proposed equivalent documentation prior to or as part of the Notice of Qualification.

A detailed description of permitting plan contents and other required narratives is included in Section 8.3.4 and [Appendix 2 – Permitting Plan Requirements and Guidelines](#).

Exceeding the Threshold: Evaluation will be based on the Bid Facility’s demonstrable progress through its applicable permitting process and the completeness and credibility of the Proposer’s plan for successfully obtaining necessary permits within the proposed development schedule. Bid Facilities that have secured relatively more permits needed to construct and operate, have performed more exhaustive permitting activities, and/or have greater knowledge of the Bid Facility site, its permitting requirements, and any planned and/or required mitigation activities will be awarded more points by the TEP.

Permitting Plans that respond more comprehensively to the considerations identified in Appendix 2 – Permitting Plan Impacts and Guidelines, and that provide greater detail into how these impacts will be avoided or mitigated, will be awarded more points by the TEP.

NYSERDA will coordinate with the NYS DEC, acting as a specialist reviewer to inform the evaluation, under which proposals with a more feasible pathway to securing all necessary permits to construct the Bid Facility will be favorably scored compared to proposals that have more material challenges that have not yet been addressed with planned mitigation measures.

4.1.6 Agricultural Land

Minimum Threshold: Proposers must include in their Bid Proposal a description of any agricultural land that the planned project footprint of their Bid Facility is sited on. This description should include owned, rented, or leased farmland. Proposers will also include a description of any recent agricultural activity occurring on the planned project footprint in the five years prior to the release of RESRFP22-1.

⁴³ [New York State Historic Preservation Office, Environmental Review Archeological Surveys](#)

⁴⁴ [New York State Environmental Quality Review Act \(SEQR\)](#) and [SEQR Handbook](#), Fourth Edition, 2020.

⁴⁵ [State Environmental Quality Review Act \(SEQR\) Forms](#), Full Environmental Assessment Form (FEAF) (Appendix A to 6 NYCRR 617.20 - revised January 1, 2019).

Proposers of Solar facilities will be required to complete and submit the NYSERDA Smart Solar Siting Scorecard (Scorecard), which will allow NYSERDA to score Bid Proposals based on the Bid Facilities expected impacts to active agricultural land and Mineral Soil Groups 1 through 4 (MSG 1-4) and additional measures. NYSERDA is not intending to use the Scorecard as a screening tool to preclude Proposers from receiving a NYSERDA award based on agricultural impacts, nor contractually require avoidance and/or mitigation measures submitted via the Scorecard, however NYSERDA may make the Scorecards for awarded projects publicly available such that the applicable permitting body may reference the Scorecard as part of the permitting process for the Bid Facility.

For large-scale solar Bid Facilities located in a New York State Agricultural District, Proposers are also required to provide preliminary information to estimate an Agricultural Mitigation Payment based on the Bid Facility impacts described in Appendix 2.

NYSERDA will allow Proposers to request deferral and reduction or elimination of an otherwise applicable Agricultural Mitigation Payment requirement if the Proposer is awarded under this RESRFP22-1 and elects to incorporate active agricultural uses into the operation of the Bid Facility in accordance with Section 6.11 of the Agreement and this RESRFP22-1. Proposers that intend to pursue such agricultural co-utilization will be required to (1) describe such agricultural co-utilization in their Permitting Plan and their NYSERDA Smart Solar Siting Scorecard, and (2) submit a completed Agricultural Mitigation Payment Deferral Request Form (which will be made available to eligible Step Two Proposers) with their Step Two Bid Proposal. For more details on agricultural co-utilization practices, deferred Agricultural Mitigation Payment requirements, and agricultural co-utilization plans, please see Appendix 2 to RESRFP22-1 and Section 6.11 of the Agreement.

Exceeding the Threshold: Proposed Bid Facilities will be evaluated based on their expected impacts to active agricultural land, Mineral Soil Groups 1 through 4 (MSG 1-4), and forested lands, as well as any avoidance, mitigation, and/or co-utilization measures that the Proposer is willing to commit to in their Step Two Bid Proposal. Projects that commit to co-utilization measures in their Smart Solar Siting Scorecard, Permitting Plan, and Agricultural Mitigation Payment Deferral Request Form will be viewed favorably in evaluation.

4.1.7 Project Development, Financing and Creditworthiness

Minimum Threshold: Proposers must demonstrate that they have experience in developing renewable generation facilities. Specifically, the Proposer or the principals in its development team must have developed at least one renewable generation facility of similar or larger scale to commercial operation. NYSERDA will not consider aggregated portfolios of generation facilities as a project under this criterion. For the purposes of this criterion, similar scale is defined as follows:

- A project of at least 33% of the proposed Bid Facility capacity, in MWac; or
- A project of at least 10% of the proposed Bid Facility capacity, in MWac, if the Proposer has also successfully completed the same interconnection process in the same State or Jurisdiction as the proposed Bid Facility.

The Proposer or the principals in its development team must have the required experience successfully developing at least one renewable generation project. Experience of vendors or contractors to the Proposer or the principals in its development team do not count towards this experience requirement.

Proposers must submit a detailed Financing Plan demonstrating a sufficient degree of planning and due diligence on how the Bid Facility is to be financed. Proposers must describe a plan to finance the proposed Bid Facility and if applicable, Energy Storage, including construction and term financing. A description of Financing Plan contents is included in Section 8.3.4. Proposers should include a description of their intention to own and operate the Bid Facility, or if the Proposers intends to sell the Bid Facility to another party.

Proposers must declare whether and to what extent they intend to utilize Production Tax Credit (PTC) or Investment Tax Credit (ITC) as part of their project financing. Proposer's submitting Bid Facilities with an energy storage component must separately declare whether and to what extent they intend to utilize the ITC for the energy storage facility. Proposers should include their assumption of the percentage of their energy production or project costs that will be compensated under the PTC or ITC, including any expanded tax credit eligibility afforded under the Inflation Reduction Act of 2022.

Exceeding the Threshold: Evaluation will be based on the relative level of project development and financing experience demonstrated, particularly with respect to facilities of comparable scale⁴⁶ and similar technology⁴⁷ and location.⁴⁸ Proposals for Bid Facilities that are similar to those projects provided and successfully brought to commercial operation by the Proposer will be awarded more points by the TEP. Aggregated portfolios of generation facilities will not be considered as a "project" under this category. Proposers with relatively higher credit ratings or with relatively more assets (or higher asset/debt ratio) will be awarded more points by the TEP.

4.1.8 Generation Facility Site Control

Minimum Threshold: The Proposer must demonstrate an executed exclusivity agreement, letter of intent, executed binding option, executed lease, and/or easement with the site owner(s) for the Bid Facility site. The exclusivity agreement(s), letter(s) of intent, or other method(s) of site control must comprise at least 50% of the site's acreage.

For all solar Bid Facilities, the Proposer must also provide a GIS Data Mapping File. Applications that do not provide complete GIS files for the Bid Facility will be deemed incomplete. The GIS data file must be in .shp or .kmz format, and .shp files are preferred. Please provide a separate and distinct file for each of the following:

- 1) The parcel boundaries that the Bid Facility will occupy;
- 2) the Bid Facility Area boundary/impact area; and
- 3) the Bid Facility array footprint (solar), Bid Facility site plan (other technologies).

⁴⁶ Comparable scale is 50% or more of the proposed capacity.

⁴⁷ Similar technology is the same resource and prime mover, *e.g.*, solar, wind. It is not meant to distinguish between different solar technologies, for example.

⁴⁸ Similar location is the same interconnecting entity.

4.1.9 Interconnection Right of Way Control

Minimum Threshold: The Proposer must demonstrate full site control of the point of interconnection for the Bid Facility and demonstrate any necessary rights of way associated with reaching the POI. The Proposer must demonstrate the POI is accessible via an exclusivity agreement(s) and/or executed right of way agreement(s) for the necessary rights of way (if the generator lead facilities will be merchant-owned), or (iii) that the right of way is controlled by or assignable to the interconnecting utility that will own the interconnection facilities, or (iv) that the Proposer owns, has executed lease for, easement for, or executed binding option for the Bid Facility's point of interconnection.

4.1.10 Community Engagement

Minimum Threshold: Proposers must demonstrate that they have been in contact with the local officials for the towns the Bid Facility is sited within regarding the Bid Facility's development. The Proposer must identify the host Authorities Having Jurisdiction AHJ(s) regarding the Bid Facility and ensure local officials are informed of the Bid Facility's participation in RESRFP22-1. Proposers will also be responsible for submitting a complete Community Engagement Plan as described in Section 8.3.4, to be publicly posted following the receipt of Step Two Bid Proposal packages.

All activities undertaken by Proposers related to community engagement must adhere to the requirements outlined under Governor Hochul's phased reopening plan, [New York Forward](#), and all other State, Federal or local rules and guidance, including, without limitation, adhering to and attesting to the current NYS Department of Health (DOH) guidance.

4.1.11 Resource Assessment and Energy Production Estimate

Minimum Threshold: Proposers are required to provide a Resource Assessment and an Energy Production Estimate for the Bid Facility. The Resource Assessment must approximate the renewable resource typically available on an annual basis to power the Bid Facility. The Energy Production Estimate must estimate the Bid Facility's ability to convert the renewable resource to electric power at the P(50)⁴⁹ level. Detailed technology-specific requirements and evaluation criteria for the Resource Assessment and Energy Production Estimate are presented in [Appendix 1 – Resource Assessment and Energy Production Estimate Requirements](#).

The Resource Assessment and Energy Production Estimate must be consistent with and representative of the Bid Facility, long-term conditions at the site, and if applicable, co-located Energy Storage, as proposed to NYSERDA. The Bid Quantity may not exceed the P(50) long-term Energy Production Estimate. The Resource Assessment and Energy Production Estimate must detail the full extent of the curtailment assessments performed to demonstrate the deliverability of the Bid Facility and clarify explicitly what the degradation assumptions are for the equipment proposed for the Bid Facility. System loss factors must be detailed, and include auxiliary and parasitic loss, availability loss, curtailment, and operational loss due to Utility or Transmission Operator requirements (e.g., deliverability limitations,

⁴⁹ P(50) represents a level of resource projection or production estimate with a 50% likelihood of being exceeded in any future year. The P(50) value shall be the expected value (*i.e.*, the mean) based on the Proposer's Resource Assessment diligence in accordance with the minimum requirements listed in the section herein for the respective renewable technology.

VAR/Power Factor support, or other losses) and grid-mandated curtailments due to congestion or emergency. If applicable, the expected efficiency as a result of bifacial panels must be detailed.

For Eligible Upgrades, provision of the Resource Assessment and Energy Production Estimate submitted to obtain a PsoQ or SoQ and the associated Tier 1 certification is sufficient to meet the minimum requirements outlined in Appendix 1 based on the resource type.

Bid Facilities including co-located Energy Storage shall include a P(50) Energy Production Estimate that considers Energy Storage for the Bid Facility, including anticipated losses resulting from the addition of Energy Storage. Solar facilities including Energy Storage must specify if the Energy Storage is AC or DC coupled. Proposers will also be required to explain if and how their P(50) Energy Production Estimate differs from their generator-only bid.

4.1.12 Carbon Emissions and Embodied Carbon

Minimum Threshold: Proposers must describe how the Bid Facility will actively support the outcomes envisioned by the Climate Act, including a description of the efforts that have or can be undertaken, including any tools or methodologies used, to better understand and consider carbon intensity in design, sourcing and construction, and the steps that have been taken to minimize carbon emissions, including embodied carbon, from the Bid Facility. To the extent discernable at the current stage of development, Proposers should describe and explain the anticipated carbon intensity in Bid Facility design, sourcing, construction, operation, and maintenance.

The Proposer should also propose the methodology by which such reduction activities will be considered and integrated into the Bid Facility's design as the project evolves. Proposers should describe and explain the proposed process by which the Proposer will account for embodied carbon on an ongoing basis through development, construction, and operation of the Bid Facility. This could include the sourcing and manufacturing of primary components such as modules, inverters, turbines, towers, other prime movers, cables, substations, energy storage facilities, and other electric equipment, but should also consider associated activities such as construction, Operation & Maintenance (O&M), and decommissioning. This could also include opportunities to support project component equipment recycling and/or carbon mitigation efforts in collaboration with New York State manufacturing sources.

For Proposals including Energy Storage, the Energy Storage must be addressed in the carbon accounting and minimization plan to the extent possible. Energy Storage projects may directly displace carbon emissions if sited in strategic grid locations which facilitate offsetting fossil fuel generation in downstate New York. The evaluation will not consider avoided emissions associated with the Bid Facility itself.

4.1.13 Non-Viability Determination

The CES Modification Order authorizes NYSDERDA to reject a Bid Proposal based upon a unanimous determination by the TEP that the project is not presently viable. If a Bid Proposal is rejected based on the evaluation of viability, NYSDERDA will notify the Proposer of the determination following the submission of the Step Two Bid Proposal and the receipt of responses to any clarifying questions and provide an explanation. Proposers with Bid Proposals that are rejected in this manner will remain eligible to re-apply in future RES solicitations and will be evaluated again without prejudice. Reasons for a determination of non-viability may include:

- 1) The Bid Proposal is immature to such an extent that it would be impossible to ascertain whether it is viable;
- 2) The Bid Proposal is predicated on unrealistic economic or regulatory assumptions; or
- 3) The Bid Proposal is subject to serious economic, permitting and/or or regulatory risks without a sufficient mitigation plan.

Examples of why a Bid Proposal could be determined to be non-viable include, but are not limited to, failing to meet one or more Minimum Threshold Requirements, a Bid Facility at an early stage of development with a Bid Price that is determined to be insufficient to cover project costs, an unfounded interconnection or permitting mitigation cost estimate and/or a materially high risk of not receiving permits do the Bid Facility's site impact on natural resources.

NYSERDA may seek additional information from any Proposers deemed to have submitted a non-viable Bid Proposal prior to removing the Bid Proposal for consideration. Non-viability determinations will only be recommended for a clear, objective case that the Bid Facility is non-viable based upon the consensus of NYSERDA, TEP, and Specialist Reviewers' assessment of the Bid Facility. If NYSERDA raises a potential non-viability concern for a Bid Facility, the Proposer will be given the opportunity to respond. The time to respond will depend on the nature of the potential non-viability determination but will not be less than five business days.

4.2 Incremental Economic Benefits to New York State Including Disadvantaged Communities

The TEP will evaluate and award up to 10 points to Bid Proposals based on the degree to which each Bid Proposal demonstrates that Incremental Economic Benefits will accrue to New York because of the development, construction/modification, and operation of the Bid Facility. Incremental Economic Benefits may be claimed in three categories:

- 1) Long-Term Economic Benefits to New York State;
- 2) Short-Term Economic Benefits to New York State; and
- 3) Investments/Commitments to Local Economic and Workforce Development.

Proposers must demonstrate that the incremental economic benefits will (1) will accrue after the release date of this RFP, and (2) would not have accrued but for the issuance of this RFP or award of a contract under this RFP. Incremental Economic Benefits previously claimed with respect to a Bid Facility that is subject to a pending award under a previous solicitation or that is the subject of a current NYSERDA contract are not eligible for evaluation.

Only those Incremental Economic Benefits meeting the eligibility criteria and falling within the defined categories in Section 8.3.5. will be considered for evaluation. For RESRFP22-1, the eligibility criteria has been expanded to include Incremental Economic Benefits associated with the development of awarded New Storage Technology facilities, whether co-located with or located separately from the Bid Facility. See Section 8.3.5 for more information. The TEP will award a maximum of 10 points between the three sub-categories. For Long-Term and Short-Term Economic Benefits, points will be awarded in proportion to the level of eligible claims, normalized across all Bid Facilities by dividing each Bid Facility's eligible claims by that Bid Facility's Bid Capacity (\$/MW). For the third category, economic and workforce development claims, the TEP will assess the scale and the likely impact of the proposed actions and the firmness of the commitments, with points awarded based on the number, range, maturity, firmness, and credibility of the commitments being made and the scale of the potential benefits. Category 3

consists of economic benefits to New York State that are expected to be provided but may not have a firm dollar value associated with the benefit at the time of the Step Two Bid Proposal. As such, Category 3 commitments should not have dollar values assigned to them, and any claims that the Proposer can commit to with a firm dollar amount to be included in an awarded Agreement as Expected Dollars/MW (See Definitions in the Agreement) should be claimed under Categories 1 and 2.

When evaluating Incremental Economic Benefits under Category 3, The TEP will consider the:

- Nature, quantity and importance of the proposed claims;
- Effectiveness of the approach to developing the proposed claims;
- Supporting documentation to substantiate the nature, firmness, and maturity of the commitments, including, for example, letters of support, memoranda of understanding, letters of intent, option agreements, or binding contracts; and
- Timeframe during which the claims will accrue; the TEP will award more points to investments/commitments related to local economic and workforce development initiatives that are to accrue sooner than to those that will accrue later in the development process.

For this RFP, as discussed in Section 2.5.4, NYSERDA requires a minimum value of iron or steel purchased for the Bid Facility to be manufactured in the United States. The minimum amount of Expected U.S. Iron and Steel Dollars that will be entered in the Agreement will be calculated based on the minimum value per MW of Offer Capacity that corresponds to the Bid Facility technology type: \$54,000/MWac for onshore wind and \$30,000/MWdc for solar.

Claims associated with MWBE and SDVOB will receive greater weight in scoring. Claims associated with Disadvantaged Communities will also receive greater weight in scoring, particularly to the extent that they are included in the Disadvantaged Community Commitments recorded in Section 6.10 of the Agreement. Lower scoring weight will be given to claims in Category 3 and those occurring after the third year of the Contract Delivery Term, and thus not memorialized in the Agreement as Expected Dollars/MW, Expected MWBE and SDVOB Dollars/MW or Expected U.S. Iron and Steel Dollars/MW.

Table 7, below, summarizes the types of economic benefits claims that will receive greater or lower scoring weight. All other New York Economic Benefits will receive a baseline scoring weight (total value of eligible claims, normalized by dividing each Bid Facility's eligible claims by that Bid Facility's Bid Capacity (\$/MW)). If a specific claim falls under multiple criteria, such as a MWBE/SDVOB claim benefitting a Disadvantaged Community or a MWBE/SDVOB claim occurring after the third year of the Contract Delivery Term, both weights will be applied.

Table 7. Economic Benefits Scoring Hierarchy

Greater Scoring Weight	Lower Scoring Weight
Disadvantaged Communities	Category 3 claims without firm dollar amount commitments
MWBE and SDVOB	Benefits occurring after the third year of the Contract Delivery Term (not contractually committed)

4.2.1 Disadvantaged Communities

Through this solicitation, NYSERDA seeks to actively support designing the relevant investments made as a result of the awarded Bid Facility(ies) to provide benefits to and reduce burdens on Disadvantaged

Communities in accordance with the 2020 CES Modification Order. NYSERDA will favorably evaluate economic benefits to New York State that will be realized in part or in full by Disadvantaged Communities.

The TEP will award more points to Bid Proposals that demonstrate that the associated Incremental Economic Benefits to New York State will be realized in part or in full by Disadvantaged Communities. It is incumbent upon Proposers to clearly identify which Economic Benefits claims and to what extent the benefits will be realized by Disadvantaged Communities, how these claims meet the interim criteria for Disadvantaged Communities, and how the Proposer will substantiate that any Incremental Economic Benefits claimed as being directed to Disadvantaged Communities have accrued to those communities via interim reporting requirements and a final audit of the Proposers' Incremental Economic Benefits claims following the third of year of commercial operation of the Bid Facility. Commitments made by Proposers to benefit Disadvantaged Communities will be incorporated into the Agreement for awarded Proposers. See Section 6.10 of the Agreement.

Proposers that commit to directing economic benefits to Disadvantaged Communities will be materially preferred during the evaluation of Incremental Economic Benefits. Proposers are also strongly encouraged to work with their development partners, including NYSERDA and the NYS Department of Labor, to prioritize the hiring of laborers, working persons, mechanics, other specialized labor, and long-term operations and maintenance staff from Disadvantaged Communities. See Section 8.3.5 for a detailed description of eligibility and the scoring process for Incremental Economic Benefits, the benefits that NYSERDA views as being able to be targeted to benefiting Disadvantaged Communities, and for additional resources available to Proposers to assist in workforce development and local/Disadvantaged Community training and hiring.

The Climate Act directs the [Climate Justice Working Group](#) (CJWG) to establish criteria for defining Disadvantaged Communities. On December 13, 2021, the CJWG voted to release draft Disadvantaged Communities criteria for public comment. Should a final definition for Disadvantaged Communities be adopted prior to the Step Two Bid Proposal submission date for RESRFP22-1, NYSERDA intends to amend RESRFP22-1 to reflect the final definition of Disadvantaged Communities released by the CJWG. However, if a final definition for Disadvantaged Communities is adopted prior to the Step Two Bid Proposal Submission date, incremental economic benefits commitments to Disadvantaged Communities identified under both the interim criteria and the final definition will be accepted in Step Two Bid Proposals.

As the CJWG is working to finalize the criteria for defining Disadvantaged Communities in New York, interim Disadvantaged Communities criteria will apply to all Large-Scale Renewable projects awarded before the final Disadvantaged Communities criteria are finalized. Further resources for identifying interim Disadvantaged Communities are located on NYSERDA's Disadvantaged Communities website.

Once the final Disadvantaged Communities criteria are finalized, they will be incorporated into future solicitations, and an updated map of New York Disadvantaged Communities will be provided for reference to Proposers. Additional resources for identifying draft Disadvantaged Communities are located on the [New York Climate Act website](#).

4.2.2 MWBE and SDVOB

The TEP will award more points to Bid Proposals that demonstrate that the associated Incremental Economic Benefits to New York State will be realized in part or in full by New York State certified MWBE

and SDVOBs⁵⁰ in the renewable energy industry and clean energy economy. It is incumbent upon Proposers to clearly identify which Economic Benefits claims and to what extent the benefits will accrue to MWBE and SDVOB and how the Proposer will substantiate that any Incremental Economic Benefits claimed as being directed to MWBE and SDVOB have accrued to those entities via interim reporting requirements and a final audit of the Proposers' Incremental Economic Benefits claims following the third year of commercial operation of the Bid Facility. Commitments made by Proposers to benefit MWBE and SDVOB will be incorporated into the Agreement. See Sections 5.02 (f) and 18.14 of the Agreement.

In evaluating proposals, the TEP will favorably consider programs that invest in the development of local businesses and provide quantifiable metrics to assess the Proposer's capacity building efforts, including number and value of contracts completed, number of employees, wages/salaries paid, increase in trade specialties, customer base, and increased revenue.

⁵⁰ Businesses certified by entities other than New York State will not count toward increased points.

5 PRICE EVALUATION & BID PRICE STRUCTURE

5.1 REC Products Pricing

Each Step Two Bid Proposal must conform to either the Index REC or Fixed REC pricing structure. Offer prices for each Bid Proposal are all-inclusive; that is, for all components of the Bid Facility.

For both forms of pricing, only level nominal dollar pricing will be accepted. Proposals will be accepted with Contract Tenors of a minimum of one year and a maximum of the Bid Facility's Maximum Contract Tenor, determined by the Bid Facility's technology and vintage.⁵¹

While all Bid Proposals must employ a single pricing structure, Bid Proposals are permitted to employ different pricing structures for materially different Bid Proposals. For example, if a Proposer submits a Bid Proposal for a Bid Facility without energy storage and a Bid Proposal for the same Bid Facility with energy storage, the two Step Two Bid Proposals may employ different pricing structures, either fixed or index.

NYSDA cannot adjust the binding Fixed or Index REC Bid Price submitted by awarded Proposers. Bid Proposals should be appropriately priced to reflect all interconnection and transmission upgrade costs required to ensure energy dispatch that is consistent with the Bid Proposal's proposed generation output profile, including transmission and/or distribution network upgrades that may need to occur beyond the point of interconnection.

5.1.1 Fixed REC Pricing

Under the Fixed REC pricing, the Monthly REC Price is equal to the Fixed REC Price.

$$\text{Monthly REC Price} = P^{\text{Fixed}}$$

where:

$$P^{\text{Fixed}} = \text{Fixed REC Price (\$/MWh)}$$

Each month's Fixed REC Price shall be as offered in the Bid Proposal for the relevant Contract Year, with the same Fixed REC Price applied for all months within the Contract Year. The Fixed REC Price shall also be the same for all Contract Years.

5.1.2 Index REC Pricing

Under the Index REC pricing, the Monthly REC Price varies monthly during the Contract Delivery Term and is calculated:

$$\text{Monthly REC Price} = SP^{\text{Index}} - REP - (RCP \times MF)$$

where:

⁵¹ See Section 8.3.3.

SP^{Index} = Index REC Strike Price (\$/MWh)

REP = Reference Energy Price (\$/MWh)

RCP = Reference Capacity Price (\$/MWh)

MF = Mitigation Factor (%), defined in Section 4.01 of the Agreement

Each month's Index REC Strike Price shall be as offered in the Bid Proposal for the relevant Contract Year, with the same Index REC Strike Price applied for every month of the Contract Tenor.

For Bid Facilities in New York State, each month's Reference Energy Price shall be a simple average of the hourly NYISO Day-Ahead Market (DAM) locational based marginal pricing (LBMP) for the NYISO Zone in which the Bid Facility's Delivery Point is physically located.⁵² For Bid Facilities in external control areas, each month's Reference Energy Price shall be a simple average of the hourly NYISO Day-Ahead Market (DAM) locational based marginal pricing (LBMP) for the Proposer-identified NYISO Zone which the Bid Facility will be injecting into.

Each month's Reference Capacity Price will be based on the conversion of a Reference Unforced Capacity (UCAP) Price, equal to the spot auction price in \$/kW-month for the NYISO Zone in which the Bid Facility is located as published by NYISO.⁵³ For Bid Facilities in external control areas, each month's Reference Capacity Price will be based on the conversion of a Reference Unforced Capacity (UCAP) Price, equal to the spot auction price in \$/kW-month for the Proposer-identified NYISO Zone which the Bid Facility will be injecting into.

The Reference Capacity Price is converted to its \$/MWh equivalent through the following equation:⁵⁴

$$RCP = \frac{RUP \times UPF \times IC \times 1,000}{Total\ RECs} \times \frac{CAF}{Average\ PLW\ Capacity\ Factor\ of\ Representative\ Unit}$$

where:

⁵² Historical daily NYISO DAM LBMPs can be downloaded from the NYISO website at <http://mis.nyiso.com/public/> or <https://www.nyiso.com/custom-reports>.

⁵³ Historical monthly capacity spot auction prices can be downloaded from the NYISO website at http://icap.nyiso.com/ucap/public/auc_view_spot_detail.do or <https://www.nyiso.com/installed-capacity-market>. NYISO UCAP prices are not reported by Zone, but instead by capacity locality. Capacity localities include New York Control Area (NYCA), Southeast New York (or the G-J Locality), New York City (NYC) and Long Island (LI). Nested capacity localities, for example, New York City inside the G-J Locality, can have the same or a higher price as the capacity locality they are located within. For Zones A through F, refer to the NYCA UCAP price. For Zones G through I refer to the G-J Locality UCAP price. For Zone J, refer to the NYC UCAP price. For Zone K, refer to the LI UCAP price.

⁵⁴ For Bid Facilities that propose to begin delivering Tier 1 RECs to NYSERDA prior to the effective date of the new NYISO capacity accreditation tariff rules, i.e., May 1, 2024, NYSERDA will modify the Agreement to allow for the Reference Capacity Price for settlement purposes to be calculated using the formula presented in Section 5.1.2 of [RESRFP21-1](#) for RECs Transferred during the time period from the commencement of the Contract Delivery Term through April 30, 2024.

RUP = Reference UCAP Price (\$/kW-month)

UPF = UCAP Production Factor (decimal fraction)

IC = Installed capacity of the generator (MW)

Total RECs = Total number of Tier-1 RECs produced from the Bid Facility in the subject month for such month (including any Tier-1 Renewable Energy Certificates produced in excess of the Annual REC Cap or otherwise not committed for sale to NYSERDA under this Agreement)⁵⁵

1,000 = kW to MW conversion factor

CAF = Capacity Accreditation Factor for the resource's Capacity Accreditation Resource Class

Average PLW Capacity Factor of Representative Unit = Capacity Factor during Capability Period Peak Load Window hours of the Representative Unit for the Bid Facility's Capacity Accreditation Resource Class

The UCAP Production Factor multiplied by the Bid Facility's installed capacity and the ratio of the Capacity Accreditation Factor to the Peak Load Window capacity factor of the Representative Unit in the Bid Facility's Capacity Accreditation Resource Class is a proxy for the Bid Facility's NYISO UCAP in MW. The Capacity Accreditation Factor(s) and the Representative Unit Peak Load Window Capacity Factor(s) will be specified annually by NYISO over the contract term. The UCAP Production Factor will be specified separately for a Winter Capability Period (November through April) and a Summer Capability Period (May through October). These fixed seasonal UCAP Production Factors will be utilized for the duration of the contract tenor.⁵⁶ The UCAP Production Factor can vary in alternative Bid Proposals for a Bid Facility, for example based on the inclusion of energy storage. Proposers are encouraged to consider current guidance from the NYISO's Installed Capacity Manual.⁵⁷ Proposers are permitted to select any UCAP Production Factor value between 0 and 1.

NYSERDA is actively monitoring NYISO's implementation of the capacity accreditation rules described in the petition filed with the Federal Energy Regulatory Commission on January 5, 2022 (Docket No. ER22-772) and approved on May 10, 2022. NYSERDA's current expected approach to implementation of NYISO's new capacity accreditation rules, which will go into effect on May 1, 2024, is reflected in the Reference Capacity Price formula presented above and discussed in NYSERDA's recently issued [2022 Large-Scale Renewables Capacity Accreditation Request for Information \(LSRRFI22-1\)](#) and associated [Questions and Answers](#) document. However, NYSERDA reserves the right to revise RESRFP22-1 and/or

⁵⁵ For Upgrade Bid Facilities and Repowering Bid Facilities, the total amount of Tier-1 RECs produced by the Bid Facility, as used in this instance, is adjusted to reflect the Actual Eligible Production.

⁵⁶ Fixed, seasonal UCAP Production Factors allow for one fixed winter and one fixed summer UCAP production factor for the duration of the contract tenor.

⁵⁷ NYISO Installed Capacity Manual, published February 2021, provides default factors for different resource types and locations https://www.nyiso.com/documents/20142/2923301/icap_mnl.pdf/234db95c-9a91-66fe-7306-2900ef905338

to provide Proposers with an opportunity to submit updated pricing if new relevant material information becomes available prior to or after the Proposal Submission Deadline.

5.2 Pricing for Alternate Bid Proposals

5.2.1 Inflation Risk Adjusted Bid Proposal

For Alternate Bid Proposals in which Proposers opt to include an Inflation Adjusted Bid Proposal, the Index REC Strike Price or Fixed REC Price will be adjusted to account for inflation between the Bid Proposal Submission Deadline and the commencement of Construction Activities related to the Bid Facility. This adjustment, governed by Section 5.03 and Exhibit L of the Agreement, will be based on the PPI All Commodities index.⁵⁸ The Index REC Strike Price or Fixed REC Price for the Inflation Adjusted Bid Proposal will be calculated as:

$$REC_{adj} = REC_{bid} \times \left(0.25 + 0.75 \times \frac{Index_T}{Index_B} \right)$$

where:

REC_{adj} is the Index REC Strike Price or Fixed REC Price after adjustment

REC_{bid} is the Index REC Strike Price or Fixed REC Price as submitted with the Bid Proposal

$Index_B$ is the value of the PPI All Commodities index established prior to the Bid Proposal Submission Deadline

$Index_T$ is the value of the PPI All Commodities index established at the commencement of Construction Activities

0.75 is the share of the Index REC Strike Price or Fixed REC Price to which the inflation adjustment will be applied. The remainder of the Index REC Strike Price or Fixed REC Price (25%) will not be adjusted.

$Index_B$ will be the average of the last six months or two quarters of published data available prior to the Bid Proposal Submission Deadline. For informational purposes only, as of the date of RESRFP22-1 issuance, this value is 269.998. NYSEDA will publish the final $Index_B$ value that will be used in the Agreement prior to the Bid Proposal Submission Deadline.

$Index_T$ will be calculated as the average of the monthly or quarterly values for the six-month period comprising the three months prior to and following the commencement of Construction Activities. REC_{adj} will therefore be calculated when the published monthly prices or indices become available, but no earlier than 6 months after the commencement of Construction Activities.⁵⁹

⁵⁸ U.S. Bureau of Labor and Statistics (<https://www.bls.gov/data/>), Series ID WPU00000000, PPI Commodity data for All commodities, not seasonally adjusted.

⁵⁹ There is a lag of two months or more from the end of a month to the issuance of a BLS PPI index. The PPI indices are considered preliminary and may be updated by BLS up to four months after publication. The adjusted Index REC Strike Price or Fixed REC Price will not be finalized until the final PPI values are published by BLS.

If a Bid Proposal using the Fixed REC price structure is submitted with inflation adjustment, the adjustment will be applied based only on the Fixed REC price.

5.3 Settlement Mechanism

NYSERDA will calculate the Reference Energy Price and Reference Capacity Price for each month according to the calculation outlined in the Agreement. The Monthly REC Price will be calculated during a settlement period following the conclusion of each month. Proposers should reference Article IV. Pricing and Payment of the RESRFP22-1 Standard Form Agreement for the full settlement mechanism.

The Proposer's selection of the UCAP Production Factors will determine (1) how the project is evaluated on Bid Price and (2) the monthly Reference Capacity Price that the Proposer is paid for the Bid Facility for the Contract Tenor of the Agreement. Under the Agreement's Settlement, the UCAP Production Factor is not adjusted over the Contract Tenor. NYSERDA encourages Proposers to carefully consider the Summer and Winter UCAP Production Factors that will be included in the Bid Proposal. A low UCAP Production Factor leads to a low Reference UCAP Price and thus a higher Monthly REC Price and higher Monthly Payment, but may be evaluated less favorably in the Bid Price evaluation as it could appear more expensive relative to projects that submit a higher UCAP Production Factor. Conversely, a high UCAP Production Factor leads to a higher Reference UCAP Price and thus a lower Monthly REC Price (and lower Monthly Payment) which will be evaluated more favorably in the Bid Price evaluation, however higher UCAP Production Factors not experienced during operation may put a Bid Facility at risk of an unexpected revenue shortfall.

Table 8 illustrates how the choice of UCAP Production Factors affects the Proposer's monthly payment for a Solar project, based on an Index REC Strike Price of \$60/MWh, a Reference Energy Price of \$15.00/MWh, a Reference UCAP Price of \$5.00/kW-month, an Installed Capacity of 20 MW, and monthly REC production of 3,600 MWh (equivalent to production in a 30-day month at a 25% capacity factor). The table also reflects the updated Reference Capacity Price formula to accommodate the NYISO's capacity accreditation market rule changes that will be effective May 1, 2024, additionally assuming a Capacity Accreditation Factor of 20% (an estimated value corresponding to total installed solar capacity of 5,000 MW) and an illustrative Representative Unit Peak Load Window capacity factor of 50%.

Table 8. UCAP Production Factor Impact on Settlement

Summer UCAP Production Factor	Reference Capacity Price (\$/MWh)	Monthly REC Price (\$/MWh)	Monthly Payment (\$000)
0%	\$0.00	\$45.00	\$162
25%	\$2.78	\$42.22	\$152
50%	\$5.56	\$39.44	\$142
75%	\$8.33	\$36.67	\$132
100%	\$11.11	\$33.89	\$122

To calculate the amount payable to Seller, the Monthly REC Price will be multiplied by the lessor of (i) the product of the number of RECs produced from Actual Eligible Production in the prior month and the Bid Quantity Percentage, and (ii) the number of RECs delivered into NYSERDA's NYGATS account. These payments will be calculated after the close of each calendar month during the Contract Delivery Term when NYGATS or the Qualified Independent Party (QIP) provides meter data, typically 15-20 days after month-end. During each month's settlement period, NYSERDA will only purchase RECs such that the

cumulative RECs purchased in the active Contract Year do not exceed the Annual REC Cap. The Annual REC Cap may be adjusted prior to Commercial Operation, per Article V of the Agreement.

In the case of a negative Monthly REC Price, the associated payment from Seller to NYSERDA will not be cash-settled on a month-by-month basis. Instead, the amount owed from Seller to NYSERDA will accrue as a debit to be deducted from each subsequent monthly payment until fully recovered. If, due to sustained negative REC prices, any such debit goes unrecovered for twelve months, Seller shall pay the unrecovered amount to NYSERDA in cash as described in Section 4.04(c) of the Agreement.

5.4 Bid Price Evaluation

A quantitative method will be applied to all bids in order to screen and rank the pricing bids using a uniform cost metric. For evaluation purposes, bid prices will be converted to a Levelized Net REC Cost (LNRC) in base year \$/MWh for both the Fixed REC Price and Index REC Strike Price bids. The LNRC price measure allows for an equitable comparison among Proposals with different pricing structures, REC quantities, and Contract Tenors. Strike prices will be converted into expected annual REC values by subtracting a forecast of expected Reference Energy Prices and Reference Capacity Prices from the strike prices, based on NYSERDA's forecasts of energy and capacity prices. Neither the price forecasts nor details of the modeling procedures will be disclosed to Proposers.

For evaluation purposes, regardless of the proposed Commercial Operation Date, Bid Proposals for Bid Facilities not yet under operation will be evaluated with a Contract Delivery Term commencement month of January 2025 therefore a $COMD_p$ of January 2025, and Bid Proposals for Bid Facilities currently operating will be evaluated with a Contract Delivery Term commencement month of July 2023 and therefore a $COMD_p$ of July 2023.⁶⁰

The LNRC for Proposal p using pricing form f is the quotient of the cumulative present value of the annual net REC costs over the proposed Contract Tenor, divided by the cumulative present value of the projected annual number of RECs produced from Actual Eligible Production multiplied by the Bid Quantity Percentage over the same period. The annual quantities are discounted at a real discount rate. The resulting quotient is expressed in base year dollars per REC or MWh.

$$LNRC_{p,f} = PVNRC_{p,f} / PVRQ_p$$

where:

$PVNRC_{p,Fixed}$ = PV of Net REC Cost for Proposal p , pricing form Fixed (\$ PV)

$$= \sum_{y=COMD_p}^{y=COMD_p+CT_p} \left\{ \sum_{m=1}^{m=12} P_{p,m,y}^{Fixed} \times RQ_{p,m,y} \times BQP_p \right\} \div (1 + NDR)^{(y-Y_b)}$$

$PVNRC_{p,Index}$ = PV of Net REC Cost for Proposal p , pricing form Index (\$ PV)

⁶⁰ For Bid Facilities that are currently operating and will be evaluated with a COMD of 2023, for the period between July 1, 2023, and April 30, 2024, the REC cost will be calculated using the formula presented in Section 5.1.2 of [RESRFP21-1](#). This evaluation is due to the May 1, 2024, effective date of the new NYISO tariff rules related to capacity accreditation.

$$= \sum_{y=COMD_p}^{y=COMD_p+CT_p} \left\{ \sum_{m=1}^{m=12} (SP_{p,m,y}^{Index} - RPE_{m,y}^{Pred} - RPC_{m,y}^{Pred}) \times RQ_{p,m,y} \times BQP_p \right\} \div (1 + NDR)^{(y-Y_b)}$$

$PVRQ_p$ = PV of REC delivery quantities for Proposal p (MWh)

$$= \sum_{y=COMD_p}^{y=COMD_p+CT_p} \left\{ \sum_{m=1}^{m=12} RQ_{p,m,y} \times BQP_p \right\} \div (1 + RDR)^{(y-Y_b)}$$

$RQ_{p,m,y}$ = REC delivery quantity for Proposal p applicable to month m of calendar year y (REC or MWh), as provided in Attachment E – P(50) 8760 Template

$RPE_{m,y}^{Pred}$ = Predicted Reference Energy Price index for month m in calendar year y (nominal \$/MWh)

$RPC_{m,y}^{Pred}$ = Predicted Reference Capacity Price index for month m in calendar year y (nominal \$/MWh)

BQP_p = Bid Quantity Percentage for Proposal p

$COMD_p$ = Calendar month associated with the expected Contract Delivery Term commencement date for Proposal p

CT_p = Contract Tenor for Proposal p

NDR = Nominal Discount Rate (decimal)

INF = Inflation Rate (decimal)

$RDR = (1 + NDR) / (1 + INF) - 1$ = Real Discount Rate

Y_b = Base year for cost and PV

A nominal discount rate of 5.98% per year and a long-term inflation rate assumption of 2.40% per year will be used in the LNRC calculation procedure.⁶¹

For the Index REC form of pricing, strike prices will be converted into expected annual REC values by subtracting a forecast of expected Reference Energy Prices and Reference Capacity Prices from the strike prices, based on NYSERDA's forecasts of energy and capacity prices. Neither the price forecasts nor details of the modeling procedures will be disclosed to Proposers.

For evaluation of Alternate Bid Proposals that include Inflation Adjustment, a multiplier representing NYSERDA's expectation of the inflation for the identified indices between the Bid Proposal Submission

⁶¹ The discount rate (DISCO Discount Rate or DDR) and inflation rate for Bid Price evaluation were established by the New York State Department of Public Service Office of Accounting, Audits and Finance, revised February 8, 2022.

Deadline and the estimated date of Notice to Proceed for a Bid Facility with a *COMD_p* of 2023 or 2025 (depending on whether the Bid Facility is existing or new) will be applied to the Index REC Strike Price or Fixed REC Price to determine the total price used in the evaluation.

NYSERDA is actively monitoring NYISO's implementation of the capacity accreditation rules described in the petition filed with the Federal Energy Regulatory Commission on January 5, 2022 (Docket No. ER22-772) and approved on May 10, 2022. NYSERDA's current expected approach to implementation of NYISO's new capacity accreditation rules, which will go into effect on May 1, 2024, is reflected in Section 5.1.2 Index REC Pricing and the rationale is described in [LSRRFI22-1](#). If the approach is modified, NYSERDA will issue an updated RFP that reflects the changes.

5.5 Bid Price Scoring

For purposes of cost containment, Benchmark LNRCs will be derived for both the Index REC and the Fixed REC. NYSERDA retains the right to reject any and all Proposals that exceed the applicable Benchmark LNRC. Use of the Benchmark LNRCs will support a reasonable balance between encouraging investment in new renewable projects and protecting ratepayer interests from the incurrence of any deadweight costs associated with accepting a Proposal at any price.

All bids, including both Index REC bids and Fixed REC bids, will be sorted in ascending order per LNRC. The lowest bid per the LNRC will receive the maximum points available for the Bid Price component (70 points) and higher LNRCs will receive lower scores (less than 70 points). NYSERDA will implement a method that ensures that the scores of higher LNRCs are sufficiently dispersed below the maximum of 70 points such that the final score aggregating Bid Price, Project Viability and OpFlex, and Incremental Economic Benefits retains the intended scoring emphasis on the LNRC to the maximum reasonable extent.

6 PRELIMINARY RANKING, PORTFOLIO EVALUATION, AND FINAL AWARD GROUP

6.1 Preliminary Rank Order

A preliminary final ranking of Bid Proposals will be established based on the sum of the TEP scores for the non-price categories (Project Viability and OpFlex and Incremental Economic Benefits), and the points awarded for the Levelized Net REC Cost as a result of the Bid Price evaluation.

6.2 Portfolio Risk Factors

Following the development of the preliminary rank order, NYSERDA may recommend modifying the award group, in consultation with DPS, to make adjustments to the final recommended award group. NYSERDA may consult with subject matter experts, including DPS Staff, NYISO, and the distribution utilities to assess the portfolio of received bids to inform the potential employment of a Portfolio Risk Factor(s).

NYSERDA, in consultation in DPS, may recommend adjustments to the final award group to (1) remove Bid Proposals from the final award group to avoid material risks to the portfolio (as described in factors 1-4 below), and/or (2) add Bid Proposals to the final award group that provide material benefits to the portfolio (as described in factors 1-4 below). Any additions will be made in accordance with the order of the initial preliminary ranking. NYSERDA, in consultation with DPS, may make such adjustments if the adjustments result in:

- 1) A decrease in a heavy concentration of renewable generation in a location within the award group and/or among previously contracted projects;
- 2) A decrease in a heavy concentration of any one technology comprising the award group;
- 3) A portfolio that results in lesser estimated levels of physical curtailment to itself and/or the existing portfolio of contracted renewable projects to New York State and/or to other proposed RESRFP22-1 awards, and/or that includes projects/project configurations with mitigation factors to address curtailment; and/or
- 4) A portfolio that results in materially lesser risk of project attrition that includes projects/project configurations with low permitting feasibility risk.

These modifications may be made if comparable projects based on price and non-price factors are available in the preliminary ranking of Bid Proposals and material benefits or avoidance of material risks to the final award group are identified.

6.3 Final Award Group

After determining whether any the Portfolio Risk Factors should be employed to modify the final rank order, NYSERDA and DPS will arrive at a final award group. NYSERDA and DPS may also establish a waitlist of Bid Facilities in rank order for Bid Facilities ranked below those Bid Facilities offered an initial award. The submission of a Step Two Bid Proposal will constitute a binding offer to contract under the terms of the Agreement; such offer must remain open for a period of at least one hundred and twenty (120) days from the Step Two Bid Proposal deadline.

NYSERDA reserves the right to reject or accept any or all bids. NYSERDA may consider information provided by Proposer in response requests for additional information in accordance with Section 9 or

otherwise obtained by NYSERDA as to indictments, convictions, enforcement proceedings, investigations, and significant character or ethical questions in accepting or rejecting a bid. NYSERDA also reserves the right to solicit revised Bid Prices and/or to make counteroffers as it deems appropriate. Notification of a re-bid, counteroffer or selection will be made by voice communication and via the solicitation website to the Proposer's Project Sponsor(s). Proposer's Project Sponsor(s) must be authorized to respond and to commit to counteroffers on behalf of Proposer.

NYSERDA will then notify Proposers with Bid Facilities contained in the final award group both by voice and written communication to Proposers' Project Sponsor(s) and Authorized Representative(s). Proposers awarded a REC Agreement under RESRFP22-1 will be required to execute a Non-Disclosure Agreement affirming the confidential nature of the award prior the public announcement of the RESRFP22-1 final award group. The date upon which NYSERDA provides such written notification shall be the Award Notification Date. Once selected for an award, Proposers must negotiate a final version of the Agreement with NYSERDA. As a reminder, NYSERDA cannot adjust the Fixed or Index REC Bid Price and other settlement-related terms submitted by Proposers following the notification of an award, either upon award or during the Contract Tenor. NYSERDA will not entertain requests for material modifications to the Standard Agreement.

7 STEP ONE ELIGIBILITY APPLICATION

Step One is an initial qualifying step through which the Proposer must provide documentation confirming that the Bid Facility is registered in NYGATS as Tier 1 eligible and other key information about the Proposer and the Bid Facility.

A complete Step One Eligibility Application consists of the following components:

- 1) The letter received in the Proposer's NYGATS account from NYSERDA confirming that the application for Tier 1 eligibility (SoQ or PSoQ) has been approved.
- 2) An electronic form regarding general information about the Proposer and the Bid Facility for which the SoQ/PSoQ was granted. This will include Proposer contact information, and Bid Facility including name, nameplate capacity, expected annual generation, interconnection location (*e.g.*, NYISO Zone), host community or communities, intended pricing structure (Fixed REC or Index REC; not binding), and whether energy storage is to be included.

Instructions on how to submit a full Step One Eligibility Application are available on the [solicitation website](#). Proposers whose Step One Eligibility Applications are found to be complete and that demonstrate eligibility will receive a Notice of Qualification, which will provide Proposers with a description of and access to the process and forms to be used to submit a Step Two Bid Proposal.

7.1 NYGATS Registration and Request for NYGATS Resource Eligibility Determination; Provisional Statement of Qualification (PSoQ) or Statement of Qualification (SoQ)

All Tier 1 eligibility applications to obtain an PSoQ/SoQ must be approved in the New York Generation Attribute Tracking System (NYGATS). Proposers can access the NYGATS system at the following links:

- New User Registration: <https://nygats.ny.gov/ng/Admin/Account>
- Existing User Sign-In: <https://nygats.ny.gov/>

Requests to obtain Tier 1 certification are completed in NYGATS. To complete a request, Proposers must create a NYGATS account, complete a project registration for the Bid Facility, and once the registration is approved, complete an application requesting a Resource Eligibility Determination, in the form of either a Statement of Qualification (SoQ), for facilities in operation at the time of request, or a Provisional Statement of Qualification (PSoQ), for facilities not yet in operation at the time of request. The SoQ/PSoQ certifies that a Bid Facility has met or will meet the eligibility requirements under Tier 1 of the RES.⁶² NYSERDA will notify the Proposer of its eligibility determination by posting a letter in the Proposer's NYGATS account associated with the Bid Facility.

The Bid Facility characteristics submitted for the NYGATS project registration must align as closely as possible with the characteristics intended to be submitted as part of a Step Two Bid Proposal (*e.g.*, Nameplate Capacity, NYISO Zone). Alternate Applications and Bid Proposals do not require a separate PSoQ in NYGATS (*e.g.*, Bid Facilities seeking to submit the project as different Nameplate Capacities).

⁶² See <https://www.nyserda.ny.gov/All-Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/RES-Tier-One-Eligibility/Certification>

Step One Eligibility Applications with a different Nameplate Capacity than the Bid Facility's PSoQ must be smaller than the Nameplate Capacity associated with the PSoQ.

The application requesting a Resource Eligibility Determination must be completed in NYGATS by 3:00 p.m. ET on Wednesday, November 2, 2022. This will enable NYSERDA to complete the Tier 1 eligibility determination prior to the deadline for submitting the Step One Eligibility Application.

More information on the Resource Eligibility Determination process, including guidelines for documenting eligibility for certification, including the eligibility of distributed energy resources, Upgrades, relocated facilities and facilities returning to service can be found on [NYSERDA's RES Tier 1 Eligibility website](#).⁶³ Training materials for using NYGATS to apply for an eligibility determination may be found on the [NYGATS website](#).⁶⁴

7.2 Consistency with Existing SoQ or PSoQ

For a Bid Facility with an existing SoQ or PSoQ, a Step One Eligibility Application submitted for the Bid Facility under this RESRFP22-1 must be consistent with the existing SoQ or PSoQ. Some resource changes, for example a change in the Technology Type, Nameplate Capacity, Control System Operator, New York Independent System Operator (NYISO) Zone, Electric Utility Company, Tariff Type, Vintage Type, Bid Facility address, or other key project components will require Proposers to submit either (1) an SoQ or PSoQ revision, or (2) a request for a new SoQ or PSoQ. NYSERDA will work with the Proposer to rectify any discrepancies. If assistance is needed, please contact res@nyserda.ny.gov with a subject line "SoQ/PSoQ Assistance."

7.3 Executive Order No. 16 Certification

A Certification Under Executive Order No. 16, as published by the Office of General Services and available here: <https://ogs.ny.gov/EO-16>, must be submitted for the Proposer as part of the Step One Eligibility Application. See Section 11.11 for additional information on Executive Order No. 16.

7.4 Executive Order No. 192 Certification

As per Executive Order 192, NYSERDA is required to do business only with responsible entities. As a result, a Vendor Responsibility Review will be conducted for all RESRFP22-1 Step One Proposers. Proposers will be required to complete the Vendor Responsibility Checklist found as part of the Step One Eligibility Application submitted on the solicitation website. The Vendor Responsibility Checklist requires that the Proposer answer a series of questions regarding the Proposer, and the directors, employees and agents of Proposer and any affiliate of Proposer with respect to: (1) current investigation(s) by any governmental agency; (2) convictions or established liability for any act prohibited by State or Federal law in any jurisdiction involving conspiracy, collusion or other impropriety with respect to offering on any contract; or (3) any debarment action (detail any exceptions), within the last 4 years.

⁶³ <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/RES-Tier-One-Eligibility/Eligibility>

⁶⁴ <https://www.nyserda.ny.gov/All-Programs/Programs/NYGATS/Registration-Documents>

The Vendor Responsibility Checklist will also include the Proposer's attestation regarding the accuracy and truthfulness of the information and documentation provided by the Proposer. The NYSERDA Large-Scale Renewables program team will review and the responses to the Vendor Responsibility Checklist and reserves the right to make a determination of vendor responsibility if a non-responsibility concern is noted.

7.5 Committed Upgrades

If a Proposer is considering submitting a Bid Proposal with Committed Upgrades, the Proposer must indicate this at the time of the Step One Eligibility Application such that NYSERDA can detail in the Notice of Qualification, if the project is deemed eligible to proceed to Step Two, what data requirements are needed by the Proposer to be submitted with the Step Two Bid Proposal to ensure the alternate Bid Proposal is eligible for evaluation.

7.6 Deadline for Submitting a Step One Eligibility Application

Proposers must submit the full Step One Eligibility Application, including an approved PSoQ or SoQ, via the [solicitation website](#) by **3:00 p.m. ET on Wednesday, November 30, 2022**.

7.7 Upgrade and Repowering Bid Facilities

Proposers that intend to submit bids for incremental Upgrades must utilize the Tier 1 Upgrade Percentage determined in the NYGATS SoQ or PSoQ. The Tier 1 Upgrade Percentage will be used in both the Step One Eligibility Application and Step Two Bid Proposal to ultimately determine a Bid Facility's Bid Quantity.

Upgrade Bid Facilities require a PSoQ, not an SoQ, if the proposed Upgrade Bid Facility is not yet in operation.

To obtain a PSoQ for a project already in commercial operation planning an Upgrade, the Proposer will need to register a new provisional project and submit a request for a PSoQ for the incremental production. The provisional Nameplate Capacity (MW-AC) entered by the Proposer should indicate the total capacity of the Bid Facility after the Upgrade. After the provisional project registration is approved, the applicant can submit a PSoQ request for the incremental production associated with the Upgrade. See Section 7.3 of the [New York State Clean Energy Standard RES Tier 1 Certification Submission Instructions and Eligibility Guidelines](#) for information on technology-specific PSoQ requirements for Upgrade Bid Facilities.

Repowering Bid Facilities require a PSoQ, not an SoQ, if the proposed Repowering Bid Facility has not yet undergone the required capital improvements to qualify as Tier 1. Proposers are advised to consult the CES Modification Order for the full requirements to qualify a repowered facility as Tier 1 eligible.

For all technologies except Hydroelectric, the Repowering must include replacement of each prime mover. The Repowering must result in an overall increase of 15% or more in the production of the generation unit compared to its projected future output. A third-party engineering report will be required to verify the projected generation through the Tier 1 certification process. The third-party engineering report must include:

- For the original project:

- Commercial Operation date – Month/Year
- Description of age and useful life or prime mover, equipment, and other project specific details (Nameplate Capacity in MWac, Capacity Factor, etc.)
- Useful life end date of the original project – Month/Year
- All available historical generation associated with the original project – MWh/year
- If applicable, the projected generation for each year of remaining useful life of original project – MWh/year —
- For the Repowering Bid Facility:
 - Actual or anticipated Repowering Date – Month/Day/Year
 - Description of prime mover replacement, equipment, and other project specific details (Nameplate Capacity in MWac, Capacity Factor, etc.) as planned or completed
 - Projected generation for the repowered project for each year of remaining useful life (e.g., P(50) 8760, Resource Assessment and Energy Production Estimate in MWh)

The data provided in the third-party engineering report will assist NYSERDA in determining Tier 1 Eligible generation associated with Repowering Bid Facilities on a 12-month basis, starting the first of the month after the actual or anticipated Repowering date. Generation beyond what has been projected in the engineering report for each year of remaining useful life will be Tier 1 eligible. Once the useful life of the original project is met, all generation (100%) from the Repowering Bid Facility will be Tier 1 Eligible.

Bid Facilities that have not reached the end of their useful life may be eligible for a portion of their generation to be Tier 1 eligible prior to the end of the useful life based on the results of the required third-party engineering report. Prior to the end of the Bid Facility's useful life, the percentage increase in generation attributable to the Repowering will be Tier 1 eligible. Once the useful life of the original project is met, all generation (100%) from the Repowering Bid Facility will be Tier 1 Eligible. The Repowering must have the result that 80% of the GAAP tax basis from the completed Repowering Bid Facility (not including its property and tangible assets) is derived from capital expenditures made on or after the October 15, 2020 issuance of the CES Modification Order. An independent audit and verification will be required. Certification will be required and submitted at the time of the resource eligibility determination under Tier 1 of the RES. Proposers are encouraged to reference Section 7.6 Repowering Project of the [New York State Clean Energy Standard RES Tier 1 Certification Submission Instructions and Eligibility Guidelines](#) to review the full scope of requirements for Tier 1-eligible Repowering Bid Facilities and the requirements for third-party engineering reports needed to demonstrate provisional Tier 1 eligibility.

8 STEP TWO BID PROPOSAL

Proposers who receive a Notice of Qualification will be invited to submit a Step Two Bid Proposal which will require the Proposer to provide additional information including a Bid Price and more detailed information about the Bid Facility and the Proposer. All Step Two Bid Proposals must be submitted electronically via the [solicitation website](#). Instructions on how to submit a Step Two Bid Proposal will be provided to eligible Proposers that are issued a Notice of Qualification. Following the submission of a Step Two Bid Proposal, NYSERDA may request in-person and/or videoconference interviews with Proposers, to be scheduled at a mutually convenient time following the Step Two submission deadline.

Only those Proposers qualified through the Step One Eligibility Application process will be permitted to submit a Step Two Bid Proposal.

Under Step Two, NYSERDA will: (1) examine each Step Two Proposal to determine whether the Proposal demonstrates that the Bid Facility and Proposer meet the Minimum Threshold Requirements; and (2) for Proposals that meet those minimum requirements, NYSERDA and the TEP will conduct a full competitive evaluation based on price and non-price factors.

NYSERDA may permit Proposers to cure deficiencies in Step Two Bid Proposal packages, however packages that are incomplete, non-responsive to cure requests, or that failed to complete Step One may be rejected.

A Proposer may not condition the acceptance of one Step Two Bid Proposal based on the withdrawal or acceptance of other Proposals.⁶⁵ A Step Two Bid Proposal may not be contingent on the receipt of any federal tax credits or incentives.

RESRFP22-1 is a competitive procurement. The Agreement is a legally binding document; it is recommended that Proposers consult with an attorney. The CES Framework Order, subsequent Implementation Plans and corresponding Orders, and NYS competitive procurement rules limit NYSERDA's ability to alter the terms of the Agreement issued with this RFP. However, as part of the Step Two Bid Proposal, Proposers may indicate terms of the Agreement that they wish to further discuss by providing an attachment in the form of a memorandum. The memorandum should specifically identify any terms and conditions that the Proposer wishes to clarify or negotiate prior to execution. When constructing the memorandum, please identify the Section in the Agreement and state the nature of the issue to be discussed. Should the Bid Facility receive an award, NYSERDA will contact Proposers to schedule a discussion regarding the terms identified in the memorandum.

The indication by a Proposer that it wishes to negotiate the terms of the Agreement will have no impact on the scoring or evaluation of the Bid Proposal.

8.1 Deadline for Submitting a Step Two Bid Proposal

The complete Step Two Bid Proposal package must be **received** by NYSERDA no later than **3:00 p.m. ET on Wednesday, April 12, 2023**, via the [solicitation website](#). NYSERDA strongly recommends that

⁶⁵ NYSERDA will award at most one Bid Proposal per Bid Facility.

Proposers reserve ample time to address the requirements for each Bid Facility. The Step Two Bid Proposal package must be completed and submitted online, before the deadline.

All electronic signatures must be provided as indicated. Failure to provide any attachments or information requested may result in the Step Two Bid Proposal package being declared non-responsive and rejected. NYSERDA may request additional information and materials at any time. Step Two Bid Proposal packages become the property of NYSERDA. NYSERDA recommends that Proposers use Google Chrome when accessing the solicitation website to complete a Step One Eligibility Application and Step Two Bid Proposal. Unnecessary attachments or lengthy responses beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal.

8.2 Alternate Bid Proposal Submission Requirements

Should a Proposer wish to submit a Step Two Bid Proposal which 1) modifies the Nameplate Capacity of the Bid Facility, 2) includes Energy Storage, and/or 3) utilizes the Inflation Risk Adjusted Bid Proposal mechanism, the Proposer will need to complete separate Step Two Bid Proposals, one Base Proposal and one or more Alternate Bid Proposals with the applicable modification(s). The submission of Alternate Bid Proposal(s) does not require multiple Bid Fee payments- Bid Fee requirements are only based on the Bid Facility.

8.3 Step Two Bid Proposal Requirements

A complete Step Two Bid Proposal package consists of:

- 1) Step Two Bid Proposal Form, to be complete on the solicitation website, with all required fields populated prior to submission;
- 2) Binding Bid Quantity, Bid Price (Fixed REC or Index REC), and Contract Tenor;
- 3) Supporting documentation for the following Project Viability and OpFlex categories:
 - a. Energy Deliverability;
 - b. Peak Coincidence;
 - c. Interconnection;
 - d. Energy Storage (if applicable);
 - e. Permitting Viability;
 - f. Agricultural Land;
 - g. Project Development, Project Financing and Creditworthiness;
 - h. Site Control;
 - i. Community Engagement;
 - j. Resource Assessment and Energy Production Estimate; and
 - k. Carbon Emissions and Embodied Carbon.
- 4) Public-facing documents to be posted to NYSERDA's website following the receipt of bids, including:
 - a. Attachment B. Public Release of Bid Facility Information;
 - b. Community Engagement Plan.
- 5) If applicable, supporting documentation to substantiate claims of Incremental Economic Benefits to New York State;
- 6) Payment and proof of the provision of a Bid Fee, such as a receipt of transfer confirmation; and,
- 7) Other information required by NYSERDA, including contain in or refenced in the Bid Proposal form

NYSDERDA recommends that Proposers mark materials provided to NYSDERDA as Confidential as needed (see Section 11.1). All Proposers will be required to submit their Step Two Bid Proposals via the [solicitation website](#) and will be required to use the forms shared by NYSDERDA following eligibility determinations that will be shared via the Notice of Qualification, such as Attachment C. Bid Data Form.

8.3.1 Bid Proposal Form and Project Descriptions

The information and supporting documentation provided with the Step Two Bid Proposal will be evaluated by NYSDERDA to determine whether the Minimum Threshold Requirements have been met and/or exceeded. A completed Step Two Bid Proposal must include, but is not limited to, the information in the following sections, and must be submitted via the solicitation website prior to the Step Two Bid Proposal deadline. All required fields must be populated, and all required documents uploaded prior to submission.

Minimum Threshold Requirement Descriptions

The Proposer must provide narrative descriptions detailing how the Bid Facility, and if applicable, Energy Storage, meets and/or, if applicable, exceeds the Minimum Threshold Requirements in each applicable category. (See Section 8.3.4.)

Bid Facility, Site, and Generating Equipment Descriptions

The Proposer must provide a complete description and overview of the Bid Facility, describing the area included in and surrounding the generation site, a description of the local zoning, and other applicable ordinances and municipal laws, existing land use (*e.g.*, woodlands, brownfield, agriculture, other) and setting (*e.g.*, rural, urban, suburban, other) and describe what the site(s) has been used for in the recent past. Include and describe the status and development stage of Bid Facility (development, construction, or operation). Include information about the specific technology or equipment considered or selected, major equipment to be used, manufacturer or vendors considered or selected, equipment acquisition status, and equipment contract/equipment agreement status. Certain non-binding resource-specific details may be requested by Proposers (*e.g.*, planned module and inverter, expected production increase from bifacial/tracking modules, storage round trip efficiency losses, *etc.*).

The Proposer must identify potential fatal flaws and most critical impacts for the Bid Facility. Risks should be ranked by priority and level of impact to the Bid Facility site viability to proceed under the proposed schedule.

Bid Facility Interconnection Description and Preliminary Cost Estimate

The Proposer must identify the proposed interconnection point(s) and provide a complete description and overview of the preferred interconnection route of the Bid Facility from the generation site, including what rights the Proposer has to the interconnection point(s), what type(s) of real property agreement(s) or land agreement(s) the Proposer has entered to gain interconnection site control, and any rights that must be obtained by the Proposer or interconnecting utility for the interconnection. The Proposer will be required to provide a thorough description of the interconnection assumptions for the Bid Facility and the rationale that lead to the proposed point of interconnection configuration (*e.g.*, usage of a 'single line tap' vs. a 'three-breaker station' connection POI configuration).

Proposers must provide a preliminary estimate regarding the expected cost, pursuant to the applicable OATT Interconnection Procedure, to interconnect the Bid Facility. Estimated costs should be separated into the following categories: expected costs to obtain Energy Resource Interconnection Service (“ERIS”) rights, expected costs to obtain Capacity Resource Interconnection Service (“CRIS”), and any other associated interconnection costs (e.g., Headroom payments, elective system upgrade facilities, etc.) not captured in the previous categories and total aggregate of estimated interconnection costs.

Table 9 provides average interconnection costs by project types based on a non-exhaustive sample of interconnection costs as published in publicly available NYISO studies.⁶⁶

Table 9. Average Interconnection Costs by Project Type

Facility Type / kV Level of POI	Sample Size	Average Nameplate Capacity (MW)	Average Interconnection Cost per MW (\$000)⁶⁷
Small Generator, Local Low Voltage (13.8-46 kV)	7	19	\$106
Small Generator, Local High Voltage (69-115 kV)	20	20	\$149
Large Generator, Local High Voltage (69-115 kV)	21	101	\$123
Large Generator, Bulk Transmission (230-345 kV)	6	205	\$118
Total or Average	54	72	\$130

If land needed to access the interconnection point(s) is not controlled, provide a detailed plan and timeline for the acquisition of any additional rights necessary for the right-of-way to the interconnection point(s). Identify and describe the individual land parcels associated with the interconnection and any rights of way needed. If applicable, fully describe the relationship of the site to other adjacent infrastructure, including preferred or alternate point(s) of interconnection (POI). Please indicate whether there are known risks or uncertainty associated with the preferred POI. If the Proposer is planning on using an adjacent parcel or if the right of way is controlled by or assignable to the interconnecting utility that will own the interconnection facilities, clearly explain this in the description. Proposers should specify and describe the current or new interconnection facilities (lines, transformers, switching equipment, system control protection, etc.) that the Proposer owns or is intending to construct or have constructed in order to deliver the proposed energy (including costs), and identify the closest Bulk Power Transmission Facility (BPTF) to the Bid Facility site.

Committed Upgrades Description (if applicable)

Proposers will be permitted to bid with Committed Upgrade(s) that will improve the Bid Facility’s deliverability. If a proposer bids with Committed Upgrades to transmission infrastructure, the Proposer must provide a complete description of the Committed Upgrade(s), to include its location, size,

⁶⁶ Costs available via <https://www.nyiso.com/regulatory-viewer>. Interconnection costs are for benchmarking purposes only- individual project interconnection costs may vary significantly from these average costs based on project- and point-of-interconnection-specific characteristics. Proposers are strongly encouraged to consult with the NYISO and connecting transmission owner (CTO) prior to estimating a Bid Facility’s interconnection costs and submitting a bid to RESRFP22-1.

⁶⁷ Highly variable dependent upon the project location, electrical topology (e.g., single line tap, three breaker ring bus, five breaker ring bus), and voltage level of the POI. In addition to consulting with the NYISO and CTO, additional resources including each CTO’s electrical service bulletin for the applicable generator type may be of service to Proposers.

technology, estimated impact on deliverability and expected cost of the Committed Upgrade(s). The expected cost and scope of the Committed Upgrade(s) must be confirmed by the results of Facilities Study or a more advanced interconnection study performed by the control area operator and/or interconnecting utility.

Impacts on Disadvantaged Communities Description

The Proposer must provide a complete description of the benefits and burdens associated with the development of the Bid Facility on any host communities or proximate communities designated as Disadvantaged Communities.

Energy Storage Site and Equipment Description (if applicable)

The Proposer must provide a complete description and overview of the Energy Storage,⁶⁸ describing the area included in and surrounding the Energy Storage site, a description of local zoning, other applicable ordinances and municipal laws, if the Energy Storage component is not co-located with the Bid Facility, describe the existing land use (*e.g.*, woodlands, brownfield, agriculture, other) and setting (*e.g.*, rural, urban, suburban, other) and describe what the Energy Storage site has been used for in the recent past. Include and describe the status and development stage of Energy Storage (development, construction, or operation). Include information about the specific technology or equipment considered or selected, major equipment to be used, manufacturer or vendors considered or selected, equipment acquisition status, and equipment contract/agreement status.

If an award includes Energy Storage, the Proposer must agree to reasonably participate in an Energy Storage Technical Working Group (ES TWG) and its associated activities.

Energy Storage Interconnection Description (if applicable)

The Proposer must provide a complete description and overview of the planned interconnection of the Energy Storage, including how the Proposer plans to gain interconnection site control and any rights that must be obtained by the Proposer or interconnecting utility for the Energy Storage interconnection. Identify and describe the individual land parcels associated with the Energy Storage interconnection and any rights of way needed. If applicable, fully describe the relationship of the site to other adjacent infrastructure, including planned or alternate points of interconnection. If the Proposer is planning on using an adjacent parcel or if the right of way is controlled by or assignable to the interconnecting utility that will own the interconnection facilities, clearly explain this in the narrative. Specify and describe the current or new interconnection facilities (lines, transformers, switching equipment, system control protection, *etc.*) that the Proposer owns or is intending to construct or have constructed in order to deliver the proposed energy.

Impacts of COVID-19 on Proposer and Project Development

The Proposer must describe how the COVID-19 pandemic and associated impacts have affected and/or continues to affect their business operations, including supply chain constraints, the process of

⁶⁸ The description must include an overview of the Energy Storage component, including the Storage Unit(s), Interconnection Facilities up to the Point of Interconnection, Prevention Equipment, and Protective Apparatus together with all materials, equipment systems, structures, features and improvements necessary to safely store, charge and discharge electric energy.

developing new projects, and the content of the Bid Proposal. For the avoidance of doubt, the content of this section of the Proposal is informational only and will not affect the scoring of the Bid Proposal.

Department of Commerce Antidumping/Countervailing Duty Investigation (if applicable)

Proposers bidding Solar Bid Proposals must describe how the U.S. Department of Commerce investigation⁶⁹ has affected the timing and expected costs of equipment for their Bid Facility. This description should include what equipment Solar bidders intend to use, and whether their original procurement plan has changed after the announcement of the U.S. Department of Commerce investigation and in what ways their procurement plan has changed. For the avoidance of doubt, the content of this section of the Proposal is informational only and will not affect the scoring of the Bid Proposal.

Bid Facility Project Schedule

If the Bid Facility, and if applicable, Energy Storage, is under development, the Step Two Bid Proposal package must populate a complete Bid Facility Project Schedule, detailing key development milestones. Proposers must provide all project schedule details on the Project Schedule page of the Step Two Bid Proposal on the [solicitation website](#).

Proposers shall include a narrative that describes each segment of the process, the required permit or approval, the status of the request or application and the basis for project success by the milestone date provided. If the Bid Facility is Operational, a completed Project Schedule is not required.

Confidentiality

The Step Two Bid Proposal allows the Proposer to indicate whether Proposer wishes to have the information in the Bid Proposal package treated as proprietary or confidential trade secret information. NYSERDA is subject to and must comply with the requirements of New York's Freedom of Information Law ("FOIL" see Public Officers' Law Article 6). Information in any tangible form including any document that Proposer wishes to be protected from disclosure to third parties including any information provided as a part of a proposal must be marked "Confidential" or "Proprietary" at the time such information is provided to NYSERDA.

NYSERDA reserves the right to publish the Agreements executed with awardees, including relevant terms within the Agreements. Prior to such publication, NYSERDA will redact any critical electric infrastructure information (CEII) contained in the Agreements, if any, including in the exhibits thereto, and will consider requests to redact confidential business information; provided, however that NYSERDA will not entertain any request to redact price information contained in this Agreement, specifically the Bid Price.

⁶⁹ Department of Commerce, International Trade Administration, [A-570-979, C-570-980], "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders."

8.3.2 Bid Quantity, Price, and Contract Tenor

The Bid Quantity, Bid Price, and Contract Tenor section includes fields for the Proposer to calculate the annual number of Tier 1 RECs (Bid Quantity) to be offered to NYSERDA and the Contract Tenor, subject to the following restrictions:

- 1) Proposers may submit bids for any Contract Tenor of a minimum of one year and a maximum of the Maximum Contract Tenor.
- 2) For wind, solar, and hydroelectric resource types, the Expected Annual Eligible Production and Bid Quantity shall not exceed the P(50) long-term Energy Production Estimate provided under the Step Two Bid Proposal. The P(50) Energy Production Estimate must align with the 8760 hourly profile provided that is representative of the production at the Bid Facility over the proposed Contract Tenor.
- 3) The Bid Quantity Percentage shall be no less than thirty percent (30%) and no greater than one hundred percent (100%) of the Expected Annual Eligible Production, which is equal to the P(50) Energy Production Estimate multiplied by the annual Tier 1 eligibility percentage as determined in the PSoQ and entered in Attachment E (default value of 100% except in the case of Upgrade and Repowering Bid Facilities). In the case of Upgrade and Repowering Bid Facilities, see Section 7.7 for applicable guidelines.

Proposers will be responsible for submitting one Bid Price offer, using either the Fixed REC or Index REC structure, with each Bid Proposal.

- 1) For the Fixed REC structure, the Bid Price consists of a fixed REC price for the term of the Contract Tenor.
- 2) For the Index REC structure, the Bid Price consists of a Strike Price that will be entered into the calculation outlined in Section 5.45.1.2.

8.3.3 Maximum Contract Tenor

Information provided with the Bid Facility's PSoQ/SoQ and Step One Eligibility Application will be used to determine the Maximum Contract Tenor available to the Bid Facility. The Contract Tenor offered in Step Two for a Bid Facility will be limited by the term of the Maximum Contract Tenor.

For all Bid Facilities not in Commercial Operation as of the RFP Release Date, the Maximum Contract Tenor will be calculated as the lesser of:

- 1) 20 years, or
- 2) the Bid Facility's Useful Life

For all Bid Facilities in Commercial Operation as of the RFP Release Date, the Maximum Contract Tenor applicable to the Bid Facility will be calculated as the lesser of:

- 1) 20 years (240 months) minus the number of years (months) between the year (month) of Commercial Operation and the RFP Release Date (rounded to the nearest full year), or
- 2) The Bid Facility's Useful Life minus the number of years (months) between the year (month) of Commercial Operation and the RFP Release Date (rounded to the nearest full year).

For a Return to Service Facility, the date of Commercial Operation for purposes of calculating the Maximum Contract Tenor shall be the original date of Commercial Operation prior to the outage. For a Relocated Facility, the date of Commercial Operation for purposes of calculating the Maximum Contract Tenor shall be the first date of Commercial Operation in the original control area.

For a Repowering Bid Facility, the maximum contract tenor shall be the 20 years from the date at which the Repowering Bid Facility re-enters commercial operation (i.e., not 20 years following the end of the original facility's Useful Life).

Table 10 lists the Useful Life by resource for use in the calculations of Maximum Contract Tenor for this RFP. The Useful Life for Energy Storage is not included in any Maximum Contract calculation but is included for reference; the Step Two Bid Proposal should be consistent with the Resource's Useful Life both with and without Energy Storage, as applicable.

Table 10. Default Values for Useful Life used to determine Maximum Contract Tenor

Resource	Useful Life (years)
Fuel Cell (non-fossil fuel)	20
Hydroelectric (New or Upgrade)	50
Geothermal Electric	20
Geothermal Ground Source Heat	20
Solar PV	20
Tidal/Ocean	10
Wind	20
Energy Storage	20

8.3.4 Project Viability, Operational Flexibility and Peak Coincidence Minimum Threshold Requirements

The supporting documentation for each Minimum Threshold Requirement should be uploaded as attachments as described in detail below. Attachments should be clearly marked with the Bid Facility Name and NYGATS ID.

The list below identifies the supporting documentation required to verify that the Bid Facility meets the Minimum Threshold Requirements for each category. **If a Bid Facility exceeds the Minimum Threshold Requirement in any category, documentation should be provided.**⁷⁰ Bid Facilities that have exceeded the Minimum Threshold Requirements will be awarded more points by the TEP.

Energy Deliverability and Peak Coincidence

Proposers with Bid Facilities physically located within the NYCA must submit a P(50) 8760 schedule consistent with the contract tenor proposed in the form requested by NYSERDA for evaluation purposes.

⁷⁰ For example, for the Interconnection requirements for a 20 MW Bid Facility subject to NYISO jurisdiction, the documentation required to demonstrate achievement of the Minimum Threshold Requirement consists of a draft SRIS/SIS or equivalent in progress. If for example a Facilities Study has been executed, attach a copy and provide confirmation of associated fees paid. The study will satisfy the Minimum Threshold Requirement and will also be considered as a part of the evaluation conducted by the TEP.

Proposers should indicate whether the P(50) delivery schedule is normalized based on historical output from a given weather year.

Proposers are strongly encouraged to familiarize themselves with all ongoing work to identify areas of current and future congestion on the electric grid, including the DPS and NYSERDA [State Power Grid Study](#), inclusive of Distribution and Local Capital Plans and a Bulk Transmission Investment Plan, the [NYISO 2022 System and Resource Outlook Report study and outputs](#),⁷¹ the [Draft Climate Action Council Scoping Plan](#),⁷² including [Appendix G. Resource Integration Technical Supplement](#),⁷³ and other similar studies conducted by the state, NYISO, and/or the transmission owners. Proposers are encouraged to discuss this topic in meetings with the NYISO and/or the Connecting Transmission Operator during their interconnection process to understand the current and expected future state of the grid and the relevant impacts on the Bid Facility's local and regional transmission infrastructure.

The TEP may also consider the potential benefits to deliverability that are afforded by repurposing existing or retired fossil fuel facilities. Proposers that can demonstrate material energy deliverability benefits as a result of interconnecting the Bid Facility at an existing or retired fossil fuel facility may be eligible for additional points in the evaluation of Energy Deliverability. Proposers should provide details on the type of fossil fuel infrastructure that is being replaced or repurposed by the Bid Facility.

Interconnection

The Proposer must demonstrate that the Bid Facility meets the Minimum Threshold Requirements for interconnection progress by providing a summary and other evidentiary documentation from the Interconnecting entity confirming the extent of interconnection activities. Evidentiary documentation can include:

- For large generators proceeding through the FERC-jurisdictional NYISO interconnection process or an equivalent process, evidence that the draft SIS or SRIS, or equivalent has been completed (evidence should include a document or screenshot confirming that the draft study has been completed and include a unique project identifier provided by NYISO) or a copy of the draft third-party SIS/SRIS equivalent; or
- Evidence that a study beyond the SIS/SRIS phase of the NYISO interconnection process is underway and/or complete (*e.g.*, Facilities Study, Interconnection Agreement, or equivalent studies) as described in Section 4.1 (evidence should include a screenshot or document confirming the study is underway and include a unique project identifier provided by NYISO).
- Evidence that a third-party interconnection study performed in alignment with the SIS/SRIS study procedures outlined in Attachment X. Large Generator Interconnection Procedures (LGIP) or Attachment Z. Small Generator Interconnection Procedures (SGIP), as applicable, of the NYISO Open Access Transmission Tariff (OATT) has been completed such that the Proposer has a third-party cost estimate for the cost to interconnect the Bid Facility has been received.

⁷¹ See the meeting materials for NYISO's Electric System Planning Working Group at <https://www.nyiso.com/espwg>.

⁷² <https://climate.ny.gov/Our-Climate-Act/Draft-Scoping-Plan>.

⁷³ <https://climate.ny.gov/-/media/Project/Climate/Files/Draft-Scoping-Plan-Appendix-G-Integration-Analysis-Technical-Supplement.pdf>.

- For small generators proceeding through a Transmission Owner interconnection process, evidence that a Coordinated Electric System Interconnection Review (CESIR), or equivalent, has been commenced as described in Section 4.1.

Proposers are advised that CEII-confidential information may not be submitted to NYSERDA as part of the Step Two Bid Proposal to demonstrate that the Bid Facility has achieved the Interconnection Minimum Threshold Requirements. To demonstrate this requirement has been achieved, Proposers are encouraged to submit only the portion of their draft, completed, and/or third-party System Impact Study/System Reliability Impact Study that outlines the third-party interconnection cost estimates for the Bid Facility, and not the entire study.

Proposers must provide the anticipated interconnection cost for the Bid Facility, including utility system improvements. An estimate must be provided for each Alternate Bid Proposal associated with the Bid Facility.

If applicable and/or available, the Proposer should provide the following documents:

- Copies of associated agreements or other evidence supporting the claimed level of progress as listed above.
- If required or available if not required, a deliverability study or other analyses performed by the Proposer to demonstrate or evidence that the output of the Bid Facility is energy deliverable. See Section 4.1.14.1.1.
- If submitting a Step Two Bid Proposal with Committed Upgrades, a completed Committed Upgrade form as provided by NYSERDA.
- If available, a one-line diagram.

Energy Storage

For Bid Facilities physically located within the NYCA that are proposing with Energy Storage, the evaluation for this category is based on the characteristics of both the Bid Facility and Energy Storage. For the intended deployment, provide an 8760 delivered energy profile with storage in use, and an 8760 profile for the system without storage. Bid Facilities co-located with Energy Storage shall include the role of the Energy Storage in reshaping the production profile in the P(50) 8760. Proposers should indicate if the P(50) delivery schedule is normalized based on historical output from a given weather year. Provide all assumptions used in preparing the energy profile and explain how the 8760 energy profile relates to the intended deployment strategy. Explain how dispatch may be managed and coordinated with NYISO, if applicable. Explain how the delivered RECs will be eligible under NYGATS rules

For each Bid Proposal that includes Energy Storage, the Proposer must provide the following:

- System operating parameters;
 - Manufacturer and model for major components (battery and inverter units, etc.)
 - Maximum continuous power (MW or kW, AC)
 - Total energy (MWh or kWh, AC)
 - Duration (hour)
 - Round trip efficiency (%)
- Available specification sheets from manufacturer.
- Expected system degradation over the contract term.

- For paired and co-located Energy Storage, provide diagram showing arrangement of generation unit(s), storage, inverter, meter(s), and interconnection.

Proposer must fully describe the intended deployment and dispatch of the storage system over the contract term. Example deployments may include:

- Dispatched to provide renewable integration and firm up a variable renewable energy resource;
- Dispatched dynamically to reduce system peak demand or energy cost to load;
- Available to provide ancillary services, *e.g.*, reserves, voltage control, frequency regulation;
- Available to provide distribution system support;
- Proposers submitting Bid Proposals paired with co-located or separately located energy storage facilities are strongly encouraged to provide an assessment of the proposed facility's impacts on regional transmission constraints and any benefits to local congestion and/or curtailment that is observed today or estimated due to the operation of future proposed generators.

Permitting Viability

The Proposer must demonstrate that the Bid Facility meets the Minimum Threshold Requirements for permitting progress by providing a complete Permitting Plan as described below and in Appendix 2, and by and submitting other information for the Bid Facility that includes the following components:

1) For all Bid Facilities:

- a. A complete Permitting Plan and list of required permits, to be entered in Attachment C, including all permits at the local, state and federal level required to construct and operate the Bid Facility, and if applicable, Energy Storage. Proposers must identify all governing municipalities with jurisdiction or approval authority associated with the Bid Facility, and if applicable, Energy Storage, as proposed to NYSERDA. The complete response will include any special use/conditional use permits, air permits, FERC licenses, planning board approvals, U.S. Army Corps of Engineers (USACE) letters, SPDES permits and other applicable requirements. Proposers must identify a contact for each jurisdiction (for example, hamlet, village, town, city, county, agency, authority, State, or other) associated with the permits.
 - i. Regardless of expected permitting process, Proposers should specify the local official(s) associated with the Authority Having Jurisdiction (AHJ) for the towns, counties and/or school districts in which the Bid Facility is sited, such as the town supervisor or planning/zoning board lead/chair.
 - ii. If the Proposal includes Energy Storage, the Proposer will list all associated permits as provided for the Bid Facility. The permits associated with the Bid Facility and the Energy Storage should be delineated (*e.g.*, Building Permit, Electrical Permit, Fire Permit, *etc.*).
 - iii. If the Bid Facility overlaps with mineral soil groups (MSG classifications 1-4), the Proposer may be responsible for making an agricultural mitigation payment to a designated fund. Proposers must also detail how they plan to comply with the Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands document (Guidelines, Exhibit E to the Agreement). All solar Bid Facilities

seeking permits through the Office of Renewable Energy Siting (ORES) will be required to comply with all ORES requirements, which may include adherence with an amended set of the Guidelines should the final ORES regulations include such an amendment.

- b. A description of any local ordinances (including zoning prohibitions or moratoria) that would limit the Bid Facility's size, location, or schedule, and describe the plan to address these issues. If the Bid Facility or the Energy Storage are not currently zoned or permitted, identify present and required zoning and/or land use designations and provide a plan and timeline to secure the necessary approvals.
 - c. A summary of the (i) cultural, historic, archeological and natural heritage impacts, as may be required; and (ii) water bodies (e.g., streams, wetlands), fish and wildlife, and other applicable environmental and/or agricultural impacts identified in Appendix 2 - Permitting Plan Impacts and Guidelines. This requirement will be primarily fulfilled by providing the required studies for projects sited in New York State, although Proposers are required to summarize all due diligence conducted to date in the Permitting Plan. Proposers should include any initial review measures that have identified strengths or weaknesses of the Bid Facility site related to long-term climate change resiliency.
 - d. If applicable, include any initial review of any physical and economic impacts that the Bid Facility's development may have on Disadvantaged Communities.
- 2) **For all Bid Facilities**, a Field Screening for Wetlands and Water Resources Delineation Report as detailed in Appendix 3 to RESRFP22-1.
- 3) **For Bid Facilities within the NYCA that are less than 20 MW**, the Proposer must substantiate that 1) a FEAF has been completed and is prepared to or has been submitted to the applicable lead agency and the applicable NYS DEC Division of Environmental Permits office, or that 2) a finding of no jurisdiction has been provided by NYS DEC following the submission and review of the FEAF for the Bid Facility. The Proposer must submit a Permitting Plan that describes its plans for advancing the Bid Facility through the SEQR process or, if eligible, another applicable permitting process. For example, a Bid Facility in the SEQR process would provide timing for SEQR (Steps 2-12 as outlined by the NYS DEC on <https://www.dec.ny.gov/permits/6189.html>). The Proposer must describe the current status and planned activities for advancing the Bid Facility through the rest of the SEQR process, including target dates for major milestones and a description of the Proposer's approach regarding conditions, negative declarations, special-use permits, landscaping permits, or other expectations.
- 4) **For Bid Facilities within the NYCA greater than 20 MW**, the Proposer must submit a Permitting Plan that describes its plans for advancing the Bid Facility through the expected applicable process.

If the Bid Facility has begun its application under Article 10 and plans to continue under that process, the Proposer must include a description of the Proposer's proposed Public Involvement Program Plan (PIP), a description of any approach regarding stipulations or other expectations, and target dates for each major step of the Article 10 process (PIP, Public Scoping Statement [PSS], and Application), the current status and planned activities for advancing the Bid Facility through the remaining milestones of the Article 10 process, including target dates for major

milestones and a description of the Proposer's approach regarding stipulations or other expectations.

If the Bid Facility is proceeding through the ORES permitting process⁷⁴, the Proposer must substantiate that the following studies have been completed for the proposed Bid Facility site and provide the findings of each with the Step Two Bid Proposal:

- 1) Wildlife Site Characterization Report;
- 2) Phase IA Archeological Desktop Survey;

The Proposer must describe planned process and timeline for proceeding through the ORES process to obtain a permit to construct the Bid Facility as proposed, including the timing of any public engagement and/or planned studies. Focus on items a-d as part of the Permitting Plan as required above.

- 5) **For Bid Facilities not located in the NYCA**, Proposers must substantiate that an equivalent level of pre-development due diligence has been conducted for the Bid Facility site.
- 6) For Bid Facilities including Energy Storage, either:
 - a. include any NYS DEC EAF submissions specific to the Energy Storage facility. If applicable, provide evidence that the Lead Agency for the SEQRA process has been designated, or;
 - b. complete and submit a draft New York SEQRA Short Environmental Assessment Form specific to Energy Storage.

The Permitting Plan should also include documentation and descriptions sufficient to demonstrate progress on each of the applicable items delineated above.

Required evidentiary documentation should include:

- A complete Permitting Plan and list of required permits as described above. If available, the Permitting Plan should include as many aspects of [Appendix 2 – Permitting Plan Requirements and Guidelines](#).

If applicable and/or available, the Proposer should provide the following documents:

- Documentation filed with or received from the local governmental authority confirming that a request for a zoning change or variance has been initiated and/or the local approval process is underway.
- For Bid Facilities i) outside of the NYCA, or ii) Bid Facilities including Energy Storage, a completed New York SEQRA Short Environmental Assessment Form (SEAF).
- If applicable, evidence that the Lead Agency for the SEQRA process has been designated or is in the process of designation.

⁷⁴ [ORES](#) regulations became effective on March 3, 2021 and are available here: Chapter XVIII, Title 19 of NYCRR Part 900 (Subparts 900-1 – 900-15).

- If available, applications for construction permit(s) that have been submitted to local authority(ies) with approval jurisdiction.
- If available, any applicable field studies (*e.g.*, Environmental Site Assessment⁷⁵ Phase 1, Archaeological Phase 1, Geotechnical) and surveys (*e.g.*, ALTA, topography, water bodies/wetlands, or other), and/or the status of un-started/not yet commenced or ongoing field studies and surveys.
- For hydroelectric facilities only, include the Bid Facility's FERC license expiry date or provide evidence that FERC licensing process has been initiated and notice of intent has been filed.⁷⁶

Agricultural Land

Proposers must include a description in their Bid Proposal of any agricultural land that the planned project footprint of their Bid Facility is sited on. This description should include owned, rented, or leased farmland. Proposers must also include a description of any recent agricultural activity occurring on the planned project footprint in the five years prior to the release of RESRFP22-1.

Proposers of Solar facilities must complete and submit the NYSERDA [Smart Solar Siting Scorecard](#), which will score projects based on their expected impacts to active agricultural land and Mineral Soil Groups 1 through 4 (MSG 1-4) and additional measures. NYSERDA is not intending to use the Scorecard as a screening tool to preclude Proposers from receiving a NYSERDA award based on agricultural impacts, nor contractually require avoidance and/or minimization measures submitted via the Scorecard, however NYSERDA will make the Scorecards for awarded projects publicly available such that the applicable permitting body may reference the Scorecard as part of the permitting process for the project.

Projects that include co-utilization measures will be viewed favorably in proposal evaluation. Proposers that intend to pursue such agricultural co-utilization are required to (1) describe such agricultural co-utilization in their Permitting Plan and their NYSERDA Smart Solar Siting Scorecard, and (2) submit a completed Agricultural Mitigation Payment Deferral Request Form (which will be made available to eligible Step Two Proposers) with their Step Two Bid Proposal. For more details on agricultural co-utilization practices, deferred Agricultural Mitigation Payment requirements, and agricultural co-utilization plans, please see Appendix 2 to RESRFP22-1 and Section 6.11 of the Agreement.

Project Development, Financing and Creditworthiness⁷⁷

The Proposer must demonstrate it meets the Minimum Threshold Requirements for Project Development, Financing and Creditworthiness by providing the following documentation:

⁷⁵ ASTM International, formerly known as American Society for Testing and Materials, published a standard for conducting Phase I Environmental Site Assessments. See ASTM E1527-13, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, ASTM International, West Conshohocken, PA, 2013, <http://www.astm.org/cgi-bin/resolver.cgi?E1527-13>.

⁷⁶ If applicable, identify program eligibility under FERC minor environmental effects, *e.g.*, projects that involve little change to water flow and use and are unlikely to affect threatened and endangered species. If applicable, please identify the NYS DEC classification for the dam associated with the Bid Facility, available online at the New York State Dams Inventory Database. See <https://www.dec.ny.gov/lands/4991.html> for a full dataset of NYS Dams, the NYS DEC Dams Inventory.

⁷⁷ Unless the proposed Bid Facility is currently in operation (*i.e.*, proposed Bid Facility is applying with an SoQ).

- An organizational chart for the Bid Facility that lists the participants and identifies the corporate structure, including general and limited partners and financial arrangements to the Proposer's parent company or affiliate.
- A management chart that lists the key personnel dedicated to the Bid Facility.
- A list of specific projects successfully developed and/or financed, specifying the nameplate capacity, technology,⁷⁸ commercial operation date, and location using Attachment C. Bid Data Form.
- A Financing Plan that demonstrates the financial capability to complete construction by the proposed commercial operation date. The Financing Plan should contain if available and applicable:
 - A description of the business entity, organizational structure, and legal form, with an organization chart showing the relationship among the different equity partners, and parents;
 - A detailed description of the anticipated financing arrangements, including equity, pre-construction and development expenditures, Contract Security, construction debt, mezzanine / subordinated debt, and permanent debt;
 - A list of all committed and potential equity partners;
 - The Bid Facility development and operating responsibilities of each equity partner, and their respective funding obligations, *e.g.*, joint and several funding responsibilities, if applicable;
 - Evidence that the Proposer or its equity participant(s) possess an investment grade Credit Rating. If an equity participant does not have such Credit Rating, *e.g.*, a subsidiary, it shall provide (i) written evidence of a corporate commitment, for example, a "comfort" letter or "keepwell" agreement, to support the development and financing from its parent company and (ii) evidence of an investment grade Credit Rating from that parent company;
 - In addition to the Credit Ratings, any credit alerts or rating upgrade or downgrade for the equity partners, or their parent companies in the past three years;
 - If available, written expressions of interest from potential debt lenders sufficient to fund the full anticipated amount of project development, construction and permanent debt capitalization;
 - The anticipated total capital expenditures for the Bid Facility, including to the extent possible the anticipated capital expenditures for:
 - Solar Bid Facilities: photovoltaic modules, inverters, racks and mounting hardware, electrical collection system / transformers;
 - Wind Bid Facilities: turbines and towers / foundations;
 - All Bid Facilities: site acquisition, substation / switchyard construction, transportation / delivery, installation / labor costs, site survey and civil work, tree clearing costs, agricultural mitigation and any other installation costs;
 - The total anticipated Engineering, Procurement and Construction cost for the Bid Facility;
 - For solar Bid Facilities, the module unit price assumption, whether panels have been procured and how the Proposer plans to provide the panels at the pricing assumed;
 - Inflation rate assumptions, if not an inflation-adjusted Bid Proposal;

⁷⁸ Resource and prime mover, *e.g.*, solar or wind. Not meant to distinguish between different solar technologies, for example.

- The anticipated construction and long-term capital structure for the Bid Facility ownership entity, including the Bid Facility's projected balance sheet at year-end for every construction year and at COD;
- Description of the evolution of division between shareholder equity and debt from the development period through the construction period;
- Details of the expected construction loan and permanent loan, including terms of repayment, (amount, tenor, interest rate, etc.), the amount each lending institution is prepared to commit (subject to credit committee approval), their debt service requirements (interest, rate swaps, letters of credit, guarantees, etc.), with all fees indicated clearly;
- Describe all available federal, state, and local available tax credits, financial incentives, and subsidies (e.g., NY Green Bank financing), and how these will be utilized in the Financing Plan. Explain why any available tax credit, financial incentive, or subsidy will not be utilized;
- Details of any events of default or other credit/financial issues associated with all projects (other than those under contract with NYSERDA) in which the Proposer (and other equity partners), its parent company, its affiliates, and directors, officers, and senior managers of those entities, participated over the past three years;
- Disclosure of any criminal and civil lawsuits, litigation, and settlements associated with the Proposer's prior project development and commercial efforts over the last three years;
- Information concerning the Proposer's (and other equity partners) financial condition and evidence of creditworthiness; and
- If available, for the most recent accounting period and prepared in accordance with GAAP or IFRS: 1) A copy of its annual report containing audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year, setting forth in each case in comparative form the figures for the previous year, and 2a) for SEC reporting companies, access to financial statements certified in accordance with all Applicable Laws, including applicable SEC rules and regulations, or 2b) for non-SEC reporting companies, certification from the chief financial officer, controller, treasurer or any assistant treasurer of a Proposer/Seller or any employee of a Proposer/Seller designated by any of the foregoing, as being fairly stated in all material respects (subject to normal year-end audit adjustments). If a Party's financial statements are publicly available electronically on the website of that Party or the SEC, then the Party shall be deemed to have met the requirements of this section.

If applicable and available, the Proposer should provide the following documents via PDF or summary documents with links to publicly available PDFs (**Links to all publicly available SEC filings are preferred as opposed to the submission of full SEC filings**):

- Audited financial statements for the three most recent fiscal years;
- Audited financial statements from Proposer's parent, if Proposer does not have such financial statements and the parent is providing a corporate funding commitment; or
- Unaudited financial statements for its three most recent fiscal years if being provided for a private corporation, with an attestation from the CEO or CFO that such information is materially accurate and complete; or

- An explanation if the information above cannot be provided, and provision of alternate information to demonstrate Proposer's financial capacity to develop and bring the proposed Bid Facility to commercial operation.
- A declaration of intended use the Production Tax Credit (PTC) or Investment Tax Credit (ITC). Proposers should include their assumption of the percentage of their energy production or project costs, including any energy storage component of the Bid, that will be compensated under the PTC or ITC and how the Bid Facility will qualify for the PTC or ITC.

Site Control

The Proposer must demonstrate that the proposed Bid Facility meets the Minimum Threshold Requirements for the Generation Facility and Interconnection Right of Way Site Control by providing the following documents:

- Detailed map of site plan/layout indicating the project and parcel boundaries, to scale, with parcel designation by owner. At a minimum, the map should include the preliminary layout of the Bid Facility within the parcel boundaries, including the major generating equipment and limits of disturbance. The map should indicate the (anticipated) interconnection route and the (anticipated) interconnection point(s). If applicable, indicate the relationship of the site to other adjacent infrastructure, including planned or alternate points of interconnection and proximate generators or other existing infrastructure.
- Fully populated Description of Control Status by Parcel with parcel designation within Attachment C. Bid Data Form, aligned with the submitted site map. Proposers are encouraged to carefully read all instructions contained within Attachment C.
- For solar Bid Facilities, a GIS Data Mapping Files capturing the Bid Facility parcel boundaries, the Bid Facility Area boundary, and the Bid Facility array footprint.

If applicable and/or available, the Proposer should provide the following documents:

- If proposing with Energy Storage co-located with the generator, clearly identify the location of Energy Storage on the site plan. If proposing with Energy Storage not located with the generator, provide a separate map and site plan of the Energy Storage site and (anticipated) interconnection route in the same attachment as the Bid Facility map and site plan.
- If available, a more detailed concept site plan including the locations of the generation unit, all major equipment and facilities, access roads, site work and other project components, along with existing physical features of the site (*e.g.*, wetlands, streams, topographical features, buildings, *etc.*).
- If available, GIS data containing the parcel boundaries that the project will occupy (SHP file preferred, KML/KMZ files permitted).

Community Engagement

The Proposer must provide documentation that it has been in contact with the host AHJ(s) regarding the proposed Bid Facility and has informed the AHJ(s) local elected officials (restricted to primary executive *e.g.*, Town Supervisor, City Mayor, Planning Board Chair, Zoning Board Chair, Code Enforcement Officer, Town Clerk) about the Bid Facility's participation in RESRFP22-1. Documentation can include, but is not limited to,

- Correspondence between the Proposer and host AHJ(s);

- Publicly records of Town/Planning/Zoning Board meeting minutes and/or presentations;
- Communications with local elected and/or administrative officials; and/or
- Letters of Support provided by representatives of the host AHJ(s).

Documentation provided by the Proposer must be definitively demonstrate that the Proposer is communicating with the host AHJ(s) regarding the proposed Bid Facility. Proposers are encouraged to submit as much documentation as available to fulfill this eligibility requirement and are encouraged to work with all applicable stakeholders at the local level.

In [Public Service Commission Case 20-E-0249](#), In the Matter of a Renewable Energy Facility Host Community Benefit Program, the [PSC Ordered](#) that residential electric utility customers residing in a renewable Host Community receive an annual bill credit for each of the first ten years that a Major Renewable Energy Facility operates in that community. Funding for the bill credits will be provided by the owners of major solar and wind renewable energy facilities by paying an annual fee of \$500 per megawatt (MW) and \$1,000 per MW, respectively, of nameplate capacity. The fees paid by a Major Renewable Energy Facility would be distributed equally among the residential utility customers within the Host Community of the facility.

Therefore, NYSEDA directs Proposers submitting Bid Facilities 25 MW and larger sited within New York State to RESRFP22-1 to include at least a \$500 per megawatt (MWac) Host Community Benefit Program Fee (“Program Fee”) for solar projects and \$1,000 per megawatt Program Fee for wind projects, for each of the first ten years once the Bid Facility reaches Commercial Operation.⁷⁹

Community Engagement Plan

The public and local governments play an important role in the process of evaluating and advancing power plant siting in New York State, and in shaping developments that may be permitted in their communities. Proposers are responsible for planning and implementing a Community Engagement Plan that supports an open and inclusive public process and encourages feedback throughout the development and construction of proposed Bid Facility. An effective Community Engagement Plan reflects an understanding of local interests and concerns, provides high-quality and well-timed public education opportunities, demonstrates a commitment to partnering with the elected officials in proposed host communities, respectfully responds to opposition, and elicits input from the public and affected agencies.

Prior to and following the submission of Step Two Bid Proposals, NYSEDA’s Clean Energy Siting team will schedule and meet with local officials in the proposed host communities, in person and/or via teleconference. These meetings will be conducted without Proposer participation, but NYSEDA will notify the Proposer regarding the schedule for such meetings and provide a brief synopsis of such meetings after they conclude. NYSEDA intends to share the submitted Community Engagement Plans and Attachment B. Public Release of Information Form with local officials interested in the learning more about the project’s development.

⁷⁹ PSC February 11, 2021 Order Adopting a Host Community Benefit Program, <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DFD69D2F-A16F-404F-9A7C-283F0C79D1DB}>

All Proposers will also be required to complete and submit Attachment B. Public Release of Bid Facility Information to be published alongside the Bid Facility's Community Engagement Plan. A blank version of Attachment B is available for download from the [RES Solicitations webpage](#) and the [solicitation website](#).

All Proposers must provide a complete Community Engagement Plan including planned engagement activities associated with the Bid Facility, and if applicable, Energy Storage, as described below.

- 1) Identify the Authority Having Jurisdiction (AHJ) and taxing School District, including local elected officials' names, contact information and tenure.
- 2) Detail outreach strategies and activities the Proposer has implemented to date and will use to engage stakeholders and interested parties, including affected agencies, and to encourage public involvement throughout the pre-award, development, construction, and operation phases (consistent with the Project Milestone Schedule), including methods of communication and specific channels the Proposer intends to use to disseminate Bid Facility information.
- 3) Applicability of the Climate Act goals regarding benefits to Disadvantaged Communities that would be realized with the development and construction of the Bid Facility.
- 4) Planned frequency of public events and the anticipated duration, in years, of the public engagement events of community outreach, and strategies to ensure that public engagement events are widely attended by a representative cross section of host community residents.
- 5) Details of the direct benefits to the community the Proposer will advance, which may include a local ownership stake in the facility, reduced energy bills for those with homes or businesses in the Bid Facility's vicinity, and/or other direct benefits.
- 6) Details on past/planned engagement regarding payments in lieu of taxes (PILOT) agreements or host community agreements (HCAs).
- 7) Describe local interests and concerns, including identifying plans to thoughtfully build support for and respectfully responding to any opposition to the Bid Facility.
- 8) Identify strategies the Proposer will use to mitigate concerns raised by the public regarding the Bid Facility, and if applicable, Energy Storage. This may include visibility and viewshed Impact mitigation efforts, accommodations to co-locate agricultural activities, or other issues of importance to the host communities.
- 9) Method for soliciting feedback and input from the public and affected agencies and the process for sharing feedback and responses publicly.

The Community Engagement Plan will be published on NYSERDA's website following receipt of the Step Two Bid Proposal.

Resource Assessment and Energy Production Estimate

The Proposer must provide a Resource Assessment and Energy Production Estimate that responds to all required information identified in Appendix 1. The Proposer must also provide a narrative description of any assumed level of curtailment built into the resource assessment and any projected impacts on the Bid Facility's energy and/or capacity deliverability. The Proposer will be required to detail the full extent of the curtailment assessments performed to demonstrate the deliverability of the Bid Facility and clarify explicitly what the curtailment and degradation assumptions are for the equipment proposed for the Bid Facility.

Detailed instructions regarding the supporting documentation required to meet the Minimum Threshold Requirements for a Resource Assessment and Energy Production Estimates, by technology, are provided in Appendix 1.

For Bid Proposals that include Energy Storage, Proposers must explain if and how the Resource Assessment and Energy Production Estimate differ from the corresponding generator-only Bid Proposal.

Carbon Emissions and Embodied Carbon

The Proposer should describe the efforts that have or can be undertaken to understand the “embodied carbon” impact of renewable development and minimize the Bid Facility’s embodied carbon intensity. To the extent discernable at the current stage of development, Proposers should describe and explain the anticipated carbon intensity in Bid Facility design, sourcing, construction, operation, and maintenance.

Proposers should also describe and explain any available process by which the Proposer will be able to account for embodied carbon on an ongoing basis through development, construction, and operation of the Bid Facility. This could include the sourcing and manufacturing of primary components such as modules, inverters, turbines, towers, other prime movers, cables, substations, energy storage facilities, and other electric equipment, but should also consider associated activities such as construction, Operation & Maintenance (O&M), and decommissioning. This could also include opportunities to support carbon mitigation efforts in collaboration with New York State manufacturing sources.

Additional Project Viability Narrative/Supporting Data

In addition to providing narrative descriptions detailing how the Bid Proposal meets the Minimum Threshold Requirements, the Proposer should provide any additional information that supports the viability of the Bid Proposal, including, to the extent not described elsewhere in the Bid Proposal, justification for any economic or regulatory assumptions and identification of economic, permitting and/or regulatory risks and mitigation plans. Proposers should characterize their analysis of basis risk and shape risk to estimate what the Bid Facility will receive for energy revenue relative to the Reference Energy Price.

8.3.5 Incremental Economic Benefits to New York State and Disadvantaged Communities

Incremental Economic Benefits expected to accrue to New York because of the development, construction/modification, and operation of the Bid Facility will be evaluated as another non-price evaluation component. Incremental Economic Benefits are those that a Proposer can demonstrate: (1) will accrue because of an award under this RFP, and (2) would not have accrued but for the award of a contract under this RFP.

In RESRFP22-1, New Storage Technologies, including non-electrical battery energy storage facilities such as electrolytical hydrogen or experimental energy storage technologies, are eligible for incremental economic benefits when Proposers submit Bid Facilities with a co-located or separately located New Storage Technology. Incremental Economic Benefits may be included for pilot and demonstration projects that complement proposed Bid Facilities, including innovative storage projects that are not otherwise eligible as Energy Storage. These may include demonstration projects that utilize hydrogen in the energy, transportation, building, or industrial sectors, and proposals that advance the maturation of a hydrogen supply chain in New York State. Incremental Economic Benefit expenditures submitted for

New Storage Technologies must be included in the three Economic Benefits categories detailed below. Bidders should note that these types of paired energy storage facilities will not be eligible for non-price evaluation in the Project Viability and Operational Flexibility and Peak Coincidence subcategory and will be evaluated in the Incremental Economic Benefits Category only.

In RESRFP22-1, Bidders submitting alternate bids that are paired with either energy storage or New Storage Technologies will be asked to submit itemized Incremental Economic Benefits that accrue as a result of the energy storage or New Storage Technology component separately in the Economic Benefits Report. In the event that the energy storage or New Storage Technology component of the Bid Facility is not constructed, the Bidder's Incremental Economic Benefits commitment will revert to the level designated in the Economic Benefits Report for the base Bid Facility and the Bidder will be held to the Incremental Economic Benefits threshold identified in the Incremental Economic Benefits commitments for the base Bid Facility not paired with energy storage or New Storage Technologies.

Incremental Economic Benefits can be claimed as of the RFP Release Date.

Only those Incremental Economic Benefits falling within the categories defined below, as entered in Attachment C. Bid Data Form will be considered. In no instance will NYSERDA or its TEP consider any indirect benefits or those created by any "multiplier effect" or other attribution method under which the creation of peripheral spending and jobs might be credited to direct capital infused into the economy.

Note that all laborers, workmen and mechanics, within the meaning of NYS Labor Law Article 8, performing construction activities with respect to the Bid Facility and, if awarded, Energy Storage, must be paid at least the applicable Prevailing Wage applicable in the area where the Bid Facility will be situated, erected and used, as published by the [NYS Department of Labor](#) (DOL) or at least the equivalent Prevailing Wage requirements of the jurisdiction where the Bid Facility is located.

Because New York State has not yet formally defined Disadvantaged Communities, this RFP will rely on already-established criteria for communities that meet the spirit of the Disadvantaged Communities objectives of the Climate Act. Bid Proposals will be awarded more points by the TEP if the Proposer can demonstrate benefits of the project's development are afforded to communities that currently meet the interim definition of Disadvantaged Communities.

Incremental Economic Benefits previously claimed with respect to a Bid Facility that is subject to a pending award under a previous solicitation or that is the subject of a current NYSERDA contract are not eligible for evaluation.

Proposers must provide complete information along with the supporting documentation or requested data in the following three categories. The types of components of the three categories are further described below:

- 1) Long-Term Economic Benefits to New York State (evaluated based on total eligible dollars normalized by Bid Capacity);
- 2) Short-Term Economic Benefits to New York State (evaluated based on total eligible dollars normalized by Bid Capacity); and
- 3) Investments/Commitments to Local Economic and Workforce Development (evaluated based on firmness, credibility, and maturity of the commitments).

Disadvantaged Communities

Proposers and their contractors/sub-contractors/other partners are strongly encouraged to pursue sourcing of laborers, workmen, mechanics, and operations and maintenance workers from Disadvantaged Communities throughout New York State as defined by the Climate Action Council in accordance with the Climate Act.⁸⁰

NYSERDA will more favorably evaluate incremental economic benefits to New York State that will be realized in part or in full by Disadvantaged Communities as part of the Bid Facility's development. The Climate Act directs the [Climate Justice Working Group](#) (CJWG) to establish criteria for defining Disadvantaged Communities. On December 13, 2021, the CJWG voted to release draft Disadvantaged Communities criteria for public comment. The 120-day public comment period ended July 7, 2022. Should a final definition for Disadvantaged Communities be adopted prior to the Step Two Bid Proposal submission date for RESRFP22-1, NYSERDA intends to amend RESRFP22-1 to reflect the final definition of Disadvantaged Communities released by the CJWG.

As the CJWG is working to finalize the criteria for defining Disadvantaged Communities in New York, interim Disadvantaged Communities criteria will apply to all Large-Scale Renewable projects awarded before the final Disadvantaged Communities criteria are finalized. Further resources for identifying interim Disadvantaged Communities are located on [NYSERDA's Disadvantaged Communities website](#).

Once the final Disadvantaged Communities criteria are finalized, they will be incorporated into future solicitations, and an updated map of New York Disadvantaged Communities will be provided for reference to Proposers. Additional resources for identifying draft Disadvantaged Communities are located on the [New York Climate Act website](#).

All Proposers are required to fully detail the benefits and burdens associated with the impacts of the Bid Facility's development on any hosting and/or proximate Disadvantaged Communities, as identified through engagement with Disadvantaged Communities, and in accordance with the most recent relevant guidance per the [Climate Action Council](#) and [Climate Justice Working Group](#). Benefits of Bid Facility development may include establishment of education and training opportunities, the hiring of residents from Disadvantaged Communities, or other investments identified as priorities for the community.

All Proposers are expected to explore how they can design their investments to provide benefits to and reduce burdens on Disadvantaged Communities in accordance with the 2020 CES Modification Order.

Proposers are also encouraged to consult the following resources maintained by NYSERDA, the New York State Department of Labor (DOL), and other entities in New York State that are actively supporting the development and sourcing of trained workforce participants (including laborers, workmen, mechanics, electricians, and operations and maintenance workers) from Disadvantaged Communities.

- NYSERDA [On-the-Job Training \(OJT\) program](#) for clean technology businesses seeking to recruit new hires.

⁸⁰ See the NYSERDA Disadvantaged Communities and Climate Action Council webpages for additional resources. [Climate Justice Working Group](#) webpages for additional resources.

- Browse [examples of previously supported training projects](#), including multiple partnerships that have trained workers from Disadvantaged Communities to prepare the clean energy workforce.
- For questions, contact PONOJT@nyserda.ny.gov
- [NYSERDA Clean Energy Training Services](#) is available to contractors seeking to provide targeted training and workforce development resources.
 - For questions, contact winfo@nyserda.ny.gov
- [NYSERDA Internship & Pre-Apprenticeship Program](#)
- [DOL Apprenticeship Program](#)
 - For questions, contact the appropriate [local apprenticeship representative](#) or contact ATCO@labor.ny.gov
- [DOL Career Center Events & Recruitment program](#) also supports regularly scheduled job fairs where employers can actively source workforce participants from Disadvantaged Communities.

MWBE and SDVOB

Proposers and their contractors/sub-contractors/other partners are strongly encouraged to pursue partnership with MWBE and SDVOB. Proposers are required to state the amount of Incremental Economic Benefits that will accrue to MWBE and SDVOB contractors and subcontractors in Categories 1 and 2. These Incremental Economic Benefits will receive greater weight in scoring and will be included in the Agreement as further described in Section 4.2.

Independent Audit and Verification of Incremental Economic Benefits

Independent audit and verification of the actual Incremental Economic Benefits of the Bid Facility and comparison to the level of claimed Incremental Economic Benefits will be required after the first three years of the Contract Delivery Term where the Proposer will submit an economic benefits report prepared by a New York State certified, independent certified public accountant, demonstrating the actual Incremental Economic Benefits that resulted from the construction and operation of the Bid Facility under the categories and within the eligibility requirements listed in the RFP. The Economic Benefits Report will be funded at the Bidder's expense. Should the Bidder fail to reasonably demonstrate that the total dollar amount of Incremental Economic Benefits divided by Installed Bid Capacity, is at least 85% of Expected Dollars/MW, NYSERDA may at its option upon Notice to Seller, modify the Agreement by reducing the Bid Price payable for the remainder of the Contract Delivery Term.

Long-Term Economic Benefits to New York State (Category 1)

The Proposer should describe the degree to which the development, construction, and operation of the Bid Facility will directly create (add) long-term jobs and/or accrue long-term payments to the New York State economy, its municipalities and/or residents. Payments that will provide long-term royalties, production-based payments, land lease or land use payments or other forms of compensation are also eligible in this category. Payments for non-renewable fuels (*e.g.*, natural gas) are not eligible for consideration in this category or in any Economic Benefits category. Eligible claims can include:

- 1) Employment of workers in New York in the form of long-term jobs (jobs lasting longer than three years). These can include, but are not limited to, jobs associated with operations and maintenance, plant management, long-term project development, or similar;

- Employment of workers from Disadvantaged Communities will be given materially greater weighting in evaluation of long-term benefits. All Proposers siting projects in or near Disadvantaged Communities are strongly encouraged to explore what employment resources are available to establish targeted hiring practices to support residents of Disadvantaged Communities.
- 2) Establishment of a project office in New York State, including pre-development activities, leases/purchases, and related employment not claimed as jobs associated with operations and maintenance, plant management, long-term project development, or similar;
 - 3) New or increased local property tax payments to school districts, cities, towns, or other taxing jurisdictions;
 - 4) Payments in Lieu of Taxes (PILOT) agreements or other alternative taxing mechanisms and forms of compensation;
 - New or increased tax payments and/or PILOT agreements that will clearly benefit Disadvantaged Communities will be given materially greater weighting in evaluation of long-term benefits.
 - A percentage of new or increased tax payments and/or PILOT agreement payments will be credited in evaluation as providing incremental economic benefits to Disadvantaged Communities in proportion to the percentage of land parcels located in Disadvantaged Communities.
 - 5) Host community payments, Community Benefits agreements (separate from PILOT or Host Community Benefit utility bill credit payments), mitigation/conservation payments, or other funds that will directly benefit the host community for more than three years, such as Proposer-funded projects that will not be linked to the Bid Facility (*e.g.*, new building or infrastructure improvements to the host town(s), other capital projects indicated as desirable by the host town, funds established in the host town to benefit local residents, *etc.*);
 - Programs established in host towns or proximate communities to specifically direct benefits to Disadvantaged Communities will be given materially greater weighting in evaluation of long-term benefits.
 - 6) Land purchase payments and payments for leases of land in New York associated with securing rights to a Bid Facility site. Land purchase payments will be pro-rated for evaluation purposes to reflect the eligible time period for Economic Benefits claims.

Proposers are encouraged to work with the AHJs hosting the Bid Facility to determine if there are long-term economic benefits that could be uniquely afforded to the town/city/county/school district.

Short-Term Economic Benefits to New York State (Category 2)

The Proposer should describe the degree to which both local and statewide economic activity will increase as a result of in-state purchases and short-term jobs. These can include:

- 1) Employment of workers in New York in the form of short-term jobs (jobs lasting less than three years). These can include construction, rail and port workers, contractors and laborers, engineering or environmental service providers, consultants, financial service advisors, and legal service providers in New York associated with the development and construction/modification of the Bid Facility;
- 2) Employment of workers in New York for ongoing operations and maintenance expenses which are anticipated through the first three (3) years of Commercial Operation;

- 3) Employment of workers in New York in the form of short-term jobs (jobs lasting less than three years) that will support the establishment of a project office in New York state and that are not already claimed as long-term economic benefits;
- 4) Purchases and/or consumption of local goods and services, such as, but not limited to, food, lodging, vehicles, equipment, and/or fuel;
- 5) Other funding that will directly benefit the host community for less than three years, such as Proposer-funded projects that will not be linked to the Bid Facility (*e.g.*, a renewable energy career fair, sponsorship of a community event, etc.);
 - Programs established in host towns or proximate communities to specifically direct benefits to Disadvantaged Communities will be given materially greater weighting in evaluation of short-term benefits.
- 6) Purchases of materials sourced from within New York such as, but not limited to, gravel, steel, concrete and similar materials, purchases and use of equipment and products manufactured or assembled within New York, and/or the use of rental equipment or similar supplies sourced from within New York. Bid Facility components (*e.g.*, wind turbines, solar panels) not manufactured within New York are not eligible for consideration in this category or in any Economic Benefits category.

Commitments to the employment of short-term workers from Disadvantaged Communities will be given materially greater weighting in evaluation of long-term benefits. See Section 6.10 of the RES Standard Form Agreement.

Proposers are encouraged to work with the AHJs hosting the Bid Facility to determine if there are short-term economic benefit opportunities that could be uniquely afforded to the town/city/county/school district.

Investments/Commitments to Local Economic and Workforce Development (Category 3)

The Proposer should describe other commitments that can be included as part of a Step Two Bid Proposal related to economic and workforce development activities. Eligible Incremental Benefits claims in this category may be similar to those eligible claims in Long-Term economic benefits, and can include, but are not limited to:

- 1) Commitments to entering into a project labor agreement, labor peace agreement, or other good-faith labor agreement as part of the construction and operation of the Bid Facility;
- 2) Hosting of local internships and programs for students in renewable energy education in partnerships with local school systems and local NGOs/foundations;
- 3) Hosting of cleaning energy sector occupation apprenticeships or training programs in partnership with community colleges, vocational schools, and/or NGOs/foundations;
 - Commitments to fund or utilize existing workforce development programs that target Disadvantaged Communities such as workforce-to-job training, apprenticeships, pre-apprenticeships, and direct recruitment for short-term construction/operations & maintenance jobs will be given materially greater weighting in evaluation of long-term benefits.
- 4) Hosting of environmental justice programs.
 - Programs established that demonstrably benefit disadvantaged s will be given materially greater weighting in evaluation of economic benefits.

- 5) Partnering and/or hosting other on-site or proximate businesses or industries that are planned to be co-developed with the Bid Facility.
- 6) Commitments to establish an energy cost-saving Community Choice Aggregation (CCA) or bilateral power purchase agreements (PPA) with the host communities and/or regional entities.
 - Commitments to establish a CCA and/or PPA with a host community or municipality located in the region must be substantiated with a letter of coordination and support from 1) a CCA administrator describing how the project will be integrated into the CCA supply mix and, if available, 2) the host community or municipality located in the region that has expressed interest in pursuing a CCA and/or PPA structure with the Proposer.
 - CCAs or PPAs established in geographies that will demonstrably create cost-savings for Disadvantaged Communities will be given materially greater weighting in the evaluation of long-term benefits.
 - Specific questions regarding the establishment of a CCA can be directed to cec@nyserda.ny.gov.

For Investments/Commitments to Local Economic and Workforce Development economic benefits claims, the TEP will assess the scale of the likely impact of the proposed actions and firmness of the commitments, with points awarded based on the number, range, maturity, firmness, and credibility of the commitments being made and the scale of the potential benefits. The TEP will consider the:

- nature, quantity and importance of the proposed claims;
- effectiveness of the approach to developing the proposed claims; and
- supporting documentation to substantiate the nature, firmness, and maturity of the commitments, including, for example, letters of support, memoranda of understanding, letters of intent, option agreements, or binding contracts.

Proposers are encouraged to work with the AHJs hosting the Bid Facility to determine if there are economic benefits opportunities that could be uniquely afforded to the town/city/county/school district/census tract.

Proposers interested in exploring new opportunities for investments/commitments to local economic and workforce development benefits are also encouraged to consult with the New York State Empire State Development (ESD) Cleantech and Renewable Energy program, which may provide other resources and information as to potential opportunities in the Proposers' region of interest. Interested Proposers are encouraged to reach out directly to ESD at: Cleantech@esd.ny.gov.

8.3.6 Buy American / Domestic Steel Provisions

In order to comply with NYSEDA's determination on the Buy-American requirement, Proposers will be required to establish that it procures a minimum of \$54,000 per MWac of iron or steel components that are manufactured with U.S. iron and steel for use in the Bid Facility. Any solar Bid Facility awarded a contract in RESRFP22-1 is required to establish that it procures a minimum of \$30,000 per MWdc of iron or steel components that are manufactured in the U.S. with U.S. iron and steel for use in the Bid Facility.

To the extent a Bid Facility falls short of the minimum dollar requirement determined for the project, any shortfall will be addressed through the remedy provided in Section 5.02 of the Agreement.

8.4 Bid Fee Instructions

Each Step Two Bid Proposal must be accompanied by a non-refundable Bid Fee, in the form of electronic wire (preferred) or certified funds, in an amount determined by the Nameplate Capacity of the Bid Facility. **The Bid Fee is due by April 11, 2023** (see Section 1.3). Proposers must indicate that they have submitted a Bid Fee with their Step Two Bid Proposal and attach proof of the provision of a Bid Fee, such as a receipt or transfer confirmation.

A separate Bid Fee is not required for each Step Two Bid Proposals in instances of Alternate proposals for the same Bid Facility. If a Proposer wishes to submit one or more Alternate Step Two Bid Proposals for the same Bid Facility (for example, with energy storage, or for a different Bid Capacity), only one Bid Fee is required. A separate Bid Fee is not required for each alternate Step Two Bid Proposal.

Bid Fees will not be refunded to Proposers. Required Bid Fee amounts are shown in Table 11 based on the highest Nameplate Capacity in megawatts (MW) submitted for the eligible generator.⁸¹

Table 11. Bid Fees by Nameplate Capacity

Nameplate Capacity (MW)	Bid Fee
Less than 5.00 MW	\$5,000
5.00 – 19.99 MW	\$20,000
20.00 – 49.99 MW	\$50,000
50.00 MW or more	\$100,000

Full Bid Fee submission instructions with account and routing information can be downloaded after registering as a Proposer on the solicitation website.

All Bid Fees must be clearly labeled with a unique identifier comprised of the Bid Facility's NYGATS ID and the RFP Tracking Number, in the format: GENXXXXX_RESRFP22-1, or PROXXXXX_RESRFP22-1, or IMPXXXXX_RESRFP22-1. Bid Fees provided via electronic wire must have this unique identifier included within the Payment Details/Description. Bid Fees provided via cashier's check must have this unique identifier clearly labeled within the Memo or elsewhere on the check.

⁸¹ The Nameplate Capacity is determined by the Tier-1 eligible generation in the NYGATS PSoQ or SoQ and does not include Energy Storage. Nameplate Capacity is measured in AC capacity (MWac).

9 POST-AWARD PROCESS

9.1 Confidentiality

The Proposer shall not distribute any press release or contact the media until after the contract is executed by both parties and any New York State press releases regarding the awards have been issued. NYSEDA may require Proposers to execute a Non-Disclosure Agreement prior to award covering the period of time between award notification and contract execution. If the Proposer wishes to contact the press regarding the award, the Proposer must collaborate with NYSEDA's Large-Scale Renewables Team and the Director of Communications to prepare any press release and/or to plan for any announcement.

9.2 Provision of Contract for Execution

NYSEDA will prepare a conformed copy of the RES Standard Form Agreement (Attachment A) which will be delivered to the Proposer, in a manner to be agreed upon, for Proposer's execution and return.

NYSEDA may rescind awards to Proposers who fail to provide Contract Security within thirty (30) days of the Award Notification Date or who fail to execute the Agreement within a reasonable amount of time. If a Bid Facility is awarded a contract under RESRFP22-1 and the Proposer fails to execute NYSEDA's RES Standard Form Agreement within a reasonable time following notification of an award, the Bid Facility may not be eligible to participate in the next NYSEDA Tier 1 solicitation and may forfeit the initial Contract Security referenced in Section 9.3 below.

NYSEDA may publish the executed Agreements, and/or relevant terms within the Agreements, executed with awardees. Prior to such publication, NYSEDA will redact any critical electric infrastructure information contained in the Agreements, if any, including in the exhibits thereto, and will consider requests to redact confidential business information; provided, however that NYSEDA will not entertain any request to redact price information contained in the Agreement, specifically the Bid Price.

9.3 Provision of Contract Security

Unless otherwise agreed to by NYSEDA in writing, Contract Security in the amount of the product of the Bid Quantity and \$10.00 will be required within thirty (30) days of the Award Notification Date. NYSEDA accepts Contract Security in the form of cash, certified funds, or a Letter of Credit. The criteria for accepting a LOC includes:

- 1) the issuing bank is a member of the New York Clearinghouse Association,⁸² or
- 2) the issuing bank must have a credit rating of A or better by Standard and Poor's, A or better by Fitch, or A2 or better by Moody's; and
- 3) the issuing bank must be a United States bank, or a United States branch of a foreign bank, with a New York branch preferred.

⁸² Please see the owner bank membership for The Clearing House available from <https://www.theclearinghouse.org/about/owner-banks>

NYSERDA has included a standard form of letter of credit in the RES Standard Agreement. If the issuing bank seeks modification to these terms, NYSERDA recommends that a draft letter of credit should be sent to NYSERDA for review and consideration prior to issuance.

9.4 Documents Required for Contracting Purposes

NYSERDA requires the following documents prior to contract execution:

- 1) Post-Award Contracting Information Form, to be provided by NYSERDA to Seller, requesting information such as Legal Business Name, State of Incorporation, Tax Identification Number (EIN), and other contractual information; and
- 2) Pursuant to Tax Law Section 5-a, if not previously filed for the Seller, form Tax Law ST-220-TD is required. Please consult Publication 223, Questions and Answers Concerning Tax Law Section 5-1. If filing for the first time, please indicate the “Seller” under “Contractor name” on the form. This form is filed with the NYS Tax Department and NYSERDA does not need a copy. If previously filed for the Seller, a completed form Tax Law ST-220-CA. On this form, Sellers will indicate to NYSERDA that they have filed the ST-220-TD form or the Seller previously filed ST-220-TD with the Tax Department. As a reminder, please indicate the “Seller” under “Contractor name” on the form; and
- 3) Certificate of Incorporation; and
- 4) A certificate of an appropriate officer of the Seller, in form and substance certifying: (1) the names and signatures of the officers of the Seller authorized to sign any documents to be delivered to NYSERDA under the conformed RES Standard Form Agreement, and (2) the accuracy and completeness of resolutions of the Seller, authorizing and approving all matters in connection with the transactions contemplated in the conformed Agreement. NYSERDA does not have a preferred standard.
- 5) Updated EO 16 Certification and/or Vendor Responsibility Questionnaire.

9.5 Department of Agriculture and Markets Section 305 Notice Information

For awarded Bid Facilities with a Nameplate Capacity less than 25 megawatts and located in a New York State Agricultural District, Proposers may be required to provide to NYSERDA a report including all information required by Section 305(4)(b) of the Agriculture and Markets Law. NYSERDA reserves the right to expand this requirement to Bid Facilities greater than 25 megawatts and/or Bid Facilities sited outside of Agricultural Districts pending the applicable permitting processes in place at the time of award and contracting.

A map of the agricultural districts, by county, is available from New York State Department Agriculture and Markets (AGM).⁸³

9.6 Public Release of Bid Facility Information

If Bid Facility characteristics change between Bid Proposal and Award, Proposers are required to submit an updated Attachment B Public Release of Bid Facility Information to NYSERDA within 10 Business Days of such change. The updated Attachment B will be made available to the public by NYSERDA. NYSERDA

⁸³ New York State Agriculture and Markets Agricultural Districts is available by county at <https://cugir.library.cornell.edu/?utf8=%E2%9C%93&q=nys+agriculture+districts>

will not redact any information provided on the updated Attachment B, in order to ensure transparency with the public.

9.7 Non-disclosure Agreement/Waiver for Interconnecting Authority

The Proposer shall waive confidentiality with the pertinent Interconnecting Authority after the RES Agreement has been executed.

9.8 In the Matter of a Renewable Energy Facility Host Community Benefit Program (Case Number 20-E-0197)

Upon Agreement execution, NYSERDA is required to inform impacted Utilities serving residential customers proximate to the Bid Facility's location and file with PSC in case 20-E-0249 pursuant to the PSC's Order in Case Number 20-E-0249. Prior to Agreement execution, Sellers will confirm the Utility(ies) for residential customers in the project area (i.e., City(ies) and Town(s)) where projects are located for the purpose of compliance with PSC Host Community Benefit Program in DPS DMM Case Number: 20-E-0249. NYSERDA will include the Facility Name, Nameplate Capacity (MWac), Utility, NYISO Queue Position, and Potential Host Community(ies) in the communication. Note that these towns are not AHJs, but the city(ies) and town(s) associated with the physical location of the project as bid to NYSERDA.

10 RES STANDARD FORM AGREEMENT

NYSERDA recommends that Proposers review the Standard Form Agreement (Agreement), Attached hereto as Attachment A, and all associated Exhibits prior to participating in RESRFP22-1. The Agreement is a legally binding document; it is recommended that Proposers consult with an attorney. NYSERDA cannot adjust the binding Fixed or Index REC Bid Price or other settlement-related terms submitted by Proposers as part of a Step Two Bid Proposal.

10.1 Conditions/Contingencies

NYSERDA may include conditions and/or contingencies to address matters concerning any issues regarding the viability or siting of a Bid Facility, or where the build environment is contingent or conditional on governmental rescission, modification or change in local law, temporary or permanent.

10.2 Material Changes to Bid Proposal/Agreement Terms

NYSERDA will not make material adjustments or adjust any award to accommodate changes unforeseen by the developer, including the Index REC Strike Price or Fixed REC Price. Bid Facilities awarded under RESRFP22-1 that do not execute an Agreement may be barred from future participation in RES Solicitations. For Upgrades and Repowerings, depending on the scope of such Proposals, NYSERDA may require additional modifications to the Standard Form Agreement to assure consistency among the basic commercial terms contained therein.

11 GENERAL CONDITIONS

11.1 Proprietary Information

Consideration should be given before confidential information is submitted to NYSERDA as part of any Proposal. Proposers should consider and review whether information is critical for evaluation, and whether general, non-confidential information may be adequate for review and evaluation purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. The Public Officers Law includes exceptions to disclosure, including Section 87(2)(d) which 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." Additional information submitted to NYSERDA that 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 except 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 (<https://www.nyserda.ny.gov/about/new-york-state-regulations>).

However, NYSERDA cannot guarantee the confidentiality of any information submitted. NYSERDA reserves the right to make public, after the fifth anniversary of the award date, the Agreement executed with any awarded Proposal.

11.2 State Finance Law Sections 139-j & 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 <https://ogs.ny.gov/acpl>.

Proposer must certify that he/she will comply with State Finance Law Sections 139-j and 139-k and a provide disclosure statement regarding whether Proposer has been found non-responsible under Section 139-j of the State Finance Law within the previous four years.

11.3 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.ny.gov/pdf/current_forms/st/st220td_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 prospective contractor prior to contacting and filed with NYSERDA. See, ST-220-CA (available at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

11.4 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 Proposers, 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

11.5 Disclosure Requirement

All Proposers shall disclose any indictment for any 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, investigation, enforcement proceeding, 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.

11.6 Press Releases and Media Contact

All Proposers shall not distribute any press release or contact the media until after the Agreement is executed by both parties and any New York State press releases regarding the awards have been issued. If Proposer wishes to contact the press regarding the award, Proposer must collaborate with NYSERDA's Designated Contacts and Director of Communications to prepare any press release and/or to plan for any announcement. NYSERDA reserves the right to make public, after the fifth anniversary of the Award Notification Date, the Agreement executed with any awarded Bid Facility.

11.7 Independent Entities/Limitation of Liability

Neither this RFP nor any other aspect of this solicitation shall create an agency, partnership, joint venture, or co-tenancy relationship among the members of the Evaluation Team, or any other individuals or entities involved in the development or administration of this RFP (collectively, the "RFP Parties"), nor any other relationship or liability beyond those (if any) explicitly adopted in writing and executed by authorized representatives of the applicable RFP Parties. None of the RFP Parties shall be

liable for any act or omission of any other RFP Party. Neither this RFP nor any other aspect of this solicitation creates or is intended to create third-party beneficiaries hereunder. In no event will an RFP Party be liable to any person for special, incidental, punitive, exemplary, indirect or consequential damages or lost profits, whether by statute, in tort or contract or otherwise.

11.8 Vendor Assurance of No Conflict of Interest or Detrimental Effect

The proposer shall disclose any existing or contemplated relationship with any other person or entity, including any known relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the proposer or former officers and employees of NYSERDA, in connection with proposer's rendering services as proposed. If a conflict does or might exist, please describe how your company would eliminate or prevent it. Indicate what procedures will be followed to detect, notify NYSERDA of, and resolve any such conflicts.

The proposer must disclose whether it, or any of its members, or, to the best of its knowledge, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, the "Commission on Public Integrity"), and if so, a brief description must be included indicating how any matter before the Commission on Public Integrity was resolved or whether it remains unresolved.

11.9 Public Officers Law

For any resulting awards, the Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). Proposers are reminded of the following Public Officers Law provision: contractors, consultants, vendors, and subcontractors may hire former NYSERDA employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of NYSERDA may neither appear nor practice before NYSERDA, nor receive compensation for services rendered on a matter before NYSERDA, for a period of two years following their separation from NYSERDA service. In addition, former NYSERDA employees are subject to a "lifetime bar" from appearing before any state agency or authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration during their tenure with NYSERDA.

Any awardee will be required to certify that all of its employees, as well as employees of any subcontractor, whose subcontract is valued at \$100,000 or more who are former employees of the State and who are assigned to perform services under the resulting contract, shall be assigned in accordance with all Ethics Requirements. During the term of any agreement, no person who is employed by the contractor or its subcontractors and who is disqualified from providing services under the contract pursuant to any Ethics Requirements may share in any net revenues of the contractor or its subcontractors derived from the contract. NYSERDA may request that contractors provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York

State Joint Commission on Public Ethics. NYSERDA shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed would be in conflict with any of the Ethics Requirements. NYSERDA shall have the right to terminate any contract at any time if any work performed is in conflict with any of the Ethics Requirements.

11.10 Due Diligence

NYSERDA, at its discretion, may conduct broad due diligence to validate any or all elements of an application and to assess applicants' prospects of success, including gathering information to assess a proposal relative to any of the topics listed in evaluation criteria, whether or not such topic is explicitly addressed in a proposal. NYSERDA may conduct due diligence on some or all proposals based on NYSERDA's current guidelines at the time of a review. NYSERDA staff may follow up with proposers to request additional information or clarification regarding applicant's proposal, including questions regarding applicant's business prospects and resources, whether or not those questions are specifically related to the elements of the proposal. Additionally, customized due diligence may be conducted by internal or external staff or contractors based on questions on any proposal raised by NYSERDA staff and/or the Scoring Committee. Due diligence may include (but is not limited to): interviews of independent references and background checks of team members; assessment of prior business experience of any team member associated with a proposal; research on intellectual property claims; customer and partner reference checks; market research on the applicants' target market and any other related or possibly competitive technology or market area; research to validate any assumptions on current or future revenues, costs, capital needs, and financing prospects for proposers' business, including similar (or unrelated) technologies, processes, or competitive solutions; or any other research that could reasonably inform the evaluation of a proposal, or the prospects for commercial success of the proposers' business (whether directly related to, or unrelated to the specific elements in a proposal). Due diligence may include discussions with proposers' former and current business partners, employees, investors, customers, and competitors. Due diligence may be conducted by NYSERDA personnel or contractors including members of the scoring committee, before, during, or after a scoring process, and prior to finalization of a contract award, any information gleaned in diligence may be used to score or re-score a proposal or apply a program policy factor.

11.11 Executive Order No. 16

Pursuant to Executive Order No. 16 (EO 16) issued on March 17, 2022, all vendors responding to bids or contracting with New York State must certify, using the form noted in Section 7.3, their status with regard to conducting business operations in Russia, and that any such business operations in Russia conducted on behalf of the vendor are determined to be permitted under any of the allowable exemptions. The term vendor is intended to encompass bidders prior to contract award, contractors who have received a contract award, contract assignees, or contractors for whom an extension to an existing contract is being pursued. Exemption decisions are in NYSERDA's sole discretion and are final decisions. NYSERDA reserves the right to solicit additional materials or information regarding the responses or materials provided by a vendor.

Pursuant to EO 16, all vendors will be vetted to ensure that they are not on the federal sanctions list at <https://sanctionssearch.ofac.treas.gov/>. There is no waiver or exemption process for vendors appearing on the federal sanctions list.

The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case sanctions are lifted during a solicitation, or after award in the case of some solicitations.