



*NYSERDA reserves the right to extend and/or add funding to the Solicitation should other program funding sources become available.*

Proposals Due: April 8, 2024 by 3:00 p.m. Eastern Time\*

The New York State Energy Research and Development Authority (NYSERDA) invites proposals from public relations professionals and public relation firms interested in providing public relations/communications services to advance the goals of NYSERDA and the Climate Leadership Community and Protection Act (Climate Act) by building awareness of and support for the Climate Act and assisting in developing a narrative around New York State’s clean energy and climate priorities and providing rapid response communications services, if necessary.

**Proposal Submission:** Online submission is preferable. Proposers may submit Word, Excel, or PDF files (file formats include: csv, doc, docx, gif, jpeg, jpg, pdf, png, ppt, pptx, pps, ppsx, tif, txt, xls, xlsx, and zip). Individual files should be 100MB or less in file size. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility. Files should not be scanned. For ease of identification, all electronic files must be named using the proposer’s entity name in the title of the document. NYSERDA will also accept proposals by mail or hand-delivery if online submission is not possible. For detailed instructions on how to submit a proposal (online or paper submission), click the link “[Application Instructions and Portal Training Guide \[PDF\]](#)” located in the “Current Opportunities” section of NYSERDA’s website (<https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

No communication intended to influence this procurement is permitted except by contacting Tania Allard at (518) 862-1090, ext. 3330 or by e-mail [taniacomms@nyserda.ny.gov](mailto:taniacomms@nyserda.ny.gov) or Claudette Thornton at (518) 862-1090, ext. 3298 or by e-mail [claudettecomms@nyserda.ny.gov](mailto:claudettecomms@nyserda.ny.gov). If you have contractual questions concerning this solicitation, contact Nancy Marucci at (518) 862-1090, ext. 3335 or [nancysolicitations@nyserda.ny.gov](mailto:nancysolicitations@nyserda.ny.gov). Contacting anyone other than the Designated Contacts (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer’s behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

**\* All proposals must be received by 3 p.m. Eastern Time on the date noted above. Late, faxed, or emailed proposals will not be accepted.** Incomplete proposals may be subject to disqualification. It is the proposer’s responsibility to ensure that all pages have been included in the proposal. Please note: for online submission, there are required questions that you will have to answer in addition to uploading attachments and you should allot at least 60 minutes to enter/submit proposals. Please see [Solicitation Proposal and Vendor Responsibility Questions.pdf](#) for a complete list of the questions proposers must answer as part of a submission. The online proposal system closes promptly at 3 p.m. Eastern Time, files in process or attempted edits or submission after 3 p.m. Eastern Time on the date above, will not be accepted. If changes are made to this solicitation, notification will be posted on the “Current Opportunities” section of NYSERDA’s website (<https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

**I. Introduction**

NYSERDA is a public benefit corporation of the State of New York created and operating under the provisions of Public Authorities Law, §§1850 et. seq. (the "New York State Energy Research and Development Authority Act" or "Act"). NYSERDA offers objective information and analysis; innovative programs, including energy efficiency, renewable energy, and energy research and development; technical

expertise; and funding to help New Yorkers increase energy efficiency, save money, use renewable energy, and reduce reliance on fossil fuels.

## II. Scope of Services

NYSERDA requests proposals from public relations professionals or public relations firms interested in providing public relations/communications services to advance the goals of NYSERDA and the Climate Leadership Community and Protection Act (Climate Act) by building awareness of and support for the Climate Act and assisting in developing a narrative around New York State's clean energy and climate priorities and providing rapid response communications services, if necessary.

Services will be sought to assist in the following areas:

- Support NYSERDA in managing current events related to NYSERDA's work;
- Ensure reputation management for NYSERDA and New York State as a clean energy leader by building awareness of and support for the Climate Act and its initiatives; and
- Assist with developing messaging through various communication channels around New York State's clean energy and climate priorities while also being able to rapidly respond to negative viewpoints and perceptions about the State's climate and clean energy goals under the Climate Act, the costs associated with the Climate Act, and challenges to particular policies and programs.

Proposers must have the ability to immediately address emerging unforeseen events that draw media scrutiny and will develop messaging, strategy, outreach, and execution directed toward multiple audiences to address:

- Opportunities to inform and educate the public on the Climate Act while building awareness and support for its goals and potential benefits and helping to maintain a positive narrative and conversation around New York State's clean energy and climate priorities.
- Unpredicted events or situations related to the State's transition to clean energy and a zero-emissions grid while ensuring equity and affordability;
- Questions and concerns on affordability for New Yorkers and direct costs to ratepayers as a result of the State's clean energy and climate transition;
- The development of New York's Cap-and-Invest program, the cost for residential and business consumers, and how it will benefit New Yorkers;
- Advancement of and addressing the headwinds related to large scale land-based and offshore renewable energy project development including unprecedented inflation and potential project attrition from increasing costs and unforeseen supply chain issues;
- Concerns related to the cost and practicality of supporting building decarbonization, the implementation of codes for same and a phase out of fossil fuels in new construction;
- Concerns related to transitioning cars, trucks, and SUVs sold in New York to zero emissions, and requiring all school buses in operation in the state to be zero-emission by 2035;
- Challenges with the lithium ion batteries and the scale up of stationary battery storage systems, as well as related fires, safety issues, and the work of the associated working groups; and
- Any other unanticipated communications requests related to NYSERDA's work to support the Climate Act, as needed.

The public relations professional or public relations firm selected will be expected to act as a public relations firm for NYSERDA for a period of one year. It is anticipated that the initial contract period will begin on or about spring of 2024 or sooner if contractual negotiations allow.

Public relations/communications services/support would potentially include, but need not be limited to:

- Developing a strategy and messaging for responding to and managing new and ongoing analysis and counterpoints on issues related to the areas outlined above through earned media.
- Creating and managing a media outreach strategy to increase opportunities to build awareness of and support for the Climate Act that will result in a positive public narrative and also counter challenges to the areas outlined above through earned media.

- Drafting and helping place op-eds, letters to the editor, and other external messaging, pitch interview opportunities, and facilitate story placement as needed to support quick action through earned media needs on the areas above.
- Developing topline messaging about the State's clean energy legislation, policies and programs to increase opportunities to build awareness of and support for the Climate Act that will result in a positive narrative and help counter challenges related to advancing the goals of the Climate Act and topics outlined above.
- Being readily available to support and assist with time sensitive matters that require quick action.
- Assisting with timely and comprehensive stakeholder outreach in all regions of the State and collaborating with NYSERDA Corporate Communications on messaging and strategic engagement tactics, as needed.
- Participating in meetings with NYSERDA's Corporate Communications staff, and other parties, as necessary or appropriate.
- Providing any other public relations/communications services, advice, or consults relating to NYSERDA's programs, as requested.

### III. Proposal Requirements

#### A. Qualifications

Proposers should:

1. Describe its experience working for or with public entities, including New York State public benefit corporations or public authorities.
2. Describe how the proposer will be able to provide services for the areas above in the Scope of Services and describe the nature of the proposer's expertise in this area(s) of practice. Also, provide a brief description of services the proposer expects to provide to NYSERDA. Indicate whether the proposer is prepared to render the services enumerated in this RFP using its own resources or whether some services will be subcontracted. The description should emphasize particular services to be subcontracted, if any.
3. Be available to accommodate the public relations needs of NYSERDA in a timely and efficient manner. Proposer must demonstrate that primary and reasonably qualified backup and support public relations professionals are available as needed, and that the proposer has staff capabilities to perform the work with short turn-around times. Please identify the nature of resources available to support this effort (i.e., solo professional, small firm, large firm, subcontractor services available where necessary, etc.). Provide any other information you believe would make the proposer's rapid response/communications work supporting NYSERDA superior to other entities.
4. Provide the names of the lead executive, project managers, writers, research analysts, etc. who would be assigned to NYSERDA's account and their experience in performing services similar to the services requested in this RFP. Include resumes for all employees expected to be involved on this account. Include a description of each employee's function in the firm, title, office address, and number of years of service with the firm and other relevant past experience. Describe the percentage of the firm's time commitment to this account that each person would be anticipated to provide. Describe the availability of the lead person(s) for consultation with NYSERDA, including but not limited to their ability to meet with NYSERDA staff in Albany, New York. (Resumes may be included as an appendix.)
5. Discuss fully any conflicts of interest, actual or perceived, that might arise in connection with the proposing public relations professional or public relations firm's involvement with NYSERDA. If conflicts do or might exist, describe how the firm would resolve them. State whether the proposer does business with any energy utility, public authority, or independent power producer that operates in New York State. If so, state the name of each such client and the nature of interaction.

6. Indicate the address of the office through which NYSERDA's account will be primarily serviced, and any anticipated travel or other such costs.
7. Provide an explanation of any exceptions the proposers would request to the Sample Agreement.
8. Provide three client references, including name, address, e-mail and telephone number.
9. State whether the proposer is a NYS-certified Minority- or Women-Owned Business Enterprise.

#### B. Cost

1. State the rates at which the services of assigned personnel would be provided to NYSERDA beginning in fiscal year 2024 (*i.e.* Date of Award to March 2025 and for NYSERDA fiscal year (1 year) (April 1 through March 31), and how services would be billed. Increases, if any, for those years may be stated in terms of percentages above the rates for the fiscal year ending March 31, 2025. Please include:
  - For each person whose resume is provided above, their normal hourly rate and the hourly rate at which NYSERDA would be charged.
  - For each applicable category of support staff or other assigned staff, the normal hourly rate and the hourly rate the proposer would charge NYSERDA, if billed separately.
  - Any reduced rates or fees charged other State or local governments in New York for these types of services.
  - A statement of the basis on which any other firm expenses related to services provided to NYSERDA would be billed, if other than cost.
  - A statement of any special considerations with respect to billing or payment of fees and expenses that your firm offers and that you believe would differentiate you from other proposers and make your firm's services more cost effective for NYSERDA.
  - A statement whether proposer would be willing to agree to caps on fees on an issue by issue basis.

#### C. Agreement

Proposers should review the Sample Agreement attached hereto as Exhibit A which will serve as the agreement between the parties. If proposers require a retainer agreement, this should be provided for inclusion in any final negotiated contract.

#### D. Format

Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. The proposal must be in the following format:

Proposals must provide all information requested in Section III above. The proposal should concisely present the information needed to fully address the Proposal Evaluation criteria in Section IV. Proposals that fail to follow the format guidelines provided in this section may be rejected as non-responsive. A proposer who believes proprietary information must be submitted to provide an adequate proposal must comply with the Section V instructions for submitting proprietary material. Each page of the proposal should state the name of the proposer, RFP 5688, and the page number. Proposals should be no longer than 10 pages. Resumes or examples of work will be excluded from the 10-page proposal limit.

### IV. Proposal Evaluation

Proposals that meet solicitation requirements will be reviewed by a Scoring Committee using the Evaluation Criteria below **listed in order of importance**.

- Overall organization and quality of proposal, including cohesiveness, conciseness, and clarity of response.
- Quality and depth of the firm's expertise and its prior work in providing service in the areas identified in the Scope of Services Section. For any individuals or firms who have worked in any capacity with NYSERDA, the quality of work on those transactions will be considered.
- Experience in working with public entities, including New York State public benefit corporations or public authorities, as well as energy/environmental advocacy groups.
- Ability to be readily available to support and assist with time sensitive matters that require quick action.
- Demonstrated ability to conduct stakeholder outreach, including in those areas described in the Score of Services above, across New York State.
- Commitment of time and resources to this account, and amenability to, and facility for, working with NYSERDA Corporate Communications staff and other staff in various capacities.
- Anticipated cost of services and willingness to work with NYSERDA to minimize cost.
- Whether the proposer is a NYS-certified minority-owned or women-owned business.
- Information provided by client references.

### **Selection Process**

A Scoring Committee comprised of internal NYSERDA staff will review and evaluate proposals. NYSERDA reserves the right to seek additional information from any proposer during scoring committee review. At NYSERDA's discretion, proposers may be requested to interview with, or provide supplemental information to, all or part of the Scoring Committee to address any potential questions or clarifications outlined in the proposals. Top-ranked professionals or firms may also be invited to make oral presentations to the Scoring Committee or other NYSERDA staff as part of the final selection process. Proposers will be notified if they are requested to attend an interview or provide additional information.

### **Program Policy Factors**

NYSERDA reserves the right to accept or reject proposals based on the following factor(s):

- The degree to which the proposed project optimizes the use of available funding to achieve programmatic objectives.

### **GENERAL CONDITIONS**

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

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

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

Empire State Development  
Division for Small Business  
625 Broadway  
Albany, NY 12207

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

Empire State Development  
Minority and Women's Business Development Division  
625 Broadway  
Albany, NY 12207

**New York Executive Law Article 15-A** - NYSERDA is required under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of NYSERDA contracts. The MWBE participation goals and obligations of the selected Contractor are set forth in the Sample Agreement.

**Diversity Practices** - NYSERDA has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practice of respondents to this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement shall be required to include as part of their response, as described in Section III herein, Attachment B, Diversity Practices Questionnaire.

**New York State Executive Law Article 17-B**, NYSERDA recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified service-disabled veteran-owned business enterprises (SDVOB) in the performance of NYSERDA contracts. Executive Law Article 17-B and its associated regulations require, among other things, that NYSERDA establish goals for maximum feasible participation of New York State Certified SDVOBs in the performance of New York State contracts. The SDVOB participations goals and obligations of the selected Contractor are set forth in the Sample Agreement.

**State Finance Law sections 139-j and 139-k** - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <https://online.ogs.ny.gov/legal/lobbyinglawfaq/default.aspx>. Proposers are required to answer questions during proposal submission, which will include making required certification under the State Finance Law and to disclose any Prior Findings of Non-Responsibility (this includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years).

**Tax Law Section 5-a** - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](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 contracting and filed with NYSERDA. See, ST-220-CA (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](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> .

**Contract Award** - NYSERDA anticipates making one award under this solicitation. NYSERDA anticipates a contract duration of one year unless NYSERDA management determines a different structure is more efficient based upon proposals received. A contract may be awarded based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each proposal should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support applications. NYSERDA will use the Sample Agreement to contract successful proposals. NYSERDA may at its discretion elect to extend and/or add funds to any project funded through this solicitation. NYSERDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the checklist questions. Proposers should keep in mind that acceptance of all standard terms and conditions will generally result in a more expedited contracting process. NYSERDA expects to notify proposers in approximately six weeks from the proposal due date whether your proposal has been selected to receive an award. Upon receipt of this notification, a proposer can request to schedule a debrief on the selection process and the strengths and weaknesses of its proposal by contacting Tania Allard, Senior Communications Manager at [taniacommunications@nyserda.ny.gov](mailto:taniacommunications@nyserda.ny.gov). NYSERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSERDA agreement.

**Information Security:** The NYS Office of Information Technology Services (ITS) establishes and regularly updates policies, standards, and guidelines for information security (collectively referred to as “ITS Security Policies”) for State Entities, including NYSERDA. Contractors, vendors, and solution providers conducting work on behalf of NYSERDA including, but not limited to, application development, web development, hosting, or managing NYSERDA’s sensitive data are required to comply with the NYS requirements. These requirements include, but are not limited to, the NYS Information Security Policy NYS-P03-002 which sets forth the minimum requirements, responsibilities, and accepted behaviors to establish and maintain a secure environment and achieve the State’s information security objectives. Contractors that manage NYSERDA’s data outside of NYSERDA’s systems with a High or Moderate rating as per the NYS ITS Information Asset Identification Worksheet must comply with the following requirements.

High Rating	Moderate Rating
<ul style="list-style-type: none"> <li>• Maintain up-to-date SOC 2 Type 2 Assessment Report and provide to NYSERDA upon request.</li> <li>• Maintain Cyber Security Insurance</li> <li>• Provide a signed self-attestation on an annual basis for multiyear contracts</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain Cyber Security Insurance</li> <li>• Provide a signed self-attestation on an annual basis for multiyear contracts</li> </ul>

**Limitation** - This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement. NYSERDA reserves the right to disqualify proposers based upon the results of a background check into publicly available information or the presence of a material possibility of any reputational or legal risk in making of the award.

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



**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, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

**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 Commission on Ethics and Lobbying in Government, 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 Commission on Ethics and Lobbying in Government, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Commission on Ethics and Lobbying in Government. 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.

**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.

**EO 16 Protocols** – Pursuant to Executive Order No. 16 issued on March 17, 2022, all vendors responding to bids or contracting with New York State must certify, using the form provided as part of this solicitation, 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 Executive Order No. 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.

**Attachments:**

- Attachment A – Sample Agreement
- Attachment B – Diversity Practices Questionnaire