



Large-Scale Renewables
Request for Information RESRFI24-1
RFI Release Date: April 29, 2024

Responses Due: Monday, May 13, 2024, by 3:00 PM Eastern Prevailing Time

The purpose of this Request for Information (RFI) is to invite external stakeholders to review and comment on the proposed schedule and key elements of the upcoming NYSERDA competitive solicitation for Renewable Energy Standard Tier 1 Certificates (RECs), referred to herein as RESRFP24-1. After receiving and reviewing feedback on this RFI, NYSERDA plans to release RESRFP24-1 in Q2 2024, with awards intended to be made in either Q4 2024 or Q1 2025, as further described below.

NYSERDA does not intend to publish responses to this RFI. **However, if you wish for your responses to remain confidential, please mark them “Confidential” or “Proprietary,” in accordance with the procedure described below.** If NYSERDA receives a request from a third party for responses received that have been marked “Confidential” or “Proprietary,” NYSERDA will process such request under the procedures provided by New York State’s Freedom of Information (FOIL) regulations, as detailed below (see foil@nyserda.ny.gov for additional information). The FOIL provides 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.” Information submitted to NYSERDA that the disclosing party 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.

Respondents are not required to answer all questions and should focus on questions relevant to their participation in RESRFP24-1 and/or their field(s) of interest or expertise.

Comments responding to this RFI are due by Monday, May 13, 2024, at 3 p.m. ET, and must be sent to res@nyserda.ny.gov with the subject line “RESRFI24-1 Comments” **and marked as confidential** where applicable. NYSERDA may reach out to respondents to seek clarifications. Any questions about this RFI or requests to discuss this RFI should be directed in writing to res@nyserda.ny.gov, but NYSERDA may also at its sole discretion at any time also elect to engage in discussions with potential respondents and interested parties regarding the matters described in this RFI.

I. Background and Objectives

This RFI builds upon RESRFP23-1,¹ the Public Service Commission (Commission) Order Denying Petitions to Preserve Competitive Renewable Energy Market and Protect Consumers issued on October 12, 2023 (the October 2023 Order),² and New York's 10-Point Action Plan,³ all of which include elements and guidance that NYSEDA is considering as part of RESRFP24-1.

Under the Climate Leadership and Community Protection Act (Climate Act), New York State has adopted some of the most ambitious clean energy goals in the nation, including an annual Tier 1 solicitation target of 4,500,000 megawatt-hours for each year 2021 through 2026, to support the generation of 70% of New York's electricity from renewable energy sources (such as solar and wind) by 2030 ("70x30"). Achieving this goal will require aggressive development timelines that considers both the existing and future renewable energy project development pipeline, as well as supply chain, workforce, financing, and construction considerations.

The contemplated aim of RESRFP24-1 would be to prioritize projects sufficiently mature in their development to advance timely progress towards the achievement of New York's 70x30 target. As further described in this RFI, this could entail the retention and/or introduction of measures to the solicitation process that would simplify and expedite the evaluation of bid proposals and/or modify the threshold requirements that projects must meet to be eligible for evaluation and award. The objective of this RFI is to invite external stakeholder feedback on the proposed structure and timing of RESRFP24-1 to help inform NYSEDA's planning around the drafting and timing of such a request for proposals (RFP) prior to issuance.

Feedback is primarily sought from potential RESRFP24-1 proposers (Proposers, parties interested in submitting a bid to RESRFP24-1) and welcomed from all interested stakeholders. This RFI refers to potential characteristics of RESRFP24-1. However, all aspects of any proposed RFP, including any features described or not described herein, may be altered, removed, or otherwise changed at the sole discretion of NYSEDA.

II. Content of Response

Responses should be concise and focus on areas in which the respondent has a particular interest or expertise. Responses should be limited to 10 pages or less. Respondents do not need to answer all questions but focus on questions relevant to their participation in RESRFP24-1 and/or their field(s) of expertise.

Responses should include, and NYSEDA reserves the right not to review or consider responses that do not include, the following information and items:

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

² Case 15-E-0302, Order Denying Petitions to Preserve Competitive Renewable Energy Market and Protect Consumers (issued on October 12, 2023).

³ <https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/Offshore-Wind/10-point-plan.pdf>

- Respondent's name, affiliation, title, and primary contact information.
- Identify and provide general background about your organization, noting whether your organization is a potential Proposer into RESRFP24-1 and/or future NYSERDA RES RFPs generally.
- Each page of the response should include a header stating the name of the respondent.
- Where applicable, comments should include the RFI Section and/or question number to which it refers.
- Respondents should designate information intended to remain confidential as "Confidential" or "Proprietary." Respondents should not mark their entire response as "Confidential" or "Proprietary" unless there is no content whatsoever that is not confidential.

III. Specific Elements/Questions for Stakeholder Feedback

A. RESRFP24-1 Participation and Schedule

NYSERDA is seeking feedback on the preferred schedule and key solicitation deadlines relating to RESRFP24-1. To comply with Orders and Implementation Plans issued in Commission Case 15-E-0302, each Tier 1 solicitation must have a two-step process: an eligibility step (Step One) and a bid proposal step (Step Two). To comply with New York State procurement rules, a minimum of 15 business days must elapse between release of RESRFP24-1 and the date on which proposals into RESRFP24-1 are due. Evaluation of bid proposals in RESRFP24-1 is expected to require a minimum of approximately eight weeks, with finalization of the award group by NYSERDA, in consultation with Department of Public Service staff, carried out promptly thereafter. NYSERDA is currently authorized to continue issuing annual Tier 1 solicitations through 2026.

Earliest RESRFP24-1 Timeline

The earliest expected RESRFP24-1 issuance date is in late May 2024, to allow for NYSERDA to complete drafting and preparation of the RFP after receiving feedback from this RFI. Under this timeline:

- Step One Eligibility Applications could be due as early as late June 2024;
- Step Two Bid Proposals could be due as early as late July 2024; and
- NYSERDA could notify conditional awardees as early as October 2024.
- Contracts would be expected to be signed within 90 days of the receipt of a conformed agreement from NYSERDA following award, i.e., by January-February 2025.

NYSERDA is prepared to issue RESRFP24-1 with this schedule, and is specifically seeking feedback to determine if these deadlines would 1) align with any key development milestones expected to be achieved in 2024 for proposers seeking to participate in RESRFP24-1, and 2) if the schedule allows for sufficient time to prepare a Step Two Bid Proposal by late July 2024, with respect to other proposed RESRFP24-1 key elements detailed in this RFI.

Alternative RESRFP24-1 Timeline

NYSERDA has also identified potential merits to setting a Step Two Bid Proposal submission deadline in October 2024, with award notifications occurring in December 2024/January 2025 (and contracts expected to be signed in Spring 2025), due in part to the current schedule of the NYISO Class Year Study (CY23). The CY23 schedule currently anticipates completing its CY23 report for the NYISO Operating Committee's review by September 2024, and completing CY23 between December 2024 and February 2025.⁴

Accordingly, the alternative RESRFP24-1 timing option described above could allow for potential Proposers with projects being studied in CY23 to (1) have greater visibility into their expected upgrade costs prior to submitting a Bid Proposal, and (2) re-assess the viability of their Bid Proposal(s) in light of CY23 results prior to the completion of RESRFP24-1, if warranted.

NYSERDA seeks stakeholder feedback on the following:

1. *Level of Interest.* What is your level of interest in submitting a bid to RESRFP24-1? For respondents with more than one project under development potentially eligible to bid into a NYSERDA RES RFP, which project(s) would you be interested in bidding into RESRFP24-1? Proposers should reference NYSERDA's proposed Minimum Threshold Requirements outlined in Section C of this RFI.
2. *Bid Submission Timing.* Please explain what timeline for RESRFP24-1 (earliest or alternative) is preferable and what variations, if any, on the timeline described above would be preferable for your project(s) and conducive to your ability to 1) complete and submit a Step Two Bid Proposal and 2) proceed with your preferred project development schedule for projects that may be bid to RESRFP24-1.
3. *Timeline Preference.* Which timeline for proposal submission, award and contracting described above would be preferred to facilitate the development of the project(s) considered for participation in RESRFP24-1? Please explain the preferred timing and reference any applicable factors (e.g., timing considerations for the 2024 and 2025 construction seasons, NYISO Class Year/Cluster Study decisions, potential updates to the federal funds rate,⁵ the potential for revocation of the Section 201 bifacial solar panel tariffs exemption⁶, permitting and/or site control considerations, etc.), and include potential cost/logistical/other impacts of any deviation from these preferred dates, if applicable.

B. Bid Facility/REC Eligibility

NYSERDA intends to modify its eligibility requirements to prohibit previously awarded projects that failed to execute NYSERDA's RES Standard Form Agreement from participating in RESRFP24-1. As such, NYSERDA intends to impose updated eligibility requirements that would preclude Proposers from submitting a Step Two Bid Proposal for a project that received a NYSERDA award

⁴ [Order No. 2023/2023-A Compliance Update](#), NYISO Transmission Planning Advisory Subcommittee (TPAS), April 1, 2024

⁵ Federal Open Market Committee Meetings: <https://www.federalreserve.gov/monetarypolicy/fomccalendars.htm>

⁶ [US plans to restore tariffs on dominant solar technology](#), April 2024

under either RESRFP22-1 or RESRFP23-1 and failed to execute such awarded NYSERDA agreement. However, a project whose award under RESRFP22-1/RESRFP23-1 was subsequently rescinded by NYSERDA or that was ultimately found by NYSERDA to have been ineligible for the RFP under which it was originally purported to have been awarded would not be affected by this requirement and would be permitted to submit a Step Two Bid Proposal to RESRFP24-1.

Tier 1 RECs that are already committed to NYSERDA or any other entity pursuant to an existing award or contract (Encumbered Tier 1 RECs) will not be eligible for award in RESRFP24-1. As such, a Bid Proposal in RESRFP24-1 should not include any Encumbered Tier 1 RECs in the Bid Quantity or Bid Quantity Percentage. For example, a Bid Proposal with a Bid Quantity Percentage of 100% should have 100% of the Tier 1 RECs to be produced by the Bid Facility free and unencumbered for purposes of sale to NYSERDA during the Contract Delivery Term of the NYSERDA Tier 1 REC Purchase and Sale Agreement and should withdraw from or otherwise terminate any award or contract that creates Encumbered Tier 1 RECs. NYSERDA will require adjustment of the Bid Proposal's Bid Quantity and Bid Quantity Percentage in a manner that will remove any Encumbered Tier 1 RECs from the Bid Quantity and Bid Quantity Percentage as a condition to eligibility and consideration for award.

4. *Eligibility Feedback:* Would these revisions to the RESRFP24-1 eligibility requirements affect your potential participation in the solicitation?

C. Minimum Eligibility Thresholds

NYSERDA updated several Minimum Threshold Requirements in RESRFP23-1 to ensure that projects submitting a Step Two Bid Proposal were sufficiently advanced through key project development milestones. NYSERDA is considering retaining or modifying the Minimum Threshold Requirements for RESRFP24-1, subject to respondent feedback. Minimum Threshold Requirements for RESRFP24-1 not noted in this document are also subject to change, and NYSERDA invites feedback on other threshold requirements if they are of interest to respondents.

Interconnection: The RESRFP23-1 Minimum Threshold Requirement for Interconnection was that the proposed Bid Facility have a valid NYISO interconnection request and a NYISO Facilities Study in progress (or equivalent for adjacent control areas), or to have reached a later stage in the NYISO interconnection process (or equivalent). NYSERDA is considering retaining this threshold or modifying it to expand eligibility to projects that have a valid NYISO interconnection request and NYISO Facilities Study in progress (or later stage), or projects that are active in the NYISO Transitional Cluster Study following the Physical Infeasibility Screen (or equivalent for adjacent control areas).

Permitting: The RESRFP23-1 Minimum Threshold Requirement for Permitting Viability was to demonstrate the Key Permit for the Bid Facility has been submitted and such application is either under review by, or has been issued by, the applicable jurisdictional permitting authority. NYSERDA intends to retain this threshold but encourages feedback from respondents as to whether this threshold would restrict the participation in RESRFP24-1 of otherwise mature projects.

Agricultural and Forested Land: NYSERDA intends to continue evaluating projects based on their potential impacts to agricultural and forested land as demonstrated in a submitted Smart Solar Siting Scorecard. NYSERDA also intends to introduce new elements to the Smart Solar Siting Scorecard, including (1) integrating an on-site assessment of the proposed site of participating solar facilities to assess potential impacts on forested lands, and (2) providing proposers with access to the forested land carbon stock data/maps for use in evaluating forested lands' impacts where applicable to inform potential site optimization.⁷

Other Minimum Threshold Requirements: NYSERDA is not currently considering materially modifying the Minimum Threshold Requirements for the following categories: Energy Deliverability, Peak Coincidence, Project Development, Financing and Creditworthiness, Site Control, Community Engagement, Resource Assessment and Energy Production Estimate, Emissions and Embodied Carbon, Climate Resiliency.

5. *Interconnection Minimum Threshold:* Do you intend to participate in the 2024 NYISO Cluster Study? If yes, how many projects/how much renewable capacity do you plan to submit for inclusion in the 2024 NYISO Cluster Study?
6. *Other Minimum Eligibility Threshold Feedback:* Would these revisions to the RESRFP24-1 Minimum requirements affect your potential participation in the solicitation? Respondents are encouraged to detail any specific benefits or risk associated with the retention of existing minimum eligibility thresholds or proposed modifications.

D. Contracting

In RESRFP23-1, Proposers were encouraged to submit any proposed redlines of the issued Standard Form Agreement in parallel with bid proposals, allowing NYSERDA to commence review of contract redlines in parallel with bid evaluation. This approach was intended to accelerate the process of contract negotiations such that contracts can be signed more promptly after bid evaluation is complete. NYSERDA intends to maintain this approach for RESRFP24-1.

NYSERDA also intends to implement changes to the post-award process, including shortening the time period after which NYSERDA would be entitled to draw on the contract security of awardees who fail to execute an awarded REC Agreement from the current period of 180 days following the receipt of a conformed agreement from NYSERDA to a period of 90 days following such receipt.

As noted above, NYSERDA will consider feedback on the Standard Form of Agreement issued with RESRFP24-1. However, to ensure fairness to all Proposers and to enable timely execution of agreements, NYSERDA does not intend to negotiate material changes to agreement terms with awardees. Articles, Schedules and Exhibits of the [RESRFP24-1 Standard Form Agreement](#) to which NYSERDA does not intend to entertain redlines or negotiate edits include but are not limited to: Article VIII: Assignment and Change of Control; Article IX: Seller's Representations, Warranties and Guarantees; Article X: NYSERDA's Representations, Warranties and Guarantees;

⁷ [NYS Agricultural Technical Working Group Solar Scorecard Specialist Committee April 5, 2024 Presentation](#)

Article XI: Indemnification; Article XII: Insurance; Article XV: Contract Security; Article XVIII: Additional Provisions; Schedule 2; Exhibit B: Letter of Credit; and Exhibit J: Project Labor Agreement Requirements.

7. *Contracting Process*: Would the above approach to the RESRFP24-1 contracting process affect your potential participation in the solicitation?
8. *Non-Editable Terms*: Is there any reason NYSERDA should entertain edits to any of the above-listed Articles, Schedule and/or Exhibits? If so, please explain your reasoning with reference to the specific terms that you believe may need to be edited.

E. Other Elements of RESRFP24-1

In part to minimize the time required to prepare RESRFP24-1 and to facilitate construction during the 2024 construction season, **NYSERDA expects that RESRFP24-1 would follow the structure of RESRFP23-1**, with the key potential adjustments described below. Respondents are encouraged to respond with feedback on each of these items, describing whether the potential changes are appropriate or if a different approach would be preferable.

Simplified Two-Step Process: NYSERDA intends to maintain a streamlined process for intaking Step One Eligibility Applications, issuing Notices of Qualification to eligible Proposers, and intaking Step Two Bid Proposals, managed through the third-party solicitation website that has been used to run previous NYSERDA Tier 1 solicitations.

Energy Storage: RESRFP23-1 did not allow for Proposers to submit bid proposals with paired (co-located or separately located in New York State) energy storage facilities to support the solicitation's accelerated timeline. NYSERDA is considering whether this change should be retained for RESRFP24-1, or whether Bid Facilities will be permitted to submit bid proposals with paired energy storage facilities.

Inflation Risk-Adjusted Proposals: NYSERDA intends to maintain the optional Inflation Risk Adjusted Proposal (IRAP) Alternate Bid Proposal option, allowing Proposers to submit a 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 or indices subsequent to the Step Two Bid Proposal deadline. In prior solicitations, the index used to implement this one-time adjustment for awarded IRAP bid proposals was the PPI All Commodities⁸ index. NYSERDA is considering whether the exclusive use of this index should be re-considered either in RESRFP24-1 or in future solicitations in order to more accurately align with potential changes to the major cost components of large-scale renewable projects. Specifically, for greenfield wind and solar projects, NYSERDA is considering adopting a modified version of the formulas described in NYSERDA's Comments on Petitions Requesting Price Adjustments to Existing Contracts⁹ in Section 4.3 (Analysis of Petitioners' Requested Relief – Requested Relief – ACE NY), with various adjustments in line with the discussion in Section 4.5

⁸ U.S. Bureau of Labor and Statistics (<https://www.bls.gov/data>), Series ID WPU00000000, PPI Commodity data for All commodities, not seasonally adjusted.

⁹ [NYSERDA Comments on Petitions Requesting Price Adjustments to Existing Contracts](#), filed 8/28/2023, New York State Department of Public Service [Case Number 15-E-0302](#)

(Policy Considerations Associated with Petitioners' Requested Relief) of NYSERDA's comments. For projects other than greenfield solar and wind projects, NYSERDA is considering retaining the option to utilize the PPI All Commodities index. NYSERDA is interested in respondents' feedback as to what indices, including technology-specific indices, would be most appropriate to make available for potential proposers interested in submitting an IRAP bid proposal. NYSERDA also seeks feedback on how NYSERDA should forecast these indices for evaluation purposes, to ensure that proposals that utilize different indices as well as feedback on the level of transparency in this area is appropriate to provide to participating proposers. Lastly, NYSERDA seeks feedback on the level of importance of the IRAP mechanism for RESRFP24-1, which could be less critical given the maturity of the projects eligible for this solicitation.

Cost of Capital-Adjusted Proposals: NYSERDA is considering other potential adjustments that could be introduced to allow for awarded Tier 1 REC Agreements to include one-time price adjustments to account for changes to market cost of capital. Respondents are encouraged to review the proposed Cost of Capital Adjustment detailed in [Appendix A of the 2024 Offshore Wind Request for Information](#) and respond with feedback if this type of adjustment would be of interest for bid proposals submitted to RESRFP24-1 and if so, how it would reduce project risk and overall costs for ratepayers.

Energy Deliverability and Portfolio Risk Factors: NYSERDA intends to maintain its process of enlisting an independent party to perform curtailment modeling to assess potential impacts on operating, under development, and contracted large-scale renewable projects in New York State prior to advancing an award group.

Economic Benefits: NYSERDA intends to maintain the structure and eligibility of the Incremental Economic Benefits to New York State non-price evaluation category utilized in RESRFP23-1, including weighting of long-term and short-term benefits, benefits to DACs and MWBEs, and eligibility of expenses that have occurred since the launch of the first Tier 1 RFP: June 2, 2017.

Contract Security: NYSERDA intends to maintain the initial and ongoing contract security requirements for awarded Bid Facilities introduced in RESRFP23-1, which include the requirement to deposit additional contract security with NYSERDA in order to extend a Bid Facility's Commercial Operation Milestone Date (COMD).

Climate Resiliency: NYSERDA is considering requiring regular updates and contractual commitments to implement climate adaptation and resiliency strategies committed to by proposers in their submitted bid proposal(s). These may include enhanced design standards/best industry practices, enhanced requirements for accounting for long-term climate projections when completing resource assessments and energy production estimates for proposed projects, as well as new reporting requirements for awarded proposers to report to NYSERDA during the operating period of projects how the owner is tracking and accounting for potential climate and meteorological changes that may affect the generation of the project.

Other Elements: NYSERDA is not planning to make material changes to the following provisions included in RESRFP23-1: Buy American/Domestic Steel technology-specific requirements, Prevailing Wage and Labor Peace Agreement requirements, Host Community Benefit Payment requirements per Commission [Case 20-E-0249](#), agricultural land avoidance and mitigation

payment requirements, and the requirement that all solar projects adopt and employ the provisions of the NYS Department of Agriculture and Markets [Guidelines for the construction and operation of solar projects](#).

9. *Inflation Risk-Adjusted Proposals and Cost of Capital-Adjusted Proposals*: Would you be interested in submitting a bid proposal with one or both of these potential, optional one-time adjustments? Why or why not? Given that projects eligible for RESRFP24-1 are expected to be relatively mature, how important are these adjusters for this solicitation? Proposers should note that the IRAP adjustment included in RESRFP23-1 requires three months of data post-commencement of construction to be published before NYSERDA can effectuate the one-time adjustment.
10. *Design Elements*: Are the above proposed elements of the design of RESRFP24-1 appropriate? Why or why not? Would any affect your potential participation in the solicitation? If so, how? Respondents are encouraged to provide feedback on some or all of the elements described above based on their applicability to the proposer and bid facilities planned for participation in RESRFP24-1.

F. Other Considerations for RESRFP24-1

Respondents are encouraged to identify any other issues that NYSERDA should consider in its design of RESRFP24-1, while bearing in mind (i) the priority of advancing timely progress towards achievement of New York's 70x30 target, (ii) the bounds of Commission orders that prescribe how RES RFPs must be evaluated, (iii) legislation mandating inclusion of certain provisions (e.g. labor-related requirements) in NYSERDA's RES RFPs, (iv) the ability of Proposers to prepare and NYSERDA to evaluate bids into the RFP on an accelerated timeline, and (v) requirements of New York State procurement law.

11. *Other Considerations*: What other elements could be introduced to RESRFP24-1 to support the achievement of NYSERDA's program objectives?

IV. General Conditions

The information gathered by NYSERDA will be advisory only and is not binding on NYSERDA or any other state agency, office, commission, or public authority. Responses will become the property of NYSERDA. Any actions recommended by NYSERDA will be subject to all applicable laws, including procedural, regulatory and environmental review requirements.

This RFI is neither a contract offer, nor a request for proposals and does not commit NYSERDA to award a contract, pay any costs incurred in preparing a response, or to procure or contract for services or supplies. Respondents are encouraged to respond to this RFI; however, failure to submit a response will not impact a Respondent's ability to respond to any future competitive solicitation process (if any) for projects, or influence the selection of a service provider going forward or affect its rights and obligations under any applicable laws or in any legal proceeding. NYSERDA reserves the right to discontinue or modify the RFI process at any time, and makes no commitments, implied or otherwise, that this process will result in a business transaction or negotiation with one or more Respondents. All costs associated with responding to this RFI will be solely at Respondents' expense.