



**On-the-Job Training for Energy Efficiency and Clean Technology
Program Opportunity Notice (PON) 3982
\$22 Million Available**

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

Applications accepted through December 2, 2030, by 3:00 PM Eastern Time.

PROGRAM SUMMARY

The New York State Energy Research and Development Authority (NYSERDA) is seeking applications from employers to advance the state's energy goals by developing a workforce equipped to perform jobs in energy efficiency and clean technology. Through the On-the-Job Training (OJT) program, NYSERDA will provide incentives to eligible energy efficiency and clean technology employers to hire and provide on-the-job training for new workers living and working in New York State (NYS).

Registering for the OJT program consists of a two-step process. First, an employer must register to participate in the OJT program by completing an online Employer Application. Once the employer passes the eligibility review and is successfully registered for the program, the employer submits individual applications to hire each new employee through the OJT program.

INTRODUCTION

NYSERDA's On-the-Job Training for Energy Efficiency and Clean Technology program will provide wage subsidies to eligible employers to reduce the financial risk of hiring and training new workers, incentivize and track the retention of the new workers during their first year of employment, and offer compensation for relevant industry certifications earned. Applications must be for workers in early career path jobs with specific clear clean energy skills gaps that will be addressed through a robust training plan. The program will not support the hiring of credentialed, experienced workers for senior-level or management positions.

This program prioritizes hiring individuals from Disadvantaged Communities and Priority Populations. NYSERDA works with the New York State Department of Labor (NYSDOL) to deliver the OJT program. The NYSDOL reviews employers' eligibility to participate and offers resources to assist employers in identifying available workers to hire.

The primary purpose of OJT funding is to train new hires for clean energy work. The program will not support workers already employed by the business, unless the employee was a participant in another NYSERDA Workforce Development and Training Program (PON 4000 Clean Energy Internship Program, NYSERDA's PON 4772 Climate Justice Fellowship Program, or NYSERDA's PON 5566 Climate Justice Fellowship Plus Program).

All program questions should be directed to Shannon Richardson or Laura Giannini at PONOJT@nyserda.ny.gov or 518-650-3294. All contractual questions should be directed to James Cowman at jim.solicitations@nyserda.ny.gov or 518-362-0487. Program requirements contained in this PON may change at any time and notification will be sent to all employers enrolled in the program to inform them of any changes that will apply to their agreement or new applications.

DEFINITIONS

Definitions for the purposes of this solicitation:

1. **“On-the-Job-Training”** is defined as energy efficiency and clean energy training provided by an eligible employer to a new employee while the employee is engaged in full-time, productive work in a job in NYS.
2. **“Eligible energy efficiency and clean technologies”**:
 - High efficiency heating, ventilation, and air conditioning (HVAC) / Heat Pumps
 - High efficiency water heating
 - Insulation / weatherization
 - High efficiency lighting and controls
 - Building automation and controls
 - Smart grid
 - Energy storage
 - Building operations and maintenance
 - Grid-tied solar electric photovoltaics, solar thermal, and related areas
 - Offshore and land-based wind and related areas
 - Electric vehicle charging stations
 - Electric vehicles (manufacturing only)

Additional areas related to energy efficiency and clean technology may be considered at NYSERDA's sole discretion.

3. **“Eligible employers”** must provide services to customers or clients in one or more of the eligible energy efficiency and clean technology areas. See the Eligibility section below for a complete list of requirements to be considered an eligible employer.
4. **“Workers”** includes those individuals who design, manufacture, specify, sell/distribute, install, operate, maintain, repair, audit, and inspect eligible energy efficiency and clean technologies and systems. Workers hired through the OJT Program must be hired to perform one or more of these activities and primarily work in at least one of the eligible energy efficiency and clean technology areas. Workers must be engaged in full-time, productive work in a job in NYS.
5. For the purposes of this solicitation, **“Disadvantaged Communities”** and **“Priority Populations”** shall meet the definitions outlined on NYSERDA's Clean Energy Workforce Development [“Definitions”](#) webpage. Definitions of “Disadvantaged Communities” and “Priority Populations” are subject to change. For the most up- to- date definition, including an interactive map of Disadvantaged Communities, see the [“Definitions”](#) page of the NYSERDA Workforce Development website.
6. For the purposes of this solicitation, **“Minority-Owned Business (MBE)”** and **“Women-Owned Business (WBE)”** refer to those businesses actively registered as such in New York State or certified as such in New York City. **“Service-Disabled Veteran Owned Business (SDVOB)”** refers to those businesses actively registered as such in New York State.
7. **Employer size** is based on the number of employees of the organization who receive an IRS W-2 form and in accordance with the following criteria:
 - a. Principals of corporations and owners of businesses such as sole proprietors or partners are not considered to be employees for this total.
 - b. Workers who are independent contractors, subcontractors, contract employees (i.e., 1099 employees), or interns are not included in the employee count.
 - c. Eligible employers with multiple branches, locations and/or related companies under

separate names with unique Federal Employer Identification Numbers (FEINs) will generally be considered single entities but may be considered separate eligible employers at the sole discretion of NYSERDA. National or chain accounts are considered a single "eligible employer."

- d. Employers must have at least two employees who receive an IRS W-2 form and who work full-time in New York State (defined as at least 30 hours per week). Employers that are registered in New York State or certified in New York City as a WBE, MBE, or SDVOB are exempt from this requirement.
8. **Certification** is a procedure by which an independent third-party organization gives written assurance that an individual conforms to specified standards, usually by requiring a written, and sometimes a field or practical examination. As a result of meeting the requirements and passing the exam, professionals receive their certification that publicly identifies their proficiency in the associated skills. Certifications eligible for funding through this program are listed on the program Knowledgebase: <https://nyserda.atlassian.net/wiki/spaces/PUBLIC/pages/694091777/On-the-Job+Training+Program+References#Eligible-Certification-List>

FUNDING, PAYMENTS, AND FUNDING LIMITS

I. Funding and Payments

This program provides funding to clean energy employers to advance skills of new workers through on-the-job training. NYSERDA reserves the right to extend and/or add funding to the program should other funding sources become available.

The following table summarizes the reimbursement rates and payment schedule offered for each worker category:

Worker Category	Maximum NYSERDA Funding per Hire	Reimbursement Schedule
Disadvantaged Community / Priority Population Worker	\$11,000	After 2 months of On-the-Job Training: \$2,500 After 4 months of On-the-Job Training: \$2,500 After 6 months of On-the-Job Training: \$3,500 After 12 months of On-the-Job Training: \$1,500 Certification Payment: \$1,000
Non-Disadvantaged Community / Priority Population Worker	\$8,500	After 2 months of On-the-Job Training: \$1,875 After 4 months of On-the-Job Training: \$1,875 After 6 months of On-the-Job Training: \$2,625 After 12 months of On-the-Job Training: \$1,125 Certification Payment: \$1,000

NYSERDA will issue reimbursement to employers at set milestones: 2 months (8 weeks), 4 months (17 weeks), 6 months (26 weeks), and 12 months (52 weeks) of On-the-Job Training delivery. Employers must submit payroll records documenting an average of at least 30 hours per week worked by the employee and wages paid to verify the continued full-time employment of the On-the-Job trainee. To receive the 12-month milestone payment, employers must also complete and submit a program survey provided by NYSERDA (<https://forms.office.com/g/Bj6YsyQ6CS>).

NYSERDA will not count gaps in full-time On-the-Job Training employment toward milestone completion. For the purpose of calculating milestone completion, a gap in On-the-Job Training occurs when an employee fails to work for 8 or more consecutive calendar days. Employees may take up to 1

week of personal time off (consecutive days or non-consecutive days) within the first 4-months of On-the-Job Training. Employees may take up to 2 weeks of personal time off within the first 6-months of On-the-Job Training. Employees may take a total of 2 weeks of personal time off during the 12-month On-the-Job Training. Personal time off within the limits set out above will not be considered a gap in employment. Substantial interruptions in employment and On-the-Job Training may result in contract termination.

NYSERDA offers an additional Certification Payment to employers whose new hires are retained for 12 months and who earn an eligible industry certification during those 12 months of employment. The employer, not the new hire, must pay for the certification fees for the certification to qualify.

II. Funding Limits

- Employers with up to 100 employees are eligible to hire up to ten (10) workers who are not residents of a Disadvantaged Community or members of a Priority Population, with this cap effective for new hires submitted to NYSERDA on or after January 14, 2026.
- Employers with 101 or more employees are only eligible to receive incentives when they hire residents of Disadvantaged Communities and members of Priority Populations.
- There is no maximum number of hires for any size employer when hiring residents of Disadvantaged Communities and members of Priority Populations that meet all program requirements.

Applications for funding under this PON are ineligible if other sources of funding, including but not limited to, NYSERDA contracts, federal or other state and local grants, or other incentives have already been awarded for the same staff or project. A new hire's hours worked cannot be funded or billed through other NYSERDA contracts during the 12-month period that the new hire is supported through the OJT Program.

NYSERDA retains the right to limit participation in this program, including, but not limited to, limiting the number of hires at any time, for any reason. All awards will be made on a first-come first-served basis and are subject to funding availability.

This program may be modified and or suspended with notice in the New York Contract Reporter and posted on NYSERDA's website: <https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities>. Applications received after any such suspension date will not be reviewed for funding.

ELIGIBILITY

I. Employer Eligibility

Employers must:

1. Be an energy efficiency or clean technology business or labor management organization working on behalf of energy efficiency or clean technology businesses. Municipalities are not eligible for this PON.
2. Provide services to customers or clients in one or more of the eligible energy efficiency and clean technology areas.
3. Have the legal authority to hire employees and conduct business in NYS.
4. Have at least one physical business location in NYS that will be associated with the new hire. A home office located at the new hire's residence does not qualify.
5. Have at least two employees who receive an IRS W-2 form and who work full-time (defined as at least 30 hours per week). This two full-time employee requirement is waived for employers that are actively New York State registered or New York City certified as a WBE/MBE/SDVOB. Instructions on determining qualifying employees may be found in the Definitions section in the Program Summary.
6. Have met and continue to meet all requirements and deliverables under any prior or existing

- NYSERDA contract.
7. Provide all information requested in the Employer Application process outlined in this PON.
 8. Attest to compliance with all applicable labor laws, and not have failed to file any applicable local, state, or federal tax returns, nor failed to pay New York State Unemployment Insurance. NYSDOL may conduct a due diligence search to confirm this information upon initial enrollment in the program and at any time during program participation.

Additional Employer Eligibility Criteria:

1. Employers that use outside agencies for payment of employees will be considered on a case-by-case basis. In most cases, those outside agencies will be subject to New York State Department of Labor review as outlined above.
2. Organizations that hired climate justice fellows through NYSERDA's PON 4772 or NYSERDA's PON 5566 can be approved through the OJT Program to hire those fellows under PON 3982 at the conclusion of the fellowship term to extend their work on fellowship projects and initiatives. These organizations must follow the standard OJT Program process, including the submission of both an employer application and new hire application, to reserve funding for hiring a climate justice fellow graduate under the OJT program.
3. Manufacturing employers are eligible if the products they manufacture are end-use products that align with one or more of the eligible technologies listed in the eligible Energy Efficiency and Clean Technologies definition.

II. Worker Eligibility

Worker candidates must:

1. Be hired to design, manufacture, specify, sell/distribute, install, operate, maintain, repair, audit, inspect, and/or train people on energy efficiency and clean energy technologies and systems. General administration and driving positions are not eligible for reimbursement. Activities focused on community outreach efforts are not eligible. Traditional trades positions are not eligible unless the job and the related OJT plan are directly connected to one or more of the eligible energy efficiency and clean energy technology categories. Manufacturing positions are only eligible if the worker is directly involved in manufacturing of an end-use product that meets one or more of the eligible technologies listed in the eligible Energy Efficiency and Clean Technologies definition.
2. Reside in NYS.
3. Be hired for full-time work in a job located in NYS.
4. Be paid wages no less than \$18 per hour or no more than \$40 per hour. If an employer awards the new hire a raise that brings their hourly wage above \$40 per hour during the OJT period, the OJT funding may be canceled.
5. Not be a past participant in the PON 3982: OJT Program.
6. Not be a highly credentialed, experienced worker being hired for a senior-level or management position. NYSERDA evaluates positions and their eligibility based on a combination of experience and credentials of the individual, requested experience for the position in the job description, compensation, and level of responsibility.
7. Be a new hire to the employer, not a previous employee or contractor. Individuals who worked as interns through NYSERDA's PON 4000 Clean Energy Internships may be hired by the same host organization under the OJT program. Individuals who worked as fellows through NYSERDA's PON 4772 Climate Justice Fellowships may be hired by the same host organization under the OJT program to extend their work on fellowship projects and initiatives. All new hire applications must be submitted to NYSERDA no later than thirty (30) days after the new hire's start date as a full-time hire to be eligible for OJT program funding, including individuals transitioning from PON 4000 and PON 4772.
8. Not be a relative of any employee at the business. "Relative" shall include the following relationships: relationships established by blood, marriage, or legal action. Examples include spouse, mother, father, son, daughter, sister, brother, mother-in-law, father-in-law, sister-in-

law, brother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, aunt, uncle, nephew, niece, grandparent, grandchild, or cousin. The term also includes domestic partners (a person with whom the employee's life is interdependent and who shares a common residence) and a daughter or son of an employee's domestic partner.

PROGRAM PROCESS

There is a two-step process to reserve funds for a new hire through the OJT Program:

Step 1 - Employer Application (completed one time per employer)

Step 2 - New Hire Application (completed for each new hire an employer brings through the program).

The OJT program process begins with an employer submitting the Employer Application. NYSERDA will accept Employer Applications on a continuous basis until all funds for this program have been committed. Once NYSERDA approves an Employer Application, the organization is eligible to hire employees through the OJT program. Employers must submit an individual New Hire application for each new hire.

I. Employer Application

The On-the-Job Training Program (PON 3982), [NYSERDA's Clean Energy Internship Program \(PON 4000\)](#), and [NYSERDA's Climate Justice Fellowship Program \(PON 4772\)](#) have a combined Employer Application. Employers may be approved for participation in one or multiple programs.

Employers submit their Employer Application by completing the online application found here: https://portal.nyserda.ny.gov/CORE_CONAPP_Program_Page?programFamily=Workforce%20Development&pr ogr amName=Workforce%20Development%20and%20Training

If an employer does not meet the program eligibility requirements based on the information provided in the Employer Application, NYSERDA will reject the application. NYSERDA will notify the employer of their application status along with reasons for the decision. Employers may address deficiencies and reapply.

For employers who meet the program eligibility criteria, the NYSDOL will complete a due diligence review. The NYSDOL due diligence review process will include a review of the business' Unemployment Insurance records; WARN notices; ongoing investigations with NYSDOL's Public Works, Labor Standards and/or Safety and Health Divisions; registration with the NYS Department of State's Division of Corporations; Workers Compensation Insurance and Disability Insurance coverage; federal OSHA records; and any outstanding New York State Tax Warrants.

NYSERDA notifies employers if the employer passes the NYSDOL due diligence review, or the NYSDOL directs the employer how to resolve issues found during the review. Once an employer passes the due diligence review, either at the time of initial review or after resolving deficiencies, the employer is registered to participate in the OJT Program. NYSERDA portal login information will be sent to the email address provided in the Employer Application. NYSDOL may conduct follow-up due diligence reviews on an approximately annual basis, and if NYSDOL identifies any issues as part of a follow-up due diligence review, new applications and payments for the OJT Program will be put on hold until the issues are resolved.

If an employer enrolled in the OJT Program, Clean Energy Internship Program, and/or Climate Justice Fellowship Program does not hire any employees through any of the programs in two (2) years, NYSERDA may consider the organization's enrollment in the programs inactive. Employers in inactive

status must reapply by submitting a new Employer Application to renew their enrollment status.

II. New Hire Application

Employers must submit a New Hire Application for each individual worker they seek to bring into the OJT program. Employers may submit applications for more than one new employee at a time. New Hire Applications are submitted through the employer's NYSERDA Portal account. New Hire Applications must be submitted no later than thirty (30) days after the new hire's start date.

If revisions to the application are requested by NYSERDA, the updated document(s) must be uploaded to the NYSERDA Portal within ten (10) days or the application may be rejected.

New Hire Application steps include:

- a. Select individual to hire – Employers choose their own worker to hire. If employers need assistance finding candidates, the NYSDOL has free resources available to support the hiring process. Information on these hiring support resources is available on the Program Knowledgebase: <https://nyserda.atlassian.net/wiki/spaces/PUBLIC/pages/694091777/On-the-Job+Training+Program+References>.
- b. Develop Training Plan – The employer will develop a training plan for a 12-month duration for the new hire focused on specific energy efficiency and clean energy technology skills needed for their position. The Training plan must follow the template provided by NYSERDA (Attachment A) and include job duties, frequency of those job duties, training methods for learning skills related to those job duties, and the percentage of total training hours per training activity. Employers must have the new hire sign the Training Plan before submitting the plan to NYSERDA.
- c. Verify Disadvantaged Community and/or Priority Population status (if applicable) – Employers must verify whether or not the new hire meets the requirements as a resident of a Disadvantaged Community or a member of a Priority Population. Disadvantaged Community status is based on the new hire's home address and whether or not that home address is located in a Disadvantaged Community based on this map: <https://www.nyserda.ny.gov/ny/Disadvantaged-Communities>. If a new hire is a resident of a Disadvantaged Community, then the employer does not need to review Priority Population Status. If a new hire is not a resident of a Disadvantaged Community but qualifies for the program as a member of a Priority Population, the employer is responsible for collecting and retaining applicable documentation to verify this status. Items that qualify as acceptable documentation to verify Priority Population status are listed on the Program Knowledgebase: <https://nyserda.atlassian.net/wiki/spaces/PUBLIC/pages/694091777/On-the-Job+Training+Program+References#Guidance-on-Priority-Population-Documentation>. While this documentation is not submitted to NYSERDA as part of the New Hire Application, NYSERDA may request it from the employer at any time. Failure to provide acceptable documentation when requested may result in the cancellation of the OJT agreement.
- d. Submit New Hire Application – Employers log into the NYSERDA portal to submit a New Hire Application, including the signed Training Plan, the job description, employment details, and NYS residency documentation for the new hire. Items that qualify as acceptable documentation to verify residency are listed on the Program Knowledgebase. <https://nyserda.atlassian.net/wiki/x/AQBfKQ>. For new hires submitted to the program as members of Priority Populations, employers indicate the applicable Priority Population category in the application.
- e. Application Review and Contract Development – NYSERDA reviews the submitted New Hire Application. If approved, NYSERDA issues an award letter and contract between the employer and NYSERDA for participation in the OJT program. The New Hire Application will be used as the basis for the contract. If the application is not approved, NYSERDA will provide notification to the employer via email.

III. Employment and Reimbursement

New hires must maintain a full-time schedule (average of at least 30 hours per week) during the 12-month OJT period to be eligible for reimbursement. Employers must pay the new hire an hourly wage at least \$18 per hour and not to exceed \$40 per hour.

Employers must maintain documentation of OJT activities related to the approved Training Plan throughout the OJT training period. NYSERDA may request documentation of training activities at any time. NYSERDA reserves the right, in its sole discretion, to terminate any agreement with an employer that does not demonstrate implementation of the approved Training Plan, in accordance with the terms of the attached Sample Agreement. NYSERDA may request documentation of an employer's verification of an employee's priority population status (if applicable) at any time, and an agreement may be terminated if this documentation does not meet program requirements. NYSERDA may contact the new hire to review their employment and verify delivery of the training plan.

The employer has 90 days after the contracted OJT end date to provide required documentation associated with the final project payment. After 90 days, NYSERDA reserves the right to terminate or close the agreement and release any remaining funds back into the program budget. Non-responsiveness about active OJT projects or a persistent failure to meet program deadlines may result in NYSERDA limiting the approval of new applications from an employer.

Wage Reimbursement and Retention Payments

Employers must submit employment documentation to NYSERDA for milestone wage reimbursement and retention payments per the terms of the contract. To be eligible for reimbursement, the OJT hire must have maintained a full-time schedule (average of at least 30 hours per week) for the OJT period.

Payroll Documentation must indicate: the employee's name, employee's hourly wage or salary, hours worked, and dates for the payment period. Acceptable documentation may include recent pay stubs or a payroll summary report that clearly shows hours worked and rate of pay. NYSERDA reserves the right to request additional documentation verifying employee start date and/or hours worked during the OJT period.

Employers must complete an electronic survey provided by NYSERDA (<https://forms.office.com/g/Bj6YsyQ6CS>) and submit confirmation that they have submitted the survey with the 12-month milestone documentation to receive the 12-month payment.

Certification Payments

Certification payments are only issued when the new hire earns an eligible certification during the OJT period and completes 12 months of employment. The list of eligible certifications is found on the program Knowledgebase: <https://nyserda.atlassian.net/wiki/spaces/PUBLIC/pages/694091777/On-the-Job+Training+Program+References#Eligible-Certification-List>

To be eligible for the certification payment, the employer and the employee must certify that the employer paid for the employee to obtain the certification (i.e., testing and certification fees, as applicable) during the OJT period. The employer must provide a Certification Form (Attachment C) signed by the employee and official documentation of the certification earned. The documentation must be issued by the certifying organization and list the employee's name, date issued, and the name of the certification.

Certifications must be new certifications for that individual. Re-certifications do not qualify.

Employers notify NYSERDA of their intent to request a Certification Payment when completing the survey that accompanies the 12-month milestone documentation. If the employer does not indicate that they will seek the Certification Payment, then NYSERDA will close the contract following processing of the 12-

month milestone payment and disencumber funds associated with the Certification Payment.

REPORTING

When an employer is awarded a contract with NYSERDA, the employer becomes the “Contractor.” The Contractor must agree to the following terms and conditions regarding OJT reporting and reimbursement:

1. The Contractor must keep records of the trainee’s progress according to the application/training plan and must make these records available to NYSERDA upon request.
2. The Contractor must acknowledge that failure to maintain the required OJT records will result in rejection of reimbursement requests.
3. The Contractor must keep records of documentation used to verify the new hire’s status as a member of a Priority Population (as applicable) and must make this documentation available to NYSERDA upon request.
4. The Contractor also must acknowledge that on-site and/or remote fiscal and programmatic monitoring of contract activities may take place at regular intervals during the contract by either NYSERDA or NYSDOL staff. Requested records must be made available to representatives during these monitoring visits.
5. The Contractor must notify NYSERDA in writing if any approved OJT candidate is terminated or quits. This notification must be made within two weeks of the change in employment status. Based on past experience with OJT programs, NYSERDA anticipates job retention rates for new hires to be 70 to 80 percent. Contractors that are unable to retain a minimum of 70 percent of their new hires may be terminated from the program or subject to additional requirements related to reporting, monitoring, and minimum employment periods before wages will be reimbursed.
6. NYSERDA reserves the right to terminate from the program any Contractors that receive complaints or other serious charges from employees or new hires.

REQUIREMENTS

1. The on-the-job training must occur at a physical business location in NYS.
2. The on-the-job training must be for a new hire in a full-time job (defined as 30 hours or more per week).
3. The employer must demonstrate that the on-the-job training is related to NYS energy goals of increasing energy efficiency, increasing the use of clean energy technologies, and decreasing greenhouse gas emissions.
4. NYSERDA will not provide funding to an employer if the new hire’s wages are covered by any federal or state loan or grant program.
5. New hires must become employees of the business and not independent contractors or contract employees.
6. Employee base pay calculation cannot include commission or tips.
7. The employer must be and remain in good standing regarding the following for the duration of their participating in the program: Unemployment Insurance records; WARN notices; ongoing investigations with NYSDOL’s Public Works, Labor Standards and/or Safety and Health Divisions; registration with the NYS Department of State’s Division of Corporations; Workers Compensation Insurance and Disability Insurance coverage; federal OSHA records; any outstanding New York State Tax Warrants; and contracts/agreements from NYSERDA received during the past three years. Applicants that are on probation in or have been expelled from other NYSERDA utility or other state programs are not eligible to participate in the OJT program.
8. The employer’s intention in participating is for the newly hired employee to remain employed with the business beyond completion of the OJT plan.
9. OJT will take place during the new employee’s work hours (i.e., during the shift/hours for

which the worker was hired), and the employee will be compensated at no less than their normal rate of pay.

10. No worker may be displaced by the OJT employee, including a partial displacement such as a reduction in hours, wages, or employment benefits.
11. The employer will comply with NYS labor law and federal law for the protection of workers.

³ Information on WARN notices can be found here:

<http://www.labor.ny.gov/workforcenypartners/warn/warnportal.shtm>.

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 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 [\[PDF\]](#). However, NYSERDA cannot guarantee the confidentiality of any information submitted.

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

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

from: Empire State Development
Division for Small Business
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

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). 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 NYSEERDA. 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>.

Contract Award - NYSEERDA anticipates making multiple award(s) under this solicitation. NYSEERDA anticipates a contract duration of up to fifteen months, unless NYSEERDA management determines a different structure is more efficient based upon applications 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 application should be submitted using the most favorable cost and technical terms. NYSEERDA may request additional data or material to support applications. NYSEERDA will use the Sample Agreement to contract successful proposals. NYSEERDA may at its discretion elect to extend and/or add funds to any project funded through this solicitation. NYSEERDA 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. NYSEERDA expects to notify applicants in approximately four weeks from the receipt of an application whether your application has been selected to receive an award. NYSEERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSEERDA agreement.

Accessibility Requirements - If awardees from this solicitation will be posting anything on the web, or if the awardee will produce a final report that NYSEERDA will post to the web, the following language must be included. NYSEERDA requires contractors producing content intended to be posted to the Web to adhere to New York State's Accessibility Policy. This includes, but is not limited to, deliverables such as: documents (PDF, Microsoft Word, Microsoft Excel, etc.), audio (.mp3, .wav, etc.), video (.mp4, .mpg, .avi, etc.), graphics (.jpg, .png, etc.), web pages (.html, .aspx, etc.), and other multimedia and streaming media content. For more information, see NYSEERDA's Accessibility Requirements on the [Doing Business with NYSEERDA page](#) or download [NYSEERDA's Accessibility Requirements \[PDF\]](#).

Limitation - This solicitation does not commit NYSEERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSEERDA 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 NYSEERDA's best interest. NYSEERDA 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. NYSEERDA reserves the right to disqualify proposers based upon the results of a background check into publicly available information and the presence of a material possibility of any reputational or legal risk in making of the award.

Disclosure Requirement - The proposer is required to complete the [Solicitation Proposal and Vendor Responsibility Questions](#) as part of a submission, which, among other things, requires disclosure of 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 description of circumstances for each, and disclosure of any suspension or debarment by the U.S. federal government or the New York State Department of Labor. When a proposer is an association, partnership, corporation, or other organization, responses shall be made on behalf of 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 NYSEERDA after the award of a contract, NYSEERDA 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.

Attachments:

Attachment A: Training Plan Form

Attachment B: Sample Agreement

Attachment C: Certification Form