



**Purchase of New York Tier 4 Eligible  
Renewable Energy Certificates (RECs)  
Request for Proposals (RFP) No. T4RFP21-1  
RFP Release Date: January 13, 2021  
Updated: March 29, 2021**

The New York State Energy Research and Development Authority (NYSERDA) seeks to procure Tier 4 eligible Renewable Energy Certificates (RECs)<sup>1</sup> from eligible Projects, as authorized by the New York State Public Service Commission's (Commission) [Order Adopting Modifications to the Clean Energy Standard](#), issued on October 15, 2020 in Case No. 15-E-0302 (Order). The goal of the Tier 4 program is to reduce New York City's reliance on fossil fuels by increasing the penetration of renewable energy into New York City (Zone J) and by optimizing deliverability of renewable resources throughout the entirety of the State, in furtherance of the goals of the [Climate Leadership and Community Protection Act](#). NYSEDA seeks to negotiate contracts for up to an aggregate 1,500 MW but may exceed this quantity if it receives proposals that are sufficiently compelling. All Proposers are advised to review the Order before participating in this procurement.

This solicitation includes two separate submissions from Proposers:

For the **Step One Eligibility Application**, Proposers of Projects that include hydropower Resources must submit historical operating data and must also propose a Supplier Greenhouse Gas (GHG) Baseline and Supplier Greenhouse Energy Baseline based on the Proposer's historic delivery and hydropower production data, as further described herein. The Step One Eligibility Application also asks Proposers to submit general information about the Proposer, the proposed Project, the Resources that comprise the Project, and any New Transmission facilities that will be developed to deliver the energy and Tier 4 RECs to New York Control Area (NYCA) Zone J. At the time of the Step One Eligibility Application submittal, Proposers need not have met all of the Project eligibility criteria defined herein but must demonstrate in their response how the Proposer intends to meet all of the eligibility criteria. Proposers of Projects that do not include hydropower Resources are strongly encouraged but are not required to submit a Step One Eligibility Application.

**Step One Eligibility Applications and Hydropower Data must be submitted online through the Step One Eligibility Application Form.**

**Step One Eligibility Applications and Hydropower Data are due on  
February 16, 2021 by 3:00 p.m. ET.**

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<sup>1</sup> Please note that while the Order uses the generic term "credits," the term "certificates" is used here, as successful Proposers will be required to participate in NYGATS, and NYGATS uses the term "certificates." NYGATS Certificates are minted on a one per MWh basis. Each NYGATS REC Certificate will include a unique serial number.

Upon receipt of the Step One Eligibility Applications, NYSERDA and the Department of Public Service (DPS) Staff will review the description of the proposed Project and the eligibility information provided. NYSERDA and DPS Staff may confer with Proposers to clarify how they intend to meet each of the eligibility criteria. NYSERDA and DPS Staff will review the historical hydropower data and proposed baselines and will make a determination as to the applicable baseline levels.

For the **Step Two Proposal**, Proposers must submit an eligible, conforming, and binding Proposal. Proposers of Projects that include hydropower Resources must base their Step Two Proposal on the baseline determinations issued by NYSERDA under Step One. Proposers who submit a Step One Eligibility Application are not obligated to submit a Step Two Proposal, but will not be considered for award unless a Step Two Proposal is submitted.

**Step Two Proposals must be submitted through NYSERDA's Salesforce platform.**

**Step Two Proposals are due on May 12, 2021, by 3:00 p.m. ET.**

**Step Two Proposals must be held firm and valid for 180 days from May 12, 2021.**

Instructions for submitting the Step One Eligibility Application and the Step Two Proposals are provided in Appendix I. All relevant documents pertaining to this RFP are available at [NYSERDA's Tier 4 website](#). Proposers are advised to check this website regularly for updates.

Questions about this RFP should be directed to Macy Testani, Erich Scherer, Pete Keane, Carl Mas, and Doreen Harris (Designated Contacts) at [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov). NYSERDA may contact Proposer(s) at any stage with requests for clarifications and questions. Proposers should confine contacts regarding this RFP to the Designated Contacts through this email address. No communication intended to influence this procurement is permitted. Contacting anyone other than the Designated Contacts (either directly by the Proposer or indirectly through a consultant or lobbyist or other person acting on the Proposer's behalf) to influence the procurement: (1) may result in a Proposer being deemed a non-responsive offeror, and (2) may result in the Proposer not receiving an award.

#### **NYSERDA RESPONSE TO COVID-19**

Recognizing the priority of human life under the COVID-19 global pandemic, all activities undertaken by Proposers to this solicitation must adhere to all of the requirements outlined under Governor Cuomo's phased reopening plan, including [Executive Order 202](#) and "[NY Forward](#)" and all other State, Federal or local rules and guidance, including, without limitation, adhering to and attesting to the New York State Department of Health (NYS DOH) [Interim Guidance for Construction Activities During the COVID-19 Public Health Emergency](#) prior to commencing work. Please note, in accordance with [ESD's NY-Forward FAQs](#), the requirement to follow the DOH Guidance applies whether you are an essential business operating statewide or are allowed to re-open pursuant to the regional phased reopening plan. The State has made available a [safety plan template](#) as well as summary guidelines to support the development of plans to protect against the spread of COVID-19.

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## **APPENDICES**

Appendix A - Notice of Intent to Propose

Appendix B - Step One Eligibility Application (Reference Only)

Appendix C - Project Resources Form

Appendix D - Hydropower Data Form

Appendix E - Tier 4 Renewable Energy Certificate Standard Form Purchase and Sale Agreement

Appendix F-1 - Master Offers Form

Appendix F-2 - Offer Data Form

Appendix G - Economic Benefits Claims and Verification

Appendix H - Proposal Certification Form

Appendix I - Submission Guide

## ACRONYMS AND DEFINITIONS

**Actual Production** – The amount of electric energy production from the Project, in MWh delivered to the Delivery Point, for which NYSDERDA is obligated to purchase the associated RECs under Article II of the Agreement.

**Agreement** – Tier 4 Renewable Energy Certificate Standard Form Purchase and Sale Agreement, provided as Appendix E.

**Annual Tier 4 REC Cap** – The maximum number of Tier 4 RECs that NYSDERDA is obligated to purchase from Seller in any Contract Year as defined in the Agreement.

**Applicable REC Price Method** – The method employed by NYSDERDA in each month for determining the Monthly REC Price as determined in Section 4.01 of the Agreement.

**Award Notification Date** – The date upon which NYSDERDA provides written confirmation to a Proposer indicating that a Project has been selected for contract negotiations.

**Bid** – An offer to sell a Bid Quantity of Tier 4 RECs from a Project at a proposed Price Structure, and Contract Tenor.

**Bid Price** – The price per Tier 4 REC offered by Proposer, offered either as a Fixed REC Price or an Index REC Price.

**Bid Quantity** – The annual quantity of Tier 4 RECs that the Proposer proposes to deliver to Zone J under an Agreement with NYSDERDA.

**CES** – Clean Energy Standard.

**CLCPA** – Climate Leadership and Community Protection Act.

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

**Commercial Operation** – A state of operational readiness under which (i) generating capacity is available and physically producing electric energy, (ii) all rights, abilities, permits and approvals to schedule and deliver energy to the Delivery Point have been obtained, and (iii) the associated New Transmission facility is energized and available to transmit Qualified Renewable Energy into Zone J.

**Commercial Operation Date** – The date upon which the Project or a Resource enters Commercial Operation.

**Communities Engagement Plan** – A plan for engagement with affected communities in New York State and for prioritizing benefits to Disadvantaged Communities, as further described in Section 7.6.15.

**Contract Delivery Term** – The period of performance under the Agreement. The Contract Delivery Term for the Project commences on the first day of the month after the Commercial Operation Date and ends at the date upon which the Contract Tenor has elapsed.

**Contract Tenor** – The duration of the Contract Delivery Term. The maximum Contract Tenor is 25 years.

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

**Delivery Point** – Location in Zone J of the New York Control Area where (a) the administrator of the wholesale power market, or (b) the operator of the transmission/distribution utility, measures, or otherwise determines, energy production from the Project.

**Disadvantaged Communities** – The Climate Leadership and Community Protection Act (CLCPA) directs the [Climate Justice Working Group](#) (CJWG) to establish criteria for defining disadvantaged communities. However, until the criteria are established, New York State has specified interim criteria for disadvantaged communities, which includes two types of communities, those: (i) located within census block groups that meet the U.S. Housing and Urban Development (HUD) 50% area median income (AMI) threshold of the top quartile of census block groups in New York, ranked by the percentage of low and moderate income (LMI) households, defined as households with annual incomes at or below 50% of the AMI of the county or metro area where the census block group resides, that are also located within the [DEC Potential Environmental Justice Areas](#); or (ii) located within [New York State Opportunity Zones](#).<sup>2</sup>

**Economic Benefits Plan** – A plan for realizing incremental economic benefits within New York State, submitted as part of a specific Step Two Proposal, as further described in Section 7.6.16.

**Economic Benefits Report** – An independently audited report, documenting the total dollar amount of actual Incremental Economic Benefits accrued to New York and associated activities and commitments undertaken from the Award Notification Date through the end of the first three (3) years of the Contract Delivery Term.

**Effective Date** – The date of execution of the Agreement between NYSERDA and the selected Proposer.

**Energy Storage** – A storage facility that is paired with an eligible generation Resource but need not be co-located nor exclusively be charged by energy from the Project’s generation Resource(s).

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<sup>2</sup> See <https://www.nyserda.ny.gov/ny/disadvantaged-communities>. The webpage ambiguously uses “and” instead of “or” as the conjunction between the two types of qualifying communities. That has been clarified in the definition herein.

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

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

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

**Forward Certificate Transfer** – An automated monthly transfer of Tier 4 RECs to NYSERDA as described in Section 10.3 of the NYGATS Operating Rules.

**Incremental Economic Benefits** – Those economic benefits within the categories specified in Section 3.3 that a Proposer can demonstrate: (1) will accrue after January 1, 2021, and (2) would not have accrued but for the award of a contract under this RFP.

**Index REC Price** – An adjustable price in dollars per REC that nets a fixed, as-offered strike price monthly against a reference price expressed in a market index as determined by NYSERDA pursuant to Section 4.03 of the Agreement.

**Injection Point** – The generator bus or the location where the administrator of the local Control Area measures energy delivery from a Resource.

**Levelized Unit Net REC Cost (LNRC)** – A means of comparing Proposals with different Bid Prices, Bid Quantities, and Commercial Operation Dates, as described in Section 4.3.

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

**LSE** – Load-serving entity.

**Monthly REC Price** – A price in dollars per REC determined by NYSERDA for each month of the Contract Delivery Term. If the Applicable REC Price Method is the Fixed REC Price, the Monthly REC Price shall be calculated pursuant to Section 4.02 of the Agreement. If the Applicable REC Price Method is the Index REC Price, the Monthly REC Price shall be calculated pursuant to Section 4.03 of the Agreement.

**New Transmission** – Electrical infrastructure that allows incremental transmission capability into NYCA Zone J and electrically interconnects in Zone J after October 15, 2020.

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

**New York Converter Station** – A converter station located on New Transmission that interconnects with the NYISO high voltage bulk transmission system outside of Zone J.

**New York Generation Attribute Tracking System (NYGATS)** – The tracking system that records electricity generation attribute information within New York State, and processes generation attribute information from energy imported and consumed within New York State, as a basis for creating generation attribute certificates, including Tier 4 RECs. NYGATS will create exactly one Tier 4 REC per MWh of generation attributable to the Project and delivered to the Delivery Point.

**NYISO Capacity Market** – Collectively, the wholesale markets for capacity administered by NYISO.

**NYISO Energy Market** – Collectively, the wholesale markets for electric energy administered by NYISO.

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

**OATT** - NYISO's Open Access Transmission Tariff.

**OpFlex** – Operational Flexibility

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

**Project** – The portfolio of eligible Resource(s) that delivers energy and associated Tier 4 RECs to Zone J.

**Project Labor Agreement (PLA)** – As described in Section 18.11 of the Agreement, a collective bargaining agreement (including a pre-hire agreement) covering Seller, contractors in the construction industry working on the Selected Project, and a bona fide building and construction trade labor organization representing craft workers on the selected Project.

**Project Team** – Proposer personnel and contractors who have primary responsibility for project development.

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

**Reference Capacity Price** – An index of NYISO Zone J Capacity Market prices as set forth in Section 4.03 of the Agreement.

**Reference Energy Price** – An index of zonal NYISO Zone J Energy Market prices as set forth in Section 4.03 of the Agreement.

**Renewable Energy Certificate (REC)** – The electronic record of generation data created by NYGATS and representing all of the attributes, including all Environmental Attributes, of one MWh of electric generation from a Renewable Energy System delivered into the New York Control Area and registered with the NYGATS tracking system. The attributes represented in each REC include all environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations, howsoever characterized, denominated, measured or entitled, attributable to the generation of Actual Eligible Production by a Project, including but not limited to: (i) any direct emissions or any avoided emissions of pollutants to the air, soil or water including but not limited to sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), particulate matter and other pollutants; (ii) any direct or avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and other greenhouse gases (GHGs) that have been or

may be determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (iii) all set-aside allowances and/or allocations from emissions trading programs made unnecessary for compliance in such program as a result of performance under the Agreement, including but not limited to allocations available under 6 NYCRR §§ 204, 237 and 238; and (iv) all credits, certificates, registrations, recordations, or other memorializations of whatever type or sort, representing any of the above.

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

**Required Alternate Bid** – A Bid that is required to include a New York Converter Station.

**Resource** – An eligible Renewable Energy System resource that generates energy and Tier 4 RECs produced and delivered by the Project.

**Scoring Committee** – Members of NYSERDA Staff, New York State Department of Public Service Staff, and competitively-selected Independent Evaluators responsible for evaluating Proposals received through this RFP.

**Scheduling Coordinator** – The entity that has responsibility for scheduling delivery of energy and Tier 4 RECs to Zone J over New Transmission.

**Seller** – A Proposer selected by NYSERDA who has executed an Agreement to sell Tier 4 RECs to NYSERDA pursuant to this RFP.

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

**Summer Minimum Bid Quantity** – The minimum quantity of Tier 4 RECs that must be delivered during the Summer Capability Period, May through October.

**Verified Total Dollars** – The total dollar amount of Economic Benefits in Categories 1 and 2 as separate sums for all New York State benefits and for benefits in Disadvantaged Communities, verified by NYSERDA to have accrued to New York as a result of the development, construction, modification, interconnection, and operation of the Project from the Award Notification Date through the end of the first three (3) Contract Years.

**Winter Minimum Bid Quantity** – The minimum quantity of Tier 4 RECs that must be delivered during the Winter Capability Period, November through April.

**Withdrawal Point** – The location where energy is delivered to the New Transmission for further delivery to the Delivery Point.

# 1 INTRODUCTION

## 1.1 The New York Clean Energy Standard and the Climate Leadership and Community Protection Act

On July 18, 2019, Governor Andrew Cuomo signed the [Climate Leadership and Community Protection Act](#) (CLCPA). The CLCPA mandates the Green New Deal’s nation-leading clean energy targets: nine gigawatts of offshore wind by 2035, six gigawatts of distributed solar by 2025, and three gigawatts of energy storage by 2030, while calling for an orderly and just transition to clean energy that creates jobs and continues fostering a green economy. The CLCPA also directs New York State agencies and authorities to collaborate with stakeholders to develop a plan to reduce greenhouse gas emissions by 85 percent from 1990 levels by 2050, to invest or direct available resources in a manner designed to achieve a goal for Disadvantaged Communities to receive 40 percent of the overall benefits of clean energy and energy efficiency program resources, and to achieve 70 percent renewable energy by 2030 and 100 percent renewable energy by 2040.

On April 2, 2020, Governor Cuomo signed into law the Accelerated Renewable Energy Growth and Community Benefit Act (Accelerated Renewables Act), which makes major changes in the forum and permitting process for large-scale renewable projects. Specifically, the bill established a new renewable siting structure to be managed by a new office within the Department of State.<sup>3</sup>

On October 15, 2020, the Commission issued its [Order Adopting Modifications to the Clean Energy Standard](#) (Order) in Case 15-E-0302. In the Order, the Commission adopted several modifications to the CES to align it with the CLCPA mandates. The Order authorizes NYSERDA, as central procurement administrator, to offer long-term contracts to generators for the purchase of Tier 4-eligible RECs, in the form of Tier 4 NYGATS certificates. Pursuant to the Order, NYSERDA seeks to contract with suppliers, through a competitive RFP, for Tier 4 RECs created by eligible generation resources. For the avoidance of doubt, NYSERDA seeks to acquire Tier 4-eligible RECs only, and will not have any claim to associated energy, capacity, or ancillary services associated with the RECs.<sup>4</sup> On December 17, 2020, the Commission issued an [Order Denying Rehearing and Providing Clarification](#) (Clarification Order) in Case 15-E-0302 in response to a petition and request for clarification from several parties.

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<sup>3</sup> [New York State Announces Passage of Accelerated Renewable Energy Growth and Community Benefit Act as Part of 2020-2021 Enacted State Budget](#)

<sup>4</sup> RECs represent the environmental attributes, including but not limited to estimated avoided carbon dioxide emissions, associated with electricity generated by facilities that meet the Tier 4 eligibility criteria established in the Order.

The Order and the Clarification Order can be accessed from the [NYS Public Service Commission's website](#).<sup>5</sup> All Proposers are strongly advised to review the both documents before participating in this RFP.

## 1.2 Background on NYSEDA

NYSEDA was created in 1975 by the New York State Legislature as a public authority and public benefit corporation. As designated in the [Order Adopting the Clean Energy Standard](#), NYSEDA acts as the Central Administrator of the Clean Energy Standard (CES) program.

Pursuant to the Commission Order, NYSEDA will purchase Tier 4 RECs from the contracted Project(s) on behalf of the Load Serving Entities (LSEs) in New York State. In accordance with the Order, each LSE will be obligated to purchase qualifying Tier 4 RECs in proportion to its overall share of statewide load.

## 1.3 Schedule

The schedule for T4RFP21-1 is as follows (all times ET):

T4RFP21-1 Release Date	January 13, 2021
Deadline for Notice of Intent to Propose	January 21, 2021
Proposers' Webinar	January 28, 2021
Deadline for submitting written questions on Step One	February 4, 2021
NYSEDA posts responses to Step One questions	February 11, 2021
<b>Deadline for Step One Eligibility Application and Hydropower Baseline Data</b>	<b>February 16, 2021, 3:00 pm</b>
RFP Update	March 29, 2021
NYSEDA provides Final Baseline Determination	No later than April 12, 2021
NYSEDA Portal Opens to register for account	April 14, 2021
Deadline to Register for NYSEDA Portal and Portal opens for Step Two Proposal submission	April 30, 2021
Deadline for submitting written questions on Step Two	May 3, 2021
NYSEDA posts responses to Step Two questions	May 7, 2021
<b>Deadline for Step Two Proposal Submission</b>	<b>May 12, 2021, 3:00 pm</b>
NYSEDA Award Notification Date	3 <sup>rd</sup> Quarter 2021

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<sup>5</sup> <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-e-0302>

Please note that the above dates are subject to change. Notification of any changes to the RFP process, schedule, or documents will be posted on [NYSERDA's Tier 4 website](#) and sent via email to those parties who have submitted a Notice of Intent to Propose.

#### **1.4 Notice of Intent to Propose**

Prospective Proposers are encouraged, but not required, to submit a Notice of Intent to Propose, which is attached as Appendix A to this RFP. NYSERDA will email updates regarding this RFP to prospective Proposers who submit a Notice of Intent to Propose. This does not relieve prospective Proposers of their responsibility to check the [NYSERDA's Tier 4 website](#) for news and updates. Prospective Proposers who submit a Notice of Intent to Propose are not obligated to submit either a Step One Eligibility Application or a Step Two Proposal. Step One Eligibility Applications and Step Two Proposals will be accepted from parties who do not submit a Notice of Intent to Propose. The Notice of Intent to Propose form should be sent to [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov) by the date indicated in Section 1.3 using the subject line: "T4RFP21-1 Notice of Intent to Propose."

#### **1.5 Proposal Fee**

Each Proposer's Step Two Proposal must be accompanied by a Proposal Fee which will be used by NYSERDA to offset the cost of the evaluation of Step Two Proposals. No Proposal Fee is due with the Step One Eligibility Application.

The Proposal Fee is based on the Bid Quantity offered:

<b>Bid Quantity</b>	<b>Proposal Fee</b>
Less than 500,000 MWh	\$100,000
≥500,000 to 4,000,000 MWh	\$250,000
>4,000,000 MWh	\$500,000

The Proposal Fee covers a Step Two Proposal to offer Tier 4 RECs from a Project for a given Bid Quantity, Price Structure, and Contract Tenor, and includes Bid Prices with and without the Supplier Energy Baseline, as described in Section 2.6.2. If alternative Bid Quantities are offered, the applicable base Proposal Fee will be based on the largest proposed Bid Quantity. In addition to the Proposal Fee in the table above, each alternative Price Structure offered (further described in Section 4.1), Contract Tenor, or Bid Quantity adds \$25,000 to the Proposal Fee.<sup>6</sup> An additional \$25,000 Proposal Fee is not required to be submitted for Proposals that (1) are required to submit pricing with and without Energy Storage, (2) are required to submit a Required Alternate Bid that includes a New York Converter Station as described in Section 2.3. A Resource portfolio may be paired with different New Transmission facilities. These are considered separate Proposals and each requires the appropriate base Proposal Fee.

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<sup>6</sup> For example, if a Proposer offers Bid Quantities of 400,000 and 1,000,000 MWh, the Proposal Fee equals \$275,000 (\$250,000 + \$25,000).

Detailed instructions for the payment of the Proposal Fee should be requested from NYSERDA's finance department by emailing [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov) with the subject line: "T4RFP21-1 Request for Proposal Fee Payment Instructions."

The Proposal Fee is non-refundable unless NYSERDA cancels this RFP. If this RFP is canceled by NYSERDA, Proposal Fees that have not been contractually committed will be returned. **In no other event will any portion of the Proposal Fee be refunded, regardless of whether or not a Proposal(s) is (are) selected by NYSERDA.**

The Proposal Fee and the contract security amounts set forth in Article XV of the Purchase and Sale Agreement are the only fees or monetary obligations of Proposer.

### **1.6 Proposers' Webinar and Inquiries**

A [webinar](#) for interested persons will be held on January 28, 2021 at 10:00 a.m. ET. During this webinar, NYSERDA will review the Step One Eligibility Application, Step Two Proposal submission requirements, and the Agreement.

Proposers are encouraged to submit questions prior to the webinar via email to [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov) with the subject heading "Tier 4 Question" and during the Proposers' Webinar using the built-in Q&A feature. Written responses to questions received by February 4, 2021 will be posted to [NYSERDA's Tier 4 website](#) by February 11, 2021 and will supersede any oral responses given by NYSERDA during the Proposers' Webinar. Proposers may submit further written questions until the Step Two question deadline of May 3, 2021, and NYSERDA will post those responses by May 7, 2021. NYSERDA may also post responses earlier on a rolling basis. All questions regarding the RFP documents or the process must be directed as indicated. Questions may not be submitted to any individual other than the Designated Contacts.

NYSERDA will post submitted questions anonymously, along with NYSERDA's responses, [NYSERDA's Tier 4 website](#).

### **1.7 Submittal Requirements**

Proposers should rely only on information provided in this RFP and any posted updates when preparing the Step One Eligibility Application and the Step Two Proposal. Each Proposer shall be solely responsible for and shall bear all costs incurred in the preparation of its submittals and participation in this Tier 4 solicitation.

Proposers of Projects that include hydropower Resources must submit a Step One Eligibility Application and must propose a Supplier GHG Baseline and Supplier Energy Baseline based on the Proposer's historic renewable energy sales to NYCA and hydropower production data, as further described herein. All Proposers are asked to submit general information about the Proposer, the proposed Project, the Resources that comprise the Project, and any New Transmission facilities that will be developed to deliver the energy and Tier 4 RECs to NYCA Zone J. At the time of the Step One Eligibility Application

submittal, Proposers need not have met all of the Project eligibility criteria defined herein but must demonstrate in their response how the Proposer intends to meet all of the eligibility criteria. Proposers of Projects that do not include hydropower Resources are strongly encouraged but not required to submit a Step One Eligibility Application. Proposers who submit a Step One Eligibility Application are not obligated to submit a Step Two Proposal but will not be considered for an award unless a Step Two Proposal is submitted.

Each Proposer has sole responsibility for reviewing this RFP and all attachments hereto and for investigating and informing itself with respect to all matters pertinent to this RFP, including the Order, [NYGATS Operating Rules](#) and [NYISO's Open Access Transmission Tariff](#) (OATT) and market rules. Each Proposer is solely responsible for informing itself regarding all transmission wheeling and scheduling provisions set forth in the OATT of relevance in any external control area, including Canada, the delivery requirement stated in the [Order](#), and the NYGATS rules as they apply to imports.<sup>7</sup>

The Step One Eligibility Application and the Step Two Proposal both require execution of the Proposer's Certification regarding the accuracy and truthfulness of the information and documentation provided by the Proposer. The Step Two Proposal further requires that the Proposer answer a series of questions regarding the Proposer, and the directors, employees and agents of Proposer and any affiliate of Proposer with respect to: (1) current investigation(s) by any governmental agency; (2) convictions or established liability for any act prohibited by State or Federal law in any jurisdiction involving conspiracy, collusion or other impropriety with respect to offering on any contract; or (3) any debarment action (detail any exceptions), within the last 4 years.

## **1.8 Modification or Cancellation of the RFP and Solicitation Process**

The terms and conditions of this RFP may, at any time, be changed, postponed, withdrawn, and/or canceled, including any requirement, term or condition, without any liability to NYSERDA, NYSERDA Consultants, or members of the Scoring Committee. Notification of any changes in the RFP process or documents will be posted on [NYSERDA's Tier 4 website](#), and sent via email to all prospective Proposers who have submitted a Notice of Intent to Propose. Prospective Proposers are encouraged to check the website frequently to be advised of any RFP changes or other news.

Any changes to the guidance and requirements outlined under the series of Governor Cuomo's New York State on PAUSE Executive Orders affecting actions under this solicitation will also be communicated via the solicitation website.

## **1.9 Updates to Step One Eligibility Applications**

Between the due date for the Step One Eligibility Applications and the due date for the Step Two Proposals, Proposers may provide new information that was not available at the time of their Step One

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<sup>7</sup> See Section 11 of the [NYGATS Operating Rules](#).

Eligibility Application. Proposers should send an email to [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov) to obtain instructions on how to submit such supplemental information. Proposers may not, however, change the historical operating data that was submitted for hydropower Resources, unless the Proposer has reason to believe that data were submitted in error.

### **1.10 Non-Binding Step One Eligibility Application Information**

Other than the historical operating data, Project information submitted with the Step One Eligibility Application is non-binding. While NYSERDA expects the Project submitted in the Step Two Proposal to be substantially the same as the Project submitted in the Step One Eligibility Application, Proposers are permitted to revise Step One Project information in the subsequent Step Two Proposal, including the portfolio of proposed Resources that are included in the Step Two Proposal. However, material changes to the information NYSERDA relies upon to make the baseline determinations described in Section 6.7 are not permitted except with NYSERDA's consent.

### **1.11 Requests for Clarification and Baseline Negotiations**

Following the submission of the Step One Eligibility Applications, NYSERDA will review the Project descriptions and eligibility information submitted for each Project, and may request clarification and additional information from Proposers. NYSERDA will inform Proposers if the Project, as described in the Step One Eligibility Application and clarified through additional information, may fail to meet the eligibility criteria set forth in Section 2. If a Proposer learns that its Project may not meet the eligibility criteria, the Proposer can seek to cure any deficiencies in the Step Two Proposal.

NYSERDA and DPS Staff will review the historical hydropower data and proposed baselines. NYSERDA may confer with each Proposer or request supplemental information to arrive at its baseline determinations, which will be provided to Proposers at least thirty days prior to the deadline for submission of the Step Two Proposal. The Supplier GHG Baseline, described in Section 2.6.1, is binding on Proposers who submit Step Two Proposals for Projects that include hydropower Resources. The Supplier Energy Baseline, described in Section 2.6.2, is also binding on such Proposers if NYSERDA selects the price offer that includes the Supplier Energy Baseline.

### **1.12 Updates to Step Two Proposals**

Proposers will not have an opportunity to refresh or restate Step Two Proposals once the Step Two Proposal has been submitted. Care should be taken to ensure that the Step Two Proposal is complete and accurate prior to submittal through Salesforce.

Proposers may provide new information that was not available at the time of their Step Two Proposal submission or the deadline for submission of Step Two Proposals. For example, this may include updates on the status of obtaining permits, interconnection studies, or financing. If Proposers wish to submit such new information, they should email [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov) for instructions on how to submit such new information. Unless the information is provided at NYSERDA's request under Section 1.13,

these updates are for informational purposes only and will not be treated by the Scoring Committee as a change or revision to the terms of the Step Two Proposal. If there are any material events that affect the validity of the Step Two Proposal, Proposers must promptly notify NYSERDA in writing. NYSERDA reserves the right to consider these material changes during Step Two Proposal evaluation.

### **1.13 Requests for Additional Information**

Following the submission of Step One Eligibility Application and Step Two Proposal, NYSERDA and the Scoring Committee may request clarification and additional information from Proposers at any time throughout duration of the evaluation process. Such information will be subject to protection of proprietary information as described in Section 1.14. Proposers that do not respond promptly to such information requests or do not provide adequate information may be eliminated from further consideration or have the information in their Step Two Proposals modified by NYSERDA or the Scoring Committee to allow a reasonable and appropriate evaluation.

### **1.14 Confidentiality**

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

In accordance with Section 20.02 of the Agreement, NYSERDA may file executed Agreement(s) with the Commission or otherwise publish the Agreement. Prior to such publication, NYSERDA will redact any critical electric infrastructure information contained in the Agreements, if any, including in the exhibits thereto, and will consider requests to redact confidential business information, provided, however, that NYSERDA will not accept any request to redact price information contained in the Agreement, specifically, the Bid Price.

### **1.15 Interviews with Proposers**

NYSERDA may request in-person and/or videoconference interviews with any Proposer, to be scheduled at a mutually convenient time.

### **1.16 COVID-19 Restrictions**

All activities undertaken by Proposers in response to this solicitation must adhere to all of the requirements outlined under Governor Cuomo's [New York State on PAUSE](#) Executive Orders. This includes but is not limited to all guidance and restrictions on in-person meetings with stakeholders and local governments, on-site field studies, and other non-essential activities identified under Executive Order No. 202 Declaring a Disaster Emergency in the State of New York, subsequent Executive Orders

202.1 through 202.78, and other current or future modifications/new Executive Orders or legislation set forth by New York State regarding the COVID-19 public health crisis.

## 2 PROJECT ELIGIBILITY REQUIREMENTS

### 2.1 Eligible Resources

Eligible Resources include any “Renewable Energy System” as defined by the CLCPA, that produces electricity, including generation paired with storage, subject to the exceptions and additional requirements identified below. Per the Order, in addition to the hydropower baseline requirements addressed in Section 2.6, the following exceptions and additional requirements apply to Tier 4 Resources that are Renewable Energy Systems that produce electricity:

1. Offshore wind energy systems are not eligible.
2. Behind-the-meter Resources are not eligible.
3. Hydropower generation from new impoundments not already in existence or under construction as of June 18, 2020 is not eligible.
4. Non-hydropower resources must have a Commercial Operation Date on or after October 15, 2020.

Tier 4 eligible Resources that are also Tier 1 eligible, including hydropower Resources eligible under the Tier 1 repowering/ upgrade rules, are considered to have the same Commercial Operation Date for the purpose of the Tier 4 vintage and additionality requirements as that which would apply under Tier 1.<sup>8</sup>

An eligible Project may consist of a single generating Resource or may consist of a portfolio of generating Resources that may include Resources not located in Zone J as well as Resources located in Zone J. An eligible Project may also include one or multiple Energy Storage facilities paired with one or more generating Resources. If the Project consists of a portfolio of eligible Resources, Proposers must identify in the Step Two Proposal each of the specific Resources that comprise the Project. A portfolio of Resources is treated as a single counterparty for the purposes of the Agreement, and the pricing in the Agreement applies to all Tier 4 RECs produced by those Resources. With NYSERDA’s consent, Resources may be added or substituted by the counterparty over the Contract Delivery Term, provided that such additional or substituted Resources will not be used to re-price a Project.

Resource(s) that are the subject of an award or agreement with NYSERDA to sell Tier 1 RECs but had not achieved Commercial Operation as of October 15, 2020 may be included as part of a Tier 4 Project, subject to other Tier 4 eligibility requirements. As further explained in Section 2.4, RECs from a Resource under a Tier 1 agreement and that is included in a Tier 4 Project may be compensated under either Tier 1 or Tier 4, depending on the agreement under which the energy and RECs are delivered.

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<sup>8</sup> See: NYSERDA, New York State Clean Energy Standard RES Tier 1 Certification: Submission Instructions and Eligibility Guidelines, Version 1.3, May 2019. <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/RES-Tier-One-Eligibility/Eligibility>. See also Order, p. 103 for Tier 1 repowering rules.

Tier 4 RECs must include all attributes including all of the Environmental Attributes as described and defined in the Standard Form Agreement.

## **2.2 Delivery Requirements**

Eligible Tier 4 Resources must be either located in NYCA Zone J, or renewable energy from the Resource must be delivered to a Delivery Point in Zone J over a New Transmission interconnection in order to be eligible and compensated under Tier 4. A transmission interconnection will be considered New Transmission for purposes of Tier 4 if it electrically interconnects in Zone J after October 15, 2020. The Injection Point of a Resource is the generator bus or the location where the administrator of the local Control Area measures energy delivery from a Resource. For Resources located outside of Zone J, the Injection Point and the Delivery Point are different physical locations. The Delivery Point for energy from all Resources must be located within Zone J.

Projects under Tier 4 need only supply energy into Zone J and need not qualify as capacity resource(s) in Zone J in order to demonstrate delivery. Proposers must address how they intend to fulfill and verify the Zone J delivery requirement. Information required to address deliverability for the Step One Eligibility Application is provided in Section 6.6, and for the Step Two Proposal in Section 7.6.5.

## **2.3 New York Converter Station**

Any Proposer of a Project that includes New Transmission that is HVDC and that is planned to traverse New York State outside Zone J must submit a Bid that includes at least one New York Converter Station. The inclusion of a New York Converter Station holds potential value to the State in the form of increasing the resilience and reliability of retail electric service, adding potential diversity to the resources serving Zone J, and increasing the deliverability of offshore wind throughout the State during times of peak offshore wind generation.

A Proposer may submit a Bid that includes New Transmission that traverses New York State outside of Zone J, but that does not include a New York Converter Station. In this case, Proposer must also submit a Required Alternate Bid that does include a New York Converter Station. The Required Alternate Bid must include a New York Converter Station and may include different Resources and other Bid information, as further discussed in Section 7.5 and Section 7.7. The Required Alternate Bid should describe the location of the proposed New York Converter Station and plans for its substantial use. NYSERDA will evaluate both the Bid without the inclusion of a New York Converter Station and the Required Alternate Bid and may accept or reject either Bid in accordance with the evaluation process set forth herein.

## **2.4 Interaction with Other CES Tiers**

NYSERDA acknowledges that there may be RECs produced by eligible Resources that cannot meet the Zone J delivery requirement, either (a) during hours when the output of the Resources exceeds the

capacity of the New Transmission, or (b) during periods when the Resource has achieved Commercial Operation but the New Transmission has yet to do so.

For eligible Resources that have an existing or have been awarded a Tier 1 agreement and are included as Resources in a Tier 4 Proposal selected in this Tier 4 procurement, NYSERDA will agree to amend the Tier 1 agreement to accommodate sales of RECs as either Tier 1 or Tier 4 RECs. For example, to allow for Tier 4 sales, NYSERDA would amend certain terms in the Tier 1 agreement to allow the Resource to deliver RECs under either agreement.

Resources that do not have a Tier 1 agreement and are included as Resources in a Proposal that is awarded a Tier 4 agreement (or subsequently added to the Project through modification of the Agreement) may participate in a future Tier 1 solicitation subject to Tier 1 eligibility requirements. The Tier 1 agreement, if awarded, will include appropriately flexible terms to allow for sales as either Tier 1 or Tier 4 RECs.

A resource that is the subject on a NYSERDA Tier 2 agreement is not an eligible resource under Tier 4.

## **2.5 Energy Storage**

Energy Storage may be co-located with a Resource, or in a separate location from a paired Resource. Energy Storage may be located within or outside Zone J. Energy discharged from Energy Storage is only eligible for Tier 4 RECs when both of the following conditions are true:

- The charging energy must be produced by and delivered from an eligible generating Resource. If the generating Resource is located outside of Zone J and the Energy Storage is located in Zone J, then the charging energy must be delivered to the Energy Storage over New Transmission.
- The discharged energy must be delivered to a Delivery Point in Zone J. If the Energy Storage is not located in Zone J, the discharged energy must be delivered over New Transmission.

Charging energy is not eligible for Tier 4 RECs.

Energy Storage paired with a Resource may store energy from the grid, and/or may discharge energy outside of Zone J, but under such circumstances will not create Tier 4 RECs and therefore the associated stored energy will not be eligible for payment under the Agreement.

Awarded Projects including Energy Storage may not participate in the NYSERDA Bulk Storage Incentive program or New York State Investor Owned Utility competitive procurements for bulk-sited energy storage. Awarded Projects not including Energy Storage may add Energy Storage in the future, subject to fulfilling all existing terms of the Agreement, provided that such Energy Storage component will not be used to re-price a Project that initially lacks Energy Storage. Energy Storage that was not initially included in an Awarded Project, but advanced at a later date may participate in the NYSERDA Bulk Storage Incentive program or New York State Investor Owned Utility competitive procurements for bulk-sited energy storage.

## **2.6 Additionality Requirements**

Projects that include hydropower Resources are subject to two additionality requirements: (1) compliance with a Supplier GHG Baseline requirement, and (2) if the selected Bid includes a Supplier Energy Baseline, compliance with such Supplier Energy Baseline requirement. Refer to Section 6.7.2 for an explanation of how these baselines are computed and to Section 7.3.1 for further detail on submission of Bids with and without a Supplier Energy Baseline.

### **2.6.1 Supplier GHG Baseline**

The purpose of the Supplier GHG Baseline is to ensure that the energy associated with Tier 4 RECs is additional to the renewable generation historically produced from facilities owned or controlled by the Proposer, and not backfilled by fossil fuel-fired resources. The Supplier GHG Baseline is based on the historic hydropower generation from facilities owned or controlled by the Proposer.

Under the Agreement, Tier 4 RECs are only compensated if and to the extent deliveries to Zone J are less than or equal to the Supplier GHG Baseline Limit, which is the net annual increase over the Supplier GHG Baseline. The Supplier GHG Baseline Limit in each year is calculated as the average over the three prior contract years of Proposer's total renewable generation, minus the Supplier GHG Baseline. The total eligible renewable generation used to compute the rolling three-year average, which is described in Exhibit H of the Agreement, includes: (1) all hydropower generation from facilities owned or controlled by Proposer, less generation from new impoundments not already under construction as of October 15, 2020, and (2) non-hydropower renewable generation that is Tier 4 eligible and not otherwise compensated under the CES.

### **2.6.2 Supplier Energy Baseline**

The purpose of the Supplier Energy Baseline is to ensure that historic sales to NYCA by a Tier 4 supplier and its affiliates are maintained and not displaced as a result of a Tier 4 Agreement. The Supplier Energy Baseline is determined based on historic sales of renewable energy by the supplier and its affiliates to the NYCA, but excluding historic sales that were compensated under any of the CES Tiers. Renewable energy is energy that is produced by a Renewable Energy System.

For the Step Two Proposal, Proposers must bid such Projects both with and without the Supplier Energy Baseline in order for NYSERDA to evaluate both options and determine the cost-effectiveness of such a condition.

If a Bid with a Supplier Energy Baseline is selected, under the Agreement, Tier 4 RECs may only be compensated to the extent that deliveries to Zone J are less than or equal to the Supplier Energy Baseline Limit, which is the net annual increase of renewable energy to NYCA by the Proposer. Described in Exhibit I to the Agreement, the Supplier Energy Baseline Limit in each year is calculated as the average over the three prior contract years of the Proposer's renewable energy sales into the NYCA minus the Supplier Energy Baseline, excluding sales that are compensated under another CES Tier.

### 2.6.3 Determination of Baselines

In the Step One Eligibility Application, Proposers who are submitting Projects with hydropower Resources must (i) provide a minimum of 20 years of historical data as set out in Appendix D and (ii) a proposed Supplier GHG Baseline and Supplier Energy Baseline, supported by the data provided. NYSERDA shall utilize this information to validate the proposed baseline determinations provided by the Proposers and to inform its final determination of such baseline(s) based on Proposer's submitted data. Supplier Energy Baselines and Supplier GHG Baselines will be determined by NYSERDA and provided to each Proposer no less than thirty days prior to the due date for Step Two Proposals.

NYSERDA will calculate and set each Supplier GHG Baseline as the sum of annual generation across applicable facilities. For each facility annual generation will be derived based on capacity and capacity factor. Such capacity will be the capacity as of October 1, 2020. NYSERDA will calculate the capacity factor for each facility from the submitted data as the average capacity factor of the facility over the period since the most recent change in capacity. If it has been less than ten years since a capacity change at a particular facility, NYSERDA will calculate the average capacity factor over the period of the ten years ending December 2020. The capacity factor will not be calculated over a period preceding the start of operation. The applicable facilities to be included in the Supplier GHG Baselines include each hydropower facility that is (i) Tier 4 eligible, (ii) currently controlled by the Proposer or its affiliates, and (iii) a facility from which generation could practically be delivered to the NYCA. All such Tier 4 eligible hydropower facilities will be included in the Supplier GHG Baseline, regardless of whether such hydropower facilities are included as Resources in the Proposal. Any facilities that have been decommissioned or have at present been offline for at least 48 consecutive months will be excluded from the Supplier GHG Baseline.

NYSERDA will allow adjustments to the Supplier GHG Baseline during the Contract Delivery Term to remove from the baseline any hydropower facilities that are decommissioned or have been or sold, prospective from the decommissioning or sale. Hydropower units that remain offline for 48 consecutive months will be considered decommissioned and subsequently removed from the Supplier GHG Baseline.

In the case of repowering of low-impact run-of-river hydropower units that are included in the Supplier GHG Baseline, are Tier 1 eligible and satisfy all of the Tier 1 requirements for repowering, the Supplier GHG Baseline will be adjusted prospective from the Commercial Operation Date that marks the date of repowering to keep only such portion (if any) of the generation of such unit in the Supplier GHG Baseline that would not be considered Tier 1 eligible under the Tier 1 repowering rules.<sup>9</sup>

The Supplier GHG baseline will remain in effect throughout the entire Contract Delivery Term unless amended by the PSC, as noted in Exhibit H of the Agreement. For instance, the PSC may determine that

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<sup>9</sup> Refer to Tier 1 repowering requirements in the Order, p. 103.

the function of the Supplier GHG Baseline to prevent backfilling with fossil resources is no longer necessary if changes in law in neighboring jurisdictions would safeguard against such backfilling.

NYSERDA will calculate and set the Supplier Energy Baselines as the annual average over the ten years ending December 2020 of all sales of hydropower and other renewable energy delivered into NYCA by the Proposer. The sales to NYCA by the Proposer used to compute the average will include all renewable energy, regardless of whether the energy was produced from Resources included in the Project, but will exclude energy for which payments under the CES were received (noting that such non-Tier 4 sales will be excluded from both determination of and compliance with the Supplier Energy Baseline).

## **2.7 Conformance with NYGATS Operating Rules**

If awarded a contract, Proposers must register and obtain a valid NYGATS ID for each Project Resource and operate in conformance with the NYGATS Operating Rules. Delivery of electricity during the Contract Delivery Term that complies with the Electricity Delivery Requirement contained in Article III of the Agreement will be sufficient to support the creation of Tier 4 RECs by NYGATS and the implementation of the Forward Certificate Transfer of Tier 4 RECs, up to the Annual Tier 4 REC Cap, into NYSERDA's NYGATS account. NYSERDA will make payment for Tier 4 RECs from the Project delivered to NYSERDA's NYGATS account.

## **2.8 Pricing**

Each Step Two Proposal must include a firm offer price using either the Index REC or the Fixed REC Price Structure as described in Section 4.1. Offer prices for each Step Two Proposal are all-inclusive, that is, for all components of the Project. Under the Index REC Price Structure, the REC price varies monthly. It equals the Index REC Strike Price minus the monthly Reference Price. The monthly Reference Price is the sum of the Reference Energy Price and the monthly Reference Capacity Price, as described in Section 4.1.2. Proposers of Projects that include hydropower Resources must submit a firm offer price that includes the Supplier Energy Baseline and a firm offer price both with and without the Supplier Energy Baseline as determined through Step One.

## **2.9 Contract Delivery Term**

Each Step Two Proposal must specify an expected Commercial Operation Date. The Contract Tenor may be up to 25 years. The Contract Delivery Term will commence on the first day of the month after the actual Commercial Operation Date and end after the term of the Contract Tenor.

## **2.10 Prevailing Wage Requirement**

Although this is not a public work covered by NYS Article 8, and unless otherwise provided in a Project Labor Agreement (PLA) covering the construction on the Project, all laborers, workmen, and mechanics (within the meaning of those terms under NYS Labor Law Article 8) performing construction activities within the United States with respect to the Project, including, but not limited to, the assembly, staging, installation, erection, and placement of the Project and its electrical interconnection as well as those

construction activities related to start-up and commissioning of the Project, whether through long-term or short-term employment, must be paid wages and benefits in an amount not less than the Prevailing Rates (as determined under NYS Section 220 for construction activities in New York, or for construction activities elsewhere as determined by analogous state law) that would be applicable to a public work in the area where the subject Project construction activities occur. Unless provided otherwise in any negotiated PLA, it is generally expected that covered construction, for these purposes, will include United States-based offsite fabrication traditionally performed on-site by construction craft when that fabrication produces items specifically designed for construction of the Project, fabrication occurs off-site for the convenience of the contractor, and the fabrication is part of a single integrated construction process. This requirement applies: (1) to all laborers, workmen and mechanics performing construction activities, whether direct employees of the Seller or of Seller's subcontractor(s), and (2) regardless of whether or not such employment was claimed as an Incremental Economic Benefit in its Step Two Proposal. See Section 18.10 of the Agreement.

## **3 NON-PRICE EVALUATION OF STEP TWO PROPOSALS**

### **3.1 Overview**

Step Two Proposals submitted by the deadline stated in Section 1.3 will be examined for completeness and to determine whether the Project meets the eligibility and other requirements enumerated in Sections 2.1 through 2.10. Step Two Proposals that fail to meet these requirements will be ineligible for award. Step Two Proposals that meet the eligibility requirements will be scored and ranked with respect to: (1) the Fixed REC Bid Price or Index REC Bid Price, weighted at 70% of the overall score, and (2) non-price factors, which have a combined weight equaling 30% of the overall score.

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

1. 20% Project Viability; Operational Flexibility and Peak Coincidence; and
2. 10% Incremental Economic Benefits to New York State.

A Scoring Committee, consisting of NYSERDA staff, DPS Staff, and Independent Evaluators (outside reviewers who possess proficiency in the evaluation of energy generation projects) will evaluate and award points for the non-price evaluation components of each Step Two Proposal. NYSERDA may also enlist other state agencies and authorities to inform the non-price evaluation conducted by the Scoring Committee. The Bid Price evaluation will be conducted by NYSERDA. The non-price evaluation criteria are detailed in this Section 3; the Bid Price evaluation is detailed in Section 4.3.

### **3.2 Project Viability, Operational Flexibility and Peak Coincidence**

The Project Viability evaluation considers a series of factors that demonstrate whether the proposed Project can reasonably be expected to be in service on or before the proposed Commercial Operation Date(s). To maximize the score received from the Scoring Committee, Proposers must provide evidence that Project development plans are sufficiently mature, and technically and logistically feasible, that Proposers have sufficient experience, expertise, and financial resources to execute the development plans in a commercially reasonable and timely manner. Projects with earlier Commercial Operation dates supported by a credible development plan and milestone schedule will be viewed more favorably.

The Operational Flexibility and Peak Coincidence (OpFlex) component of the evaluation considers how the Project contributes to grid reliability and enables reduced reliance on fossil-fired generation in Zone J. The Scoring Committee will evaluate Step Two Proposals based on:

1. The benefits afforded to the electric grid in Zone J by the Project if proposing with dispatchable Resources and/or Energy Storage;
2. The extent to which Project deliveries into Zone J are coincident with electric demand within Zone J and thereby reduce dispatch of fossil resource; and

3. The extent to which the Project complements the foreseeable deployment of offshore wind into Zone J.

### **3.2.1 Proposer Experience**

Proposers must demonstrate that the development team has sufficient relevant experience and expertise to successfully finance, develop, construct, operate, and maintain its Project. Financing, development, and construction experience can be established by demonstrating that principals of the development team have undertaken relevant project management responsibilities, including: (1) successful development, construction, and operation of a similar type of project within or outside of the U.S.; or (2) successful development, construction, and operation of one or more projects of similar size or complexity or requiring similar skill sets, including experience in New York State.

### **3.2.2 Proposed Technology**

For Projects that have not been developed or are under construction, Proposers must demonstrate that the technology it proposes to use for the Resources and New Transmission is technically viable, and that the primary components can be procured to meet the required development schedule. Technical viability may be demonstrated by showing that the technology is commercially available, is reasonably expected to be commercially available prior to the commencement of Project construction or has been used successfully on other similar projects in commercial operation within or outside the U.S. The Step Two Proposal must also provide a reasonable timeline and plan for procuring the primary components from identified suppliers.

### **3.2.3 Interconnection and Delivery**

For each Resource that has not been developed or is under construction, Proposer must provide a detailed plan and a reasonable timeline to complete the interconnection process at the Injection Point with NYISO, or, if applicable, with any other interconnecting authority (Regional Transmission Organization, "RTO," or Independent System Operator, "ISO") in an adjacent Control Area. Proposer must detail the status (and results, if applicable) of the interconnection application and studies, as further described in Section 7.6.7.

For Proposers proposing to deliver energy and associated RECs into Zone J over New Transmission, Proposers must provide a detailed plan and timeline to complete the interconnection process for the New Transmission with NYISO. If the Withdrawal Point of the New Transmission is not in the NYCA, Proposer must also provide a detailed plan and reasonable timeline to complete the interconnection process for the New Transmission with the applicable interconnecting authority. Proposer must detail the status (and results, if applicable) of any interconnection application and studies.

The interconnection plan(s) and timeline must be consistent with meeting the overall development schedule and proposed Commercial Operation Date(s).

In order to evaluate the interconnection status and deliverability of a Project, as stated in Appendix H, Step Two Proposal Certification Form, Proposer must grant to NYSERDA the right to share with NYISO, adjacent RTOs, and owners of transmission facilities, as applicable, confidential information about any Step Two Proposal submitted by the Proposer. Proposer must also authorize NYISO, adjacent RTOs, and owners of transmission facilities, as applicable, to release information to NYSERDA that may otherwise be considered confidential under the relevant rules or policies of such organizations. NYSERDA understands that certain of the confidential information that may be requested from NYISO, adjacent RTOs, and owners of transmission facilities may be deemed to be Critical Energy Infrastructure Information (CEII). NYSERDA will adhere to all requirements with respect to access to and distribution of CEII information as may be required by NYISO, adjacent RTOs, or owners of transmission facilities. Proposers may be required to cooperate with NYSERDA and to execute waivers or other documentation necessary for NYSERDA to acquire such information from the relevant RTO.

### **3.2.4 Development Plan and Proposed Commercial Operation Date**

Proposers must provide a development plan with a proposed Commercial Operation Date accounting for the permitting, financing, interconnection, and other development milestones associated with the Step Two Proposal.

The Step Two Proposal must demonstrate that the Project can reasonably be permitted, developed, financed, and constructed within the proposed Project schedule. Proposers must submit reasonable milestones that are achievable, thereby placing the Project on an achievable milestone schedule to support the proposed Commercial Operation Date. Step Two Proposals with an earlier proposed Commercial Operation Date may receive higher Project Viability scores so long as the Scoring Committee concludes that the proposed Commercial Operation Date is reasonable and is supported by the overall Step Two Proposal, including the Project Schedule submitted by Proposers in accordance with Section 7.6.13 of this RFP.

### **3.2.5 Financing Plan**

Proposers must demonstrate that they have sufficient scale, financial resources, and insurance for developing the Project, and a credit rating sufficient for Project development. Proposers must demonstrate that they have completed sufficient due diligence regarding the formulation of a credible Project financing plan. A demonstration of recent experience in successfully financing like technology of comparable size and complexity will be viewed favorably.

### **3.2.6 Permitting Plan and Status**

Proposers must demonstrate a complete, credible, and achievable plan for successfully obtaining necessary permits within the proposed Project milestones. Permitting Plans will be evaluated to assess the Proposer's understanding of all Federal, State, Provincial, and local permits and authorizations that would be required to develop and operate the Project, including all infrastructure necessary to deliver energy and RECs to the Delivery Point. Proposers must also provide information describing the extent to

which support or opposition to the Project may materially affect the Project’s permitting approval timelines.

The Scoring Committee will evaluate whether the Permitting Plan demonstrates a full understanding of the permit requirements, addresses strategies to obtain permit approvals, and whether the permit timelines and milestones are consistent with the overall Project development plan. Projects that have already secured key initial permits will receive higher ratings. The proposed Resource locations and rights of way for interconnection and transmission facilities will be reviewed to analyze whether the Applicant would be likely to encounter significant obstacles in obtaining certain permits, potentially jeopardizing development milestones, and/or causing additional mitigation / compliance costs.

### **3.2.7 Energy Resource Assessment**

The Step Two Proposal must demonstrate the credibility of the energy resource assessment and production profile, sufficient to demonstrate the Project’s financeability and to support the anticipated energy delivery schedule.

### **3.2.8 Project Labor Agreement**

As referenced here, a PLA refers generally to a single collective bargaining agreement (including a pre-hire agreement) covering both contractors in the construction industry working on a Project and a bona fide building and construction trade labor organization representing the craft workers on that Project. Because of the benefits to the timeliness of project completion, Section 18.11 of the Agreement requires any Project selected for award to negotiate for a PLA. Proposers also will receive higher Project Viability scores by providing documentation of a PLA or an MOU to execute a PLA, or a firm commitment to enter into a PLA that covers construction of infrastructure necessary to generate and deliver the energy and Tier 4 RECs to Zone J.

Proposers of Projects located outside Zone J should also explain whether the developer of the New Transmission, on which the overall timeliness of the Project depends, intends to enter a PLA and whether that intention has been memorialized in any agreement or MOU.

### **3.2.9 Carbon Emissions and Embodied Carbon**

Through this solicitation, NYSERDA seeks to support the outcomes envisioned by the CLCPA, including its target of reducing greenhouse gas emissions 80% by the year 2050. NYSERDA is interested in understanding the “embodied carbon” impact of renewable development, and requests that Proposers describe the efforts that have or can be undertaken to minimize the Project’s embodied carbon intensity. Step Two Proposals that incorporate innovative approaches to minimize embodied carbon will be viewed more favorably.

### **3.2.10 Energy Deliverability**

In consultation with subject matter experts, NYSERDA and the Scoring Committee will allocate points based on the benefits to the grid and future estimated energy deliverability potential based on reasonable assumptions of a 70% renewable by 2030 electric grid. Projects that plan to deliver energy to Zone J at a Delivery Point where congestion and curtailment of renewable generators is more likely to occur on a 70% renewable by 2030 electric grid will receive fewer evaluation points compared to Projects that plan to deliver energy to Zone J at a Delivery Point where congestion and curtailment is less likely to occur. The Scoring Committee will also consider interconnection studies and/or deliverability studies for New Transmission provided by Proposers as part of their Step Two Proposals, if provided by the Proposer.

NYSERDA may employ analyses to identify potential impacts that proposed Projects may create on the energy deliverability of renewable energy, particularly offshore wind projects that are operating, under development, and/or under contract to deliver energy for end use in Zone J, including curtailments or instruction from the NYISO or Scheduling Coordinator that forces a renewable generator to reduce output. These potential impacts will be assessed in part based on current grid conditions and in part based on the expected grid limitations that will present themselves in the future.

Proposers are strongly encouraged to familiarize themselves with all ongoing work to identify areas of current and future congestion on the electric grid, including the DPS and NYSERDA State Power Grid Study, inclusive of Distribution and Local Capital Plans and a Bulk Transmission Investment Plan, the NYISO 2019 CARIS 70x30 Constraint Modeling study and outputs, and other similar studies conducted by the state, NYISO, and/or the transmission owners. NYSERDA and the Scoring Committee will use the most recent and pertinent modeling assumptions available for evaluation purposes to assess energy deliverability and allocate points. Updated assumptions and outputs published by DPS, NYSERDA, NYISO, and other parties may become available during the course of this solicitation, including outputs published under the Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act.<sup>10</sup>

The Scoring Committee will consider the quality of an energy deliverability study for firm power delivery and network upgrade costs, if provided by the Proposer. Full energy deliverability may be demonstrated by upgrade costs described and included in the Project's bid price and a deliverability assessment

### **3.2.11 Operational Flexibility**

The Scoring Committee will view Step Two Proposals that include dispatchable Resources, controllable transmission, and/or Energy Storage more favorably, as these Projects may better match Tier 4 energy

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<sup>10</sup> Matter 20-00905, Case Number 20-E-0197, Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act; <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=20-E0197&submit=Search>

deliveries to Zone J load and offshore wind output, and may reduce dispatch of fossil-fired peaking resources in Zone J.

If a Resource is claimed to be dispatchable, Proposers should clarify limitations on dispatch such as minimum output, ramp rate, and minimum up and down times. The portion of Resource portfolios that is dispatchable, as well as the flexibility of dispatchable Resources, will be considered.

To be compensated for Tier 4 RECs, energy discharged from Energy Storage must meet the requirements under Section 2.5. However, Energy Storage, if included in a Project, may provide operational flexibility benefits even if it is charged with grid energy, and therefore will not create Tier 4 RECs, if the discharge is delivered to Zone J. NYSERDA and the Scoring Committee will award more points to Projects with larger Energy Storage Capacity (MWh), and with a larger relative Energy Storage Capacity (MWh) in relation to the Bid Quantity (MWh).

### **3.2.12 Peak Coincidence**

NYSERDA and the Scoring Committee will allocate points based on how well the Project's portfolio of Resources and expected delivery profile match Zone J load and complement offshore wind generation. The evaluation may consider both historical and expected load shapes and offshore wind output.

### **3.3 Incremental Economic Benefits to New York State Including Disadvantaged Communities**

The Scoring Committee will evaluate and award up to 10 points to Step Two Proposals based on the degree to which the Proposer demonstrates that Incremental Economic Benefits will accrue to New York because of the development, construction, and operation of the Project. Inclusion of the New York economic benefits evaluation criteria reflects the importance of positive impacts of the Tier 4 REC procurement on New York State's economy, especially within Disadvantaged Communities. Claimed New York incremental economic benefits must be included in the Offer Data Form and the Economic Benefits Plan, as instructed in Section 7.5.5 and 7.6.16, respectively.

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

Incremental Economic Benefits may be claimed in one of three input activity categories:

Category 1: Project-specific spending and job creation in New York State;

Category 2: Investment in transmission and other infrastructure, supply chain, and community economic development in New York State;

Category 3: Input activities that provide opportunities for the New York workforce and for specific communities.

Incremental Economic Benefits in each of the activity categories may be claimed in one of two duration categories:

- Short-term Economic Benefits to New York State;
- Long-term Economic Benefits to New York State.

Proposers must demonstrate that the Incremental Economic Benefits will (1) will accrue after January 1, 2021, and (2) would not have accrued but for the award of a contract under this RFP.

Only those Incremental Economic Benefits meeting the eligibility criteria and falling within the defined categories in Section 7.6.16 will be considered for evaluation. The Scoring Committee will award a maximum of 10 points summed over the above six sub-categories in proportion to the level of eligible claims, normalized across all Projects by dividing each Project's eligible claims by that Project's Bid Quantity (MWh).

The Order requires that NYSERDA "take measures to ensure that the interests of Disadvantaged Communities are explicitly valued in the selection process, and build upon its workforce development policies to specifically promote good jobs in Disadvantaged Communities, including the broadest possible application of prevailing wage requirements in NYSERDA agreements, and procurement policies that reward community workforce agreements, apprenticeship programs and other training programs in Disadvantaged Communities, in all Tier 4 procurements." NYSERDA will award more points to Incremental Economic Benefits to New York State that prioritize and will be realized in part or in full by Disadvantaged Communities.<sup>11</sup> It is incumbent upon Proposers to clearly identify the extent to which Economic Benefits claims will be prioritized and realized by Disadvantaged Communities and how these claims meet the interim criteria.<sup>12</sup> As of the date this RFP is issued, the New York State interim criteria for defining Disadvantaged Communities, stated in the above list of Acronyms and Definitions, are to be

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<sup>11</sup> The CLCPA includes a target of delivering 40 percent of the overall benefits from New York State's climate programs to Disadvantaged Communities, a term for which rules are being actively promulgated by New York State. Disadvantaged Communities are identified in the CLCPA as communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households. Acknowledging that New York State has not yet formally defined Disadvantaged Communities, this RFP will rely on already-established criteria for communities that meet the spirit of the Disadvantaged Communities objectives of the CLCPA. Proposals will be awarded more points by the Scoring Committee if the Proposer can demonstrate benefits of the Project's development are afforded to communities located in low-income census tracks, potential Environmental Justice Areas, and New York Opportunity Zones.

<sup>12</sup> To restate, because New York State has not yet formally defined Disadvantaged Communities, this RFP will rely on already-established criteria for communities that meet the spirit of the Disadvantaged Communities objectives of the CLCPA. Projects will be evaluated by the Scoring Committee if they can demonstrate benefits of the Project's development are afforded to communities located in low-income census tracks, potential Environmental Justice Areas, and New York Opportunity Zones.

used. However, bidders will be expected to adjust their efforts based upon the final criteria to be established by the Climate Justice Working Group.

The Scoring Committee will consider the support for each claim provided in an Economic Benefits Plan submitted with the Step Two Proposal. Incremental Economic Benefits must be quantifiable and verifiable. For evaluation purposes, the Scoring Committee will attribute additional weight to those expenditures and investments that (1) are firm and credible, (2) create persistent and sustainable institutional or worker capabilities in New York State, (3) distribute economic benefits more heavily within Disadvantaged Communities, and (4) are expected to lower the cost of future projects in the State that use similar technologies.

For Categories 1 and 2, to facilitate comparison by the Scoring Committee between Project submissions with larger or smaller Bid Quantities, the total of such adjusted claimed expenditures and investments will be unitized by dividing each Step Two Proposal's eligible claims by the Bid Quantity offered in the Proposal.

In Category 3, Step Two Proposals will be assessed on the scale of the likely impact of the proposed actions and the firmness of the commitments. Step Two Proposals will be scored on the number, range, maturity, firmness, and credibility of the commitments being made and the scale of the potential benefits. In awarding points in Category 3, the Scoring Committee will consider the:

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

Independent audit and verification of the actual Category 1 and Category 2 Incremental Economic Benefits of the Project and comparison to the level of claimed Incremental Economic Benefits will be required after the first three years of the Contract Delivery Term, as described in Appendix G, Economic Benefits Claims and Verification.

## 4 PRICE EVALUATION AND BID PRICE STRUCTURE

### 4.1 Bid Price

The Bid Price must conform to either the Index REC or Fixed REC Price Structure. Bid Prices for each Step Two Proposal are all-inclusive. That is, the Bid Price must include all components of the Project including all interconnection and transmission costs required to ensure delivery of energy and associated Tier 4 RECs to Zone J.

The Bid Price may be constant for all Contract Years, or the price may escalate at a constant rate over the Contract Delivery Period. For escalating prices, Proposers must specify a price for the first Contract Year and an escalation rate, not to exceed 3 percent per year. Escalating prices may be used for Fixed REC Pricing and Index REC Pricing. Proposers may offer alternate Bid Prices, that is, both constant over the Contract Tenor, or escalating over the Contract Tenor.

#### 4.1.1 Fixed REC Pricing

Under the Fixed REC pricing, the Monthly REC Price is equal to the Fixed REC Price of its Contract Year, which may vary annually:

$$\text{Monthly\_REC\_Price}_{y,m} = SP_{y,m}^{\text{Fixed}}$$

where:

$$SP_{y,m}^{\text{Fixed}} = \text{Fixed REC Price (\$/MWh) in Contract Year } y, \text{ for all months } m$$

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

#### 4.1.2 Index REC Pricing

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

$$\text{Monthly\_REC\_Price}_{y,m} = SP_{y,m}^{\text{Index}} - REP_{y,m} - (RCP_{y,m} \times MF)$$

where:

$$SP_{y,m}^{\text{Index}} = \text{Index REC Strike Price (\$/MWh) in Contract Year } y, \text{ for all months } m$$

$$REP_{y,m} = \text{Reference Energy Price (\$/MWh) in Contract Year } y, \text{ month } m$$

$$RCP_{y,m} = \text{Reference Capacity Price (\$/MWh) in Contract Year } y, \text{ month } m$$

$$MF = \text{Mitigation Factor (decimal fraction)}$$

The Mitigation Factor, defined in Section 4.03 of the Agreement, if applicable to a Resource, is intended to account for the percentage of renewable capacity in Zone J that is determined to be exempt from the offer floor requirement imposed by the NYISO Services Tariff.<sup>13</sup>

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

Each month's Reference Energy Price shall be a simple average of the hourly NYISO Day-Ahead Market (DAM) locational based marginal pricing (LBMP) for the NYISO Zone J as published by NYISO.<sup>14</sup>

Each month's Reference Capacity Price shall be based on the conversion of a Reference Unforced Capacity (UCAP) Price, equal to the spot auction price in \$/kW-month for NYISO Zone J as published by NYISO.<sup>15</sup>

For Resources that are located in Zone J, the Reference Capacity Price is converted to its \$/MWh equivalent through the following equation:

$$RCP_{y,m} = \frac{RUP_{y,m} \times UPF_{(s)} \times IC^J \times 1000}{REC_{y,m}}$$

where:

$RUP_{y,m}$  = Reference UCAP Price for Zone J (\$/kW-month) in Contract Year  $y$ , month  $m$

$UPF_{(s)}$  = Aggregate UCAP Production Factor of applicable season  $s$  for a portfolio of Resources (decimal fraction)

$IC^J$  = Sum of the installed capacity (ICAP) of portfolio Resources located in Zone J in (MW)

$REC_{y,m}$  = Tier 4 Renewable Energy Certificates produced from the Project and delivered to the Delivery Point for the month (including any Tier 4 Renewable Energy Certificates)

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<sup>13</sup> See NYISO Services Tariff Att. H, Section 23.4.5.

<sup>14</sup> Historical daily NYISO DAM LBMPs can be downloaded from the NYISO website at <http://mis.nyiso.com/public/> or <https://www.nyiso.com/custom-reports>.

<sup>15</sup> Historical monthly capacity spot auction prices can be downloaded from the NYISO website at [http://icap.nyiso.com/ucap/public/auc\\_view\\_spot\\_detail.do](http://icap.nyiso.com/ucap/public/auc_view_spot_detail.do) or <https://www.nyiso.com/installed-capacity-market>. NYISO UCAP prices are not reported by Zone, but instead by capacity locality. Capacity localities include NYCA, Southeast New York (or the G-J Locality), New York City (NYC) and Long Island (LI). Nested capacity localities, for example, New York City inside the G-J Locality, can have the same or a higher price as the capacity locality they are located within. For Zone J, refer to the NYC UCAP price.

produced in excess of the Annual Tier 4 REC Cap or otherwise not committed for sale to NYSERDA under this Agreement)

1000 = kW to MW conversion factor

The UCAP Production Factor (UPF) multiplied by the sum of the installed capacity of Resources located in Zone J is a proxy for the Resources' UCAP in MW. Proposers are required to establish and bid to NYSERDA seasonal (summer, winter) UCAP Production Factors for the Project, which is the aggregate seasonal UCAP Production Factors for the portfolio of Resources comprising the Project. The seasonal UCAP Production Factors will be fixed and utilized for the duration of the Contract Tenor.<sup>16</sup> The seasonal UCAP Production Factors can vary in alternative Bids, for example based on different portfolios of Resources. Proposers are encouraged to consider current guidance from the NYISO's Installed Capacity Manual.<sup>17</sup> Proposers are permitted to select any UCAP Production Factor value between 0 and 1.

For Resources that are not located in Zone J, capacity may be delivered to Zone J through a controllable transmission facility only if the controllable transmission facility is awarded Unforced Delivery Rights (UDRs) from NYISO.<sup>18</sup> To determine the quantity of UCAP delivered to Zone J through the UDRs, NYISO adjusts the UDRs by losses and unavailability associated with the controllable transmission facility.

The Reference Capacity Price in Contract Year  $y$ , month  $m$  is therefore:

$$RCP_{y,m} = \frac{RUP_{y,m} \times UDR \times (1 - LF) \times (1 - UAF) \times 1000}{REC_{y,m}}$$

where:

$UDR$  = Quantity of UDRs on New Transmission allocable to the Project (MW)<sup>19</sup>

$LF$  = Loss Factor of the transmission facility (decimal fraction)

$UAF$  = Unavailability Factor of the transmission facility (decimal fraction)

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<sup>16</sup> Fixed, seasonal UCAP Production Factors allow for one fixed winter and one fixed summer UCAP Production Factor for the duration of the Contract Tenor.

<sup>17</sup> NYISO Installed Capacity Manual, published June 2020, provides default factors for different resource types and locations [https://www.nyiso.com/documents/20142/2923301/icap\\_mnl.pdf/234db95c-9a91-66fe-7306-2900ef905338](https://www.nyiso.com/documents/20142/2923301/icap_mnl.pdf/234db95c-9a91-66fe-7306-2900ef905338)

<sup>18</sup> See Section 4.14 of NYISO Installed Capacity Manual, published June 2020. Ibid.

<sup>19</sup> UDR is expressed before accounting for LF or UAF.

Proposers are required to provide values for UDR, LF, and UAF that will be fixed over the Contract Delivery Term. Proposers are permitted to select any value for UDR. Proposers should provide values for LF and UAF consistent with the expected properties of the controllable transmission facility.

In accordance with Section 4.03 of the Agreement, the Monthly Tier 4 REC Price is capped at the Index REC Strike Price. This cap applies in the event that LBMPs and the Reference Energy Price for a month are sufficiently negative to cause the Monthly REC Price to otherwise exceed the Index REC Strike Price.

## **4.2 Settlement Mechanism**

NYSERDA will calculate the Reference Energy Price and Reference Capacity Price for each month according to the calculation outlined in the Agreement. The Monthly REC Price will be calculated during a settlement period following the conclusion of each month.

To calculate the amount payable to Seller, the Monthly REC Price will be multiplied by the lesser of (i) the number of Tier 4 RECs delivered at the Delivery Point in the prior month and (ii) the number of Tier 4 RECs delivered into NYSERDA's NYGATS account. For Resources located in Zone J, the number of Tier 4 RECs delivered at the Delivery Point is the quantity metered at the Injection Point(s) in the prior month. For Resources that are not located in Zone J, the number of Tier 4 RECs delivered in the month is the lesser in each hour of (i) the energy metered at the Delivery Point of the New Transmission and (ii) energy metered at the Injection Point(s), summed over all hours of the month.

Payments will be calculated after the close of each calendar month during the Contract Delivery Term. During each month's settlement period, NYSERDA will only purchase RECs such that the cumulative RECs purchased in the active Contract Year do not exceed the Annual Tier 4 REC Cap. For Projects that include New Transmission, the Annual Tier 4 REC Cap is the capacity of the New Transmission in MW multiplied by 8760. For Projects that do not include New Transmission, Proposer may specify the Annual Tier 4 REC Cap based on the maximum potential annual deliveries of Tier 4 RECs of the Resources located in Zone J.

Subject to an annual cap described in Section 4.04 of the Agreement, NYSERDA is not obligated to pay for Tier 4 RECs that are delivered in any hour in which the Zone J LBMP is negative.

In the case of a negative Monthly REC Price, the associated payment from Seller to NYSERDA will not be cash-settled on a month-by-month basis. Instead, the amount owed from Seller to NYSERDA will accrue as a debit to be deducted from each subsequent monthly payment until fully recovered. If, due to sustained negative REC prices, any such debit goes unrecovered for twelve months, Seller shall pay the unrecovered amount to NYSERDA in cash as described in Section 4.05 of the Agreement.

## **4.3 Bid Price Evaluation**

A quantitative method will be applied to all Bids to screen and rank the pricing bids using a uniform cost metric. For evaluation purposes, Bid Prices will be converted to a Levelized Net REC Cost (LNRC) in base

year \$/MWh for both the Fixed REC Price and Index REC Price bids. The LNRC price measure allows for an equitable comparison among Step Two Proposals with different Price Structures and Bid Quantities.

The LNRC for Step Two Proposal  $p$  using pricing form  $f$  (Fixed or Index) is the quotient of the cumulative present value of the annual net REC costs over the Contract Delivery Term, divided by the cumulative present value of the projected annual number of Tier 4 RECs delivered to Zone J over the same period. The annual quantities are discounted at a real discount rate. The resulting quotient is expressed in base year dollars per REC or MWh.

$$LNRC_{p,f} = PVNRC_{p,f} \div PVRO_p$$

where:

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

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

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

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

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

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

$RQ_{p,y,m}$  = REC delivery quantity for Step Two Proposal  $p$  applicable to month  $m$  of calendar year  $y$  (REC or MWh)

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

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

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

$CT$  = Contract Tenor

$NDR$  = Nominal Discount Rate (decimal)

*INF* = Inflation Rate (decimal)

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

*Y<sub>b</sub>* = Base year for cost and PV

A nominal discount rate of 5.75% per year<sup>20</sup> and a long-term inflation rate assumption of 2.0% per year will be used in the LNRC calculation procedure.

For evaluation purposes, regardless of the proposed Commercial Operation Date, all Bid Prices will be evaluated with a Contract Delivery Term commencement year of 2025 and therefore a COMDp of 2025.

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

#### **4.4 Bid Price Scoring**

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

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<sup>20</sup> The discount rate for Bid Price evaluation (DISCo Discount Rate or DDR) was established by the New York State Department of Public Service Office of Accounting, Audits and Finance, revised January 19, 2021.

## **5 STEP TWO PROPOSAL NEGOTIATION, RANKING AND AWARD GROUP**

### **5.1 Elimination of Ineligible and Non-Viable Bids**

After an initial review, NYSERDA will eliminate a Proposal from further consideration under this RFP on the following grounds:

- NYSERDA will eliminate from further consideration any Proposal that NYSERDA deems ineligible for award because the Proposal fails to meet the requirements of this RFP. Under the circumstances, NYSERDA may find it necessary to ask clarifying questions to the Proposer prior to making a final determination that the Proposal is ineligible.
- NYSERDA will eliminate any Proposal from further consideration upon a unanimous determination by the Scoring Committee that the Proposal is not presently viable. See Order at 28 – 30.

### **5.2 Preliminary Discussions on the Agreement**

After the submission of Proposals, NYSERDA will review the memorandum and redline described in Section 7.2. Where a Proposer has not commented on a provision of the standard form Agreement, NYSERDA will presume that the Proposer accepts the provision as written. Where a Proposer has proposed one or more material deviations from the standard form Agreement, NYSERDA may send questions to the Proposer in writing and/or may initiate discussions with the Proposer in order to understand the Proposer's reasoning. NYSERDA reserves the right to accept or reject any such proposed deviations.

### **5.3 Preliminary Rank Order**

A preliminary ranking of Step Two Proposals (excluding any eliminated under Section 5.1) will be established based on the sum of the Scoring Committee scores for the non-price categories (Project Viability, Operational Flexibility and Peak Coincidence as well as Incremental Economic Benefits), and the points awarded for the Levelized Net REC Cost.

### **5.4 Consideration of Program Policy Factors**

NYSERDA may adjust the preliminary ranking to reflect other factors that contribute to the achievement of the CES mandate, the reduction of greenhouse gas emissions, and the objectives of the Commission's Order. Program policy factors may include:

- The efficient utilization of key transmission points of interconnection and Project selections that will promote the cost-efficient integration of renewable generation into New York City;
- Reliability and geographic benefits and/or costs in the NYCA, and the reduction of execution risk through diversity;
- Public health benefits of reducing local air contaminants by displacing thermal generation in New York City, and, in particular, in Disadvantaged Communities;

- The extent the Project contributes to grid reliability and enables reduced reliance on thermal generation in Zone J through its dispatchability and level of firm supply;
- The extent to which the Project allows the State to accelerate the reduction of GHG emissions in furtherance of the CLCPA objectives;
- The extent to which a Project’s deliveries are not met through the re-directing of existing resources in a way that provides no net benefit to the State
- The extent to which the proposed Project promotes delivery of renewable energy from upstate regions of the State into Zone J, eases the curtailment of upstate renewable resources, and optimizes deliverability of renewable resources throughout the entirety of the State; and
- The degree to which two or more smaller Projects provide more competitive benefits and potentially more timely achievement of Commercial Operation, versus the potential scale economy anticipated with a single large Project.

Proposers are encouraged to address the above program policy factors in their Proposals to the extent applicable.

### **5.5 Public Interest Review**

Beginning with the highest ranked Step Two Proposals and proceeding in order of ranking, NYSERDA will evaluate whether the Project will advance the public interest of the State. In accordance with the Order, NYSERDA will apply the Benefit Cost Analysis Framework that was established by the Commission in the Reforming the Energy Vision proceeding<sup>21</sup> to determine if a Proposal should be considered for an award. The public interest criteria to be considered by NYSERDA include:

- (1) whether the agreement is a cost-effective means of progressing toward the CLCPA’s 2030 and 2040 Targets in light of the unique challenges of reducing fossil fuel use in Zone J;
- (2) the extent to which the selected project or projects will enable reduced reliance on thermal fired generation located in Zone J;
- (3) the degree to which the selected project or projects complement the foreseeable deployment of offshore wind that will be available to serve Zone J;
- (4) impacts to Disadvantaged Communities;
- (5) project viability; and
- (6) economic benefits to the State.

### **5.6 Counterproposals**

As indicated in the Order (page 97), NYSERDA retains the right, during its review process, to issue counterproposals to any Proposer. Such revised proposals and counterproposals may include changes to the Bid Price or to related terms and conditions including risk mitigation provisions. In such case

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<sup>21</sup> Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Establishing the Benefit Cost Analysis Framework (issued January 21, 2016), Appx. C.

NYSERDA will provide notice by voice communication and email to the individuals identified as contacts in Proposer's Step Two Proposal. Proposer's designated contacts must be authorized to respond and to commit to counterproposals on behalf of Proposer. Proposer may be required to provide additional information to support the Bid Price justification described in Section 7.6.5 and Section 7.7.2.

### **5.7 Initial Award Group Selected for Final Contract Negotiation**

NYSERDA is seeking to procure Tier 4 RECs produced from one or more eligible Projects that represent up to an aggregate 1,500 MW. NYSERDA may exceed 1,500 MW if Step Two Proposals are received that are sufficiently compelling.

After completing the steps above, NYSERDA and DPS Staff may select an initial award group of Projects for final contract negotiation from among the highest ranked projects based on the preliminary ranking, application of the program policy factors, the public interest review, and consideration of any changes made pursuant to the counterproposals referenced above. NYSERDA reserves the right to reject or accept any or all Proposals.

NYSERDA will notify selected Proposer(s) both by voice and written communication to the individuals who are provided as contacts in Proposer's Step Two Proposal. The date upon which NYSERDA provides such written notification of an initial award shall be the Award Notification Date.

Selection for an initial award and subsequent contract negotiation does not give the Proposer any legal right or entitlement. Once selected for initial award, Proposers will negotiate a final version of the Agreement with NYSERDA that will then be considered for submission to the Commission for approval.

7.7.2

NYSERDA may also establish a waitlist beyond those Projects offered an initial award. Step Two Proposals represent offers to contract and must remain open for a period of at least 180 days from the Deadline for Submission of Step Two Proposals indicated in Section 1.3.

### **5.8 Commission Review**

In accordance with the Order, to ensure that Tier 4 REC prices are reasonable in relation to the value of the environmental attributes and other benefits provided, including system and public health benefits, the Commission requires NYSERDA and DPS Staff to file any Agreement for the procurement of Tier 4 RECs with the Commission for approval. Those agreements will be made available for public inspection and comment.<sup>22</sup>

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<sup>22</sup> Public versions of such agreements will redact critical electric infrastructure information and other sensitive information that is not relevant to the public interest determination.

The Commission will then decide whether to approve or deny any such Agreement based on whether it advances the public interest; any Commission-approved Agreement(s) will comprise NYSERDA's final award group.

## **6 STEP ONE ELIGIBILITY APPLICATION INSTRUCTIONS**

### **6.1 Requirements for Submitting a Step One Eligibility Application**

Step One Eligibility Applications must be received by NYSERDA no later than **3:00 p.m. ET on February 16, 2021**. NYSERDA strongly recommends that Proposers reserve ample time to address the eligibility requirements for the Project and each Resource comprising the Project. The Step One Eligibility Application, including hydropower baseline data, must be completed and submitted electronically online through the [Step One Eligibility Application](#), before the deadline. Responses provided through any other means will not be accepted.

### **6.2 Step One Eligibility Application**

The [Step One Eligibility Application](#) is provided electronically and must be submitted online. The Step One Eligibility Application is included as Appendix B for reference only. The form requests basic information from Proposers regarding Proposer, the Project, proposed Injection Point for each Resource, and proposed Delivery Point. For Resources not located in Zone J, Proposers must provide information about the New Transmission. The Step One Eligibility Application also requests contact information for Proposer.

### **6.3 Step One Eligibility Application Requirements**

For Projects with and without hydropower Resources, a Step One Eligibility Application consists of:

1. Completed Parts A, B, and C
2. Executed Proposer Certification

Projects containing hydropower Resources must, in addition, provide the following information in Part D of the Step One Eligibility Application:

1. Completed Part D.1, Historical operating data, further described in Section 6.7.1
2. Completed Part D.2, Proposed Supplier GHG Baseline and Supplier Energy Baseline, as further described in Section 6.7.2

NYSERDA recommends that Proposers mark materials provided to NYSERDA as Confidential as needed (see Section 1.14).

### **6.4 Part A – Proposer Information**

In Part A of the Step One Eligibility Application, Proposers must identify the Proposer name, all members of the Project Team, other business entities that will be participating in the Project, and the relationship among the Project Team and other business entities. Provide an organizational chart for the Project Team members, if available. A primary contact and alternate contact for the Project must be provided.

The individuals identified as contacts for the Proposer will be the parties that NYSERDA will communicate with regarding baseline determinations and/or any requested clarifications.

Proposer must also provide a description of how the COVID-19 pandemic has affected Proposer's operations, the process of developing the proposed Project, and the content of this Step One Eligibility Application.

## **6.5 Part B – Project Information**

The Proposer must provide an estimate of the Bid Quantity, in MWh per year, that Proposer expects to deliver into Zone J. The Bid Quantity should be the sum of the expected annual MWh delivered from all the Project Resources. For intermittent Resources, the annual energy output should correspond to the P50 probability level. The Bid Quantity and proposed Resources submitted with the Step One Eligibility Application are non-binding but should be based on the best information available to Proposers at the time of submission.

For each of the Project Resources, the Proposer must provide, as available, the following information by uploading the Project Resources Form provided as Appendix C and also available via the Step One Eligibility Application:

- Resource or Energy Storage Name
- Address, municipality, and/or other identification of the geographic location
- Injection Point (actual or proposed)
- Installed capacity (MW) as built (for existing Resources) or as proposed
- Installed Energy Storage capacity (MWh equivalent)
- Generator or energy storage technology type
- Commercial Operation Date (actual or proposed)
- Capacity Factor (actual historic or expected)
- Whether the Resource has a current NYSERDA Tier 1 contract
- Interconnection Queue Position (if applicable)

Proposers must also submit a narrative section in Part B, which describes the following:

**Bid Quantity** – Explain how the Bid Quantity (the annual quantity of Tier 4 RECs delivered to Zone J from the Project) relates to the expected production from each Resource, consistent with the installed capacity and capacity factor of each Resource, and any losses, curtailments, unavailability of transmission, or other factors.

**Resource Eligibility** – For each Resource, explain how it meets the vintage and technology requirements described in Section 2.1.

**Interconnection Status** – Describe the status of each Resource with respect to its interconnection application with NYISO or with a neighboring control area, at the Injection Point(s). State whether the Resource has or intends to seek Capacity Resource Interconnection Service (CRIS) or Energy Resource

Interconnection Service (ERIS), or similar interconnection standards in neighboring control areas from NYISO or any neighboring control area.

## **6.6 Part C – Delivery Information**

Proposers must provide a detailed discussion of how the Project, including Energy Storage, if proposed, will fully meet the Zone J delivery requirement defined in Section 2.2.

For Projects that are not located in Zone J, Proposers must demonstrate the capability to deliver renewable energy into Zone J. Proposers must describe any transmission system and/or system expansions required to deliver energy and Tier 4 RECs to NYCA Zone J, and how the proposed transmission system will meet the definition of New Transmission. Proposers must describe how they will demonstrate a means of delivery from the Injection Point to the Delivery Point in Zone J. If the Injection Point of a Resource is not co-located with the Withdrawal Point of the associated New Transmission, then the Proposer must describe how it intends to demonstrate delivery from the Injection Point to the Withdrawal Point of the associated New Transmission.

For proposed New Transmission to deliver energy and Tier 4 RECs into Zone J, describe the right of way route, technology type (e.g. HVDC), MW capability, Withdrawal Point, Delivery Point, proposed Commercial Operation Date (first energizing), and status of any permits and site control for the right-of-way route. Provide information on the status of the NYISO interconnection application for the New Transmission, queue position, and any studies undertaken by NYISO or a third party on behalf of Proposer, transmission developer, or any other party in support of the interconnection application. Provide the amount of unforced delivery rights (UDRs) that are expected to be awarded to the New Transmission.

As discussed in Section 2.2, to be eligible a Project need not deliver capacity into Zone J. Proposers that elect to deliver capacity into Zone J must describe how such delivery will conform with all relevant market rules, including but not limited to NYISO's OATT and the Installed Capacity Manual (Manual 5), and applicable market rules in neighboring control areas.

## **6.7 Part D – Hydropower Project Data, Baseline Determination and Baseline Compliance**

### **6.7.1 Part D.1 – Historical Operating Data and Capacity Additions**

The Order requires proposers of hydropower Resources to provide data on historic renewable energy delivered to NYCA, and historic hydropower production with the corresponding water flows as measured by the U.S. Geological Survey gauges or best available data sources for hydropower production, dates and production data of hydropower capacity additions, and other pertinent information that NYSERDA may request.

The historic hydropower operating data must be provided on a monthly basis over the last 20 years on the Hydropower Data Form that is included as Appendix D and also via the Step One Eligibility

Application. For the Supplier GHG Baseline, generation data must be provided by generating facility, with further subdivision of data if the amount of generating capacity changed throughout the 20-year period. Data should be provided as monthly net generation measured by a revenue meter where the administrator of the local Control Area measures energy delivery from a Resource. For the Supplier Energy Baseline, monthly data must include (i) total energy sales, (ii) renewable energy sales, and (iii) REC sales to NYCA. Refer to the instructions in Appendix D for further detail on how data must be provided.

### **6.7.2 Part D.2 – Supplier Baseline Proposal**

Proposers of Projects with hydropower Resources must provide a proposed Supplier GHG Baseline and a proposed Supplier Energy Baseline.

The proposed Supplier GHG Baseline should be calculated as the annual average over 20 years of historic hydropower generation from each hydropower facility that is (i) Tier 4 eligible, (ii) currently controlled by the Proposer or its affiliates, and (iii) a facility from which generation could practically be delivered to the NYCA, summed over all such hydropower facilities. All such Tier 4 eligible hydropower facilities should be included in the sum of annual averages, regardless of whether such hydropower facilities are included as Resources in the Proposal. The annual average generation of a hydropower facility should be computed using less than 20 years of data if the facility is less than 20 years old, or if Proposers can justify some other basis for excluding certain data. For example, a Proposer may exclude from the Supplier GHG Baseline hydropower data for a facility that has been decommissioned or offline for at least 48 consecutive months. Regardless of whether data on decommissioned/offline units are included in the Supplier GHG Baseline average calculations, Part D.1 must include all required historic data.

The proposed Supplier Energy Baseline should be calculated as the annual average over 20 years of all sales of hydropower and other renewable energy delivered into NYCA by the Proposer. The sales to NYCA by the Proposer used to compute the average should include all renewable energy, regardless of whether the energy was produced from Resources included in the Project, but it should exclude energy for which payments under the CES were received (noting that such non-Tier 4 sales will be excluded from both determination of and compliance with the Supplier Energy Baseline).

A full and complete justification for both baselines must be provided on the Step One Eligibility Application, with supporting calculations based on the historical operating data that are provided in Part D.1. As noted in Section 1.11 and 2.6.3, NYSERDA reserves the right to modify the proposed baseline approach to conform to the objectives of the solicitation. NYSERDA will provide the final Supplier GHG and Supplier Energy Baseline determinations no later than 30 days prior to the deadline for the Step Two Proposal.

Exhibits H and I to the Agreement set out the intended approach in respect of baseline compliance for the Supplier GHG Baseline and Supplier Energy Baseline, respectively. The versions of these Exhibits accompanying the Standard Form Agreement in this RFP set forth general principles that will be applied

to calculate and verify baseline compliance. As part of the Step Two Proposal, Proposers will propose how compliance with the Supplier GHG Baseline and Supplier Energy Baseline would be measured and verified and submit any other comments regarding how baseline compliance should be implemented, consistent with the general principles defined in Exhibits H and I.

## 7 STEP TWO PROPOSAL INSTRUCTIONS

### 7.1 Deadline for Submitting a Step Two Proposal

The complete Proposal package must be **received** by NYSERDA no later than **3:00 p.m. ET on May 12, 2021**. Refer to **Appendix I** for instructions on how to submit a Step Two Proposal. NYSERDA strongly recommends that Proposers reserve ample time to address the Step Two Proposal requirements. The Step Two Proposal must be completed and submitted online before the deadline. Responses provided through any other means will not be accepted.

### 7.2 Preparation of Step Two Proposals

T4RFP21-1 is a competitive procurement. The Agreement is a legally binding document; it is recommended that Proposers consult with an attorney. The [Order Adopting the Clean Energy Standard](#) along with additional orders and implementation plans issued under Case 15-E-0302, and New York State competitive procurement rules may limit NYSERDA's ability to alter the terms of the Agreement issued with this RFP.

However, as part of the Step Two Proposal, Proposers may indicate terms of the Agreement that they wish to further discuss by providing an attachment in the form of a memorandum. The memorandum should specifically identify any terms and conditions that the Proposer wishes to clarify or negotiate prior to execution. When constructing the memorandum, please identify the Article in the Agreement, state the nature of the issue to be discussed, and to the greatest extent possible explain the Proposer's motivation and the commercial considerations at issue. Proposers are encouraged to submit redline versions of the Agreement containing their proposed revisions.

A Step Two Proposal may not be made contingent on the receipt of any federal tax credits or incentives.

A Step Two Proposal may be made contingent on NYSERDA's award to another Proposal. A Proposal that is contingent on the selection for award of another Proposal should fully explain the need or value of such contingency based on its cost-effectiveness, efficient utilization of common infrastructure, or other factors. Absent the provision of an alternative Proposal, NYSERDA reserves the right to also evaluate the Bid as if the contingency were not present and to counter-offer on that basis.

### 7.3 Organization and Submission of Step Two Proposals

#### 7.3.1 Organization of the Step Two Proposal

Proposers are required to organize their Step Two Proposals consistent with the instructions provided herein. Each Step Two Proposal must include the following separate files:

1. **Master Offers Form**, a provided Excel workbook template in Appendix F-1, identifies the Proposer and Project name, identifies the number of unique Price Structures (i.e. Fixed REC or Index REC), Contract Tenors, and Bid Quantities offered, and computes the Proposal Fee. Only one Master

Offers Form should be submitted by each Proposer. The Master Offers Form must be submitted as a working Excel file.

2. **Offer Data Form**, a provided Excel workbook template in Appendix F-2, contains pricing, technical, and operational information for the proposed Project and Resources, and claimed Incremental Economic Benefits of the Project. A separate Offer Data Form must be submitted for each Bid, consisting of a unique set of Project Resources, Bid Quantity, Price Structure, and Contract Tenor. A Proposer who must submit a Required Alternate Bid must submit at least two Offer Data Forms: one for the Required Alternate Bid and one for the Project without a New York Converter Station. The Offer Data Form is structured so that if the Project includes hydropower Resources, Bid Prices must be entered with and without a Supplier Energy Baseline. Similarly, if a Project includes Energy Storage, the Offer Data Form requires Bid Prices with and without Energy Storage. Only one Price Structure (Fixed REC or Index REC) may be submitted with each Offer Data Form. The Offer Data Form must be submitted as a working Excel file.
3. **Proposal Narrative**, a description of the proposed Project, information required to demonstrate the eligibility, viability, claimed Incremental Economic Benefits of the Project, and other relevant information and supporting documentation required to evaluate the Step Two Proposal. The organization and contents of the Proposal Narrative must be organized in the order presented in Section 7.6, with section numbers that correspond to the numeration in Section 7.6, e.g., the Executive Summary must be Section 1 of the Step Two Proposal. The Proposal Narrative file, unless otherwise noted, must be submitted as a fully searchable PDF file with numbered pages. The Step Two Proposal must include both Confidential and Public versions of the Proposal Narrative. Separate instructions for the Proposal Narrative for the Required Alternate Bid are provided in Section 7.7.
4. **Proposal Certification Form**, a form in Appendix H that must be signed by Proposer's authorized representative to certify the validity of the offer and attest to other representations. Only one Proposer Certification Form is required in the Step Two Proposal.

Proposers may also submit an unlimited number of supporting attachments to provide information or studies related to the Project. Each attachment must be a fully searchable PDF file. Individual files should be 100 MB or less in size. Step Two Proposal PDFs should be searchable and should be created by direct conversion from the native software (e.g., Microsoft Word) or other conversion utility. Files should not be scanned. For ease of identification, all electronic files must be named using the Proposer's name at the beginning of the title of the document. NYSERDA will not accept Step Two Proposals by mail or hand-delivery.

All electronic signatures must be provided as indicated. Failure to provide any attachments or information requested may result in the Step Two Proposal being declared non-responsive and rejected. NYSERDA may request additional information and materials at any time. Step Two Proposals become the property of NYSERDA. Unnecessary attachments or lengthy responses beyond those sufficient to

present a complete, comprehensive, and effective response will not influence the evaluation of the proposal.

### **7.3.2 Submission Instructions**

NYSERDA uses a secure Salesforce site to accept Step Two Proposal submissions. To use this site, Proposers must first register on the Salesforce Portal as directed in Appendix I. NYSERDA recommends that Proposers use Google Chrome when accessing the Salesforce Portal. Proposers must submit two versions for each Step Two Proposal: a complete, unredacted version of the Step Two Proposal and a public version of the Proposal Narrative, as described below. Both versions of the Step Two Proposal must be uploaded to NYSERDA's secure Salesforce site. The Salesforce Portal will open on April 14, 2021, and a link to the portal will be displayed on [NYSERDA's Tier 4 website](#).

1. Confidential Version of Step Two Proposal - A Proposer must submit an unredacted complete version of the Step Two Proposal. The confidential version of the Step Two Proposal must include the Offer Data Form with all required information included. The Proposal Narrative and all required attachments must be submitted as searchable PDF files, except for the Master Offers Form, Offer Data Form(s), and other data files as requested in Sections 7.6.8 and 7.6.14, which must be submitted as working Excel files. The confidential version of the Step Two Proposal will be treated as confidential and sensitive information by the Scoring Committee, subject to the treatment of confidential information discussed in Section 1.14 and 10.1 of this RFP.
2. Public Version of Proposal Narrative - The Proposal Narrative must be also submitted to NYSERDA in a version that can be made publicly available as a searchable PDF file. The public version must include descriptive information described in Section 7.6, but Proposers may redact information where there is a reasonable basis to assert that Proposer would be commercially harmed as a result of the disclosure of such information. See Section 10.1. This public version of the Proposal Narrative will be posted on the [NYSERDA's Tier 4 website](#) shortly after the Step Two Proposal submittal deadline. The file name of the submitted file should include the word "Public." NYSERDA will not further redact the public versions of Proposal Narrative. Anything submitted in the public versions will be made available to the public.

## **7.4 Master Offers Form**

### **7.4.1 Proposer Information Worksheet**

The Proposer Information Section of the Master Offers Form asks Proposers to provide basic information and contact information for the Proposer. Proposers must identify which entity will be the signatory to the Agreement if awarded a contract.

## 7.4.2 Proposal Fee Calculation

The Master Offers Form will calculate the Proposal Fee based on information entered in this worksheet. Each row in this worksheet corresponds to a unique Bid and unique Bid ID.

## 7.5 Offer Data Form

A separate Offer Data Form must be submitted for each Bid consisting of a different Project (i.e., different portfolio of Resources), Contract Tenor, Price Structure (Fixed REC or Index REC) and/or Bid Quantity. Note that two Offer Data Forms must be submitted for a Required Alternate Bid and the associated Project without the New York Converter Station, but they will have the same Bid ID. Each Offer Data Form consists of several worksheets, described in Sections 7.5.1 through 7.5.5.

### 7.5.1 Part I - Bid Information Worksheet

The Bid Information worksheet requires Proposers to provide the following:

Bid ID – The Bid ID is generated in the Master Offers Form using the first three letters of the Proposer Name and an assigned number. Each unique Bid has a separate Bid ID, except that a Required Alternate Bid will have the same Bid ID as the accompanying Bid without the New York Converter Station.

Project Name – The name of the Project that corresponds to the Bid Quantity proposed in this Offer Data Form. The Project Name does not need to be unique to a Bid.

Proposers must indicate if the Bid includes any of the following: hydropower Resources, New Transmission, Required Alternate Bid, and/or Energy Storage.

Maximum Rated Transfer Capacity – The MW capacity of the New Transmission. Note that this field only appears if Bid includes New Transmission.

Project Commercial Operation Date – The date upon which the Project is proposed to enter Commercial Operation.

Contract Tenor – The proposed duration of the Contract Delivery Term. The maximum Contract Tenor is 25 years.

Delivery Point – The proposed location in Zone J of the New York Control Area where (a) the administrator of the wholesale power market, or (b) the operator of the transmission/distribution utility, measures, or otherwise determines, energy production from the Project. This should be entered as a node or substation in Zone J.

Bid Quantity - The expected annual quantity of Tier 4 RECs offered to NYSERDA and delivered to Zone J from all Resources comprising the Project, after accounting for curtailments, Energy Storage, and limitations on the capability of New Transmission. The Bid Quantity may not exceed the aggregate

expected energy delivery from all the Resources, based on the total annual deliveries provided in Table III-1 of Part III. **The Step Two Proposal will be evaluated based on the Bid Quantity offered.**

Annual Tier 4 REC Cap – The maximum number of Tier 4 RECs that NYSERDA is obligated to purchase from Proposer in any Contract Year. If the Bid includes New Transmission, the Annual Tier 4 REC Cap should be calculated as the Maximum Rated Transfer Capacity multiplied by 8760. Refer to Article I of the Agreement. Bids without New Transmission should enter the annual maximum potential Tier 4 REC deliveries of Resources located in Zone J.

Winter Minimum Delivery Requirement – The minimum quantity of Tier 4 RECs that must be delivered during the Winter Capability Period, November through April, as a percentage of the Bid Quantity. The default value of the Winter Minimum Bid Quantity is 40% of the Bid Quantity, with certain other allowed reductions as described in Section 4.09 of the Agreement. Proposers may propose an alternate percentage but must provide a justification for an alternate percentage.

Summer Minimum Delivery Requirement – The minimum quantity of Tier 4 RECs that must be delivered during the Summer Capability Period, May through October, as a percentage of the Bid Quantity. The default value of the Summer Minimum Bid Quantity is 40% of the Bid Quantity, with certain other allowed reductions as described in Section 4.09 of the Agreement. Proposers may propose an alternate percentage but must provide a justification for an alternate percentage.

As explained in Section 4.09(c) of the Agreement, contract remedies for failure to meet the Winter Minimum Delivery Requirement and Summer Minimum Delivery Requirements begin in the fourth Contract Year after the commencement of the Contract Delivery Term.

## **7.5.2 Part II - Resource Information Worksheet**

The Resource Information worksheet asks Proposers to list each of the Resources that are proposed to generate the energy and Tier 4 RECs produced and delivered by the Project. For each Resource, provide the following information:

- Resource Name
- Location – Provide address, municipality, or other identification of the geographic location
- Injection Point – Provide substation (if known), NYCA Load Zone or load zone of applicable control area
- Generator technology type
- Installed capacity (MW)
- Annual degradation rate over the Contract Delivery Term (% per year)
- Commercial Operation Date (actual or expected)
- Capacity Factor (actual historic or expected)
- Whether the Resource has a current NYSERDA Tier 1 contract
- Interconnection Queue Position (if applicable)

- For hydropower Resources, provide the aggregate annual quantity of generation (MWh) from the hydropower portfolio that will be eligible as Tier 4 RECs, be delivered, and meet the additionality requirements (“incremental hydropower”). The incremental hydropower quantity should be the lesser of the expected value of the Supplier GHG Baseline Limit and Supplier Energy Baseline Limit, as these terms are defined in Section 2.6 and in the Agreement.

Information for Energy Storage, if applicable, should be included in the Proposal Narrative and not on the Resource Information Worksheet. See Section 7.6.9.

For Projects that include hydropower Resources, the Proposer must include each of the hydropower Resources that comprise the Project. This list should correspond with the hydropower Resources that are the basis for the baseline determinations submitted in response to the Step One Eligibility Application, plus any additional Resources that are in development.

The Resource Information worksheet will calculate the expected annual generation (MWh) from each Resource, and the sum of the expected generation from all Resources. This sum is informational only and may differ from the deliveries provided in Part III.

The Resources described in this section of the Offer Data Form and in Section 7.6.4 of the Step Two Proposal Narrative must be based on the best information available to Proposer at the time of submission. Proposers must provide NYSERDA with updates to Resource information if any new information becomes available after Step Two Proposal submission. Proposers may update or otherwise modify information for non-hydropower Resources that was provided in the Step One Eligibility Application. Changes to the Resource information that NYSERDA relies upon to determine the Supplier GHG Baseline and the Supplier Energy Baseline are not permitted.

### **7.5.3 Part III - Delivery Worksheet**

In the Delivery worksheet Table III-1, Proposer must provide the aggregate delivery of Tier 4 RECs to the Delivery Point in Zone J from all Resources. For Projects delivering energy and Tier 4 RECs via New Transmission, Proposers must also provide in Table III-2 the deliveries in Megawatt-hours at the Delivery Point of all energy, including energy eligible for Tier 4 RECs and system energy that is not eligible for Tier 4 RECs. For Step Two Proposals that include Energy Storage, Proposers must also provide in Table III-3 the deliveries in Megawatt-hours of all energy without deployment of the Energy Storage. Provide all energy delivery P(50) data in a 12 x 24 format. The delivery quantities in Part III should represent deliveries in the first year after all Resources have achieved Commercial Operation.

### **7.5.4 Part IV - Pricing Worksheet**

Proposers must provide the Bid Price using either the Fixed REC or Index REC Price Structure. For both Fixed REC and Index REC Price Structures, Proposers have the option of offering either a level price, an escalating price, or both. All prices must be in nominal dollars.

- 1) For the Fixed REC Price Structure, the Bid Price may be either a level Fixed REC price for the term of the Contract Tenor, and/or an escalating Fixed REC Price. For escalating prices, Proposers must specify an escalation rate, not to exceed 3 percent per year. The Base Contract Year corresponds to the first 12 months after achieving Commercial Operation.
- 2) For the Index REC Price Structure, the Bid Price may be either a level strike price for the term of the Contract Tenor, and/or an escalating strike price. For escalating prices, Proposers must specify an escalation rate, not to exceed 3 percent per year. The Base Contract Year corresponds to the first 12 months after achieving Commercial Operation. Projects that include New Transmission must provide a value for UDR, Loss Factor (LF) and Unavailability Factor (UAF) for the duration of the Contract Tenor. Projects that are located in Zone J and do not include New Transmission must provide one fixed winter and one fixed summer UCAP Production Factor for the duration of the Contract Tenor.

Step Two Proposals that include hydropower Resources must submit a Bid Price without the Supplier Energy Baseline in Part IV-1, and a Bid Price with the Supplier Energy Baseline in Part IV-2. Both prices must be of the same Price Structure (Fixed REC or Index REC) and both must be either level and/or escalating prices.

Step Two Proposals that include Energy Storage must provide a Bid Price with and without Energy Storage. Both prices must be of the same Price Structure (Fixed REC or Index REC) and both must be either level and/or escalating prices.

### 7.5.5 Part V - Incremental Economic Benefits Worksheets

***Sheet Part V-1, Incremental Economic Benefits Category 1: Project-specific Expenditures.*** Data are entered by ID number, life-cycle phase (development, construction, or operation), time period, expenditure description, net expenditure (stated in nominal dollars) in New York State and in Disadvantaged Communities, and the numbers of Short-Term Jobs and Long-Term Jobs (stated in unique jobs and FTE-years) created in New York State and in Disadvantaged Communities. Expenditure and jobs data are included separately through the end of the third year of Commercial Operation and from that date through the remainder of the Contract Delivery Term. Sheet Part VI-1 allows for separate entries for Project-specific direct expenditures and jobs creation that would benefit Disadvantaged Communities as a subset of total spending and jobs creation in New York State.

***Sheet Part V-2, Incremental Economic Benefits Category 2: Transmission and other Infrastructure, Supply Chain, and Community Development Investments.*** Data are entered by ID number, life-cycle phase time period, and investment description. Net investment costs (stated in nominal dollars) are included separately through the end of the third year of Commercial Operation and from that date through the remainder of the Contract Delivery Term. Sheet Part VI-2 allows for separate entries for Project-related direct investment spending and jobs creation that would benefit Disadvantaged Communities as a subset of total investment and jobs creation in New York State.

**Sheet Part V-3, Incremental Economic Benefits Category 3: Workforce and Community Development Opportunity Activities.** Data are entered by ID number, time period, description of the activity commitment with references to corresponding sections or pages in the Economic Benefits Plan, Proposer’s planned measurement metric, and the numerical quantity of the input activity. Sheet Part VI-3 allows for separate row entries for input activities that would benefit the workforce or specific communities in New York State. Workforce segments are to be described and specific communities named or otherwise identified.

## **7.6 Proposal Narrative**

The Proposal Narrative must include each of the topics described below, in the same order as described in this section. The instructions in this section do not apply to a Required Alternate Bid. Refer to Section 7.7 for the Proposal Narrative instructions for a Required Alternate Bid.

### **7.6.1 Executive Summary**

Proposers are required to provide an executive summary that describes the Project and Resources, explains the eligibility of the proposed Project, how the Project will demonstrate the Zone J delivery requirement, and provides the expected Commercial Operation Date. Proposers should discuss any other factors Proposers deem to be important.

### **7.6.2 Impacts of COVID-19 on Proposer and Project Development**

Proposers are required to describe how the COVID-19 pandemic has affected their business operations, the process of developing the Project, and the content of the Step Two Proposal. For the avoidance of doubt, the content of this section of the Proposal Narrative is informational only and will not affect the Project Viability scoring of any of the submitted Step Two Proposals.

### **7.6.3 Proposer Experience**

Proposers are required to demonstrate project experience and management capability to successfully develop and operate the Project proposed. NYSERDA is interested in Project Teams that have demonstrated success in developing projects of similar size and complexity and can demonstrate an ability to work together effectively to bring the Project to commercial operation in a timely fashion. Proposers are required to provide the following information with their Step Two Proposal:

1. An organizational chart for the Project and associated New Transmission that lists all participants and identifies the corporate structure, including general and limited partners.
2. Statements that list the specific experience of Proposer and each of the Project and New Transmission participants (including, when applicable, partners, and proposed contractors), in developing, financing, owning, and operating generating and transmission facilities, other projects of similar type, size and technology, and any evidence that the Project participants have worked jointly on other projects.

3. A management chart that lists the key Proposer personnel and resumes of the key personnel. Key personnel of Proposer's development team having substantial project management responsibilities must have:
  - a. Successfully developed and/or operated one or more projects of similar size or complexity or requiring similar skill sets; and
  - b. Experience in financing power generation projects (or have the financial means to finance the Project on Proposer's balance sheet).
4. A listing of projects the Proposer has successfully developed or that are currently under construction. Provide the following information for each project as part of the response:
  - a. Name of the project
  - b. Location of the project
  - c. Project type, size, and technology
  - d. Commercial Operation Date
  - e. Estimated and actual capacity factor of the project for the past three years
  - f. Availability factor of the project for the past three years
  - g. References, including the names and current addresses and telephone numbers of individuals to contact for each reference.
5. Regarding Proposer's Project Team, identify and describe the entity responsible for the following, as applicable:
  - a. Construction Period Lender, if any
  - b. Operating Period Lender and/or Tax Equity Provider, as applicable
  - c. Financial Advisor
  - d. Environmental Consultant
  - e. Facility Operator and Manager
  - f. Owner's Engineer
  - g. EPC Contractor (if selected)
  - h. Transmission Consultant
  - i. Legal Counsel
6. Details of Proposer's experience in NYISO markets. Regarding Proposer's experience with NYISO markets, please indicate the entity that will assume the duties of Market Participant for the proposed Project. Please provide a summary of Proposer's or Market Participant's experience with the wholesale market administered by NYISO as well as transmission services performed by Con Edison, NYPA, and PSEG-LI/LIPA, as applicable.

#### **7.6.4 Resource Description and Site Control**

For each of the Resources listed in the Offer Data Form, worksheet "Resource Information", provide the following information:

1. Identify the Resource(s) that comprise the Project and the route or proposed route to the Injection Point. Provide a site plan or plans including a map or maps that clearly identify the

location of the proposed Resource, proposed route of the generator lead line to the Injection Point.

2. Describe the status and development stage of Resource (development, construction, or operation).
3. For operating Resources describe the technology and equipment that is in service. For Resources that are in development or under construction describe the technology and equipment that is being considered or has been selected.
4. Describe the area included in and surrounding the Resource site, a description of the local zoning, existing land use (*e.g.*, woodlands, brownfield, agriculture, other) and setting (*e.g.*, rural, urban, suburban, other) and describe what the site(s) has been used for in the recent past.
5. Provide documentation that Proposer owns the site, has a valid lease or irrevocable lease or purchase option to develop the site over the entire Contract Tenor.
6. Identify any rights that Proposer has at the Injection Point and for the generator lead line right of way. Provide a detailed plan and timeline for the acquisition of any additional rights necessary for interconnection and for the generator lead line right-of-way. Include these plans and the timeline in the overall Project schedule in Section 7.6.13.
7. Proposers proposing a solar Resource must identify the Mineral Soil Group (MSG) classification of the Resource site. NYSERDA has adopted an approach to addressing concerns related to solar development and protection of agricultural lands and practices, in furtherance of the Agriculture and Markets Law Section 305. Depending on the MSG classification and agricultural district of the Resource footprint, a Proposer may be responsible for making an agricultural mitigation payment to a designated fund. A map of the agricultural districts, by county, is available from the [Cornell University Geospatial Information Repository](#).<sup>23</sup> A listing of MSG classifications by soil and county is available from the [Department of Agricultural and Markets Agricultural Assessment](#) program.<sup>24</sup>

### 7.6.5 Delivery Plan

For Projects not located in Zone J, Proposers must provide a detailed description of how the Project will acquire the capability to deliver energy and Tier 4 RECs from the Injection Point of each Resource to the proposed Delivery Point in NYCA Zone J. Describe the firmness of the delivery path, expected contract arrangements, transmission rights, and/or other settlement and tariff mechanisms in NYCA and other control areas that will be used to effectuate delivery to Zone J. Proposers must describe how energy will be scheduled and delivered in each hour, from the Injection Point(s) to the Withdrawal Point of the associated New Transmission, either through the NYISO energy market or on a bilateral basis.

Proposers must describe how the New Transmission will be operated and how energy will be scheduled on an hourly basis on the facility. Proposers must explain how the risk of unavailability, curtailment, or

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<sup>23</sup> Cornell University Geospatial Information Repository is available by county at:

[https://cugir.library.cornell.edu/?f%5Bcugir\\_category\\_sm%5D%5B%5D=agriculture](https://cugir.library.cornell.edu/?f%5Bcugir_category_sm%5D%5B%5D=agriculture)

<sup>24</sup> <https://agriculture.ny.gov/land-and-water/tax-credits-and-agricultural-assessments#agricultural-assessmentinformation>

underutilization of the New Transmission may be mitigated. For risk of unavailability, curtailment, or underutilization of the New Transmission that cannot be mitigated Proposers must identify and provide a justification of any risk premium in the Bid Price. This discussion must explain any assumptions regarding compensation under Tier 1 for any undeliverable RECs. NYSERDA reserves the right to ask for additional information and to conduct due diligence with respect to Proposer's Bid Price justification, and NYSERDA may require independent audit and verification of the elements thereof.

Consistent with the Order, Proposers need not qualify as a capacity resource in Zone J to demonstrate delivery. If Proposers intend to demonstrate delivery by delivering capacity to Zone J, Proposers must describe how each Resource will qualify for CRIS, and the number of UDRs that Proposer expects will be awarded to the New Transmission to allow for delivery of UCAP to Zone J. Note that this value of UDRs is informational only and need not be the same as the UDR value that Proposer enters in the Offer Data Form.

To verify deliveries and effectuate contract settlement, the delivery plan must provide for hourly matching of: (A) each Resource's actual production metered at its Injection Point with (B) deliveries over the New Transmission Facility. As described in Section 4.2, the number of Tier 4 RECs delivered and compensated in each month is the lesser in each hour of (i) the energy metered at the Delivery Point of the New Transmission and (ii) energy metered at the Injection Point(s), summed over the hours in the month.

Proposers must explain how the expected energy production profile from each of the Resources at its Injection Point relates to the delivery profile at Zone J that is provided on the Offer Data Form, Delivery Profile worksheet. For dispatchable resources, explain what factors will determine the dispatch and delivery of energy to Zone J.

Imported energy from a neighboring control area must be identified with North American Electric Reliability Corporation (NERC) tag information, which will be used by the NYGATS to verify delivery into NYCA. Refer to page 36 of the Order regarding hourly matching requirements for delivery requirements for out-of-state intermittent renewable generators under Tier 1, which is adopted in the Order for Tier 4.

Proposers must provide the following information regarding the New Transmission required to deliver energy and Tier 4 RECs to NYCA Zone J:

1. Facility name
2. Entity responsible for developing the New Transmission
3. Proposed route
4. Withdrawal Point and Delivery Point
5. Development stage of the New Transmission
6. Status of acquiring right of way for proposed route, and plan to acquire remaining right-of-way
7. MW capability
8. Expected in-service date

9. Status of any expected transportation service agreement, operating agreement, or other contract arrangement between the Proposer and the New Transmission owner or operator
10. Expected entity that will be Scheduling Coordinator for the New Transmission and the terms of any operating agreement among the parties
11. Expected entity that will be the NYISO Market Participant with respect to the Project Resources
12. How transmission capacity will be utilized if there are hours when energy from all Resources is less than the capability of the New Transmission
13. How the New Transmission capacity will be allocated among different Resources in a portfolio (including hydropower and non-hydropower Resources, if applicable) if the energy production from the Resources exceeds the capability of the New Transmission in any hour. Describe arrangements among the different Resources with respect to priority for use of New Transmission capacity.

If the Proposer will not have exclusive firm rights to the entire capability of the New Transmission, Proposer must state what portion of the New Transmission will be allocated to Proposer. More than one Proposer may propose to utilize the same New Transmission facility, provided that each Proposer describes how New Transmission capacity would be allocated among the different Proposers and Resources, priority rights, which entity will have scheduling responsibility, and any other terms of the arrangements among Proposers. As indicated in Section 7.2, Proposers must state whether their Proposal is conditional upon acceptance by NYSERDA of other Proposal(s) proposing to utilize the same New Transmission.

#### **7.6.6 Baseline Verification Plan**

Exhibits H and I to the Agreement outline the approach towards compliance with the two baselines. Proposers should propose how compliance with the Supplier GHG Baseline and Supplier Energy Baseline would be measured and verified and submit any other comments regarding how baseline compliance should be implemented, consistent with the general principles defined in Exhibits H and I. Proposers must also describe how, if selected for award, they would ensure that NYSERDA receives the data needed to verify compliance with the baseline conditions. Proposers must also consent to the use of any tracking system and/or auditing regime that may be necessary to verify continued compliance with the delivery and additionality requirements throughout the Contract Delivery Term.

#### **7.6.7 Interconnection Plan**

Proposers are required to provide information regarding each Resource's status with respect to its interconnection application with NYISO or with a neighboring control area, at its Injection Point. If the interconnection process has been initiated, provide the queue position and available information regarding interconnection request to NYISO or any neighboring control areas for Capacity Resource Interconnection Service (CRIS) or for Energy Resource Interconnection Service (ERIS), or equivalent interconnection service in the neighboring control area. Available interconnection studies undertaken by the applicable control area or third parties on behalf of Proposer must be provided. Interconnection studies should include estimates of system upgrade costs.

Proposers must also provide information regarding the interconnection status of any New Transmission that will be relied upon to deliver energy and Tier 4 RECs to Zone J. If the interconnection process has been initiated, provide the queue position and available information regarding interconnection request to NYISO and/or any neighboring control areas for the Withdrawal Point and Delivery Point, as applicable. Available interconnection studies undertaken by the applicable control area or third parties on behalf of New Transmission must be provided. Discuss whether the New Transmission is expected to be awarded Unforced Delivery Rights (UDRs) and the quantity of UDRs expected. Describe transmission system upgrades that will be needed to interconnect the New Transmission at the Withdrawal Point and at the Delivery Point.

### **7.6.8 Energy Resource Assessment**

For each Resource, Proposers should provide available energy resource data supporting the aggregate delivery profile provided under Section 7.6.5 and the Offer Data Form, Delivery Profile worksheet. For Resources that have not achieved Commercial Operation, the energy resource data may be based on site-specific resource measurements or an assessment report from a qualified resource assessment firm.

For each Resource, provide a projection of net annual energy production and a 12 x 24 P(50) energy generation at the Resources' Injection Point as an Excel spreadsheet attachment, which reflects the first year of full operation of the Resource. For each Resource as applicable, provide a schedule of planned maintenance outages over the Contract Delivery Term.

If scheduled maintenance and/or degradation of the Project Resources will affect the expected monthly quantity of Tier 4 deliveries to Zone J over the Contract Delivery Term that is provided in the Offer Data Form Table III-1, explain in detail how expected monthly deliveries will change over the Contract Delivery Term.

Proposers of Projects that include hydropower resources must also describe how, if selected for award, they would ensure that NYSERDA receives accurate data needed to verify compliance with the baseline conditions.

The Proposer must also provide a narrative description of the assumed level of curtailment built into the Resource assessment and any projected impacts on the Resource's energy and, if applicable, capacity deliverability.

### **7.6.9 Energy Storage Operation Plan**

For Step Two Proposals that include Energy Storage, provide all assumptions used in preparing the energy profile provided in Offer Data Form, Delivery Profile worksheet, and explain how the energy profile relates to the intended deployment strategy. As explained in Section 2.3, not all energy discharged from Energy Storage need be eligible for Tier 4 RECs. However, Proposers must explain in detail how all or a portion of the energy discharged from the Energy Storage will be eligible for Tier 4 RECs.

For Step Two Proposals that include energy storage, the Proposer must provide the following:

- System operating parameters
  - Manufacturer and model for major components (battery and inverter units, etc.), if known
  - Maximum continuous power (MW or kW, AC)
  - Total energy (MWh or kWh, AC)
  - Duration (hours)
  - Round trip efficiency (%)
- Available specification sheets from manufacturer
- Expected system degradation over the contract term
- For paired and co-located storage, provide diagram showing arrangement of generation unit(s), storage unit(s), inverter(s), meter(s), and interconnection.

Proposer must fully describe the intended deployment and dispatch of the storage system over the contract term, and how the deployment provides operating flexibility and/or peak coincidence benefits. Example deployments may include:

- Dispatched to provide renewable integration and firm up a variable renewable energy resource
- Dispatched dynamically to reduce system peak demand or energy cost to load
- Available to provide ancillary services, e.g., reserves, voltage control, frequency regulation

#### **7.6.10 Business Entity and Financing Plan**

Proposers are required to demonstrate the financial viability of their proposed Project. A narrative description of the financing plan should be included in the Proposal Narrative. Detailed supporting information, including financial statements and other documents, should be included in the required Financing Plan. Information provided must include the business entities responsible for development and/or operation of the Resources as well as the New Transmission, if applicable. Proposers should provide the following information:

1. Submit information and documentation that demonstrates that a long-term contract resulting from this RFP process would either permit Proposers to finance Projects that would otherwise not be financeable or assist Proposers in obtaining financing of its Project.
2. Describe the business entity structure of Proposers' organization from a financial and legal perspective, including all general and limited partners, officers, directors, managers, members and shareholders, and involvement of any subsidiaries supporting the Project. Provide an organization chart showing the relationship among the different Project participants and the developer of the New Transmission. For joint ventures, identify all owners and their respective interests, and document Proposers' right to submit a binding Step Two Proposal.
3. Provide a description of the financing plan for the Project, including construction and term financing. The financing plan should address the following:

- a. Who will finance the Project (or are being considered to finance the Project) and the related financing mechanism or mechanisms that will be used (i.e., convertible debenture, equity or other) including repayment schedules and conversion features
  - b. The Project's existing initial financial structure and projected financial structure
  - c. Expected sources of debt and equity financing
  - d. Estimated construction costs
  - e. The projected capital structure
  - f. Describe any agreements entered, both pre and post Commercial Operation Date, with respect to equity ownership in the proposed Project and any other financing arrangement.
4. Provide documentation illustrating the experience of Proposer in securing financing for projects of similar size and technology. For each project previously financed provide the following information:
  - a. Project name and location
  - b. Project type and size
  - c. Date of construction and permanent financing
  - d. Form of debt and equity financing
  - e. Status of the project
5. Provide evidence that Proposer has the financial resources and financial strength to complete and operate the Project as planned.
6. Describe the role of the Federal Production Tax Credit or Investment Tax Credit (or other incentives) on the financing of the Project or the New Transmission, including presumed qualification year and percentage. The Step Two Proposal may not be contingent on receipt of the Production Tax Credit or Investment Tax Credit.
7. Provide complete copies of the most recent audited financial statement and annual report for each Proposer for each of the past three years; including affiliates of Proposer (if audited statements are not available, reviewed or compiled statements are to be provided). Also, provide the credit ratings from Standard & Poor's and Moody's (the senior unsecured long-term debt rating or if not available, the corporate rating) of Proposer and any affiliates and partners.
8. List the board of directors, officers, and trustees for the past three years and any persons who Proposer knows will become officers, board members or trustees.
9. Demonstrate Proposer's ability (and/or the ability of its credit support provider) to provide the required security, including its plan for doing so.
10. Provide a description of any current or recent credit issues/ credit rating downgrade events regarding Proposer or affiliate entities raised by rating agencies, banks, or accounting firms.
11. Disclose any pending (currently or in the past three years) litigation or disputes related to projects planned, developed, owned or managed by Proposer or any of its affiliates in the United States, or related to any energy product sale agreement.
12. Provide the expected operating life of the proposed Project and the depreciation period for all substantial physical aspects of the offer, including generation facilities, generator lead lines to move power to the grid, and transmission system upgrades.

13. List all of Proposers' affiliated entities and joint ventures transacting business in the energy sector.
14. Describe any litigation, disputes, claims or complaints, or events of default or other failure to satisfy contract obligations, or failure to deliver products, involving Proposer or an affiliate, and relating to the purchase or sale of energy, capacity or RECs or other electricity products.
15. Confirm that Proposer, and the directors, employees and agents of Proposer and any affiliate of Proposer are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction involving conspiracy, collusion or other impropriety with respect to offering on any contract, or have been the subject of any debarment action (detail any exceptions).

#### **7.6.11 Permitting Plan**

Proposers are required to demonstrate a plan for permit acquisition for the Project. Proposers should provide the following information:

1. Provide a comprehensive list of all the permits, licenses, and environmental assessments and/or environmental impact statements required to construct and operate the Project, including the New Transmission and any other transmission infrastructure necessary to effectuate delivery of energy to Zone J. Along with this list, identify the governmental agencies that are responsible for issuing approval of all the permits, licenses, and environmental assessments and/or environmental impact statements. If a Proposer has secured any permit or has applied for a permit, please indicate this in the response.
2. Provide the anticipated timeline for seeking and receiving the required permits, licenses, and environmental assessments and/or environmental impact statements. The permit timeline should be included on the Project schedule in as described in Section 7.6.13.

#### **7.6.12 Environmental Mitigation Plan**

Proposers must include in their Step Two Proposals an Environmental Mitigation Plan that describes how Proposer will mitigate adverse environmental and agricultural impacts that may be caused by the Project. The Environmental Mitigation Plan should detail, to the extent practical, specific measures the Proposer will take to avoid, minimize, and/or mitigate potential environmental and agricultural impacts of the proposed Project, including the construction of Resources, New Transmission, and other transmission infrastructure. The Environmental Mitigation Plan must describe how the Proposer will work collaboratively with the State, federal agencies if applicable, and other stakeholders to define avoidance, minimization, and mitigation measures.

The Environmental Mitigation Plan should also describe the contribution of the Project to meeting New York State's target of reducing greenhouse gas emissions 80% by the year 2050, and CLCPA's target of delivering 40% of the overall benefits from New York State's climate programs to Disadvantaged Communities. Describe how the Project will contribute to a reduced energy burden, avoided

environmental pollution, avoided health costs, added climate resiliency, avoided environmental costs and added environmental benefits to Disadvantaged Communities.

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

### **7.6.13 Project Schedule**

A Proposer must demonstrate that its Project can be developed, financed, and constructed within a commercially reasonable timeframe. Proposer is required to provide sufficient information and documentation showing that Proposer's resources, process, and schedule are adequate for the acquisition of all rights, permits, and approvals for the financing of the Project consistent with the proposed milestone dates that support the proposed Commercial Operation Date. Proposers are required to provide a complete critical path schedule for the Project from the notice of award to the start of commercial operations. For each Project element listed below, provide the following:

1. Identify the elements on the critical path and start and end dates. The schedule should include, at a minimum, preliminary engineering, financing, acquisition of real property rights, Federal, state and/or local permits, licenses, environmental assessments and/or environmental impact statements (including anticipated permit submittal and approval dates), completion of interconnection studies and approvals culminating in the execution of the Interconnection Service Agreement, financial close, engineer/procure/construct contracts, start of construction, construction schedule, and any other requirements that could influence the Project schedule.
2. If any aspect of the Project involves construction through aquatic or other sensitive environments, describe the anticipated permissible construction windows, and how the construction milestones will be accommodated within these windows.
3. Detail the status of all critical path items, such as receipt of all necessary siting, environmental, and NYISO approvals.
4. Proposers must propose events constituting critical milestones prior to Commercial Operation, and the anticipated dates for achieving critical milestones. Proposed critical milestones should include key events during the permitting, development, and construction of the Project and associated New Transmission that are necessary prerequisites to achieving Commercial Operation.

#### **7.6.14 Operational Flexibility and Peak Coincidence**

Proposers should describe how the Project contributes to Operational Flexibility and Peak Coincidence in Zone J. If a Resource is claimed to be dispatchable, Proposers should clarify limitations on dispatch such as minimum output, ramp rate, and minimum up and down times. The portion of Resource portfolio that is dispatchable, as well as the flexibility of dispatchable Resources, will be considered.

All Proposers are encouraged to submit a P(50) 8760 schedule of aggregate Zone J energy deliveries to supplement the 12 x 24 delivery schedule provided in the Offer Data Form, Delivery Profile worksheet. The 8760 delivery schedule should represent the aggregate of all Project Resources into the Zone J Delivery Point. Data should be submitted on an Excel spreadsheet and uploaded as an attachment to the Proposal Narrative. Proposers should indicate if the P(50) delivery schedule is normalized based on historical output from a given weather year. For Projects that include Energy Storage, Proposers are encouraged to provide an 8760 delivered energy schedule with storage utilized, and an 8760 profile for deliveries without storage.

#### **7.6.15 Communities Engagement Plan**

Through this solicitation, NYSERDA seeks to actively support the outcomes envisioned by New York State's nation-leading climate legislation, the CLCPA, including its target of delivering 40 percent of the overall benefits from New York State's climate programs to Disadvantaged Communities. The Step Two Proposal must present a reasonable Communities Engagement Plan with a thoughtful approach to build Project support and respectfully respond to opposition. Proposers awarded a contract are encouraged to consult with NYSERDA before and during the implementation of their Communities Engagement Plan and will be required to update NYSERDA on their community engagement progress and plans in their quarterly progress reports. A thoughtful Communities Engagement Plan should include:

1. a description and analysis of affected communities, and
2. a plan for regionally targeted education and marketing strategies that include advertisements and/or direct mailings, outreach events and activities such as exhibiting at local events, hosting open houses, and targeted engagement with local community groups.

The Communities Engagement Plan should describe how the Project offers benefits related to economic development and the creation of local jobs, reduced energy burden, avoided health costs, added climate resiliency, avoided environmental costs and added environmental benefits, low-income and Environmental Justice population participation, and avoided social costs. The Communities Engagement Plan may also comprise community benefits agreements and opportunities to build not only community opportunity and capacity regarding the Project's development, construction, and operations, but also opportunities to build community equity in a project. All such community expenditures and activities would constitute eligible economic benefit claims to support a project's evaluation under this RFP, which are to be described in the Incremental Economic Benefits Plan. The Communities Engagement Plan should also demonstrate alignment with the CLCPA and this solicitation's stated prioritization of benefits, including job creation, to Disadvantaged Communities.

### **7.6.16 Incremental Economic Benefits Plan**

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

Incremental Economic Benefits can be claimed as of January 1, 2021. Except for projects with existing Tier 1 Agreements that propose to convert to Tier 4 Agreements, as described in Section 2.1, Incremental Economic Benefits previously claimed with respect to a facility that is subject to a pending award under a previous solicitation or that is the subject of a current NYSERDA contract are not eligible for evaluation. Tier 1 projects that propose to convert to Tier 4 may have their Incremental Economic Benefits reclaimed under this RFP.

Only those Incremental Economic Benefits falling within the categories defined below, and entered in the Offer Data Form, will be considered. In no instance will NYSERDA or its Scoring Committee consider any indirect or induced economic effects benefits or those created by any “multiplier effect” or other attribution method under which the creation of peripheral spending and jobs might be credited to direct capital infused into the economy.

Because New York State has not yet formally defined Disadvantaged Communities, this RFP relies on interim criteria for communities that meet the spirit of the Disadvantaged Communities objectives of the CLCPA, described in the Acronyms and Definitions list above. Step Two Proposals will be awarded more points by the Scoring Committee if the Proposer can demonstrate benefits of the Project’s development are afforded to communities located in Disadvantaged Communities.

Proposers must provide complete information along with the supporting documentation or requested data in the following six categories, delineated by three types of economic input activities and by short-term and long-term Incremental Economic Benefits. Incremental Economic Benefits may be claimed in one of three input activity categories:

Category 1: Project-specific spending and job creation in New York State;

Category 2: Transmission and other infrastructure, supply chain, and community economic development in New York State;

Category 3: Other activities that provide opportunities for the New York workforce and communities.

For each of the six categories, total inputs (expenditures, jobs, activity metrics) for all of New York State and the subtotal of inputs to Disadvantaged Communities are to be specified.

Independent audit and verification of the actual Incremental Economic Benefits of the Project and comparison to the level of claimed Incremental Economic Benefits will be required after the first three years of the Contract Delivery Term, when the Proposer will submit an Economic Benefits Report prepared by a New York State-certified, independent certified public accountant, demonstrating the actual Incremental Economic Benefits that resulted from the construction and operation of the Project under the categories and within the eligibility requirements listed in the RFP. The Economic Benefits Report will be funded at the Proposer's expense. Should the Proposer fail to reasonably demonstrate that the Verified Total Dollars of Incremental Economic Benefits are at least 85% of Expected Total Dollars for the sum of total direct expenditures in categories 1 and 2, NYSERDA may at its option upon Notice to Seller, require additional economic investments in New York State comparable to the Economic Benefits Shortfall.

The Proposer should describe the degree to which the development, construction, and operation of the Project will directly create (add) Short-Term Jobs and Long-Term Jobs and make short-term and long-term payments for New York State goods and services, and tax or other payments to its municipalities and/or residents for input categories 1 and 2. Payments that will provide long-term royalties, production-based payments, land lease or land use payment premia or other forms of compensation are eligible. Payments for non-renewable fuels (e.g., natural gas) are not eligible for consideration in this category or in any Economic Benefits category.

Eligible Incremental Economic Benefits claims for input categories 1 and 2 can include:

1. Employment of workers in New York in the form of Long-Term Jobs (jobs lasting longer than three years) and Short-Term Jobs. These can include, but are not limited to, jobs associated with operations and maintenance, plant management, long-term project development, or similar;
2. Establishment of a project office in New York State, including pre-development activities, leases/purchases, and related employment not claimed as jobs associated with operations and maintenance, plant management, long-term project development, or similar;
3. Purchases of materials sourced from within New York such as, but not limited to, gravel, steel, concrete and similar materials, purchases and use of equipment and products manufactured or assembled within New York, and use of rental equipment or supplies sourced from within New York. Project component products (e.g., wind turbines, solar panels) not manufactured within New York are not eligible for consideration;
4. New or increased local property tax payments (or payments in lieu of taxes) to school districts, cities, towns, or other taxing jurisdictions;
5. Host community payments, mitigation or conservation payments, or other funds that will directly benefit the host community, such as Proposer-funded projects that will not be linked to the Project (e.g., new building or infrastructure improvements to the host town(s), other capital

projects indicated as desirable by the host town, funds established in the host town to benefit local residents, etc.);

6. Any premium for purchase payments and payments for leases of land in New York associated with securing rights to a Project site above market value but for use as a Project Resource site. Premia for land purchase payments will be pro-rated by the Scoring Committee for evaluation purposes to reflect the eligible time period for Economic Benefits claims.

Proposers are encouraged to work with communities hosting the Project to determine if there are long-term economic benefits that could be afforded to the town/city/county/school district/census tract.

Eligible Incremental Economic Benefits claims for input category 3 can include, but not limited to:

1. Hosting of local internships and programs for students in renewable energy education in partnerships with local school systems and/or local NGOs/foundations;
2. Hosting of clean energy sector occupation apprenticeship or training programs in partnership with community colleges, vocational schools, and/or NGOs/foundations;
3. Hosting of environmental justice programs.

Proposers are encouraged to work with the communities hosting the Project to determine if there are economic benefit opportunities that could be uniquely afforded to the town/city/county/school district/census tract.

## **7.7 Required Alternate Bid Narrative**

Proposers who must submit a Required Alternate Bid must provide a separate Proposal Narrative that describes aspects of the Project that are specific to the Required Alternate Bid. The Required Alternate Bid Narrative must be provided as a searchable pdf document. The Required Alternate Bid Narrative need not repeat information previously discussed elsewhere in the Step Two Proposal, and may incorporate sections from the accompanying Bid without a New York Converter Station by reference. Confidential and public versions must be submitted.

### **7.7.1 Executive Summary**

Provide an overview of the Required Alternate Proposal, including proposed location and Withdrawal Point for the New York Converter Station, and plans for its substantial use.

### **7.7.2 Bid Price Justification**

Proposer must explain and justify how the Bid Price for the Required Alternate Bid was derived. Provide the basis for any incremental costs associated with development of the New York Converter Station, including but not limited to site acquisition, interconnection, and permitting costs. Provide the basis for any incremental costs or cost savings associated with development of Resources that are unique to the

Required Alternate Bid. Explain how uncertainties in construction, permitting, and interconnection costs were treated in the Bid Price. Discuss how the expected delivery quantity of Tier 4 RECs, energy delivery profile, anticipated electricity market revenues, and any other relevant factors affect the derivation of the Bid Price.

NYSERDA reserves the right to ask for additional information and to conduct due diligence with respect to Proposer's Required Alternate Bid Price justification, and NYSERDA may require independent audit and verification of the elements thereof. **Should NYSERDA find evidence of unreasonable price inflation, NYSERDA reserves the right to take remedial measures, including requiring a price reduction, rescinding an award, or disqualifying both Proposer's Required Alternate Bid and Bid without the New York Converter Station.**

### **7.7.3 Proposer Experience**

Provide the information requested in Section 7.6.3, to the extent that the Project Team and/or Project organization are different for the Required Alternate Bid. If the Project Team and Project organization are unchanged from the accompanying Bid, so indicate.

### **7.7.4 Resource Description and Site Control**

Provide the information requested in Section 7.6.4 for any Resources that are unique to the Required Alternate Bid.

### **7.7.5 Delivery Plan**

Proposer must describe how it intends to substantially utilize the New York Converter Station and associated capacity on the New Transmission. Describe how the New York Converter Station and capacity on the New Transmission will be utilized to optimize deliverability of renewable resources throughout the entirety of the State, promote delivery of renewable energy from upstate regions of the State into Zone J, and ease the curtailment of upstate renewable resources in support of the policy goals set forth in the CLCPA.

Proposers must describe how the New York Converter Station and New Transmission capacity will be allocated among different Resources in a portfolio. Describe arrangements among the different Resources with respect to priority for use of New Transmission capacity.

### **7.7.6 Interconnection Plan**

Identify the proposed Withdrawal Point of the New York Converter Station and the location of the Withdrawal Point in the NYISO high voltage bulk transmission system. Provide the capacity of the New York Converter Station, and whether it will be bi-directional or only allow for AC to DC conversion from the NYISO high voltage AC system to the HVDC New Transmission. Provide estimated converter station losses.

Proposers must provide information regarding the interconnection status of New Transmission with the New York Converter Station. If the interconnection process has been initiated, provide the queue position and available information regarding interconnection request to NYISO and/or any neighboring control areas, as applicable. Available interconnection studies undertaken by the applicable control area or third parties on behalf of New Transmission must be provided. Describe transmission system upgrades that will be needed to interconnect the New Transmission at the Withdrawal Point of the New York Converter Station.

#### **7.7.7 Energy Resource Assessment**

Provide the information requested in Section 7.6.8 for any Resources that are unique to the Required Alternate Bid.

#### **7.7.8 Energy Storage Operation Plan**

Provide the information requested in Section 7.6.9 if applicable for the Required Alternate Bid.

#### **7.7.9 Business Entity and Financing Plan**

Provide the information requested in Section 7.6.10, to the extent that the business entity and/or Financing Plan are different for the Required Alternate Bid. If the business entity and Financing Plan are unchanged from the accompanying Bid, so indicate.

#### **7.7.10 Permitting Plan**

Provide the information requested in Section 7.6.11 that is applicable to the development of the New York Converter Station and for any Resources that are unique to the Required Alternate Bid.

#### **7.7.11 Environmental Mitigation Plan**

Provide the information requested in Section 7.6.12 that is applicable to the development of the New York Converter Station and for any Resources that are unique to the Required Alternate Bid.

#### **7.7.12 Project Schedule**

Provide the information on Project schedule and milestones requested in Section 7.6.13 for the Required Alternate Bid.

#### **7.7.13 Operational Flexibility and Peak Coincidence**

Provide the information requested in Section 7.6.14 that is applicable to the Required Alternate Bid.

#### **7.7.14 Communities Engagement Plan**

Provide the information requested in Section 7.6.15 that is applicable to the Required Alternate Bid.

### **7.7.15 Incremental Economic Benefits Plan**

Provide the information requested in Section 7.6.16 that is applicable to the Required Alternate Bid.

## **8 POST-AWARD PROCESS**

### **8.1 Publicity**

In accordance with Section 20.01 of the Agreement, the Proposer shall not distribute any press release or contact the media until after an agreement is executed by both parties and any New York State press releases regarding the awards have been issued. If the Proposer wishes to contact the press regarding the award or the Tier 4 program, the Proposer must collaborate with NYSEDA's Large-Scale Renewables Team and the Vice President of Communications to prepare any press release and/or to plan for any public announcement or media interview. To the extent applicable, in any such press release, public announcement publication, or media interview Proposer and/or its employees shall credit NYSEDA and the funding participation of the Tier 4 program. Proposer may not represent that positions taken or advanced by Proposer represent the opinion or position of NYSEDA, the Commission, or the State of New York.

### **8.2 Provision of Contract for Execution**

Upon conclusion of the process set out in Section 5, NYSEDA will prepare a conformed copy of the final Tier 4 Renewable Energy Certificate Standard Form Purchase and Sale Agreement (Appendix E) for each selected Proposal, which will be delivered to the Proposer, in a manner to be agreed upon, for Proposer's execution and return.

NYSEDA may rescind awards to Proposers who fail to execute the Agreement within a reasonable amount of time.

In accordance with Section 20.02 of the Agreement, NYSEDA will file executed Agreement(s) with the Commission or otherwise publish the Agreement. Prior to such publication, NYSEDA will redact any critical electric infrastructure information contained in the Agreements, if any, including in the exhibits thereto, and will consider requests to redact confidential business information; provided, however that NYSEDA will not entertain any request to redact price information contained in this Agreement, specifically the Bid Price.

### **8.3 Provision of Contract Security**

Unless otherwise agreed to by NYSEDA in writing, Contract Security in the amount of the product of the Bid Quantity and \$4.00 will be required within five (5) business days of the Effective Date of the Agreement. NYSEDA accepts Contract Security in the form of cash, certified funds, parent guaranty, or a Letter of Credit (LOC), as described in Article XV of the Agreement. NYSEDA has included a standard form of LOC as Exhibit B to the Tier 4 Agreement and a form of guaranty as Exhibit D.

### **8.4 Documents Required for Contracting Purposes**

NYSEDA requires the following documents prior to contract execution:

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

#### **8.5 Non-disclosure Agreement/Waiver for Interconnecting Authority**

The Proposer shall waive confidentiality with the pertinent Interconnecting Authority after the Tier 4 Agreement has been executed.

## **9 TIER 4 RENEWABLE ENERGY CERTIFICATE STANDARD FORM PURCHASE AND SALE AGREEMENT**

NYSERDA recommends that Proposers review the Tier 4 Agreement (Appendix E) and all associated Exhibits prior to participating in T4RFP21-1. The Agreement is a legally binding document; it is recommended that Proposers consult with an attorney.

### **9.1 Conditions/Contingencies**

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

### **9.2 Addition or Substitution of Resources**

The executed Agreement will identify each of the Resources constituting the Project. The selected Proposer may add new eligible Resources and/or substitute eligible Resources over the Contract Delivery Term, subject to NYSERDA approval. Any approved changes to eligible Resources over the Contract will not result in a re-price of a Project.

### **9.3 Re-Sale and Joint Purchase**

Section 2.05 of the Agreement makes clear that NYSERDA may sell, assign, transfer or otherwise subject to any encumbrance, any of the Tier 4 RECs it acquires. NYSERDA may also, in its discretion and with Proposers' consent, arrange joint purchasing arrangements with other purchasers.

## **10 GENERAL CONDITIONS**

### **10.1 Proprietary Information**

Consideration should be given before confidential information is submitted to NYSEDA as part of any Step Two Proposal. Proposers should consider and review whether information is critical for evaluation, and whether general, non-confidential information may be adequate for review and evaluation purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSEDA possesses. The Public Officers Law includes exceptions to disclosure, including Section 87(2)(d) which provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Additional information submitted to NYSEDA that Proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified, and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <http://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSEDA-Regulations.ashx>.

In accordance with the Order, NYSEDA and DPS Staff must file any Agreement for the procurement of Tier 4 RECs with the Commission for approval. The executed Agreement will be published and docketed with the Commission. Prior to such publication, NYSEDA will redact any critical electric infrastructure information contained in the Agreements, if any, including in the exhibits thereto, and will consider requests to redact confidential business information, provided, however, that NYSEDA will not entertain any request to redact price information contained in the Agreement, specifically, the Bid Price.

### **10.2 State Finance Law Sections 139-j & 139-k**

NYSEDA is required to comply with State Finance Law Sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

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

### **10.3 Tax Law Section 5-a**

NYSEDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSEDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the Department) whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department

to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at [http://www.tax.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 contacting 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>.

#### **10.4 Omnibus Procurement Act of 1992**

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

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

Empire State Development  
Division for Small Business  
30 South Pearl Street  
Albany, NY 12245

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

Empire State Development  
Minority and Women's Business Development Division  
30 South Pearl Street  
Albany, NY 12245

#### **10.5 Disclosure Requirement**

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

## **10.6 Press Releases and Media Contact**

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

## **10.7 Independent Entities/Limitation of Liability**

Neither this RFP nor any other aspect of this solicitation shall create an agency, partnership, joint venture, or co-tenancy relationship among the members of the Evaluation Team or any other individuals or entities involved in the development or administration of this RFP (collectively, the "RFP Parties"), nor any other relationship or liability beyond those (if any) explicitly adopted in writing and executed by authorized representatives of the applicable RFP Parties. None of the RFP Parties shall be liable for any act or omission of any other RFP Party. Neither this RFP nor any other aspect of this solicitation creates or is intended to create third-party beneficiaries hereunder. In no event will an RFP Party be liable to any person for special, incidental, punitive, exemplary, indirect, or consequential damages or lost profits, whether by statute, in tort or contract or otherwise.