



**NYSERDA**

**Purchase of New York Tier 1 Eligible  
Renewable Energy Certificates (RECs)  
Request for Proposals (RFP) No. RESRFP21-1  
RFP Release Date: April 22, 2021**

**Step One Eligibility Applications Due:  
June 30, 2021 by 3:00 p.m. Eastern Time (ET)  
Step Two Bid Proposals Due:  
August 26, 2021 by 3:00 p.m. ET**

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

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

RESRFP21-1 will be implemented through a two-step process, consisting of:

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

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

**Step One Eligibility Application:** Step One Eligibility Applications must be **received\* by NYSERDA by 3:00 p.m. ET on Wednesday, June 30, 2021 via electronic submission.** NYSERDA staff will be available to support Proposer inquiries regarding Step One Eligibility Applications through the deadline at 3:00 p.m.

NYSERDA will open the solicitation website and the Step One Eligibility Application submission process on May 11, 2021 (see Section 1.3) following the Proposers' Webinar. Applications may be submitted electronically by following the link for electronic submissions found on [NYSERDA's Solicitations for Large-scale Renewables webpage](#)<sup>1</sup> or [NYSERDA's Current Funding Opportunities website](#),<sup>2</sup> located in the "Current Funding Opportunities" section of NYSERDA's website at that time.

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

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

NYSERDA intends to notify all prospective Proposers as to their eligibility status by Wednesday July 16, 2021. Eligible Proposers will receive a Notice of Qualification and will be provided with detailed instructions for submitting a Step Two Bid Proposal.

**Step Two Bid Proposal:** Step Two Bid Proposals must be **received by NYSERDA by 3:00 p.m. ET on Thursday, August 26, 2021 via electronic submission**. Instructions for submitting electronically and the link for electronic submissions will be included in a Proposer's Notice of Qualification. Additional information regarding NYSERDA's Renewable Energy Solicitations can be found on [NYSERDA's Renewable Energy Solicitations Standard \(RES\) Tier 1 website](#).<sup>3</sup>

**NYSERDA recommends that Proposers set aside ample time, well in advance of each deadline, to gather the required information and documentation and to understand the requirements to complete the above processes. NYSERDA recommends that Proposers mark any commercially sensitive materials as Confidential.**

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

**Prior to the opening of the solicitation website and the Step One Eligibility Application, all questions regarding RESRFP21-1 must be directed to [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov).**

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

No communication intended to influence this procurement is permitted except by contacting the Designated Contacts. Questions about this solicitation should be directed to the RESRFP21-1 Designated Contacts: Abbey DeRocker, Bram Peterson, Marci Brunner, Brian Newton, Jeremy Wyble, Peter Keane, Liz Hanna, Laila El-Ashmawy, and/or Doreen Harris. 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.

Proposers should rely only on information provided in this RFP and any associated written updates posted on [NYSERDA's Renewable Energy Standard website](#) and the solicitation website when preparing Proposals. Each Proposer shall be solely responsible for and shall bear all costs incurred in the

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

<sup>4</sup> See Section 12 of the [NYGATS Operating Rules](#).

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

preparation of its Proposal and/or participation in this RFP. Submission of Proposals including confidential information must be filed in accordance with Section 11.1 of this RFP.

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

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

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<sup>6</sup> Unless otherwise agreed to by NYSERDA. Contact a Designated Agent for more information if needed.

<sup>7</sup> <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/Renewable-Generators-and-Developers-Email-List>

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## APPENDICES

[Appendix 1 – Resource Assessment and Energy Production Estimate Requirements](#)

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

## ACRONYMS AND DEFINITIONS

**94-c** – Section 94-c of the Consolidated Laws of New York State, Article 6 Department of State, updated to consolidate the environmental review and permitting of major renewable energy facilities in New York State under the Office of Renewable Energy Siting (ORES).

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

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

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

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

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

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

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

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

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

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

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

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

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

**CES** – Clean Energy Standard

**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.

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

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

**COMD** – Commercial Operation Milestone Date

**Contract Delivery Term** – The period of performance under the Agreement. The Contract Delivery Term commences on the first day of the month after the Bid Facility commences Commercial Operation. For Bid Facilities in Commercial Operation as of the Award Notification Date, the Contract Delivery Term shall commence on the first day of the month after the Effective Date of the Agreement. The Contract Delivery Term shall extend for the term of the Contract Tenor.

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

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

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

**Disadvantaged Communities (DAC)** - 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>8</sup>

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<sup>8</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.

**Energy Storage Component** – A commercially available resource capable of receiving electric energy and storing that energy or a portion of that energy for later injection of electricity to the grid regardless of where the resource is located on the electrical system. The Energy Storage Component must be constructed and operated in accordance with Article VI and Article IX of the [NYSERDA Bulk Storage Incentive Program Manual](#) (Exhibit F to the Agreement).

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

**Expected Total Dollars** – The total dollar amount of Incremental Economic Benefits, as presented in the Bid Proposal and accepted by NYSERDA, expected to accrue to New York as a result of the development, construction, modification, and operation of the Bid Facility.

**FEAF** – Full Environmental Assessment Form

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

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

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

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

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

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

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

**Levelized Net RECCost (LNRC)** – A means of comparing Proposals with different Bid Prices, Bid Quantities, and Commercial Operation Dates, as described in Section 5.3.

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

**LSE** – Load-serving entity

**Major Renewable Energy System** – Any renewable energy system with a nameplate generating capacity of twenty-five thousand kilowatts or more, and any co-located system storing energy generated from



such a renewable energy system prior to delivering it to the bulk transmission system, including all associated appurtenances to electric plants as defined under Section 2 of the New York State Public Service Law, including electric transmission facilities less than ten (10) miles in length in order to provide access to load and to integrate such facilities into the state's bulk electrical transmission system.

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

**MWh** – A megawatt-hour of electric energy.

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

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

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

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

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

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

**OATT** – NYISO's Open Access Transmission Tariff

**Operating Rules** – The NYGATS Operating Rules, the General Terms of Use and other guidelines posted to the NYGATS website at: <https://www.nysERDA.ny.gov/AllPrograms/Programs/NYGATS/Registration-Documents>.

**Orders** – August 1, 2016 CES Order (Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, "Order Adopting a Clean Energy Standard," issued and effective August 1, 2016) and January 16, 2020 CES Order (Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean

Energy Standard, “Order Modifying Tier 1 Renewable Procurements,” issued and effective January 16, 2020.

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

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

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

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

**PSoQ** – Provisional Statement of Qualification

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

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

**Renewable Energy Certificate (REC)** – The electronic record of generation data created by NYGATS and representing all of the attributes, including all Environmental Attributes, of one MWh of electric generation from a Renewable Energy System delivered into the New York Control Area and registered with the NYGATS tracking system. The attributes represented in each REC include all environmental characteristics, claims, credits, benefits, emissions reductions, offsets, allowances, allocations, howsoever characterized, denominated, measured or entitled, attributable to the generation of Actual Eligible Production by a Project, including but not limited to: (i) any direct emissions or any avoided emissions of pollutants to the air, soil or water including but not limited to sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), particulate matter and other pollutants; (ii) any direct or avoided emissions of carbon dioxide (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, and for purposes of this RFP, a system that generates electricity through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

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

**SEQR** – New York State Environmental Quality Review Act

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

**SoQ** – Statement of Qualification

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

**Technical Evaluation Panel (TEP)** – Members of NYSERDA Staff, New York State Department of Public Service Staff, and competitively-selected Independent Evaluators responsible for evaluating Bid Proposals received through this RFP.

**UCAP Production Factor (UPF)** – The UCAP Production Factor multiplied by the Bid Facility’s installed capacity is a proxy for the NYISO UCAP in MW. The UCAP Production Factor will be specified separately for a Winter Capability Period (November through April) and a Summer Capability Period (May through October). These fixed seasonal UCAP Production Factors will be utilized for the duration of the contract tenor. Proposers are encouraged to consider current guidance from the NYISO’s [Installed Capacity Manual](#). Proposers are permitted to select any UCAP Production Factor value between 0 and 1.

**Verified Total Dollars** – The total dollar amount of Incremental Economic Benefits verified by NYSERDA to have accrued to New York as a result of the development, construction, modification, interconnection, and operation of the Bid Facility from the Award Notification Date through the end of the first three (3) Contract Years. Depending on the nature of the Proposers’ economic benefits claims, the dollars may be required to be reported based on their applicability to benefitting disadvantaged communities.

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

## NEW ITEMS & IMPORTANT NOTES

### 1. Order Adopting Modifications to the Clean Energy Standard

On October 15, 2020, the New York State Public Service Commission (PSC) issued its [Order Adopting Modifications to the Clean Energy Standard](#) (CES Modification Order) in the Clean Energy Standard Case 15-E-0302. In the CES Modification Order, the PSC adopted modifications to the CES to align with and support the mandates passed into law under the Climate Leadership and Community Protection Act (CLCPA). Modifications specific to the Tier 1 solicitations are reflected in RESRFP21-1, however Proposers are encouraged to familiarize themselves with the full scope of changes to the CES outlined in the CES Modification Order.

### 2. Commercial Operation Milestone Date

The initial Commercial Operation Milestone Date (COMD) for RESRFP21-1, the date by which Bid Facilities must enter commercial operation, is November 30, 2023, which may be extended through November 30, 2026.

### 3. Tier 1 Resource Eligibility

Pursuant to the Public Service Commission (PSC) Order Adopting Modifications to the Clean Energy Standard, Tier 1 resource eligibility for new contracts has been aligned with the Climate Leadership and Community Protection Act (CLCPA). See the CLCPA definition of Renewable Energy System. Note that facilities including biomass, biogas, liquid biofuel resources, or fuel cells which in part utilize a fossil fuel resource are not eligible under this solicitation.

### 4. Economic Benefits and Disadvantaged Communities

Proposers are strongly encouraged to explore innovative ways in which short- and long-term economic benefits can be provided to New York State. Economic benefits evaluation under this solicitation will include all eligible expenditures beginning from the RFP Release Date (see Section 8.3.5). A new category of eligible economic benefits claims has been incorporated into this solicitation, under which Proposals will be evaluated based on claims related to economic and workforce development expenditures and commitments associated with the development of a Bid Facility.

Proposers are also encouraged to familiarize themselves with the updated requirements and guidance related to directing incremental economic benefits to disadvantaged communities. NYSEDA will more favorably evaluate economic benefits to New York State that will be realized in part or in full by disadvantaged communities as part of the proposed projects' development. All Proposers submitting Step Two Bid Proposals will be required to fully detail the benefits and burdens associated with the impacts of the Bid Facility's development on any hosting and/or proximate disadvantaged communities in accordance with the most recent relevant guidance per the [Climate Action Council](#) and [Climate Justice Working Group](#). All Proposers are strongly encouraged to explore how they can direct benefits to disadvantaged communities as part of the submitted economic benefits claims in support of the CLCPA goal that 40 percent of the benefits of clean energy investments benefit disadvantaged communities.

## 5. Non-Viable Determination and Portfolio Risk Factors

Pursuant to the Order Adopting Modifications to the Clean Energy Standard, NYSERDA is authorized to reject a Bid Proposal based upon a unanimous determination by the TEP that the project is not presently viable. See Section 4.1 for more information. The PSC also directed NYSERDA to develop portfolio risk factors, replacing the portfolio risk assessment and program policy factors included in previous Tier 1 solicitations. See Section 6.2 for more information.

## 6. New York State FY 2022 Budget Provisions Regarding Large-Scale Renewables

New York State's FY 2022 enacted budget includes multiple provisions that will affect the future development of large-scale renewables in New York State. The majority of the enacted provisions will take effect for contracts awarded through solicitations released following October 1, 2021 and are not yet required components of this solicitation. New provisions include:

- For Renewable Energy Systems greater than 5MW that receive REC contracts (See Budget FY 2022 [A.3006C/S.2506C, Part AA, beginning on Page 65](#)):
  - o The codification of requiring prevailing wage or project labor agreements for future awarded facilities;
  - o New requirements for labor peace agreements for certain large-scale renewables operations and maintenance employees;
  - o Requirements for owners and developers to comply with the objectives and goals of certified Minority and Women-Owned Business Enterprises (MWBE) pursuant to article 15-a of executive law and certified Service-Disabled Veteran-Owned Businesses (SVDVB) pursuant to article 17-B of executive law;
  - o Requirements for future awarded facilities to use American-made iron and structural steel; and
  - o Authorization to provide scoring evaluation credit for procurement of equipment and supplies from businesses located in New York state.
- The establishment of a standardized property tax assessment model to be advanced for large-scale renewable projects by NYS Tax & Finance in consultation with NYSERDA and the NYS Assessors Association (See FY 2022 Budget Bill [A.3009C/S.2509C, Part X, beginning on Page 60](#)); and
- The establishment of a Farmland Protection Working Group comprised of NYS agency leaders and agricultural stakeholders to recommend strategies to better facilitate the siting and mitigation of renewables on agricultural land (See FY 2022 Budget Bill [A.3005C/S.2505C, Part BBB beginning on Page 39](#)).

Proposers are encouraged to understand these requirements, plan for any potential impacts on future Tier 1 solicitations, and are encouraged to explore the feasibility of including not-yet-required components of the budget (e.g., labor peace agreements, American or New York-made iron and structural steel) as part of Step Two Bid Proposals submitted to RESRFP21-1.

## **7. Minimum Threshold Requirements**

The Step Two Bid Proposal Minimum Threshold Requirements include updated requirements for the Interconnection, Energy Deliverability, and Permitting subcategories. See Sections 4.1 and 8.3.4 for requirement-specific details.

## **8. Interconnection & Environmental Mitigation Estimates**

All Proposers will be required as part of the Step Two Bid Proposal to include cost estimates related to specific aspects of the Bid Facility's proposed interconnection plans, potential environmental mitigation measures and/or fees, and agricultural mitigation measures or fees, if applicable. See Section 4.1 and 8.3.4 for requirement-specific details.

## **9. Office of Renewable Energy Siting Regulations**

On March 3, 2021, the Office of Renewable Energy Siting (ORES) adopted standard regulations and permit conditions for renewable energy facilities in New York State. It is incumbent upon Proposers intending to advance projects through ORES to fully understand the new permitting process and the associated pre-application and application requirements. All Proposers intending to advance their Bid Facility through ORES are strongly encouraged to conduct a pre-application consultation with ORES, and will be required to outline their plan to proceed through ORES via the required Permitting Plan provided with the Step Two Bid Proposal.

## **10. Host Community Benefit Program Requirements**

Proposers are advised to understand that Bid Facilities awarded under RESRFP21-1 will be subject to the requirements imposed by a February 11, 2021 PSC order issued under [Public Service Commission Case 20-E-0249](#), In the Matter of a Renewable Energy Facility Host Community Benefit Program. All Proposers are required to familiarize themselves with the Order and understand the costs associated with the Order, required through the first ten years of commercial operation.

## **11. Agricultural Mitigation Requirements**

NYSERDA adopted a new approach under the previous Tier 1 solicitation to addressing concerns relating to solar development and the protection of agricultural lands in Agricultural Districts. Under this new approach, awardees may be responsible for making an agricultural mitigation payment to a designated fund based on the extent to which the solar project footprint overlaps with Mineral Soil Groups (MSG) classifications 1-4. Proposers are advised to reference Section 4.1 of the RFP and Appendix 2 – Permitting Plan Requirements and Guidelines to understand the approach in full and assess the applicability of a potential Agricultural Mitigation Fund Payment to their Bid Facility(ies). In addition to a potential Mitigation Fund Payment, all solar awardees will be required to execute the [Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands](#) document (see Exhibit E to the Agreement).

## **12. NYSERDA Tier 4 Solicitation Coordination**

On January 13, 2021, NYSERDA launched T4RFP21-1, a solicitation to procure the unbundled environmental attributes in the form of Tier 4 RECs for renewable energy delivered into New York City (NYISO Zone J). Facilities participating in T4RFP21-1 are permitted to participate in RESRFP21-1 subject to all Tier 1 eligibility requirements. See Sections 1.4 and 1.14 for additional requirements for Proposers seeking to submit a Bid Facility to RESRFP21-1 that is also active in T4RFP21-1.

## **13. RES Standard Form Agreement**

The RES Standard Form Agreement (the “Agreement”) associated with RESRFP21-1 is published as Attachment A to this solicitation. The Agreement is a legally binding document; Proposers are advised to consult with an attorney, and all Proposers should familiarize themselves with the structure, terms and conditions of the Agreement prior to participating.

# 1 INTRODUCTION

## 1.1 The New York Clean Energy Standard and Renewable Energy Standard

On July 6, 2015, the New York State Energy Planning Board issued the 2015 State Energy Plan (SEP)<sup>9</sup> which stated the goal to achieve 50% of the State's electricity generated from renewable resources by 2030 (50x30 goal). In December 2015, Governor Andrew Cuomo directed the Department of Public Service (DPS) to develop a Clean Energy Standard (CES)<sup>10</sup> to help achieve the SEP goals.

The Public Service Commission's (PSC) [Order Adopting the Clean Energy Standard](#) (CES Framework Order) issued on August 1, 2016, along with additional orders and implementation plans issued under Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (Orders), established the Renewable Energy Standard (RES) as the State's principal means of achieving the 50x30 goal. A component of the RES consists of a Tier 1 obligation on load serving entities (LSE) to procure Renewable Energy Certificates (RECs)<sup>11</sup> associated with new renewable energy resources.

In furtherance of the Orders and targets established in the CES, on July 18, 2019, New York State adopted the Climate Leadership and Community Protection Act (CLCPA), which includes the goal for New York State to achieve 70% renewable energy generation by 2030, incremental to reducing 100% of the electricity sector's greenhouse gas emissions by 2040, among other clean energy targets.<sup>12</sup>

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

On April 2, 2020, Governor Cuomo signed into law the 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>13</sup>

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

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<sup>9</sup> 2015 New York State Energy Plan is available from <http://energyplan.ny.gov/>

<sup>10</sup> Letter from Governor Andrew M. Cuomo to Audrey Zibelman, Chair, New York State Department of Public Service, December 2, 2105 (Cuomo Letter) available at [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Renewable\\_Energy\\_Letter.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Renewable_Energy_Letter.pdf)

<sup>11</sup> While the PSC's August 1, 2016 Order references renewable energy "credits," NYGATS creates renewable energy certificates, and therefore that term is used in this RFP. The NYGATS certificates are created in one MWh denominations and are in all other ways consistent with the Order.

<sup>12</sup> [New York State Senate Bill S6599](https://www.nysenate.gov/legislation/bills/2019/s6599), <https://www.nysenate.gov/legislation/bills/2019/s6599>

<sup>13</sup> [New York State Announces Passage of Accelerated Renewable Energy Growth and Community Benefit Act as Part of 2020-2021 Enacted State Budget](#)



Coincidence evaluation factors, approving the development of portfolio risk factors, and clarifying the CES delivery requirements.

The Orders authorize NYSERDA, as central procurement administrator, to offer long-term contracts to generators for the purchase of Tier 1-eligible RECs, in the form of Tier 1 NYGATS certificates. Pursuant to the Orders, NYSERDA seeks to accomplish the RES objective by contracting with suppliers, through a series of competitive RFPs, for only the RES Tier 1 RECs created by eligible generation resources.<sup>14</sup> For the avoidance of doubt, NYSERDA seeks to acquire Tier 1-eligible RECs only, and will not have any claim to associated energy, capacity, or ancillary services associated with the RECs.<sup>15</sup>

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

The CES/RES Orders can be accessed from the [NYS Public Service Commission's website](#).<sup>16</sup> All Proposers are strongly advised to review the Orders before participating in this RFP. Information regarding NYSERDA's implementation of the RES and prior solicitations under the RES, RESRFP17-1, RESRFP18-1, RESRFP19-1, and RESRFP20-1, can be found on [NYSERDA's RES Solicitation website](#).<sup>17</sup>

Information on the Renewable Portfolio Standard (RPS), the precursor to the CES, and past Main Tier solicitations can be found on [NYSERDA's RPS webpage](#).<sup>18</sup>

## 1.2 Background on NYSERDA and NY Green Bank

NYSERDA was created in 1975 by the New York State Legislature as a public authority and public benefit corporation. As designated in the CES Framework Order, NYSERDA acts as the Central Administrator of the RES program.

Under the RES, each LSE is obligated to serve their retail customers by procuring new renewable resources, evidenced by the procurement of Tier 1 RECs from NYSERDA or other sources, or by making

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

<sup>15</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 1 eligibility criteria established in the CES Framework Order.

<sup>16</sup> <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-e-0302>

<sup>17</sup> <https://www.nyserda.ny.gov/ces/rfp>

<sup>18</sup> <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Portfolio-Standard/Past-Main-Tier-Solicitations>

Alternative Compliance Payments (ACPs), in increasing quantities to satisfy the State’s greenhouse gas emissions reduction goals. Through this RFP, NYSERDA will purchase RECs from the contracted Bid Facilities, on behalf of the LSEs in New York State, and will then sell the RECs to the LSEs for compliance with the LSEs’ Tier 1 obligations.

NY Green Bank was initially capitalized with \$1.0 billion to accelerate clean energy and sustainable infrastructure deployment in New York State. NY Green Bank steps in to fill gaps in the market where financing might not be available from conventional lenders, potentially due to barriers such as limited precedent, small deal sizes, challenges in evaluating technology risk, asset structures and/or business models unfamiliar to banks and institutional investors, and/or deal structuring and underwriting complexities.

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

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

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

### 1.3 Schedule

The schedule for RESRFP21-1 is as follows (all times ET):

RFP Release Date	Thursday, April 22, 2021
Proposers’ Webinar	Thursday, May 6, 2021 at 10:30 a.m.
NYSERDA opens Step One Eligibility Application	Monday, May 10, 2021
<b>Deadline to complete an application requesting a Resource Eligibility Determination in NYGATS</b>	<b>Wednesday, June 16, 2021</b>
<b>Deadline for Step One Eligibility Application Submission</b>	<b>Wednesday, June 30, 2021 by 3:00 p.m.</b>
NYSERDA responds with Notice of Qualification Determinations	Friday, July 16, 2021
Deadline for Bid Fee Submission	Wednesday, August 25, 2021
<b>Deadline for Step Two Bid Proposal Submission</b>	<b>Thursday, August 26, 2021 by 3:00 p.m.</b>
NYSERDA notifies Proposers receiving Awards	Q4 2021

Please note that the above dates are subject to change. Notification of any changes to the solicitation schedule or documents will be posted on [NYSERDA’s RES website](#) and sent via email to those parties who have submitted contact information to NYSERDA’s RESRFP21-1 solicitation website.

### 1.4 Eligibility

To be eligible, a Bid Facility must be a Tier 1 RES eligible resource technology type qualifying under the updated Clean Energy Standard Tier 1 eligibility requirements outlined in the CES Modification Order

and described herein.<sup>19</sup> Pursuant to the CES Framework Order, to participate an eligible Bid Facility must also: (1) be located within the New York Control Area (NYCA) or in an adjacent control area and supply energy into New York State, in accordance with the RES Delivery Requirements in the Agreement, and (2) have first commenced Commercial Operation on or after January 1, 2015, or (3) must produce new, incremental energy and Tier 1 RECs from new Bid Capacity above a historical baseline.

Multiple Step One Applications and Step Two Bid Proposals for the same Bid Facility may be submitted by the Proposer. Each Bid Proposal must utilize only one price structure (Fixed REC or Index REC), however separate Bid Proposals for the same Bid Facility may utilize different price structures if the Bid Facility has material differences among the Bid Proposals, such as for a Bid Facility bid with and without Energy Storage, and/or a Bid Facility bid with two different Bid Capacities (MW).

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

Tier 1 eligible RECs or environmental attributes that are the subject of a current NYSERDA RES contract, or that were the subject of an award under NYSERDA's RESRFP20-1 solicitation, are not eligible under this RFP. Additionally, Proposers that are seeking or have secured funding through a separate NYSERDA incentive program (e.g., NY-Sun for solar facilities, NYSERDA funding for geothermal facilities) are not eligible to participate under this RFP.

Any Proposer with a project that is under evaluation in the active Tier 4 solicitation, T4RFP21-1, is also eligible to submit the facility under a Step Two Bid Proposal to RESRFP21-1, pending all other eligibility requirements. NYSERDA will coordinate with Proposers whose Bid Facilities are included in a Tier 4 proposal that receives an award. See Section 1.14.

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

### **1.5 Subsequent Tier 1 Eligibility Changes**

Bid Facilities selected for an award under this RFP will not be subject to subsequent changes in RES eligibility rules; however, if the Bid Facility fails to maintain eligibility consistent with the RES requirements as they existed at the time of an award,<sup>20</sup> such ineligibility will extend to the RECs associated with the Bid Facility's production throughout the entire period in which the Bid Facility fails to maintain eligibility.

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

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<sup>19</sup> Proposers should note that the CLCPA definition of renewable energysystems as adopted by the CES Modification Order excludes certain resources previously eligible under the CES Framework Order, including biomass, biogas, liquid biofuels, fuel cells using natural gas and anerobic digesters, among others, and should review the RFP and Agreement prior to commencing a request for a Provisional Statement of Qualification.

<sup>20</sup> Refer to Section 1.3.

## 1.6 Conformance with NYGATS Operating Rules

If awarded under RESRFP21-1, Proposers must maintain a valid NYGATS ID, obtain a Statement of Qualification, achieve Operational Certification, and operate in conformance with the [NYGATS Operating Rules](#).<sup>21</sup> Proposers must implement a Forward Certificate Transfer of Tier 1 RECs in NYGATS, up to the Annual REC Cap, into NYSERDA's NYGATS Account. NYSERDA will make payment for Tier 1 RECs from the Bid Facility delivered to NYSERDA's NYGATS account.

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

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

## 1.7 Energy Storage Eligibility

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

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

- 1) co-located with the generation behind a single wholesale or retail meter, or
- 2) co-located with the generation behind a separate wholesale or retail meter, or
- 3) located in a separate location from the generation.<sup>22</sup>

In addition:

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<sup>21</sup> [New York Generation Attribute Tracking System \(NYGATS\)](#)

<sup>22</sup> Separately located energy storage facilities do not require a separate Tier 1 eligibility request.

- The Energy Storage equipment must consist of commercial products carrying a manufacturer's warranty. The warranty must cover the entire energy storage system including ancillary equipment and power electronics. Experimental, beta, or prototype equipment is not eligible.
- The Energy Storage system must be certified to meet minimum safety requirements by a Nationally Recognized Testing Laboratory as evidenced by specific UL listings defined in the Program Manual. These will evolve to meet current best practices in the storage industry. These UL listings must be received by the time that the system enters commercial operation.
- Energy Storage systems and components must comply with all manufacturers' installation requirements, applicable laws, regulations, codes, licensing, and permit requirements. This includes, but is not limited to, SEQR; Article 10; the Accelerated Renewables Act, the International Building Code Series as amended by the New York State Uniform Code Supplement; the National Electric Code<sup>10</sup>; New York State's Standard Interconnection Requirements; and all applicable State, city, town, or local ordinances or permit requirements, and any additional requirements of the local authority having jurisdiction (AHJ), and demonstrate compliance with the requirements in the [New York Battery Energy Storage System Guidebook](#).
- Energy Storage systems must be installed as proposed and remain in place for the life of the Contract Tenor.

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

Note that, under the Agreement, NYSERDA will make payment only for Tier 1 RECs delivered to NYSERDA's NYGATS Account. If the Energy Storage is charged from the co-located renewable generation, the energy discharged from the storage will generate Tier 1 RECs that will be eligible for payment. Should the Bid Facility/Energy Storage facility receive an award, the Proposer will be required, at the time of contracting, to demonstrate to NYSERDA's satisfaction that the project will be configured and metered in a way that will ensure that Tier 1 RECs are created only based on energy generated by the Tier 1 Bid Facility.<sup>23</sup> Energy Storage facilities that are located separate from the Bid Facility may store energy from the grid but will not create Tier 1 RECs and therefore the associated stored energy will not be eligible for payment under the Agreement.

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

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

- An Energy Storage project for which either the Energy Storage or associated Bid Facility is owned by a regulated utility, the New York Power Authority, or the Long Island Power Authority;
- An Energy Storage project that has been awarded a utility Bulk Dispatch Rights Contract;

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<sup>23</sup> See [Intermittent Power Resources: Frequently Asked Questions](#) and the [FERC Order Accepting Co-located Storage Resources \(CSR\) Revisions](#) for additional resources.

- An Energy Storage project that receives a NYSERDA Retail Storage Incentive, or a NYSERDA Bulk Storage Incentive;
- An Energy Storage project located outside of the NYCA;
- An Energy Storage project subject to a previous NYSERDA award or contract;
- Pumped hydroelectric storage.

Energy storage projects participating in a utility Bulk Dispatch Rights solicitation or other utility-managed competitive offer are eligible to participate in RESRFP21-1, however no facility is eligible for award under RESRFP21-1 if it is selected by a utility-managed solicitation or other competitive offer. NYSERDA will coordinate with the manager of any other active solicitation prior to issuing final awards under RESRFP21-1 to ensure that projects participating in multiple offers are not prematurely deemed ineligible.

### 1.8 Bid Fee

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

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

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

### 1.9 Proposers' Webinar and Inquiries

NYSERDA will [hold a webinar for Proposers](#) on Thursday, May 6, 2021 at 10:30 a.m. ET (Albany, NY time). During the webinar, NYSERDA will review the Step One Eligibility Application and Step Two Bid Proposal requirements, the Agreement, and highlight changes to the 2021 solicitation process. Questions will be taken and, to the extent possible, responses will be provided during the webinar. **Proposers who intend to participate must register prior to the webinar on NYSERDA's RES website.**<sup>24</sup>

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

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

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<sup>24</sup> To sign up for the Proposers' Webinar please register here: [RESRFP21-1 Proposers' Webinar](#)

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

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

Notification of any changes in RFP process or documents will be posted on [NYSERDA's RESTier 1 website](#), the solicitation website under the Announcements tab, and sent via email to parties that have submitted contact information to NYSERDA's RESRFP21-1 solicitation via the solicitation website. Prospective Proposers are encouraged to check the website frequently to be advised of any RFP changes or other news.

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

### **1.11 Updates to the Eligibility Application and/or Bid Proposal**

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

After the submission deadline, Proposers may provide information that was not available at the time of their submission at NYSERDA's request under Section 1.12. These requests are for informational purposes only and will not be treated by NYSERDA as a change or revision to the submission. However, if there are any material events that affect the validity of a submission, Proposers must promptly notify NYSERDA in writing.

### **1.12 Requests for Additional Information and/or Interview**

NYSERDA may request additional information from Proposers at any time throughout the duration of the solicitation. Such information will be subject to protection of proprietary information as described in Section 11.1. NYSERDA recommends that Proposers mark commercially sensitive materials provided to NYSERDA as Confidential. Proposers that do not respond promptly to NYSERDA's information requests or do not provide adequate information may be disqualified from further consideration or have the information in their Proposals modified by NYSERDA to allow a reasonable and appropriate evaluation.

NYSERDA may request in-person and/or videoconference interviews with Proposers, to be scheduled at a mutually convenient time following the Step Two submission deadline.

### **1.13 Coordination with Non-Jurisdictional Load-Serving Entities**

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

the Tier 1 RECs that may be procured under this solicitation to fulfill their proportional shares of the statewide Tier 1 targets.

#### **1.14 Coordination with NYSERDA's T4RFP21-1**

On January 13, 2021, NYSERDA issued T4RFP21-1, a solicitation to procure the unbundled environmental attributes in the form of Tier 4 RECs for renewable energy delivered into New York City (NYISO Zone J) pursuant to the CES Modification Order.

Facilities that do not have a Tier 1 agreement and are included as a component of an awarded Tier 4 proposal (or subsequently added to the awarded Tier 4 project through modification of the Tier 4 Agreement) may participate in RESRFP21-1 and/or future Tier 1 solicitations subject to Tier 1 eligibility requirements.

For facilities participating in both RESRFP21-1 and T4RFP21-1, economic benefits claimed under a pending Tier 4 proposal may also be claimed as part of a Tier 1 Bid Proposal. Should a Bid Facility be awarded under both solicitations, NYSERDA will work with the awarded Proposer to ensure that claims are not double counted under the contractual economic benefits claims (See Expected Total Dollars definition in the Agreement).

#### **1.15 COVID-19 Guidance and 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 regarding 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 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 STEP ONE & STEP TWO COMPONENTS; ELIGIBILITY & EVALUATION

RESRFP21-1 will be implemented through a two-step process. Submissions for both steps are required for all participating Bid Facilities and must be made via the solicitation website. The solicitation website will open for submissions on May 11, 2021. The requirements for each step are summarized in the table below, consisting of:

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

Step One Eligibility Application	Step Two Bid Proposal
<b>Due Date:</b> Wednesday, June 30 by 3:00 p.m.	<b>Due Date:</b> Thursday, August 26 by 3:00 p.m.
<b>Requirements for Submission:</b> <ul style="list-style-type: none"> <li>• Tier 1 eligibility certification (PSoQ or SoQ), obtained via NYGATS.</li> <li>• Key Proposer and Bid Facility characteristics (location, capacity, energy storage, <i>etc.</i>).</li> <li>• Overview of how Bid Facility will meet all eligibility requirements by Step Two Bid Proposal deadline.</li> </ul>	<b>Requirements for Submission:</b> <ul style="list-style-type: none"> <li>• Expanded project characteristics and details, interconnection and environmental mitigation cost estimates.</li> <li>• Binding Bid Price and Bid Quantity data.</li> <li>• Minimum Threshold Requirements documentation (Site Control, Interconnection, <i>etc.</i>)</li> <li>• Expected benefits and burdens to disadvantaged communities.</li> <li>• Permitting Plan</li> <li>• Community Engagement Plan</li> <li>• Operational Flexibility and Peak Coincidence documentation (P(50) 8760, energy storage details, <i>etc.</i>).</li> <li>• If applicable, Incremental Economic Benefits claims, including identification of specific claims that will benefit disadvantaged communities.</li> <li>• Proof of Bid Fee payment</li> </ul>

Proposers submitting Step One Eligibility Applications that are determined to be qualified will be invited to submit a Step Two Bid Proposal. Step Two Bid Proposals that are determined to meet the Minimum Threshold Requirements will be evaluated and scored based on: (1) the Fixed REC Bid Price or Index REC

Bid Price, weighted at 70% of the overall score, and (2) non-price factors, which have a combined weight equaling 30% of the overall score.

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

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

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

Pursuant to the February 22, 2017, PSC [Order Approving the Phase 1 Implementation Plan](#) and the subsequent Orders, a Technical Evaluation Panel (TEP), consisting of NYSERDA staff, DPS Staff, and Independent Evaluators (outside reviewers who possess proficiency in the evaluation of energy generation projects), all of whom will execute a non-disclosure agreement, will evaluate and award points for the non-price evaluation components of each Bid Proposal.<sup>25</sup> NYSERDA may also enlist other state agencies, authorities, and subject-matter experts to inform the non-price evaluation conducted by the TEP. The Bid Price evaluation will be conducted by NYSERDA.

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

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

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<sup>25</sup> The Order and subsequent Plans are available on NYSERDA's CES Orders, Reports, and Filings website: <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Important-Orders-Reports-and-Filings/Filings-Orders-and-Reports>

### 3 ELIGIBILITY DETERMINATION

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

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

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

Technology	Source	Other Requirements
Solar Photovoltaics and Thermal		
On-land and offshore wind	Wind turbines	
Hydroelectric	Low-Impact Run-of-River Hydroelectric; Upgrades	No new storage impoundments; eligibility for Upgrades limited to the incremental production associated with the upgrade.
Fuel Cells	Solid Oxide Fuel Cells (SOFC) Molten Carbonate Fuel Cells (MCFC) Proton Exchange Membrane Cells (PEM) Phosphoric Acid Fuel Cells (PAFC)	Must utilize a non-fossil fuel resource, such as hydrogen (or other fuel), that has been produced using a “renewable energy system” <sup>1</sup> as a primary source.
Tidal/Wave/Ocean	Tidal and Ocean Wave or Current (turbines and other rotary motion devices); Ocean Thermal Pumped Storage Hydro Powered by Tidal	
Geothermal Electric		
Geothermal Ground Source Heat		

Proposers are advised that the Tier 1 eligibility requirements regarding repowering have also been updated pursuant to the CES Modification Order. Proposers seeking to participate in RESRFP21-1 with an Upgrade or Repowering Bid Facility are strongly encouraged to contact the Large-Scale Renewables team at [res@nysERDA.ny.gov](mailto:res@nysERDA.ny.gov) prior to starting a Tier 1 request in NYGATS. NYSERDA also strongly encourages submitting a Tier 1 request as soon as possible if seeking to participate in RESRFP21-1. Proposers must submit a Tier 1 request for a Provisional Statement of Qualification (PSoQ) if under

development or Statement of Qualification (SoQ), if operational. Proposers seeking to submit a Step Two Bid Proposal for an upgrade or repowering Bid Facility must submit a Tier 1 request for Provisional Statement of Qualification (PSoQ) if the upgraded or repowered actions have not yet been constructed for the Bid Facility. See Section 7 for additional details on completing a Step One Eligibility Application.

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

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

## 4 NON-PRICE EVALUATION & MINIMUM THRESHOLD REQUIREMENTS

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

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

NYSERDA will contact Proposers regarding any instances where it is unclear if a Minimum Threshold Requirement has been achieved and may provide the Proposer with a one-time opportunity to cure the deficiency prior to removing the Bid Facility from consideration.

### 4.1 Project Viability, Operational Flexibility and Peak Coincidence

Bid Proposals that demonstrate progress exceeding the Minimum Threshold Requirements will be eligible to receive points under the 20% Project Viability, Operational Flexibility and Peak Coincidence category (Viability & OpFlex) as well as for the other non-price component of the Bid Proposal (Incremental Economic Benefits to New York State). This category is intended to reward renewable resources that are more advanced through project development, demonstrate project feasibility/a high likelihood of bringing the project to commercial operation, provide grid services that contribute to cost minimization and/or grid reliability by addressing integration issues resulting from increased penetration of intermittent renewables, better match generation to load, and dispatchable resources to balance the electric system, optimize generation dispatch, minimize operating reserve requirements, and address grid congestion and constraints.<sup>26</sup>

Points will be awarded to Bid Proposals to the extent that they demonstrate progress exceeding the Minimum Threshold Requirements. As an example, for Generation Facility Site Control, the Minimum Threshold Requirement is demonstration of exclusivity agreement(s), letter(s) of intent, or other method(s) of site control that covers at least 50% of the proposed generator site's acreage. Evaluation points are available to the extent that the Bid Proposal demonstrates such control in excess of 50% and via firm methods of site control such as a lease agreement.

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

The Order Adopting Modifications to the Clean Energy Standard authorizes NYSERDA to reject a Bid Proposal based upon a unanimous determination by the TEP that the project is not presently viable. If a Bid Proposal is rejected based on the evaluation of viability, NYSERDA will notify the Proposer of the

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<sup>26</sup> See the CES Final Phase 1 Implementation Plan: <https://www.nysERDA.ny.gov/-/media/Files/Programs/Clean-Energy-Standard/2017-03-24-Phase-1-Implementation-Plan.pdf>

determination following the submission of the Step Two Bid Proposal and the receipt of responses to any clarifying questions and provide an explanation. Proposers with Bid Proposals that are rejected in this manner will remain eligible to re-apply in future RES solicitations and will be evaluated again without prejudice. Reasons for a determination of non-viability may include:

- 1) The Bid Proposal is immature to such an extent that it would be impossible to ascertain whether it is viable;
- 2) The Bid Proposal is predicated on unrealistic economic or regulatory assumptions; or
- 3) The Bid Proposal is subject to serious economic or regulatory risks without a sufficient mitigation plan.<sup>27</sup>

Examples of why a Bid Proposal could be determined to be non-viable include, but are not limited to, failing to meet one or more Minimum Threshold Requirements, a Bid Facility at an early stage of development with a Bid Price that is determined to be insufficient to cover project costs, or an unfounded interconnection cost or permitting mitigation cost estimate. NYSERDA may seek additional information from any Proposers deemed to have submitted a non-viable Bid Proposal prior to removing the Bid Proposal for consideration.

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

### **Generation Facility Site Control**

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

**Exceeding the Threshold:** Evaluation will be based on the extent to which the Bid Proposal demonstrates binding site control (executed binding option, executed lease, easement and/or ownership) for the generation facility in excess of 50%.

### **Interconnection Right of Way Control**

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

**Exceeding the Threshold:** Evaluation will be based on the extent to which the Bid Proposal demonstrates binding site control for the point of interconnection and any rights of way needed to reach the point of interconnection from the generation facility.

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<sup>27</sup> See page 30 of the CES Modifications Order.

## Interconnection

Minimum Threshold: The Proposer must (i) have a valid, submitted Interconnection Request with NYISO or the Bid Facility's interconnecting control area or utility and (ii) have a System Reliability Impact Study or System Impact Study that is in progress, or have initiated the process to pay the required deposit/fees to commence a System Reliability Impact Study or System Impact Study, or the equivalent interconnection progress with the Bid Facility's interconnecting control area or utility.

Documentation provided to NYSERDA by the Proposer of the Bid Facility's interconnection status must be consistent with the Bid Facility as proposed. Documentation that does not reflect the Bid Facility as proposed may be rejected.<sup>28</sup> For Bid Facilities interconnecting to NYISO, the NYISO Zone of the Bid Facility should align with the zone being studied by NYISO as a planned point of interconnection.

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

- All Bid Facilities under the jurisdiction of NYISO: The required deposit and fees paid to commence the System Reliability Impact Study or System Impact Study have been advanced.
- Bid Facilities utilizing a FERC-jurisdictional interconnection process in an adjacent U.S. control area:
  - PJM Generation Interconnection: Fees paid to commence System Impact Study.
  - ISO-New England: Fees paid to commence System Impact Study commenced.
  - Hydro-Québec: Fees paid to commence Interconnection Study commenced.
  - Ontario Independent Electricity System Operator: Fees paid to commence System Impact Assessment (SIA) commenced.
- Small Bid Facilities (less than or equal to 20 MW) with a Non-Federal Energy Regulatory Commission (FERC) Interconnection:<sup>29</sup> Interconnecting utility company Coordinated Electric System Interconnection Review (CESIR), or equivalent, has been commenced.
- Behind-the-Meter Bid Facilities: Interconnecting utility company Coordinated Electric System Interconnection Review (CESIR), System Impact Study, System Reliability Impact Study or equivalent by interconnecting utility/ISO has been commenced.<sup>30</sup>

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

Proposers are strongly encouraged to demonstrate with currently available knowledge that their proposed point of delivery into the NYCA, along with their proposed interconnection and transmission and/or distribution upgrades, is sufficient to ensure full energy dispatch of the Bid Facility's expected generation output to provide the binding Bid Quantity (in Megawatt-hours) bid to NYSERDA. Please note that this includes energy and is not limited to capacity. Proposers are also strongly encouraged to submit a deliverability study or other third-party assessment of the Bid Facility's interconnection and

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<sup>28</sup> The Bid Facility's Bid Capacity must be at minimum the capacity submitted with the Interconnection Request.

<sup>29</sup> Connecting Transmission Owner Interconnection under state jurisdiction (typically, utility distribution less than 5 MW).

<sup>30</sup> Not all Behind-The-Meter facilities are eligible to create Tier 1 RECs. Please see the [RES Tier 1 Eligibility and Certification Guidelines](#) for full eligibility requirements.

deliverability potential as part of their Step Two Bid Proposal submission(s) to demonstrate the energy deliverability of a Bid Facility.

Proposals that can describe all interconnection and transmission upgrade costs required to ensure full energy dispatch, including transmission upgrades that may need to occur beyond the point of interconnection, will be awarded more points by the TEP based on the reasonableness of the modeled assumptions. Bid Facilities that can exhibit to NYSERDA that the project is energy-deliverable under clear and reasonable assumptions will be awarded more points by the TEP.

### **Energy Deliverability**

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

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

As part of the Resource Assessment and Energy Production Estimate submitted with the Step Two Bid Proposal, any generation bid to NYSERDA under Step Two of RESRFP21-1 must be substantiated by the Proposer as deliverable.

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

Proposers should familiarize themselves with NYISO's proposed energy deliverability metric that was recently approved by FERC in tariff updates to enhance the Economic Planning Process. The energy deliverability metric "will provide information about the ability of each Resources, individually and taken collectively with other Resources, to be able to deliver its fully energy capability to the system and the degree of, and the conditions that are expected to lead to, any curtailment thereof."<sup>31</sup>

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<sup>31</sup> See NYISO tariff section 31.3.1.3.5.7 as filed and approved in FERC Docket No. ER21-1074-000.



In consultation with subject matter experts, NYSERDA and the TEP will proportionally allocate points based on the modeled benefits to the grid and future estimated energy deliverability potential based on reasonable assumptions of a 70x30 electric grid. Bid Facilities that plan to interconnect to the electric grid where congestion and curtailment of renewable generators is more likely to occur on a 70x30 electric grid will receive fewer evaluation points compared to Bid Facilities that will interconnect to the electric grid in areas where congestion and curtailment is less likely to occur. The TEP will also consider interconnection studies and/or deliverability studies provided by Proposers as part of their Step Two Bid Proposals, if provided by the Proposer.

NYSERDA may employ analyses to identify potential impacts that proposed Bid Facilities may create on the energy deliverability of renewable energy projects that are operating, under development, and/or under contract to deliver energy for end use in New York State, including curtailments or direction from the NYISO or Scheduling Coordinator that forces a renewable generator to reduce output. These potential impacts will be assessed in part based on current conditions and in part based on the expected grid limitations that will present themselves on a 70x30 grid. NYSERDA will coordinate with NYISO and the distribution/transmission owners to employ relevant analyses to estimate potential congestion and curtailment impacts resultant from the portfolio of bids submitted to RESRFP21-1. These analyses will also inform the decision to employ Portfolio Risk Factors authorized under the CES Modification Order (See Section 6.2).

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, the System & Resource Outlook study, if available,<sup>32</sup> and other similar studies conducted by the state, NYISO, and/or the transmission owners. NYSERDA and the TEP will use the most recent and pertinent modelling assumptions available for evaluation purposes to assess energy deliverability and allocate points. Updated assumptions and outputs published by DPS, NYSERDA, NYISO, and other parties may become available during the course of this solicitation, including outputs published under the Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act (AREGCBA).<sup>33</sup>

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

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

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<sup>32</sup> The System & Resource Outlook study is the new name for the CARIS Phase 1 study under the proposed changes to NYISO's Economic Planning Process.

<sup>33</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-E-0197&submit=Search>

## **Peak Coincidence**

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

**Exceeding the Threshold:** The TEP will allocate points based on how closely the Bid Facility's expected generation profile matches future estimates of NYISO load, and how the Bid Facility complements other renewable generation already under contract to New York State. The evaluation may consider both historical and future expected load shapes, and may include proposed generation that is not yet operating but under development to deliver renewable generation in New York State.

## **Permitting**

**Minimum Threshold:** Proposers must 1) complete a minimum level of permitting studies based on the expected permitting process of the proposed Bid Facility, and 2) submit a complete Permitting Plan that demonstrates awareness of all applicable permitting requirements, includes a reasonable timeline for obtaining permits and authorizations that is consistent with the development plan, and adequately addresses other expected permitting obstacles and/or input from the Bid Facility's host community.

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

- Bid Facilities proceeding through the [Office of Renewable Energy Siting](#) (ORES) must substantiate as part of the Step Two Bid Proposal that the following studies have been completed for the Bid Facility site:
  - Wildlife Site Characterization Report<sup>34</sup>
  - Draft Desktop Wetlands and Water Resources Delineation<sup>35</sup>
  - Phase IA Archeological Desktop Survey<sup>36</sup>
- Bid Facilities proceeding through the [New York State Environmental Quality Review Act \(SEQR\)](#)<sup>37</sup> must substantiate as part of the Step Two Bid Proposal that a 1) Full Environmental Assessment Form (FEAF)<sup>38</sup> has been completed and is prepared to or has been submitted to the applicable lead agency and applicable NYS DEC Division of Environmental Permits office, or that 2) a finding of no jurisdiction has been provided by NYS DEC following the submission and review of the FEAF for the Bid Facility.
- For Bid Facilities in external control areas, the Proposer will be required to substantiate that an equivalent level of pre-development due diligence has been conducted for the Bid Facility site prior to the submission of a Step Two Bid Proposal. The documentation to be provided to substantiate the Permitting Minimum Threshold Requirements must be outlined by the

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<sup>34</sup> [Office of Renewable Energy Siting Regulations and Uniform Standards and Conditions](#) §900-1.3 Pre-application procedures (g) NYS threatened or endangered species

<sup>35</sup> [Office of Renewable Energy Siting Regulations and Uniform Standards and Conditions](#) §900-1.3 Pre-application procedures (e) Wetland delineation and (f) Water Resources and Aquatic Ecology

<sup>36</sup> [New York State Historic Preservation Office, Environmental Review Archeological Surveys](#)

<sup>37</sup> [New York State Environmental Quality Review Act \(SEQR\)](#) and [SEQR Handbook](#), Fourth Edition, 2020

<sup>38</sup> [State Environmental Quality Review Act \(SEQR\) Forms](#), Full Environmental Assessment Form (FEAF) (Appendix A to 6 NYCRR 617.20 - revised January 1, 2019)

Proposer in the Step One Eligibility Application such that NYSERDA can confirm or modify any proposed equivalent documentation prior to or as part of the Notice of Qualification.

For large-scale solar Bid Facilities located in a New York State agricultural district, Proposers are also required to provide preliminary information to estimate agricultural mitigation fund payments based on the Bid Facility impacts described in Appendix 2.

A detailed description of permitting plan contents and other required narratives is included in Section 0 and Appendix 2 – Permitting Plan Requirements and Guidelines.

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

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

### **Project Development, Financing and Creditworthiness**

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

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

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

Proposers must submit a detailed Financing Plan demonstrating a sufficient degree of planning and due diligence on how the Bid Facility is to be financed. Proposers must describe a plan to finance the proposed Bid Facility and if applicable, Energy Storage, including construction and term financing. A description of Financing Plan contents is included in Section 0.

Exceeding the Threshold: Evaluation will be based on the relative level of project development and financing experience demonstrated, particularly with respect to facilities of comparable scale<sup>39</sup> and

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<sup>39</sup> Comparable scale is 50% or more of the proposed capacity.

similar technology<sup>40</sup> and location.<sup>41</sup> Proposals for Bid Facilities that are similar to those projects provided and successfully brought to commercial operation by the Proposer will be awarded more points by the TEP. Aggregated portfolios of generation facilities will not be considered as a “project” under this category. Proposers with relatively higher credit ratings or with relatively more assets (or higher asset/debt ratio) will be awarded more points by the TEP.

### **Community Engagement**

**Minimum Threshold:** Proposers must demonstrate that they have been in contact with the local officials for the towns the Bid Facility is sited within regarding the Bid Facility’s development. The Proposer must identify the host Authorities Having Jurisdiction AHJ(s) regarding the Bid Facility and ensure local officials are informed of the Bid Facility’s participation in RESRFP21-1. Proposers will also be responsible for submitting a complete Community Engagement Plan as described in Section 8.3.4, to be publicly posted following the receipt of Step Two Bid Proposal packages.

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

**Exceeding the Threshold:** Evaluation will be based on the quality and effectiveness of the Proposer’s demonstrated commitment to building a working relationship with the Bid Facility’s host town(s), counties, school districts, local organizations and other AHJ(s). Proposers that submit relatively higher quality Community Engagement Plans, employ strategies that are responsive to the current needs of the host communities and outline strategies to maintain a transparent and responsive relationship throughout the Bid Facility’s development will be awarded more points by the TEP. Proposers that are able to identify specific benefits for disadvantaged communities as part of their relationship with the Bid Facility’s host town(s) and other local groups and work with these entities as part of the Bid Facility’s development process are also eligible to be awarded more points by the TEP.

### **Resource Assessment and Energy Production Estimate**

**Minimum Threshold:** Proposers are required to provide a Resource Assessment and an Energy Production Estimate for the Bid Facility. The Resource Assessment must approximate the renewable resource typically available on an annual basis to power the Bid Facility. The Energy Production Estimate must estimate the Bid Facility’s ability to convert the renewable resource to electric power at the P(50)<sup>42</sup> level. Detailed technology-specific requirements and evaluation criteria for the Resource Assessment

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<sup>40</sup> Similar technology is the same resource and prime mover, e.g., solar, wind. It is not meant to distinguish between different solar technologies, for example.

<sup>41</sup> Similar location is the same interconnecting entity.

<sup>42</sup> P(50) represents a level of resource projection or production estimate with a 50% likelihood of being exceeded in any future year. The P(50) value shall be the expected value (i.e., the mean) based on the Proposer’s Resource Assessment diligence in accordance with the minimum requirements listed in the section herein for the respective renewable technology.

and Energy Production Estimate are presented in [Appendix 1 - Resource Assessment and Energy Production Estimate Requirements](#).

The Resource Assessment and Energy Production Estimate must be consistent with and representative of the Bid Facility, long-term conditions at the site, and if applicable, co-located Energy Storage, as proposed to NYSERDA. The Bid Quantity may not exceed the P(50) long-term Energy Production Estimate.

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

Bid Facilities including co-located Energy Storage shall include a P(50) Energy Production Estimate that considers Energy Storage for the Bid Facility, including anticipated losses resulting from the addition of Energy Storage. Solar facilities including Energy Storage must specify if the Energy Storage is AC or DC coupled.

Exceeding the Threshold: Evaluation will be based on the quality of the Resource Assessment and Energy Production Estimate. Submissions that meet the criteria outlined in Appendix 1 for evaluation exceeding the Minimum Threshold Requirements will be awarded more points by the TEP.

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

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

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

Awarded Proposers will also be required to report as part of their contractual progress reports to NYSERDA an interim and final accounting of the Bid Facility’s carbon footprint and estimated energy and carbon payback periods.

Exceeding the Threshold: Evaluation will be based upon the degree to which Proposers can substantiate the aspects of the Bid Facility or co-located/separately located facilities or carbon mitigation efforts can be demonstrated to cause a net decrease to the embodied carbon associated with the Bid Facility’s development and/or other New York State activities that the Proposer is engaged in, including any actions that can be reasonably aligned with New York’s State’s nation-leading climate legislation, the CLCPA, including its target of reducing greenhouse gas emissions 80% by the year 2050. Any binding commitments regarding Embodied Carbon mitigation should also be identified as part of the Proposers’ Incremental Economic Benefits to New York State narrative, if applicable.

### **Energy Storage (if applicable)**

**Minimum Threshold:** Whether co-located with the Tier 1 eligible generation or located in a separate location from the Tier 1 eligible generation, the Proposer must have at least an executed exclusivity agreement or letter of intent with the Energy Storage site owner(s). The full site needed for the Energy Storage must be covered by the exclusivity agreement(s) and/or letter(s) of intent.

The Proposer must demonstrate that it has experience in developing at least one Energy Storage system of similar or larger scale using the same technology as proposed. To qualify, the previously developed Energy Storage facility does not yet need to be in commercial operation to meet this Minimum Threshold Requirement.

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

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

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

NYSERDA's evaluation will also attribute more points to Step Two Bid Proposal packages that include Energy Storage. The TEP will review the price premiums associated with Alternate Bid Proposals including Energy Storage relative to the corresponding Base Bid Proposals in comparison with current energy storage capital expenditure expectations and with funding available through NYSERDA's Bulk Storage Incentives program. Bid Proposals with lower Energy Storage premiums in dollars per REC will be awarded more points by the TEP than Bid Proposals with higher Energy Storage premiums. Bid Proposals that can be demonstrated to serve acute congestion and/or deliverability needs will be awarded more points by the TEP than Bid Proposals that do not afford similar benefits to the electric grid.

All Proposers are encouraged to explore the feasibility of pairing their Tier 1 Bid Facility with a co-located and/or separately located energy storage facility. Energy storage facilities located in NYISO Zones J and K will be given the greatest weighting increase due to the disproportionate presence of existing generators in disadvantaged communities in these regions.

Any Energy Storage facility that has been awarded a utility Bulk Dispatch Rights Contract is not eligible to be paired with a Tier 1 generator, however facilities actively seeking such a contract remain eligible to

receive Tier 1 REC Agreement funding. NYSERDA will coordinate with any utility-led solicitations for energy storage to ensure that participating Proposers remain eligible in each solicitation prior to the final determination of awarded contracts.

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

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

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

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

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

Only those Incremental Economic Benefits meeting the eligibility criteria and falling within the defined categories in Section 8.3.5 will be considered for evaluation. The TEP will award a maximum of 10 points between the three sub-categories. For Long-Term and Short-Term Economic Benefits, points will be awarded in proportion to the level of eligible claims, normalized across all Bid Facilities by dividing each Bid Facility's eligible claims by that Bid Facility's Bid Capacity (\$/MW). For the third category, economic and workforce development claims, the TEP will assess the scale and the likely impact of the proposed actions and the firmness of the commitments, with points awarded based on the number, range, maturity, firmness, and credibility of the commitments being made and the scale of the potential benefits. The TEP will consider the:

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

## **Disadvantaged Communities**

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

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



## 5 PRICE EVALUATION & BID PRICE STRUCTURE

### 5.1 REC Products Pricing

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

For both forms of pricing, only level nominal dollar pricing will be accepted. Proposals will be accepted with Contract Tenors of a minimum of one year and a maximum of the Bid Facility's Maximum Contract Tenor, determined by the Bid Facility's technology and vintage.<sup>43</sup>

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

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

#### 5.1.1 Fixed REC Pricing

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

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

where:

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

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

#### 5.1.2 Index REC Pricing

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

$$\text{Monthly REC Price} = SP^{\text{Index}} - REP - RCP$$

where:

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<sup>43</sup> See Section 8.3.3.

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

$REP$  = Reference Energy Price (\$/MWh)

$RCP$  = Reference Capacity Price (\$/MWh)

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

For Bid Facilities in New York State, each month's Reference Energy Price shall be a simple average of the hourly NYISO Day-Ahead Market (DAM) locational based marginal pricing (LBMP) for the NYISO Zone in which the Bid Facility's Delivery Point is physically located.<sup>44</sup> For Bid Facilities in external control areas, each month's Reference Energy Price shall be a simple average of the hourly NYISO Day-Ahead Market (DAM) locational based marginal pricing (LBMP) for the Proposer-identified NYISO Zone which the Bid Facility will be injecting into.

Each month's Reference Capacity Price will be based on the conversion of a Reference Unforced Capacity (UCAP) Price, equal to the spot auction price in \$/kW-month for the NYISO Zone in which the Bid Facility is located as published by NYISO.<sup>45</sup> For Bid Facilities in external control areas, each month's Reference Capacity Price will be based on the conversion of a Reference Unforced Capacity (UCAP) Price, equal to the spot auction price in \$/kW-month for the Proposer-identified NYISO Zone which the Bid Facility will be injecting into.

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

$$RCP = \frac{RUP \times UPF \times IC \times 1,000}{REC}$$

where:

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

$UPF$  = UCAP Production Factor (decimal fraction)

$IC$  = Installed capacity (ICAP) of the generator (MW)

$REC$  = Tier-1 Renewable Energy Certificates produced from the Bid Facility for such month (including any Tier-1 Renewable Energy Certificates produced in

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<sup>44</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>45</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 New York Control Area (NYCA), Southeast New York (or the G-J Locality), New York City (NYC) and Long Island (LI). Nested capacity localities, for example, New York City inside the G-J Locality, can have the same or a higher price as the capacity locality they are located within. For Zones A through F, refer to the NYCA UCAP price. For Zones G through I refer to the G-J Locality UCAP price. For Zone J, refer to the NYC UCAP price. For Zone K, refer to the LI UCAP price.

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

1,000 = kW to MW conversion factor

The UCAP Production Factor multiplied by the Bid Facility's installed capacity is a proxy for the Bid Facility's NYISO UCAP in MW. The UCAP Production Factor will be specified separately for a Winter Capability Period (November through April) and a Summer Capability Period (May through October). These fixed seasonal UCAP Production Factors will be utilized for the duration of the contract tenor.<sup>46</sup> The UCAP Production Factor can vary in alternative Bid Proposals for a Bid Facility, for example based on the inclusion of energy storage. Proposers are encouraged to consider current guidance from the NYISO's Installed Capacity Manual.<sup>47</sup> Proposers are permitted to select any UCAP Production Factor value between 0 and 1.

## 5.2 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.

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

The following table illustrates how the choice of UCAP Production Factors affects the Proposer's monthly payment for a Solar project, based on an Index REC Strike Price of \$60/MWh, a Reference Energy Price of \$15.00/MWh, a Reference UCAP Price of \$5.00/kW-month, an Installed Capacity of 20 MW, and monthly REC production of 7,200 MWh (equivalent to production in a 30-day month at a 50% capacity factor).

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<sup>46</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>47</sup> NYISO Installed Capacity Manual, published February 2021, provides default factors for different resource types and locations [https://www.nyiso.com/documents/20142/2923301/icap\\_mnl.pdf/234db95c-9a91-66fe-7306-2900e905338](https://www.nyiso.com/documents/20142/2923301/icap_mnl.pdf/234db95c-9a91-66fe-7306-2900e905338)

UCAP Production Factor	Reference UCAP Price (\$/MWh)	Monthly REC Price (\$/MWh)	Monthly Payment (\$000)
0%	\$0.00	\$45.00	\$324
25%	\$3.47	\$41.53	\$299
50%	\$6.97	\$38.06	\$274
75%	\$10.42	\$34.58	\$249
100%	\$13.89	\$31.11	\$224

To calculate the amount payable to Seller, the Monthly REC Price will be multiplied by the lessor of (i) the product of the number of RECs produced from Actual Eligible Production in the prior month and the Bid Quantity Percentage, and (ii) the number of RECs delivered into NYSERDA's NYGATS account. These payments will be calculated after the close of each calendar month during the Contract Delivery Term when NYGATS or the Qualified Independent Party (QIP) provides meter data, typically 15-20 days after month-end. During each month's settlement period, NYSERDA will only purchase RECs such that the cumulative RECs purchased in the active Contract Year do not exceed the Annual REC Cap. The Annual REC Cap may be adjusted prior to Commercial Operation, per Article V of the Agreement.

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

### 5.3 Bid Price Evaluation

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

For evaluation purposes, regardless of the proposed Commercial Operation Date, Bid Proposals for Bid Facilities not yet under operation will be evaluated with a Contract Delivery Term commencement month of December 2023 and therefore a  $COMD_p$  of December 2023, and Bid Proposals for Bid Facilities currently operating will be evaluated with a Contract Delivery Term commencement month of December 2021, and therefore a  $COMD_p$  of December 2021.

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

$$\text{LNRC}_{p,f} = \text{PVNRC}_{p,f} / \text{PVRQ}_p$$

where:

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

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

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

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

$\text{PVRQ}_p$  = PV of REC delivery quantities for Proposal  $p$  (MWh)

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

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

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

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

$BQP_p$  = Bid Quantity Percentage for Proposal  $p$

$\text{COMD}_p$  = Calendar month associated with the expected Contract Delivery Term commencement date for Proposal  $p$

$\text{CT}_p$  = Contract Tenor for Proposal  $p$

$\text{NDR}$  = Nominal Discount Rate (decimal)

$\text{INF}$  = Inflation Rate (decimal)

$\text{RDR} = (1 + \text{NDR}) / (1 + \text{INF}) - 1$  = Real Discount Rate

$Y_b$  = Base year for cost and PV

A nominal discount rate of 5.75%<sup>48</sup> per year and a long-term inflation rate assumption of 2.0% per year will be used in the LNRC calculation procedure.

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.

#### **5.4 Bid Price Scoring**

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

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

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<sup>48</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.

## **6 PRELIMINARY RANKING, PORTFOLIO EVALUATION, AND FINAL AWARD GROUP**

### **6.1 Preliminary Rank Order**

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

### **6.2 Portfolio Risk Factors**

Following the development of the preliminary rank order, NYSERDA may recommend modifying the award group, in consultation with DPS, to make minor adjustments to the final recommended award group should material benefits be noted due to the geographic concentration of projects with similar generation profiles; a portfolio-wide dependence on particular technology types; impacts to potential curtailment portfolio-wide; and impacts on network upgrade costs, congestion, and transmission development in general. NYSERDA will consult with subject matter experts, including DPS Staff, NYISO, and the distribution utilities to assess the portfolio of received bids to inform the potential employment of a Portfolio Risk Factor(s).

NYSERDA in consultation in DPS may recommend adjustments to the final award group that result in material benefits to the portfolio due to:

- 1) A decrease in a heavy concentration of renewable generation in a location;
- 2) A decrease in a heavy concentration of any one technology comprising the award group;
- 3) A portfolio that results in lower estimated levels of physical curtailment or includes projects/project configurations with mitigation factors to address curtailment; and/or
- 4) A portfolio that results in lower estimated levels of upgrade costs and/or firmer upgrade costs estimates, and/or projects with lesser estimated transmission impacts on the existing portfolio of contracted renewable projects.

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

### **6.3 Final Award Group**

After determining whether any the Portfolio Risk Factors should be employed to modify the final rank order, NYSERDA and DPS will arrive at a final award group. NYSERDA and DPS may also establish a waitlist of Bid Facilities in rank order for Bid Facilities ranked below those Bid Facilities offered an initial award. The submission of a Step Two Bid Proposal will constitute a binding offer to contract under the terms of the Agreement; such offer must remain open for a period of at least ninety (90) days from the Step Two Bid Proposal deadline.

NYSERDA reserves the right to reject or accept any or all bids. NYSERDA may consider information provided by Proposer in response requests for additional information in accordance with Section 1.12 or otherwise obtained by NYSERDA as to indictments, convictions enforcement proceedings, investigations, and significant character or ethical questions in accepting or rejecting a bid. NYSERDA also reserves the right to solicit revised Bid Prices and/or to make counteroffers as it deems appropriate. Notification of a

re-bid, counteroffer or selection will be made by voice communication and via the solicitation website to the Proposer's Project Sponsor(s). Proposer's Project Sponsor(s) must be authorized to respond and to commit to counteroffers on behalf of Proposer.

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



## 7 STEP ONE ELIGIBILITY APPLICATION

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

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

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

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

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

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

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

Requests to obtain Tier 1 certification are completed in NYGATS. To complete a request, Proposers must create a NYGATS account, complete a project registration for the Bid Facility, and once the registration is approved, complete an application requesting a Resource Eligibility Determination, in the form of either a Statement of Qualification (SoQ), for facilities in operation at the time of request, or a Provisional Statement of Qualification (PSoQ), for facilities not yet in operation at the time of request. The SoQ/PSoQ certifies that a Bid Facility has met or will meet the eligibility requirements under Tier 1 of the RES.<sup>49</sup> NYSERDA will notify the Proposer of its eligibility determination by posting a letter in the Proposer's NYGATS account associated with the Bid Facility.

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

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<sup>49</sup> See <https://www.nyserdera.ny.gov/All-Programs/Programs/Clean-Energy-Standard/RenewableGenerators-and-Developers/RES-Tier-One-Eligibility/Certification>

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

**The application requesting a Resource Eligibility Determination must be completed in NYGATS by 3:00 p.m. ET on Wednesday, June 16, 2021.** This will enable NYSERDA to complete the Tier 1 eligibility determination prior to the deadline for submitting the Step One Eligibility Application.

More information on the Resource Eligibility Determination process, including guidelines for documenting eligibility for certification, including the eligibility of distributed energy resources, upgrades, relocated facilities and facilities returning to service can be found on [NYSERDA's RES Tier 1 Eligibility website](#).<sup>50</sup> Training materials for using NYGATS to apply for an eligibility determination may be found on the [NYGATS website](#).<sup>51</sup>

## **7.2 Consistency with Existing SoQ or PSoQ**

For a Bid Facility with an existing SoQ or PSoQ, a Step One Eligibility Application submitted for the Bid Facility under this RESRFP21-1 must be consistent with the existing SoQ or PSoQ. Some resource changes, for example a change in the Technology Type, Nameplate Capacity, Control System Operator, New York Independent System Operator (NYISO) Zone, Electric Utility Company, Tariff Type, Vintage Type, Bid Facility address, or other key project components will require Proposers to submit either (1) an SoQ or PSoQ revision, or (2) a request for a new SoQ or PSoQ. NYSERDA will work with the Proposer to rectify any discrepancies. If assistance is needed, please contact [res@nyserda.ny.gov](mailto:res@nyserda.ny.gov) with a subject line "SoQ/PSoQ Assistance."

## **7.3 Deadline for Submitting a Step One Eligibility Application**

Proposers must submit the full Step One Eligibility Application, including an approved PSoQ or SoQ, via the solicitation website by 3:00 p.m. ET on Thursday, June 30, 2021.

## **7.4 Upgrade and Repowering Projects**

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

Upgrade projects require a PSoQ, not an SoQ, if the proposed upgrade project is not yet in operation.

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

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<sup>50</sup> <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/RES-Tier-One-Eligibility/Eligibility>

<sup>51</sup> <https://www.nyserda.ny.gov/All-Programs/Programs/NYGATS/Registration-Documents>

## 8 STEP TWO BID PROPOSAL

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

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

All Proposers, as a part of the State's [NY Forward](#), and pursuant to the above Executive Orders, will be required to maintain the [Interim Guidance for Construction Activities](#) during the COVID-19 Public Health Emergency put out by the Department of Health (DOH), and also adhere to the information included in the FAQ on NY Forward and Business Reopening maintained by the Empire State Development Corporation.

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

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

A Proposer may not condition the acceptance of one Step Two Bid Proposal based on the withdrawal or acceptance of other Proposals.<sup>52</sup> A Step Two Bid Proposal may not be contingent on the receipt of any federal tax credits or incentives.

RESRFP21-1 is a competitive procurement. The Agreement is a legally binding document; it is recommended that Proposers consult with an attorney. The CES Framework Order, subsequent Implementation Plans and corresponding Orders, and NYS competitive procurement rules limit NYSERDA's ability to alter the terms of the Agreement issued with this RFP. However, as part of the Step Two Bid Proposal, Proposers may indicate terms of the Agreement that they wish to further discuss by providing an attachment in the form of a memorandum. The memorandum should specifically identify any terms and conditions that the Proposer wishes to clarify or negotiate prior to execution. When constructing the memorandum, please identify the Article in the Agreement and state the nature of the issue to be discussed. Should the Bid Facility receive an award, NYSERDA will contact Proposers to schedule a discussion regarding the terms identified in the memorandum.

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

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<sup>52</sup> NYSERDA will award at most one Bid Proposal per Bid Facility.

## **8.1 Deadline for Submitting a Step Two Bid Proposal**

The complete Step Two Bid Proposal package must be **received** by NYSERDA no later than **3:00 p.m. ET on Thursday, August 26, 2021, via the solicitation website. NYSERDA strongly recommends that Proposers reserve ample time to address the requirements for each Bid Facility. The Step Two Bid Proposal package must be completed and submitted online, before the deadline.**

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

## **8.2 Energy Storage Submission Requirements**

Should a Proposer wish to submit a Step Two Bid Proposal which includes Energy Storage, the Proposer will need to complete two separate Step Two Bid Proposals, one with and one without Energy Storage.

## **8.3 Step Two Bid Proposal Requirements**

A complete Step Two Bid Proposal package consists of:

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

NYSERDA recommends that Proposers mark materials provided to NYSERDA as Confidential as needed (see Section 11.1). All Proposers will be required to submit their Step Two Bid Proposals via the

solicitation website, and will be required to use the forms shared by NYSERDA following eligibility determinations that will be shared via the Notice of Qualification, such as Attachment D. Bid Data Form.

### **8.3.1 Bid Proposal Form and Project Descriptions**

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

#### **Minimum Threshold Requirement Descriptions**

The Proposer must provide narrative descriptions detailing how the Bid Facility, and if applicable, Energy Storage, meets or exceeds the Minimum Threshold Requirements in each applicable category. (See Section 0.)

#### **Bid Facility, Site, and Generating Equipment Descriptions**

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

#### **Bid Facility Interconnection Description and Preliminary Cost Estimate**

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

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

The following table provides average interconnection costs by project types based on a non-exhaustive sample of interconnection costs as published in publicly available NYISO studies.<sup>53</sup>

Project Type	Interconnection Point Type	Sample Size	Average Interconnection Cost per MW (\$ 000)
Small Generator	Line	12	\$143 <sup>54</sup>
	Substation	6	\$132
Large Generator	Line	25	\$140
	Substation	7	\$68

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

**Impacts on Disadvantaged Communities Description**

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

**Energy Storage Site and Equipment Description (if applicable)**

The Proposer must provide a complete description and overview of the Energy Storage,<sup>55</sup> describing the area included in and surrounding the Energy Storage site, a description of local zoning, other applicable ordinances and municipal laws, if the Energy Storage component is not co-located with the Bid Facility, describe the existing land use (e.g., woodlands, brownfield, agriculture, other) and setting (e.g., rural, urban, suburban, other) and describe what the Energy Storage site has been used for in the recent past.

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<sup>53</sup> Costs available via <https://www.nyiso.com/regulatory-viewer>. Interconnection costs are for benchmarking purposes only- individual project interconnection costs may vary significantly from these average costs based on project- and point-of-interconnection-specific characteristics. Proposers are strongly encouraged to consult with the NYISO and connecting transmission owner (CTO) prior to estimating a Bid Facility’s interconnection costs and submitting a bid to RESRFP21-1.

<sup>54</sup> Highly variable dependent upon the project location and electrical topology of the POI. In addition to consulting with the NYISO and CTO, additional resources including each CTO’s electrical service bulletin for the applicable generator type may be of service to Proposers.

<sup>55</sup> The description must include an overview of the Energy Storage component, including the Storage Unit(s), Interconnection Facilities up to the Point of Interconnection, Prevention Equipment, and Protective Apparatus together with all materials, equipment systems, structures, features and improvements necessary to safely store, charge and discharge electric energy.

Include and describe the status and development stage of Energy Storage (development, construction, or operation). Include information about the specific technology or equipment considered or selected, major equipment to be used, manufacturer or vendors considered or selected, equipment acquisition status, and equipment contract/agreement status.

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

### **Energy Storage Interconnection Description (if applicable)**

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

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

The Proposer must describe how the COVID-19 pandemic has affected and/or continues to affect their business operations, the process of developing new projects, and the content of the Bid Proposal. For the avoidance of doubt, the content of this section of the Proposal is informational only and will not affect the scoring of the Bid Proposal.

### **Bid Facility Project Schedule**

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

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

### **Confidentiality**

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

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

The Step Two Bid 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.

The Step Two Bid Proposal also includes the Proposer's attestation regarding the accuracy and truthfulness of the information and documentation provided by the Proposer.

### **8.3.2 Bid Quantity, Price, and Contract Tenor**

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

- 1) Proposers may submit bids for any Contract Tenor of a minimum of one year and a maximum of the Maximum Contract Tenor.
- 2) For wind, solar, and hydroelectric resource types, the Expected Annual Eligible Production and Bid Quantity shall not exceed the P(50) long-term Energy Production Estimate provided under the Step Two Bid Proposal. The P(50) Energy Production Estimate must align with the 8760 hourly profile provided that is representative of the production at the Bid Facility over the proposed Contract Tenor.
- 3) The Bid Quantity Percentage shall be no less than thirty percent (30%) and no greater than one hundred percent (100%) of the Expected Annual Eligible Production.

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

- 1) For the Fixed REC structure, the Bid Price consists of a fixed REC price for the term of the Contract Tenor.
- 2) For the Index REC structure, the Bid Price consists of a Strike Price that will be entered into the calculation outlined in Section 5.3.

### **8.3.3 Maximum Contract Tenor**

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

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



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

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

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

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

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

**Table 1. Default Values for Useful Life used to determine Maximum Contract Tenor**

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

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

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

The list below identifies the supporting documentation required to verify that the Bid Facility meets the Minimum Threshold Requirements for each category. **If a Bid Facility exceeds the Minimum Threshold**

**Requirement in any category, documentation should be provided.**<sup>56</sup> Bid Facilities that have exceeded the Minimum Threshold Requirements will be awarded more points by the TEP.

### **Site Control**

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

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

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

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

### **Interconnection**

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

- For large generators proceeding through the FERC-jurisdictional NYISO interconnection process or an equivalent process, evidence that the required deposit/fees have been paid to commence a System Impact Study (SIS) or System Impact Reliability Study (SRIS), or equivalent; or

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<sup>56</sup> For example, for the Interconnection requirements for a 20 MW Bid Facility subject to NYISO jurisdiction, the documentation required to demonstrate achievement of the Minimum Threshold Requirement consists of a System Reliability Impact Study/System Impact Study or equivalent in progress. If for example a Facilities Study has been executed, attach a copy and provide confirmation of associated fees paid. The study will satisfy the Minimum Threshold Requirement and will also be considered as a part of the evaluation conducted by the TEP.

- Evidence that a study beyond the SIS/SRIS phase of the NYISO interconnection process is underway and/or complete (*e.g.*, Facilities Study, Interconnection Agreement, or equivalent studies) as described in Section 4.1.
- For small generators proceeding through a Transmission Owner interconnection process, evidence that a Coordinated Electric System Interconnection Review (CESIR), or equivalent, has been commenced as described in Section 4.1.

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

- Copies of associated agreements or other evidence (required fees have been paid) supporting the claimed level of progress as listed above.
- If available, a deliverability study or other analyses performed by the Proposer to demonstrate or evidence that the output of the Bid Facility is energy deliverable. See Section **Error! Reference source not found.**
- If available, a one-line diagram.

### **Energy Deliverability and Peak Coincidence**

**Proposers with Bid Facilities physically located within the NYCA must submit a P(50) 8760 schedule** consistent with the contract tenor proposed in the form requested by NYSERDA for evaluation purposes. Proposers should indicate whether the P(50) delivery schedule is normalized based on historical output from a given weather year.

Proposers are strongly encouraged to familiarize themselves with all ongoing work to identify areas of current and future congestion on the electric grid, including the DPS and NYSERDA [State Power Grid Study](#), inclusive of Distribution and Local Capital Plans and a Bulk Transmission Investment Plan, the NYISO [2019 CARIS 70x30 Constraint Modeling](#) study and outputs, the System & Resource Outlook study, if available, and other similar studies conducted by the state, NYISO, and/or the transmission owners. Proposers are encouraged to discuss this topic in meetings with the NYISO and/or the Connecting Transmission Operator during their interconnection process to understand the current and expected future state of the grid and the relevant impacts on the Bid Facility's local and regional transmission infrastructure.

### **Permitting**

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

#### **1) For all Bid Facilities:**

- a. A complete Permitting Plan and list of required permits, to be entered in Attachment D, including all permits at the local, state and federal level required to construct and operate the Bid Facility, and if applicable, Energy Storage. Proposers must identify all governing municipalities with jurisdiction or approval authority associated with the Bid Facility, and if applicable, Energy Storage, as proposed to NYSERDA. The complete response will include any special use/conditional use permits, air permits, FERC licenses, planning board approvals, U.S. Army Corps of Engineers (USACE) letters, SPDES permits and other applicable requirements. Proposers must identify a contact for each

jurisdiction (for example, hamlet, village, town, city, county, agency, authority, State, or other) associated with the permits.

- i. Regardless of expected permitting process, Proposers should specify the local official(s) associated with the Authority Having Jurisdiction (AHJ) for the towns, counties and/or school districts in which the Bid Facility is sited, such as the town supervisor or planning/zoning board lead/chair.
    - ii. If the Proposal includes Energy Storage, the Proposer will list all associated permits as provided for the Bid Facility. The permits associated with the Bid Facility and the Energy Storage should be delineated (*e.g.*, Building Permit, Electrical Permit, Fire Permit, *etc.*).
    - iii. If the Bid Facility overlaps with mineral soil groups (MSG classifications 1-4), the Proposer may be responsible for making an agricultural mitigation payment to a designated fund. Proposers must also detail how they plan to comply with the Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands document (Guidelines, Exhibit E to the Agreement). All solar Bid Facilities seeking permits through the Office of Renewable Energy Siting (ORES) will be required to comply with all ORES requirements, which may include adherence with an amended set of the Guidelines should the final ORES regulations include such an amendment.
  - b. A description of any local ordinances (including zoning prohibitions or moratoria) that would limit the Bid Facility's size, location, or schedule, and describe the plan to address these issues. If the Bid Facility or the Energy Storage are not currently zoned or permitted, identify present and required zoning and/or land use designations and provide a plan and timeline to secure the necessary approvals.
  - c. A summary of the (i) cultural, historic, archeological and natural heritage impacts, as may be required; and (ii) water bodies (*e.g.*, streams, wetlands), fish and wildlife, and other applicable environmental and/or agricultural impacts identified in Appendix 2 - Permitting Plan Impacts and Guidelines. This requirement will be primarily fulfilled by providing the required studies for projects sited in New York State, although Proposers are required to summarize all due diligence conducted to date in the Permitting Plan. Proposers should include any initial review measures that have identified strengths or weaknesses of the Bid Facility site related to long-term climate change resiliency.
  - d. If applicable, include any initial review of any physical and economic impacts that the Bid Facility's development may have on disadvantaged communities.
- 2) **For Bid Facilities within the NYCA that are less than 20 MW**, the Proposer must substantiate that 1) a FEAF has been completed and is prepared to or has been submitted to the applicable lead agency and the applicable NYS DEC Division of Environmental Permits office, or that 2) a finding of no jurisdiction has been provided by NYS DEC following the submission and review of the FEAF for the Bid Facility. The Proposer must submit a Permitting Plan that describes its plans for advancing the Bid Facility through the SEQR process or, if eligible, another applicable

permitting process. For example, a Bid Facility in the SEQR process would provide timing for SEQR (Steps 2-12 as outlined by the NYS DEC on <https://www.dec.ny.gov/permits/6189.html>). The Proposer must describe the current status and planned activities for advancing the Bid Facility through the rest of the SEQR process, including target dates for major milestones and a description of the Proposer's approach regarding conditions, negative declarations, special-use permits, land-scaping permits, or other expectations.

- 3) **For Bid Facilities within the NYCA greater than 20 MW**, the Proposer must submit a Permitting Plan that describes its plans for advancing the Bid Facility through the expected applicable process.

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

If the Bid Facility is proceeding through the ORES permitting process<sup>57</sup>, the Proposer must substantiate that the following studies have been completed for the proposed Bid Facility site and provide the findings of each with the Step Two Bid Proposal:

- 1) Wildlife Site Characterization Report;
- 2) Draft Desktop Wetlands and Water Resources Delineation; and
- 3) Phase IA Archeological Desktop Survey;

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

- 4) **For Bid Facilities not located in the NYCA**, Proposers must substantiate that an equivalent level of pre-development due diligence has been conducted for the Bid Facility site.
- 5) For Bid Facilities including Energy Storage, either:
  - a. include any NYS Department of Environmental Conservation (DEC) EAF submissions specific to the Energy Storage facility. If applicable, provide evidence that the Lead Agency for the SEQRA process has been designated, or;

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<sup>57</sup> [ORES](#) regulations became effective on March 3, 2021 and are available here: [Chapter XVIII, Title 19 of NYCRR Part 900 \(Subparts 900-1 – 900-15\)](#)

- b. complete and submit a draft New York SEQRA Short Environmental Assessment Form specific to Energy Storage.

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

Required evidentiary documentation should include:

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

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

- Documentation filed with or received from the local governmental authority confirming that a request for a zoning change or variance has been initiated and/or the local approval process is underway.
- For Bid Facilities i) outside of the NYCA, or ii) Bid Facilities including Energy Storage, a completed New York SEQRA Short Environmental Assessment Form (SEAF).
- If applicable, evidence that the Lead Agency for the SEQRA process has been designated or is in the process of designation.
- If available, applications for construction permit(s) that have been submitted to local authority(ies) with approval jurisdiction.
- If available, any applicable field studies (*e.g.*, Environmental Site Assessment<sup>58</sup> Phase 1, Archaeological Phase 1, Geotechnical) and surveys (*e.g.*, ALTA, topography, water bodies/wetlands, or other), and/or the status of unstarted/not yet commenced or ongoing field studies and surveys.
- For hydroelectric facilities only, include the Bid Facility's FERC license expiry date or provide evidence that FERC licensing process has been initiated and notice of intent has been filed.<sup>59</sup>

### **Project Development, Financing and Creditworthiness<sup>60</sup>**

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

- An organizational chart for the Bid Facility that lists the participants and identifies the corporate structure, including general and limited partners and financial arrangements to the Proposer's parent company or affiliate.

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<sup>58</sup> ASTM International, formerly known as American Society for Testing and Materials, published a standard for conducting Phase I Environmental Site Assessments. See ASTM E1527-13, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, ASTM International, West Conshohocken, PA, 2013, <http://www.astm.org/cgi-bin/resolver.cgi?E1527-13>.

<sup>59</sup> If applicable, identify program eligibility under FERC minor environmental effects, *e.g.*, projects that involve little change to water flow and use and are unlikely to affect threatened and endangered species. If applicable, please identify the New York State Department of Environmental Conservation classification for the dam associated with the Bid Facility, available online at the New York State Dams Inventory Database. See <https://www.dec.ny.gov/lands/4991.html> for a full dataset of NYS Dams, the NYS DEC Dams Inventory.

<sup>60</sup> Unless the proposed Bid Facility is currently in operation (*i.e.*, proposed Bid Facility is applying with an SoQ).

- A management chart that lists the key personnel dedicated to the Bid Facility.
- A list of specific projects successfully developed and/or financed, specifying the nameplate capacity, technology,<sup>61</sup> commercial operation date, and location using Attachment D. Bid Data Form.
- A Financing Plan that demonstrates the financial capability to complete construction by the proposed commercial operation date. The Financing Plan should contain if available and applicable:
  - A description of the business entity, organizational structure, and legal form, with an organization chart showing the relationship among the different equity partners, and parents;
  - A detailed description of the anticipated financing arrangements, including equity, pre-construction and development expenditures, Contract Security, construction debt, mezzanine / subordinated debt, and permanent debt;
  - A list of all committed and potential equity partners;
  - The Bid Facility development and operating responsibilities of each equity partner, and their respective funding obligations, *e.g.*, joint and several funding responsibilities, if applicable.
  - Evidence that the Proposer or its equity participant(s) possess an investment grade Credit Rating. If an equity participant does not have such Credit Rating, *e.g.*, a subsidiary, it shall provide (i) written evidence of a corporate commitment, for example, a “comfort” letter or “keepwell” agreement, to support the development and financing from its parent company and (ii) evidence of an investment grade Credit Rating from that parent company;
  - In addition to the Credit Ratings, any credit alerts or rating upgrade or downgrade for the equity partners, or their parent companies in the past three years;
  - If available, written expressions of interest from potential debt lenders sufficient to fund the full anticipated amount of project development, construction and permanent debt capitalization;
  - The anticipated construction and long-term capital structure for the Bid Facility ownership entity, including the Bid Facility’s projected balance sheet at year-end for every construction year and at COD;
  - Description of the evolution of division between shareholder equity and debt from the development period through the construction period;
  - Details of the expected construction loan and permanent loan, including terms of repayment—(amount, tenor, interest rate, *etc.*), the amount each lending institution is prepared to commit (subject to credit committee approval), their debt service requirements (interest, rate swaps, letters of credit, guarantees, *etc.*), with all fees indicated clearly;
  - Describe all available federal, state, and local available tax credits, financial incentives, and subsidies (*e.g.*, NY Green Bank financing), and how these will be utilized in the Financing Plan. Explain why any available tax credit, financial incentive, or subsidy will not be utilized;
  - Details of any events of default or other credit/financial issues associated with all projects (other than those under contract with NYSERDA) in which the Proposer (and

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<sup>61</sup> Resource and prime mover, *e.g.*, solar or wind. Not meant to distinguish between different solar technologies, for example.

- other equity partners), its parent company, its affiliates, and directors, officers, and senior managers of those entities, participated over the past three years;
- Disclosure of any criminal and civil lawsuits, litigation, and settlements associated with the Proposer's prior project development and commercial efforts over the last three years; and
  - Information concerning the Proposer's (and other equity partners) financial condition and evidence of creditworthiness.
  - If available, for the most recent accounting period and prepared in accordance with GAAP or IFRS: 1) A copy of its annual report containing audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year, setting forth in each case in comparative form the figures for the previous year, and 2a) for SEC reporting companies, access to financial statements certified in accordance with all Applicable Laws, including applicable SEC rules and regulations, or 2b) for non-SEC reporting companies, certification from the chief financial officer, controller, treasurer or any assistant treasurer of a Proposer/Seller or any employee of a Proposer/Seller designated by any of the foregoing, as being fairly stated in all material respects (subject to normal year-end audit adjustments). If a Party's financial statements are publicly available electronically on the website of that Party or the SEC, then the Party shall be deemed to have met the requirements of this section.

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

- Audited financial statements for the three most recent fiscal years;
- Audited financial statements from Proposer's parent, if Proposer does not have such financial statements and the parent is providing a corporate funding commitment; or
- Unaudited financial statements for its three most recent fiscal years if being provided for a private corporation, with an attestation from the CEO or CFO that such information is materially accurate and complete; or
- An explanation if the information above cannot be provided, and provision of alternate information to demonstrate Proposer's financial capacity to develop and bring the proposed Bid Facility to commercial operation.

### **Community Engagement**

The Proposer must provide documentation that it has been in contact with the host AHJ(s) regarding the proposed Bid Facility and has informed the AHJ(s) local elected officials (restricted to primary executive *e.g.*, Town Supervisor, City Mayor, Planning Board Chair, Zoning Board Chair, Code Enforcement Officer, Town Clerk) about the Bid Facility's participation in RESRFP21-1. Documentation can include, but is not limited to,

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



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

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

Therefore, NYSERDA directs Proposers submitting Bid Facilities 25 MW and larger sited within New York State to RESRFP21-1 to include at least a \$500 per megawatt (MWac) Host Community Benefit Program Fee (“Program Fee”) for solar projects and \$1,000 per megawatt Program Fee for wind projects, for each of the first ten years once the Bid Facility reaches Commercial Operation<sup>62</sup>.

### **Community Engagement Plan**

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

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

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<sup>62</sup> PSC February 11, 2021 Order Adopting a Host Community Benefit Program, <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DFD69D2F-A16F-404F-9A7C-283F0C79D1DB}>

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

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

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

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

### **Resource Assessment and Energy Production Estimate**

The Proposer must provide a Resource Assessment and Energy Production Estimate that responds to all required information identified in Appendix 1. The Proposer must also provide a narrative description of any assumed level of curtailment built into the resource assessment and any projected impacts on the Bid Facility's energy and/or capacity deliverability.

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

## **Carbon Emissions and Embodied Carbon**

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

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

## **Energy Storage**

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

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

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

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

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

- Proposers submitting Bid Proposals paired with co-located or separately located energy storage facilities are strongly encouraged to provide an assessment of the proposed facility's impacts on regional transmission constraints and any benefits to local congestion and/or curtailment that is observed today or estimated due to the operation of future proposed generators.

### **8.3.5 Incremental Economic Benefits to New York State and Disadvantaged Communities**

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

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

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

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

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

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

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

- 1) Long-Term Economic Benefits to New York State (evaluated based on total eligible dollars normalized by Bid Capacity);
- 2) Short-Term Economic Benefits to New York State (evaluated based on total eligible dollars normalized by Bid Capacity); and

- 3) Investments/Commitments to Local Economic and Workforce Development (evaluated based on firmness, credibility, and maturity of the commitments).

### **Disadvantaged Communities**

Proposers and their contractors/sub-contractors/other partners are strongly encouraged to pursue sourcing of laborers, workmen, mechanics, and operations and maintenance workers from disadvantaged communities throughout New York State as defined by Climate Action Council in accordance with the CLCPA.<sup>63</sup>

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

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

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

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<sup>63</sup> See the [NYSERDA Disadvantaged Communities](#) and Climate Action Council [Climate Justice Working Group](#) webpages for additional resources.

### **Long-Term Economic Benefits to New York State**

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

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

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

### **Short-Term Economic Benefits to New York State**

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

- 1) Employment of workers in New York in the form of short-term jobs (jobs lasting less than three years). These can include construction, rail and port workers, contractors and laborers, engineering or environmental service providers, consultants, financial service advisors, and legal service providers in New York associated with the development and construction/modification of the Bid Facility;
- 2) Employment of workers in New York for ongoing operations and maintenance expenses which are anticipated through the first three (3) years of Commercial Operation;
- 3) Employment of workers in New York in the form of short-term jobs (jobs lasting less than three years) that will support the establishment of a project office in New York state and that are not already claimed as long-term economic benefits;
- 4) Purchases and/or consumption of local goods and services, such as, but not limited to, food, lodging, vehicles, equipment, and/or fuel;
- 5) Purchases of materials sourced from within New York such as, but not limited to, gravel, steel, concrete and similar materials, purchases and use of equipment and products manufactured or assembled within New York, and/or the use of rental equipment or similar supplies sourced from within New York. Bid Facility components (*e.g.*, wind turbines, solar panels) not manufactured within New York are not eligible for consideration in this category or in any Economic Benefits category; and

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

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

### **Investments/Commitments to Local Economic and Workforce Development**

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

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

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

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

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

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

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

Interested Proposers are encouraged to reach out directly to ESD at: [CleanTech@esd.ny.gov](mailto:CleanTech@esd.ny.gov).

#### **8.4 Bid Fee Instructions**

Each Step Two Bid Proposal must be accompanied by a non-refundable Bid Fee, in the form of electronic wire (preferred) or certified funds, in an amount determined by the Nameplate Capacity of the Bid Facility. The Bid Fee is due by October 20, 2020 (See Section 1.3). Proposers must indicate that they have submitted a Bid Fee with their Step Two Bid Proposal and attach proof of the provision of a Bid Fee, such as a receipt or transfer confirmation.



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

Bid Fees will not be refunded to Proposers. Required Bid Fee amounts are as follows based on the Nameplate Capacity in megawatts (MW) of the eligible generator.<sup>64</sup>

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

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

All Bid Fees must be clearly labeled with a unique identifier comprised of the Bid Facility's NYGATSID and the RFP Tracking Number, in the format: GENXXXXX\_RESRFP21-1, or PROXXXXX\_RESRFP21-1, or IMPXXXXX\_RESRFP21-1. Bid Fees provided via electronic wire must have this unique identifier included within the Payment Details/Description. Bid Fees provided via cashier's check must have this unique identifier clearly labeled within the Memo or elsewhere on the check.

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<sup>64</sup> The Nameplate Capacity is determined by the Tier-1 eligible generation in the NYGATS PSoQ or SoQ and does not include Energy Storage. Nameplate Capacity is measured in AC capacity (MWac).

## **9 POST-AWARD PROCESS**

### **9.1 Confidentiality**

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

### **9.2 Provision of Contract for Execution**

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

NYSERDA may rescind awards to Proposers who fail to provide Contract Security within thirty (30) days of the Award Notification Date or who fail to execute the Agreement within a reasonable amount of time. If a Bid Facility is awarded a contract under RESRFP21-1 and the Proposer fails to execute NYSERDA's RES Standard Form Agreement within a reasonable time following notification of an award, the Bid Facility may not be eligible to participate in NYSERDA Tier 1 solicitations until 2023.

NYSERDA may publish the executed Agreements, and/or relevant terms within the Agreements, executed with awardees. 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 entertain any request to redact price information contained in this Agreement, specifically the Bid Price.

### **9.3 Provision of Contract Security**

Unless otherwise agreed to by NYSERDA in writing, Contract Security in the amount of the product of the Bid Quantity and \$9.00 will be required within thirty (30) days of the Award Notification Date. NYSERDA accepts Contract Security in the form of cash, certified funds, or a Letter of Credit. The criteria for accepting a LOC includes:

- 1) the issuing bank is a member of the New York Clearinghouse Association,<sup>65</sup> or
- 2) the issuing bank must have a credit rating of A or better by Standard and Poor's, A or better by Fitch, or A2 or better by Moody's; and
- 3) the issuing bank must be a United States bank, or a United States branch of a foreign bank, with a New York branch preferred.

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

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<sup>65</sup> Please see the owner bank membership for The Clearing House available from <https://www.theclearinghouse.org/about/owner-banks>

## 9.4 Documents Required for Contracting Purposes

NYSERDA requires the following documents prior to contract execution:

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

## 9.5 Department of Agriculture and Markets Section 305 Notice Information

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

A map of the agricultural districts, by county, is available from New York State Department Agriculture and Markets (AGM).<sup>66</sup>

## 9.6 Public Release of Bid Facility Information

If Bid Facility characteristics change between Bid Proposal and Award, Proposers are required to submit an updated Attachment B Public Release of Bid Facility Information to NYSERDA within 10 Business Days of such change. The updated Attachment B will be made available to the public by NYSERDA. NYSERDA will not redact any information provided on the updated Attachment B, in order to ensure transparency with the public.

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<sup>66</sup> New York State Agriculture and Markets Agricultural Districts is available by county at <https://cugir.library.cornell.edu/?utf8=%E2%9C%93&q=nys+agriculture+districts>

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

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

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

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

## **10 RES STANDARD FORM AGREEMENT**

NYSERDA recommends that Proposers review the Agreement (Attachment A) and all associated Exhibits prior to participating in RESRFP21-1. The Agreement is a legally binding document; it is recommended that Proposers consult with an attorney. NYSERDA cannot adjust the binding Fixed or Index REC Bid Price or other settlement-related terms submitted by Proposers as part of a Step Two Bid Proposal.

### **10.1 Conditions/Contingencies**

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

### **10.2 Material Changes to Bid Proposal/Agreement Terms**

NYSERDA will not make material adjustments or adjust any award to accommodate changes unforeseen by the developer, including the Index REC Strike Price or Fixed REC Price. Projects awarded under RESRFP21-1 that do not execute an Agreement may be barred from future participation in RES Solicitations.

## **11 GENERAL CONDITIONS**

### **11.1 Proprietary Information**

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

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

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

NYSERDA is required to comply with State Finance Law Sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <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.

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

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

#### **11.4 Omnibus Procurement Act of 1992**

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

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

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

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

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

#### **11.5 Disclosure Requirement**

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

#### **11.6 Press Releases and Media Contact**

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

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

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

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