



LONG DURATION ENERGY STORAGE TECHNOLOGY AND PRODUCT DEVELOPMENT

PROGRAM OPPORTUNITY NOTICE (PON) 4169

\$12.5 MILLION AVAILABLE

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

Round 1 Proposals Due: September 15, 2021, by 3:00 PM Eastern Time
Round 2 Proposals Due: February 16, 2022, by 3:00 PM Eastern Time
Round 3 Proposals Due: June 15, 2022, by 3:00 PM Eastern Time

The New York State Energy Research and Development Authority (NYSERDA) announces the availability of up to \$12.5 million in funds to support innovative and under-utilized long duration energy storage solutions, devices, software, controls, and other complimentary technologies that decrease energy storage total hardware and installation costs, improve performance, and demonstrate integration with the grid. Submissions must demonstrate significant statewide public benefits and quantify all energy, environmental and/or economic impacts. PON 4169 will be issued with 3 due dates (September 15, 2021, February 16, 2022, and June 15, 2022) with the following long duration energy storage focus areas:

1. Electrochemical
 - a. Electrochemical Energy Storage including Flow Batteries and innovative advanced battery solutions (greater than 6 hours duration)
 - b. Hydrogen Energy Storage and Flexibility Solutions
2. Mechanical
 - a. Innovative Pumped Hydro and Compressed Air/Gas Solutions
 - b. Mechanical/Gravity Energy Storage
 - c. Geomechanical Energy Storage
3. Thermal
 - a. Pumped Heat Electrical Energy Storage
 - b. Thermophotovoltaic (TPV) Storage
 - c. Innovative liquid or solid storage medium (e.g., water, sand, molten salts, rocks)

Proposals to each focus area will be accepted to all 3 due dates.

NYSERDA is accepting Full Proposals in the following categories:

Category	Maximum NYSERDA Funding Per Award	Total NYSERDA Cost Share
Category A: Early Stage	\$ 500,000	50% of total project cost
Category B: Product Development	No limit	50% of total project cost
Category C: Demonstration Projects	No limit	50% of total project cost
Category D: Multi-Phase Projects	No limit	50% of total project cost
Category E: Federal Cost Share Projects	No limit	50% of total project cost

Proposal Submission: Online submission is preferable. Proposers may submit Word, Excel, or PDF files (file formats include: csv, doc, docx, gif, jpeg, jpg, pdf, png, ppt, pptx, pps, ppsx, tif, txt, xls, xlsx, and zip). Individual files should be 100MB or less in file size. Proposal PDFs should be searchable and should be created by direct

conversion from MS Word, or other conversion utility. Files should not be scanned. For ease of identification, all electronic files must be named using the proposer's entity name in the title of the document. NYSERDA will also accept proposals by mail or hand-delivery if online submission is not possible. For detailed instructions on how to submit a proposal (online or paper submission), click the link "[Application Instructions and Portal Training Guide \[PDF\]](https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx)" located in the "Current Opportunities" section of NYSERDA's website (<https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

No communication intended to influence this procurement is permitted except by contacting Scott Larsen, the.PON4169@nyserda.ny.gov, 518-862-1090 ext.: 3208 or Haiyan Sun the.PON4169@nyserda.ny.gov, 518-862-1090, ext. 3311. If you have contractual questions concerning this solicitation, contact Nancy Marucci, (518) 862-1090 ext.: 3335 or by email nancysolicitations@nyserda.ny.gov. Contacting anyone other than the Designated Contacts (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

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

I. INTRODUCTION

NYSERDA seeks to stimulate and grow long duration energy storage solutions in hydrogen, electrical, mechanical, chemical, and thermal-electric energy storage innovation portfolios in NY State. Despite advances in these storage technologies, and ever-increasing numbers of deployments, several technological optimization opportunities still exist including initial pilots and demonstrations, hardware cost reductions, enhanced system performance (efficiency, life cycle and thermal stability), and demonstration of effective integration with the grid. Improving and optimizing these areas will accelerate growth of long duration electrical energy storage deployments.

As New York's electrification of transportation and building application increases, long duration electrical energy storage solutions will become critical in meeting times of reduced renewable generation.

Long Duration Electric Energy Storage solutions can reduce the intermittency of solar and wind energy, helping these resources to be flexible assets deployed when needed. Long duration electric energy storage is also needed to avoid the need for new electric system infrastructure, increase system efficiency and resiliency, and reduce requirements for fossil fuel plants to meet periods of peak electric demand or reduced renewable generation. Technology innovations in long duration electric energy storage solutions will accelerate their market adoption, effectively integrate large scale solar PV and wind power with the grid and will have large impact on greenhouse gas reduction, improve grid resiliency, and contribute to New York's renewable generation objectives.

II. PROGRAM REQUIREMENTS

This solicitation is focused on advancing, developing and field testing those hydrogen, electric, chemical, mechanical and thermal-electric storage technologies that will address cost, performance, and integration challenges in NY State. Only innovative long duration energy storage technologies which are yet to be commercialized will be considered in this PON. Long Duration Energy Storage Solutions (6+ hours duration) of

interest for PON 4169 include, but are not limited to:

1. Electrochemical
 - a. Electrochemical Energy Storage including Flow Batteries and innovative advanced battery solutions (greater than 6 hours duration)
 - b. Hydrogen Energy Storage and Flexibility Solutions
2. Mechanical
 - a. Innovative Pumped Hydro and Compressed Air/Gas Solutions
 - b. Mechanical/Gravity Energy Storage
 - c. Geomechanical Energy Storage
3. Thermal
 - a. Pumped Heat Electrical Energy Storage
 - b. Thermophotovoltaic (TPV) Storage
 - c. Innovative liquid or solid storage medium (e.g., water, sand, molten salts, rocks)

New York-based clean energy companies and university researchers that apply for ARPA-E, DOE or National Lab funding that aligns with NYSERDA long duration energy storage solution goals can submit a full proposal to PON 4169 to receive cost-share funding from NYSERDA. If the proposal to NYSERDA is approved and the complementary federal proposal is selected by ARPA-E, DOE or a National Lab, the awardee will receive NYSERDA cost-share funding to help achieve ARPA-E, DOE or National Lab cost-share requirements.

PON 4169: Long Duration Energy Storage Technology & Product Development seeks to support the transition away from fossil fuel generated peaker plants, which are disproportionately sited in or near disadvantaged communities and are potential sources of particulate matter and other airborne pollutants. The PON supports development of long duration energy storage solutions paired with renewable energy generation in disadvantaged communities, resulting in reduced emissions and improved health outcomes for residents. Demonstration projects are also expected to improve resiliency and grid reliability in disadvantaged, remote indigenous and rural communities, lessening climate related impacts and grid constraints.

III. PROPOSAL REQUIREMENTS

Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. To submit a Proposal, complete the Proposal Narrative form-fillable document part of the PON (Attachment A) and include the required attachments provided in the checklist in Section XIII of the Proposal Narrative.

Proposers must carefully review the Proposal Narrative to ensure that all required sections are completed. Failure to do so may result in the proposal being rejected as non-responsive.

Note: The proposer's goal should be to concisely present the information needed to fully address the scoring criteria (see Section VI). Proposals that grossly exceed the word limits or fail to follow the format guidelines may be rejected as non-responsive. Proposals deemed non-responsive will not be eligible for awards. If you believe proprietary information must be submitted to provide an adequate proposal, you must comply with the Section V instructions for submitting proprietary material. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective proposal may reduce, rather than increase, a proposal's standing per the scoring criteria. Each page of the proposal should state the name of the proposer, the PON number (PON 4169), and the page number.

Proposals determined to be compliant with application procedures and responsive to the solicitation will be subject to review by a scoring committee comprising NYSERDA and external technical experts in accordance with Section IV, Proposal Evaluation. Only the most technically meritorious Proposals will be awarded an invitation from NYSERDA to enter into an agreement. Proposals not meriting an award for contracting may be debriefed as requested.

In compliance with §139-j and §139-k of the State Finance Law (see Section V, General Conditions below for additional information), proposers will be required to answer questions during proposal submission, which will include making required certification under the State Finance Law and to disclose any Prior Findings of Non-Responsibility.

Cost Sharing - The proposal should show non-NYSERDA funding of at least 50% of the total cost of the project. Cost sharing can be from the proposer, other team members, and other government or private sources. Contributions of direct labor (for which the laborer is paid as an employee) and purchased materials may be considered "cash" contributions. Unpaid labor, indirect labor, or other general overhead may be considered "in-kind" contributions. NYSEDA will not pay for efforts which have already been undertaken. The proposer or proposing team cannot claim as cost-share any expenses that have already been incurred.

A payment based on the final deliverable will be reserved until project completion. If awarded, NYSEDA may choose to negotiate the amount of such payment.

Recoupment - For any new projects exceeding \$100,000 in NYSEDA funding that involve product development, including business development, NYSEDA will require a royalty based on sales and/or licensing of the new product developed (Please see Attachment F, Sample Agreement for specific recoupment obligations). Recoupment is not required for demonstration projects. Please see the definitions below to determine if your project will be subject to recoupment. Please note that NYSEDA will make final determinations as to whether proposals fit within the demonstration or product development categories.

- **Product Development:** efforts to bring a new or improved product to market including business case development, product design, scale, and field testing, but not including earlier stage technical feasibility or proof of concept development. Technologies with a Technology Readiness Level (TRL) exceeding 3 are to be considered Product Development (see Attachment C for additional guidance on TRLs). Field testing or pilot deployments of a non-commercial, non-warranted technology are considered Product Development.
- **Demonstration:** a project intended to increase sales or usage of a commercialized product already in the marketplace, with results used to generate objective performance information for customers or policymakers. At this stage, the product is available for commercial sale and warranted. While incremental improvements may be incorporated based on the demonstration results, the final product design is essentially complete. Note: pilot deployments or other field demonstrations that will inform additional product development will be considered as a Product Development project and therefore subject to recoupment.

Projects where NYSEDA's share of funding is \$100,000 or less will generally not require recoupment. Please note: NYSEDA may decline to contract with awardees that are delinquent with respect to recoupment payments or sales reporting for any previous NYSEDA agreement.

Annual Metrics Reports – If awarded, the proposer will be required to submit to NYSEDA's Project Manager on an annual basis, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented. Reporting shall commence the first calendar year after the contract is executed. Reports shall be submitted by January 31st for the previous calendar years' activities (i.e. reporting period). The Contractor shall provide metrics in accordance with a web-based form, which will be distributed by NYSEDA. Please see Attachments E, E1 and E2): Sample Metrics Reporting Guides for the metrics that you will be expected to provide and the reporting duration. NYSEDA may decline to contract with awardees that are delinquent with respect to metrics reporting for any previous or active NYSEDA agreement.

Resubmission of Proposals that are not selected in an earlier round may be resubmitted only one more time,

with changes after a debriefing of the strengths and weaknesses from the first proposal. This resubmittal may occur in a subsequent round of this solicitation that remains open to Full Proposals.

PROJECT CATEGORIES

Category 'A' – [A.1] Early-Stage Product Development (beyond basic research), [A.2] Demonstration Feasibility Assessments, and [A.3] Technology Facilitation Projects

(A.1) Early-stage product development of eligible technologies that have passed the basic research stage and require support to prove technical and market feasibility with barriers and problems identified, or (A.2) Demonstration feasibility assessments that reveal the benefits and perceived hurdles associated with scaled demonstration of new or under-utilized eligible technologies at a specific New York site, or (A.3) Technology facilitation projects that identify and reduce market barriers facing commercialization or use of eligible technologies. NYSERDA will provide up to \$500,000 or 50% of the total project cost, whichever is less. Maximum NYSERDA funding for this Category is \$500,000 per project.

Category 'B' – Product Development

Development of eligible technologies leading to the commercialization of products in New York State. There is NO NYSERDA funding cap for this category, however Category B projects requesting over \$250,000 must be phased with no phase exceeding \$250,000. NYSERDA will provide up to 50% of the total project cost.

Category 'C' – Demonstration Projects

Innovative demonstrations of under-utilized eligible technologies that are near the commercial stage, demonstrate application opportunities, and lead to increased use of the technology in New York State. There is NO NYSERDA funding cap for this category, however Category C projects requesting over \$250,000 must be phased with no phase exceeding \$250,000. NYSERDA will provide up to 50% of the total project cost.

Category 'D' - Multi-phase Projects

Innovations at the early-stage product development phase [A.1], demonstration feasibility assessments phase [A.2] or technology facilitation projects phase [A.3] may submit a proposal that begins as a Category A project and continues to the product development phase [B] and demonstration phase [C]. The full proposal must include a Statement of Work (See Attachment B) and Budget (See Attachment D) for each of the following categories – Category A [A.1, A.2 or A.3], Category B and Category C. Innovations at the product development phase [B] may submit a proposal that begins as a Category B project and continues to the demonstration phase [C]. The full proposal must include a Statement of Work and Budget for each of the following categories – Category B and Category C. There is NO NYSERDA funding cap for this category, however Category D projects requesting over \$250,000 must be phased with no phase exceeding \$250,000. NYSERDA will provide up to 50% of the total project cost.

- a. Any proposer who requests multiple stage projects should briefly describe how it will complete the initial stage and any following stage along with significant milestones and provide an estimate of the total cost and schedule for each stage.
- b. Any contract awarded to fund a multi-stage project does not in any way obligate NYSERDA to fund any more than the first stage. NYSERDA reserves the right to negotiate project Categories if it determines the project's efforts are a better fit for a different project Category.
 - i. NYSERDA anticipates awarding contracts for either a single stage of a multistage project, or for multiple stages. In the case of a multi-stage award, NYSERDA anticipates issuing a contract with a maximum, "not-to-exceed" amount with subsequent stages only being awarded on a contingent basis as described below.

ii. NYSERDA reserves the right not to move forward with subsequent stages of a multi-stage award, dependent on project success and availability of funding. Later stages may be funded if, in NYSERDA's sole discretion, milestones from the previous stage have been satisfied, there is still significant potential market impact, and sufficient program funds remain.

iii. NYSERDA expects it may award more contingent funding, due to project attrition, than is available for this program.

iv. At the end of each stage, project outcomes will be evaluated to determine if the project will continue to be funded.

c. The proposal must meet the minimum proposer total cost share for each category that is funded.

Category 'E; - Federal Cost Share Projects:

Cost-sharing is available for New York-based clean energy companies that receive ARPA-E, DOE or US National Lab award funding. Specifically, NYSERDA will establish a cost-sharing program, subject to applicable contracting laws, rules, and regulations, for New York-based clean energy companies and university researchers that receive ARPA-E, DOE or U.S. National Lab award funding. This program will be intended to help awardees achieve ARPA-E, DOE or U.S. National Lab cost-share requirements, and to increase the likelihood of successful New York company development and technology commercialization, furthering NYSERDA's goals. This Program provides an opportunity for the submittal of Full Proposals requesting a NYSERDA funding commitment for inclusion in a proposal submission to a competitive Advanced Research Projects Agency (ARPA-E), DOE or U.S. National Lab opportunity. Full Proposals submitted for this purpose must support the objectives of this PON and the identified focus areas within the long duration energy storage solutions and must also support the N.Y. Clean Energy Fund and N.Y. Climate Act goals. Full Proposals seeking NYSERDA funding and/or endorsement letter for this purpose must include a link to the relevant ARPA-E, DOE, or U.S. National Lab opportunity and draft or submitted federal opportunity proposal.

Additional information required for Full Proposal submission for ARPA-E, DOE, National Lab cost share:

- a. **Federal Funding Status:** Have you secured or are you seeking or plan to seek APRA-e, U.S. Department of Energy or U.S. National Lab funding for this project? If yes, please provide additional details describing your existing or planned engagement with ARPA-E, U.S. DOE or U.S. National Lab.
- b. **Plan** for collaboration between Proposer, ARPA-E, DOE or National Lab and NYSERDA in research, development, demonstration, and deployment of clean energy technologies of mutual interest. The collaborations shall be enhanced through such mechanisms as meetings, workshops, annual conferences/events, exchange of publicly available technical or market information, data and reports, and public webcasts.

NOTE: NYSERDA reserves the right to negotiate the project category, scope of work, budget, and funding levels on all awarded projects. Efforts requesting more than \$250,000 from NYSERDA shall be funded in phases separated by go/no-go milestones.

IV. PROPOSAL EVALUATION

Proposals that meet solicitation requirements will be reviewed by a Scoring Committee using the Evaluation Criteria below. At NYSERDA's discretion, proposers may be requested to interview with all or part of the Scoring Committee to address any potential questions or clarifications outlined in the proposals. Proposers will

be notified if they are requested to attend an interview.

Full Proposals will be reviewed by a Scoring Committee and will be scored and ranked according to the following criteria. After the submissions are reviewed, NYSERDA will issue a letter to each proposer indicating its Full Proposal evaluation results. Proposers receiving favorable evaluations will be invited to enter contract negotiations with NYSERDA. The proposer will be required to submit a detailed Statement of Work (See Attachment B), Budget (See Attachment D), and Schedule, and may also be asked to address specific contingencies and recommendations of the Scoring Committee before contract award.

FULL PROPOSAL SCORING CRITERIA:

Proposed Solution/Scope

- How significant is the problem or opportunity to New York State?
- Is the proposed work technically feasible, innovative, and superior to alternatives?
- How well does the proposed solution address the problem or opportunity?
- Are fundamental scientific principles well understood and clearly presented?
- How appropriate are the cost, technical, performance and commercialization goals for the proposed technology or product?
- Does the proposer exhibit an understanding of the state-of-the-art, competing products and alternative designs?
- If the proposed work is a follow-on project to a previously funded NYSERDA project, what was the outcome of the earlier project?
- Is the proposed project addressing a current challenge or opportunity that is not being addressed adequately by current industry practices and/or federal and/or other state research priorities and funding?
- Does the proposed solution have a high potential for commercialization, addressing demonstrated customer needs and significant markets?
- Does the proposed project demonstrate an effective strategy and strong potential for the project to lead to future use of the technology in New York?
- Does the proposed technology address market needs?

Category C -Demonstration Projects:

- How significant is the demonstration opportunity to New York State?
- Is the proposed demonstration well-conceived, technically feasible, and superior to alternatives?
- What is the level of commitment of a New York State site?
- Does the proposal include a New York State demonstration site?
- Does the proposed technology have commercial applications at other New York State sites?
- Is an appropriate performance monitoring and data analysis effort included in the proposal?

Project Benefits

- To what extent does the project support the Climate Leadership and Community Protection Act (CLCPA) goals, grid flexibility and modernization in general, the Clean Energy Standard, and the Clean Energy Fund goals in New York State?
- To what extent will there be economic benefits in New York State in the form of subsequent commercial activity and economic growth?
- How well are the potential benefits to New York State quantified?
- How likely is it that the projected benefits will be realized?
- Does the proposed project have favorable energy, efficiency, environmental and/or economic impacts in New York State? How significant are these impacts?

- Are the technical risks identified, appropriately addressed, and balanced by project benefits?

Business/Commercialization Plan

- Is the proposed product or concept likely to be successful?
- Are there sufficient markets or needs for the concept/technology?
- How significant is the commercial potential of this technology?
- Are the business and commercialization or replication plans appropriate for the type of project and stage of development?
- How significant are the barriers to market entry?
- Does the proposer demonstrate a clear understanding of the steps required to overcome these barriers?
- Have customers been identified and consulted regarding the value of the technology or solution?"
- Is the value proposition of the technology well matched to the expressed needs of the customer segments being targeted?
- Does the proposal identify competing and alternate solutions, and clearly show why this product or concept is superior to, price competitive with, or provides value compared to alternative products or solutions?
- How well are the project tasks directed at identifying and fulfilling customer requirements? How far will execution of the work plan take the product to full commercialization?
- Would achievement of technical and business goals position the company to raise capital or realize revenue from the product before NYSERDA funding is exhausted?
- Does the proposed project enable collaboration with nongovernmental and industry entities for demonstration of technologies and research applications to successfully facilitate technology transfer, leading to robust technology development and subsequent scaling and market adoption?

Project Plan, Risks and Challenges - Statement of Work (See Attachment B) and Schedule

- How appropriate are the technical, performance and commercialization goals for the proposed project?
- Do the proposed technical and performance goals adequately allow for measurement and verification of the success of the proposed project?
- Does the proposed strategy in the Statement of Work include technical and business development tasks and are those tasks likely to achieve the technical, performance and commercialization goals?
- Does the Statement of Work include an economic analysis of the technology based on performance measurements?
- Is the Statement of Work well organized, complete, and appropriate for the technical, performance and commercialization goals identified?
- How realistic is the schedule for achieving the goals of the proposed project?
- Is the proposed level of effort reasonable to complete the proposed project?
- Are the proposed milestones and tasks reasonable and complete in details?
- Are project risks and challenges identified with appropriate mitigation plans?
- Are the appropriate letters of support and/or commitments included in the proposal?

Category C - Demonstration projects:

- Are the data acquisition, monitoring, and reporting plans reasonable and do they meet the requirements in Section V of the Proposal Narrative, Additional Program Requirements for Category C Demonstration Projects Only?
- Are the benefits tracking plan reasonable and does it meet the requirements in Section V of the Proposal Narrative, Additional Program Requirements for Category C Demonstration

- Projects Only?
- If monitoring baseline utility system operation is necessary to document system benefits, does the Statement of Work include a provision to adequately gather baseline utility operational data?

Project Team/Support

- Has the proposer provided evidence of being qualified to perform the proposed work based on the qualifications of the organization(s) and the involved individual(s)?
- Were resumes of key individuals included in the proposal?
- To what degree does the proposer and team have the necessary technical and business background and experience?
- Has the proposer provided evidence of good past performance on other relevant projects?
- Is the proposing team appropriately organized?
- Are staff allocations and responsibilities reasonable?
- Applicant has enabled the resources (human, financial and physical) to be able to complete the project?

Project Cost and Value

- Is the overall project cost justified and reasonable based on the level of effort proposed and the expected outcome and benefits?
- How significant is the potential market opportunity relative to the project cost?
- How appropriate are the proposer's co-funding contributions (sources and amounts) with respect to the degree of risk, potential to benefit from the work, and financial status of the organization?
- How firm are the commitments and support from essential participants, co-funders, and related businesses and other organizations?
- Does the project build on the NYS capabilities by linking technologies and/or companies?
- Are the overhead rates reasonable and supported with appropriate documentation?
- Are equipment, facility, material, and travel costs based on reasonable estimates?
- Are the labor rates reflective of the industry?

Other Program Policy Factors – In addition to considering how project Full Proposals satisfy the Scoring Criteria listed above, NYSERDA reserves the right to make funding decisions based on the following Program Policy Factors:

1. Whether the proposed project will accelerate technology advances in areas that industry by itself is not likely to undertake.
2. The degree to which the proposed project optimizes the use of available funding, including project expenses that are in line with market, to achieve programmatic objective.
3. The past performance of the proposer on other technical and business endeavors, including NYSERDA and DOE, ARPA-E, NSF, (if the performance history is available).
4. The degree of NYSERDA portfolio balance/optimization. The project(s) balance(s) and enhances the NYSERDA portfolio in one or more of the following areas:
 - Technological diversity
 - Organizational diversity
 - Geographic diversity
 - Technical or commercialization risk
 - Stage of technology development
 - Complimentary efforts to balance risk

V. GENERAL CONDITIONS

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

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

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

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

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

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

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

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA whether it has filed such certification with the Department.

The Department has created a second form that must be completed by a prospective contractor prior to contracting and filed with NYSERDA. See, ST-220-CA (available at

http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Contract Award - NYSEDA anticipates making multiple milestone-based payment awards under this solicitation. NYSEDA anticipates a contract duration of up to three (3) years, unless NYSEDA management determines a different structure is more efficient based upon proposals received. A contract may be awarded based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each proposal should be submitted using the most favorable cost and technical terms. NYSEDA may request additional data or material to support applications. NYSEDA will use the Attachment F, Sample Agreement to contract successful proposals. NYSEDA may at its discretion elect to extend and/or add funds to any project funded through this solicitation. NYSEDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the checklist questions. Proposers should keep in mind that acceptance of all standard terms and conditions will generally result in a more expedited contracting process. NYSEDA expects to notify proposers in approximately 8 weeks from the proposal due date whether your proposal has been selected to receive an award. NYSEDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSEDA agreement.

Accessibility Requirements - NYSEDA requires contractors producing content intended to be posted to the Web to adhere to New York State's Accessibility Policy. This includes, but is not limited to, deliverables such as: documents (PDF, Microsoft Word, Microsoft Excel, etc.), audio (.mp3, .wav, etc.), video (.mp4, .mpg, .avi, etc.), graphics (.jpg, .png, etc.), web pages (.html, .aspx, etc.), and other multimedia and streaming media content. For more information, see [NYSEDA's Accessibility Requirements](#).

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

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

Vendor Assurance of No Conflict of Interest or Detrimental Effect - The proposer shall disclose any existing or contemplated relationship with any other person or entity, including any known relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the proposer or former officers and employees of NYSEDA, in connection with proposer's rendering services as proposed. If a conflict does or might exist, please describe how your company would eliminate or prevent it. Indicate what procedures will be followed to detect, notify NYSEDA of, and resolve any such conflicts.

The proposer must disclose whether it, or any of its members, or, to the best of its knowledge, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

Public Officers Law – For any resulting awards, the Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). Proposers are reminded of the following Public Officers Law provision: contractors, consultants, vendors, and subcontractors may hire former NYSERDA employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of NYSERDA may neither appear nor practice before NYSERDA, nor receive compensation for services rendered on a matter before NYSERDA, for a period of two years following their separation from NYSERDA service. In addition, former NYSERDA employees are subject to a "lifetime bar" from appearing before any state agency or authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration during their tenure with NYSERDA.

Any awardee will be required to certify that all of its employees, as well as employees of any subcontractor, whose subcontract is valued at \$100,000 or more who are former employees of the State and who are assigned to perform services under the resulting contract, shall be assigned in accordance with all Ethics Requirements. During the term of any agreement, no person who is employed by the contractor or its subcontractors and who is disqualified from providing services under the contract pursuant to any Ethics Requirements may share in any net revenues of the contractor or its subcontractors derived from the contract. NYSERDA may request that contractors provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. NYSERDA shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed would be in conflict with any of the Ethics Requirements. NYSERDA shall have the right to terminate any contract at any time if any work performed is in conflict with any of the Ethics Requirements.

Due Diligence – NYSERDA, at its discretion, may conduct broad due diligence to validate any or all elements of an application and to assess applicants' prospects of success, including gathering information to assess a proposal relative to any of the topics listed in evaluation criteria, whether or not such topic is explicitly addressed in a proposal. NYSERDA may conduct due diligence on some or all proposals based on NYSERDA's current guidelines at the time of a review. NYSERDA staff may follow up with proposers to request additional information or clarification regarding applicant's proposal, including questions regarding applicant's business prospects and resources, whether or not those questions are specifically related to the elements of the proposal. Additionally, customized due diligence may be conducted by internal or external staff or contractors based on questions on any proposal raised by NYSERDA staff and/or the Scoring Committee. Due diligence may include (but is not limited to): interviews of independent references and background checks of team members; assessment of prior business experience of any team member associated with a proposal; research on intellectual property claims; customer and partner reference checks; market research on the applicants' target market and any other related or possibly competitive technology or market area; research to validate any assumptions on current or future revenues, costs, capital needs, and financing prospects for proposers' business, including similar (or unrelated) technologies, processes, or competitive solutions; or any other research that could reasonably inform the evaluation of a proposal, or the prospects for commercial success of the proposers' business (whether directly related to, or unrelated to the specific elements in a proposal). Due diligence may include discussions with proposers' former and current business partners, employees, investors,

customers, and competitors. Due diligence may be conducted by NYSERDA personnel or contractors including members of the scoring committee, before, during, or after a scoring process, and prior to finalization of a contract award, any information gleaned in diligence may be used to score or re-score a proposal.

Recoupment - For any new product research and/or development, NYSERDA will generally require a royalty based on sales of the new product developed. NYSERDA's standard royalty terms are 1% of sales/ten percent (10%) of all license revenue accruing to the Contractor for products produced (for a period of fifteen years or until the Contractor pays NYSERDA an amount equal to the amount of funds paid by NYSERDA to the Contractor, whichever comes first).

Attachments

- 1. Attachment A – Proposal Narrative Format**
- 2. Attachment B - Statement of Work Format**
- 3. Attachment C – TRL-CRL Calculator Workbook**
- 4. Attachment C1 – 3 Year Financial Projection Worksheet**
- 5. Attachment D – Budget Format**
- 6. Attachment E – Sample Metrics Form (Product Development)**
- 7. Attachment E1 – Sample Metrics Form (Demonstration)**
- 8. Attachment E2 – Sample Metrics Form (Info Dissemination)**
- 9. Attachment F - Sample Agreement**