



Outside Technical and Engineering Services for the NY Green Bank
Request for Proposal (RFP) 2

Proposals Due: June 12, 2014 by 5:00 PM Eastern Time*

The New York Green Bank invites proposals from firms interested in serving as technical and engineering advisor in connection New York Green Bank's financing of the deployment of energy efficiency, energy storage or renewable energy technologies in New York State. Services may include, but will not necessarily be limited to technical and engineering advice, counsel and representation to the NY Green Bank primarily with respect to due diligence, project analysis and transaction issues.

Proposal Submission: Electronic submission is preferable. NY Green Bank will also accept proposals by mail or hand-delivery. If submitting electronically, proposers must submit the proposal in either PDF or MS Word format with a completed and signed Proposal Checklist and Disclosure of Prior Findings of Non-Responsibility, in PDF format. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility, rather than scanning. For ease of identification, all electronic files must be named using the proposer's entity name in the title of the document. Proposals may be submitted electronically by following the link for electronic submissions found on this RFP's webpage, which is located in the "Current Opportunities" section of NYSERDA's website (<http://www.nyserdera.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>). Instructions for submitting electronically are located in that section as Attachment D to this RFP.

All proposals must be received by NY Green Bank by 5 pm on June 12, 2014. If mailing or hand-delivering, proposers must submit (1) paper copy of their proposal with a completed and signed Proposal Checklist, along with a CD or DVD containing both a PDF or MS Word digital copy of the proposal, following the above guidelines. Mailed or hand-delivered proposals must be clearly labeled and submitted to:

Roseanne Viscusi, RFP 2
NY Green Bank, a division of NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

If you have technical questions concerning this solicitation, contact Nicholas Whitcombe at (518) 407-9045, or nicholas.whitcombe@greenbank.ny.gov. If you have contractual questions concerning this solicitation, contact Doreen Knudsen at (518) 862-1090, ext. 3216, or djk@nyserdera.ny.gov.

Any changes to, and questions and answers concerning, this RFP will be posted to NYSERDA's website at <http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx> under RFP 2.

No communication intended to influence this procurement is permitted except by contacting Nicholas Whitcombe (Designated Contact) at (518) 407-9045, nicholas.whitcombe@greenbank.ny.gov. Contacting anyone other than this Designated Contact (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.

Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist and Disclosure of Prior Findings of Non-Responsibility Form will be returned. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any NYSERDA location other than the address above.

I. Introduction

In his January 2013 State of the State address, Governor Andrew Cuomo announced the formation of a \$1 billion NY Green Bank (as a division of the New York State Energy and Development Authority (“NYSERDA”)) to alleviate financial market barriers that currently impede the flow of private capital to clean energy and energy efficiency projects.

NY Green Bank is now accepting proposals under Requests for Proposals (RFP) No. 1, which invites private sector capital providers and other clean energy participants to propose partnership arrangements with the Green Bank that would facilitate the financing of clean energy projects (including energy generation and energy savings projects) in the State of New York. A link to RFP No. 1 can be at NY Green Bank’s website at www.nygreenbank.com.

II. Scope of Services

To provide the NY Green Bank with necessary additional expertise for transactional due diligence, project analysis and addressing other transaction issues, RFP No. 2 will seek proposals from technical and engineering firms experienced in a broad variety of energy efficiency, energy storage and renewable energy technologies, with an emphasis on previous experience with providing assistance to banking and financial intermediaries. One or more firms are expected to be selected to become approved technical and engineering advisors capable of providing advice, counsel and representation for the NY Green Bank in specific potential transactions with respect to which they may be retained in connection with the services listed below, as requested. Tasks will be assigned on an as-needed basis.

Services are expected to include, but need not be limited to, providing advice and counsel, as is common practice for a lender’s engineer, regarding:

1. Due diligence of commercial technologies where the NY Green Bank may provide funding or other financial products;
2. Evaluation of third party technical and engineering materials, including site visits as needed;
3. Preparation of independent engineer reviews or other documents necessary to conduct and document potential transaction due diligence, reflect recommendations, issues, next steps, and provide input as needed to transaction document terms (including covenants, reporting requirements, financing conditions, and monitoring);
4. NY Green Bank and counterparty compliance with federal, state (including assisting with environmental impact assessments pursuant to [6 NYCRR Part 617, State Environmental Quality Review \(SEQR\)](#)) and local regulatory requirements;

5. Participation in program design, monitoring and administration as needed with respect to ongoing documentation compliance, requested modification to transaction terms (including waivers and amendments) in connection with single projects and potentially in connection with monitoring NY Green Bank portfolio transactions; and
6. Such other assistance relating to financing matters as may be requested by the NY Green Bank.

III. Proposal Submission Requirements

1. **Required forms and number of copies.** Completed proposals must be sent to rfp02@greenbank.ny.gov to the attention of Nicholas Whitcombe. A completed and signed Proposal Checklist must be attached as the front cover of the proposal, one of which must contain an original signature. **Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist and Disclosure of Prior Findings of Non-Responsibility Form may be returned.**

2. **Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k.** Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The text of the laws is available at: <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>). In compliance with §139-j and §139-k of the State Finance Law, for proposals submitted in response to this solicitation, additional forms must be completed and filed with proposals: (1) a signed copy of the Proposal Checklist including required certifications under the State Finance Law and (2) a completed Disclosure of Prior Findings of Non-Responsibility form. Failure to include a signed copy of the Proposal Checklist and Disclosure of Prior Findings of Non-Responsibility Form referenced in this solicitation will disqualify your proposal.

3. **Format.** Proposals should be limited to not more than 15 pages, plus attachments. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, the RFP number, and the page number.

Proposals must be submitted in two parts. Part I must consist of responses to the qualification items (Section 4. Description of Qualifications, below). Part II must consist of complete contract cost and pricing information (Section 5. Cost, below). Each part must be complete, so that it can be evaluated independently. NY Green Bank's form of retainer agreement is included in Attachment C, attached hereto. Each part must be complete, so that it can be evaluated independently.

4. Description of Qualifications.

Proposers should:

- (i) Describe experience in:
 - a. representing banks and other financial institutions as lender's engineer, and

- b. providing technical and engineering evaluations for transactions similar to NY Green Bank eligible investments (RFP No.1, which defines the current scope of investment, can be viewed at NY Green Bank's website at www.greenbank.ny.gov), consisting of (i) renewable energy resources including, but not limited to, solar photovoltaics, solar thermal, onshore and offshore wind, continuous duty fuel cells, hydroelectric facilities, biomass, biothermal energy, biogas, liquid biofuels and tidal ocean power, and (ii) energy efficiency or energy storage resources including, but not limited to, commercial and industrial efficiency improvements, load reduction, residential and multifamily projects.

(ii) Be available to accommodate the technical and engineering due diligence needs of the NY Green Bank. Proposers must demonstrate that primary and reasonably qualified backup and support staff are available as needed, and that the proposer has staff capabilities to perform the work on a timely basis. Proposers must be supported by a firm with sufficient professional/support staff to adequately provide the required services.

(iii) Provide the names of personnel in the firm who will be assigned to NY Green Bank's account and their experience in performing services similar to the services requested by this RFP. Include resumes for all employees proposed to be involved on this account. Include a description of each employee's function in the firm, title, office address, and number of years of service with the firm and other relevant past experience. Describe the percentage of the firm's time commitment to this account that each person would be anticipated to provide. Describe the availability of the lead person(s) for consultation with NY Green Bank, including but not limited to, his or her ability to meet with NY Green Bank staff in New York, and additional NYSERDA staff in Albany, New York, as well as potential project sites throughout New York State. (Resumes may be included as an appendix.)

(iv) Discuss fully any conflicts of interest, actual or perceived, that might arise in connection with your firm's involvement with NY Green Bank. If conflicts do or might exist, describe how your firm would resolve them. Please be aware that the firm(s) selected will be expected to represent the NY Green Bank in any transactions falling under this RFP; representation of any other party to these NY Green Bank transactions would be prohibited without the express written approval of NY Green Bank, which would be unlikely.

(v) Identify any litigation or administrative proceedings to which your firm are a party and which would either materially impair your ability to perform the services enumerated herein and for which this RFP was issued or, if decided in an adverse manner, materially adversely affect the financial condition of your firm.

(vi) Identify the employees discussed in Section III(4)(iii) who have been the subject of any investigation or disciplinary action by the New York State Ethics Commission, the Commission on Public Integrity, the Temporary State Commission on Lobbying, or the State. Describe briefly how any matter was resolved or whether it remains unresolved. Proposers must certify that the staff from your firm working on this account have never been reprimanded, censured, or suspended by the Supreme Court for ethics infractions.

(vii) Indicate the address of the office through which this account will be primarily serviced, and any anticipated travel or other such costs.

(viii) Provide any other information you believe would make your firm's representation superior to other firms' representation.

(ix) Provide an explanation of any changes the Proposers would request to the Sample Agreement.

(x) Provide two references, including name, address, and telephone number.

5. Cost.

(i) State the rates at which the services of assigned personnel would be provided to NY Green Bank beginning in fiscal year 2014-2015, *i.e.*, Date of Award to March 31, 2015, and for NY Green Bank fiscal years , 2015-16, 2016-17, 2017-2018, and 2018-19 (April 1 through March 31), and how services would be billed. Increases, if any, for those years may be stated in terms of percentages above the rates for the fiscal year ending March 31, 2015. Include a completed Project Personnel and Rate Form with your proposal (Attachment E).

(A) For each person whose resume is provided in response to III(4)(iii) above, your normal hourly rate and the hourly rate you propose to charge NY Green Bank.

(B) For each applicable category of support staff or other assigned staff, the normal hourly rate and the hourly rate you propose to charge NY Green Bank, if billed separately.

(C) Any reduced rates or fees charged other State or local governments in New York for these types of services.

(ii) A statement of the basis on which any other firm expenses related to services provided to NY Green bank would be billed, if other than cost.

(iii) A statement of any special considerations with respect to billing or payment of fees and expenses that your firm offers and that you believe would differentiate you from other proposers and make your firm's services more cost effective for NY Green Bank.

6. Agreement. Attachment C provides NY Green Bank's form of Retainer Agreement, with the expectation that the final retainer agreement substantially conforms to the form.

IV. Proposal Evaluation and Selection Process

1. Proposal Evaluation. Proposals meeting the RFP requirements will be evaluated using the following Evaluation Factors.

(a) Quality and depth of the firm’s expertise and its prior capability in providing services similar to those identified in Section II(1-5), and in past clean energy financing transactions on behalf of a commercial bank, financial institution or financial intermediary.

(b) Anticipated cost of services and willingness to work with NY Green Bank to minimize costs.

(c) Commitment of time and resources to this account, and amenability to, and facility for, working with NY Green Bank attorneys and staff in various capacities.

(d) For top-ranked firms, information provided by client references.

(e) Overall organization and quality of proposal, including cohesiveness, conciseness, and clarity of response.

2. Selection Process. A Technical Evaluation Panel (TEP), comprised of internal NY Green Bank staff, in conjunction with NYSERDA technical expertise as needed, and outside reviewers, will review and evaluate proposals. Top-ranked firms may also be invited to make oral presentations to the TEP or other NY Green Bank staff as part of the final selection process.

V. GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NY Green Bank 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 NY Green Bank (as a division of 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 NY Green Bank 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 <http://nyserda.ny.gov/~media/Files/About/Contact/NYSERDARegulations.ashx> . However, NY Green Bank 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
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

State Finance Law sections 139-j and 139-k – NY Green Bank 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>.

The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form 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 – NY Green Bank is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NY Green Bank 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 NY Green Bank, the prospective contractor must also certify to NY Green Bank whether it has filed such certification with the Department. The Department has created a second form that must be completed by a perspective contractor prior to contracting and filed with NY Green Bank. *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 – NY Green bank anticipates making one or more award(s) under this solicitation. It may award a contract based on initial applications without discussion, or following limited discussion, negotiations, or interviews. Each offer should be submitted using the most favorable cost and technical terms. NY Green Bank may request additional data or material to support applications. Retainer agreements are expected to conform to Attachment C. NY Green Bank expects to notify proposers in approximately 8 weeks from the proposal due date whether your proposal has been selected

to receive an award. NY Green Bank may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NY Green Bank agreement.

NY Green Bank also reserves the right to correct any arithmetic errors, to accept or reject any of the firm's employees assigned to provide services on this project and to require their replacement at any time, and to reject any proposal containing false or misleading statements or that provides references that do not support an attribute or a condition claimed by the proposer.

Limitation - This solicitation does not commit NY Green Bank to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NY Green Bank 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 NY Green Bank's best interest.

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 similar governing body. If an indictment or conviction should come to the attention of NY Green Bank after the award of a contract, NY Green Bank 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.

Attachments:

- Attachment A - Proposal Checklist (Mandatory)
- Attachment B - Disclosure of Prior Findings of Non-responsibility Form (Mandatory)
- Attachment C - Sample Agreement
- Attachment D - Electronic Proposal Submission Instructions
- Attachment E - Project Personnel and Rate Form