



NY Green Bank
A Division of NYSERDA

NY Green Bank

Request for Proposals Background Investigation Services

RFP No. 6

Due Date for Proposals:
July 18, 2016
by 5:00 p.m. EST

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1 Introduction

1.1 NY Green Bank Background

NY Green Bank (“NYGB”), a division of the New York State Energy Research and Development Authority (“NYSERDA”), acts as a \$1.0 billion state-sponsored specialized financial entity. NYGB is dedicated to working with private sector capital providers to overcome current obstacles in clean energy financing markets, mobilize and leverage private capital, and accelerate the deployment of clean energy projects in NY State. NYGB uses a variety of financial products and approaches to accomplish this, including guarantees, loss reserves, senior and subordinate debt, warehouse financing facilities and preferred and common equity. NYGB is a part of Governor Andrew M. Cuomo’s statewide plan to scale up clean energy, enhance New York State’s competitiveness for clean energy businesses, and make energy systems more resilient and reliable pursuant to the “Reforming the Energy Vision” (“REV”) strategy. REV establishes a number of ambitious goals for New York State, including having 50% of the State’s energy generation supplied from clean energy sources by 2030.

NYGB is committed to being market focused and market responsive. Private sector participants — including financial institutions and other third party capital providers, as well as developers, energy service companies, project and property owners/operators, equipment manufacturers, and others — work with NYGB to identify market barriers and financing gaps for otherwise economically and technically feasible projects. Then, NYGB strives to structure its participation/investment in a manner that makes viable a transaction that would not otherwise be financeable in current commercial markets. NYGB generally works with private sector participants who possess experienced management teams and are familiar with clean energy markets, but whose ability to accelerate clean energy deployment is effectively limited by capital constraints for the type of projects being considered. For more information, please see: www.greenbank.ny.gov.

1.2 Objectives of this RFP

NYGB seeks one or more vendors to provide background investigation services as part of NYGB’s pre-investment due diligence process. The scope of services is described in detail in [Section 2](#) and more generally throughout this Request for Proposals (“RFP”). NYGB seeks an initial three-year agreement with an option to renew for an additional three one-year terms from a leading provider of background investigation services for private equity and alternative investment funds.

The selected provider(s) must provide NYGB with a rigorous yet concise work-product: validating background information provided by clients, providing insight into individuals’ background and identifying risks, conflicts and other information critical to the investment decision. Proposed pricing must be specifically outlined so that NYGB is in a position to evaluate and select a service provider where the proposed offering represents an acceptable value proposition.

1.3 Eligibility Criteria

If your firm is interested in responding to this RFP (as such, a “Respondent”) please first ensure that all of the following minimum eligibility criteria are met. Received **proposals that do not clearly meet all the eligibility criteria will not be considered for further evaluation.**

Respondents must have:

- (a) The ability to conduct background and reputational due diligence to achieve the requirements outlined in [Section 2](#).
- (b) A minimum five-year track record and substantial volume of business with respect to pre-investment

background investigative due diligence.

- (c) Broad domestic as well as international research capability.
- (d) A minimum of two Client references.
- (e) Ongoing Training and Quality Assurance procedures.
- (f) Processes and Infrastructure Controls around data and IT security (e.g., systems access, data security and records retention).
- (g) Transparent pricing.

2 Scope of Services

2.1 Background: NYGB Investment Due Diligence Process

NYGB officially opened for business on February 5, 2014, with the release of a broad market solicitation for investment proposals (the “RFP”)¹. The online solicitation, which is posted on the NYGB website: www.greenbank.ny.gov, is ongoing and intended as a primary intake mechanism for NYGB to source qualifying transactions. It encourages private sector capital providers and other clean energy industry participants to propose clean energy investments that, with the participation of NYGB, would facilitate greater deployment of qualifying technologies in projects across New York State than might otherwise be feasible in current commercial markets.

As noted earlier, NYGB can make investments using diverse financial instruments and structures. Investments tend to range from \$5 – 50mm in size, from 2 to 12+ years in tenor, and be structured in nature. Sponsors tend to be early stage companies with experienced management but limited corporate history and infrastructure. Therefore, it is of the utmost importance to thoroughly investigate management team members and vet their professed qualifications. NYGB expects to conduct background due diligence on approximately 20 investment opportunities per year, and each opportunity is estimated to involve 3-4 individual searches and 1 corporate search.

All potential transactions go through an internal, standardized evaluation process as part of NYGB reaching a decision whether or not to proceed. When NYGB receives proposals in response to its investment solicitation, those proposals are first reviewed by the NYGB Scoring Committee, which evaluates them against certain NYGB selection criteria specified in the RFP. If scored favorably, NYGB initiates discussions with the proposer (“Sponsor”) to ensure that individual transactions meet credit quality standards and all other applicable investment criteria, are consistent with NYGB’s mandate and are appropriate from a risk perspective. Upon completing this initial due diligence, the transaction can be submitted to the Greenlight Committee for approval. Greenlight go-ahead effectively moves a potential transaction into a full due diligence and negotiation phase. One aspect of this full due diligence phase is conducting background investigations to assess/verify the qualifications, experience and reputation of key members of the Sponsor’s management team and of the Sponsor itself. Concurrently, NYGB will assess the legal, technical and financial risks of the opportunity and structure and negotiate investment terms accordingly. Once full due diligence has been completed, the transaction is submitted to NYGB’s

¹ “Clean Energy Financing Arrangements - Request for Proposals (RFP) No. 1”.

Investment & Risk Committee, and with its approval, NYGB can commit to and enter into the investment in accordance with the approval terms.

2.2 Background Investigation Services

NYGB will request that individuals complete a historical information form that would serve as the initial basis for a background investigation. This release form would authorize the search firm to conduct credit checks and other verifications.

NYGB considers the important components of a background investigation to include the following:

- Employment – past companies, titles, [responsibilities] and dates.
- Education – colleges and universities attended, degrees received and dates.
- Professional licenses (securities license, CPA, etc.)
- Corporate affiliations (directorships, etc.)
- Criminal and civil litigation at federal, state and county level (where lived and where worked).
- Bankruptcy, tax liens and judgments.
- Regulatory records (i.e., disciplinary actions, arbitration awards, etc.)
- Compliance and Sanctions databases focusing on improper or illegal business practices such as money laundering, terrorist financing, corruption or fraud.
- Drivers License and driving history.
- Credit history.
- Media / internet research.

NYGB requires a thorough but succinct report prior to entering into a transaction. Generally, reports will be requested more than a month prior to Closing. However, all other things being equal, a quicker turnaround would be preferable.

In most cases, NYGB will do business with Sponsors based in New York State or elsewhere in the United States. On occasion, members of the Sponsor's management team may be of foreign birth, education or spent a portion of their career overseas. In those cases, it may be necessary to expand the background check to cover the relevant international aspects.

3 Proposal Content & Format

This Section discusses the general terms and guidelines that must be followed by all Respondents to complete an RFP submission. Respondents are cautioned to carefully read and follow the procedures required by this RFP as any deviation from these instructions may be cause for rejection without the submitted proposal being further considered or reviewed by NYGB.

For the purposes of evaluation, proposals should not be excessively long or submitted in an elaborate format. Proposals should be 20 pages or less, plus all required forms as instructed. 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 Respondent, the RFP number, and the page number. The proposal must be in the following format:

Form A: Proposal Checklist

Form B: Disclosure of Prior Findings of Non-Responsibility

Part I: Executive Summary

Part II: Technical Proposal

Part III: Fee Proposal

3.1 Form A: Proposal Checklist

Please attach this to the front of your proposal.

3.2 Form B: Disclosure of Prior Findings of Non-Responsibility

See [Section 5.5](#) and [Section 5.6](#) for details.

3.3 Executive Summary

Provide a brief description of the overall approach and work effort. Please explain how you satisfy the eligibility criteria described in Section 1.3. **Proposals that do not clearly meet all criteria will not be considered for further evaluation.**

3.4 Technical Proposal

Respondents should submit a proposal that describes the proposed approach to performing the work and accomplishing the objectives identified in [Section 1.3](#) and [Section 2](#) of this RFP. The approach should address, at a minimum, the following:

1. The process for conducting searches, preparing and producing reports:

- Please describe the step-by-step process to conduct searches, review results, draft and finalize a report.
- Please describe the qualifications of the personnel involved in producing searches and reports for NYGB.
- Please compare and contrast the components of your proposed investment due diligence background search to the components listed in Section 2.2. In your view, has NYGB omitted any important components from the list, or are any of those listed less important or unnecessary with regard to investment due diligence?
- Please explain how your firm obtains information for each component listed in Section 2.2. If by database, which one? When do you require human confirmation?
- Please describe any limitations to component background searches? Limits might relate to dates (i.e., searches post-2009 or post-2006, etc.) or to the number of prior home/employment addresses or past employers verified. Please note if there are upcharges to extend the historical record or the number of addresses or employers verified.
- Please describe how you conduct international searches or handle international elements that arise.
- Please explain how you identify inconsistencies - gaps or duplication - in databases, and how you resolve this.

2. Please describe your IT infrastructure and data security policies and procedures.

3. Please describe your ongoing training policies and procedures.

4. In addition, please provide reference information (name, position, phone number and email address) of a minimum of two (2) clients who closely resemble NYGB's business model and are currently using the platform in a manner similar to that proposed by NYGB and reflected in this RFP.

3.4.1 Use of Subcontractors

NYGB prefers to make one award under this RFP to a firm capable of providing all or substantially all required solutions and services as a "one-stop-shop." However, Respondents may propose to use a subcontractor(s) to provide a complete submission meeting all requirements under this RFP, provided that the respondent team is considered organized and effective at providing solutions to NYGB in a seamless manner. Any permitted subcontractors will be subject to all the Terms and Conditions outlined in [Section 5](#) of this RFP. Any proposal involving the use of subcontractors must provide a clear and detailed delineation of the proposed roles and responsibilities of all the parties required to meet NYGB's needs as set out herein, including a designated day-to-day single point-of-contact for overall administration.

3.5 Fee Proposal

The Fee Proposal must describe the nature, extent, calculation and incidence of fees for performing the work and providing the solutions and services described in this RFP. At a minimum, the Fee Proposal should include: (i) the fee or fees to conduct a corporate background search (if you offer different search alternatives), (ii) the fee or fees to conduct an individual background search (if you offer different search alternatives), (iii) the fees for common upcharges (i.e., a court runner to conduct additional court records searches) and when incurred, and (iv) an explanation of any bundled pricing (searches related to a single investment opportunity) or any volume discounts.

3.6 Engagement Letter / Services Agreement

Proposers should provide the engagement letter or services agreement that their firm proposes to use if selected by NYGB under this RFP. The awarded proposer(s)' engagement letter(s) will serve as the basis for negotiations between the parties and, when finalized, will be included in Exhibit A to the final agreement.

4 Proposal Evaluation

4.1 Proposal Evaluation Criteria

Each proposal will be evaluated using the following factors listed in order of importance.

- (a) Experience in conducting pre-investment due diligence - for clients broadly similar to NYGB making structured investments broadly similar to those which NYGB seeks to make.
- (b) Quality and scope of the due diligence work product; how and the extent to which it addresses the components set out in Section 2.2; rigor and integrity of the research process; nature of quality checks and controls; international research capabilities.
- (c) Qualifications and experience of the research analysts and others preparing the NYGB; nature and quality of ongoing training programs.

- (d) Flexibility and competitiveness of the fee proposal.
- (e) Internal procedures and controls; infrastructure; and data security.
- (f) Overall organization and quality of the proposal, including cohesiveness, conciseness, and clarity of response.

4.2 Other

NYGB also reserves the right to correct any arithmetic errors, to accept or reject any of a Respondent'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 Respondent.

5 Terms & Conditions

5.1 Selection Process & Contract Award

*Proposals that are complete and meet all the requirements set out in this RFP will be reviewed by a Scoring Committee consisting of personnel from NYSEDA, NYGB, as well as selected external evaluators. Depending upon the number and relative quality of proposals received, a two-phase evaluation format may be used, with Respondents whose written proposals were most favorably reviewed being invited to NYGB's office in New York City to give an oral presentation about specific aspects of their proposal. Presentations will be reviewed by the Scoring Committee and, possibly other NYGB personnel. Final rankings will be made by the Scoring Committee based on written proposals and oral presentations/demonstrations. One or more of the highest ranked Respondents will be recommended for contract negotiations.

NYGB will make one or more awards under this RFP to firms capable of providing all services. NYGB may award a contract based on initial applications without discussion, or following limited discussion, negotiations, or interviews. Each proposal should be submitted using the most favorable cost and technical terms. NYGB may request additional data or material to support applications.

5.2 Designated NYGB Contact

Name	Role	Email
Brian Lee	Risk & Compliance	brian.lee@greenbank.ny.gov

No communication intended to influence this procurement is permitted except by contacting the Designated Contact at the email address above. Contacting anyone other than this Designated Contact (either directly by the Respondent or indirectly through a lobbyist or other person acting on the Respondent's behalf) in an attempt to influence the procurement may result in a Respondent:

- a) Being deemed a Non-Responsible Offeror; and/or
- b) Not being awarded a contract.

5.3 Additional Information & Changes to RFP

Additional information may become available and be provided to Respondents subsequent to the issuance of this solicitation. **Respondents are required to consider such information in their**

responses. Any changes to, and questions and answers concerning, this solicitation will be posted on NYGB's website at <http://greenbank.ny.gov/Opportunities/Service-Providers> under "RFP No. 6".

5.4 Proprietary & Confidential Information

Careful consideration should be given before confidential information is submitted to NYGB as part of each Respondent's proposal. Review should include whether the information is critical to evaluate 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 NYGB 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 NYGB that the Respondent 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>). NYGB cannot guarantee the confidentiality of any information submitted.

5.5 Disclosure Requirements

The Respondent 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 Respondent 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 NYGB after the award of a contract, NYGB may exercise its stop-work right pending further investigation, or terminate the agreement. The Respondent may be subject to penalties for violation of any law which may apply in the particular circumstances. Respondents must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or New York State.

Respondents must identify any existing business relationship(s) they, or any of their affiliates, have with NYGB or its parent organization, NYSERDA. To the extent any such relationship(s) exist, Respondents must identify benefits that may be associated with the combination and coordination of the existing business relationship(s) with those contemplated in this RFP.

5.6 State Finance Law Sections 139-j & 139-k

NYGB 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>.

- (a) [Form A](#) requires a signature certifying that the Respondent will comply with State Finance Law Sections 139-j and 139-k; and
- (b) [Form B](#) includes a disclosure statement regarding whether the Respondent has been found non-responsible under Section 139-j of the State Finance Law within the previous four years.

5.7 Tax Law Section 5-a

NYGB is obliged to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYGB having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (“T&F”) whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with T&F to collect New York State and local sales and compensating use taxes. T&F 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 NYGB, the prospective contractor must also certify to NYGB that it has filed such certification with T&F. T&F has created a second form that must be completed by a prospective contractor prior to contracting and filed with NYGB. See ST-220-CA (available at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). T&F has developed guidance for contractors which is available at: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

These forms are not required at the time each Respondent’s proposal is due under this RFP.

5.8 Limitation

This solicitation does not commit NYGB to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYGB 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 NYGB considers such course to be in its best interest, in its sole discretion.

5.9 Governing Law

This RFP is governed by the laws of the State of New York.

6 Key Dates & Instructions to Submit Proposals

6.1 Critical Dates, Activities & Deadlines

Critical dates, related activities and deadlines relating to the RFP are set forth below. NYGB may change these dates at its sole discretion and convenience, without liability.

Activity	Description	Date(s)
1. Release RFP	Email, Online & NY State Contract Reporter	Friday, TBD, 2016
2. Respondents Submit Proposals	See Section 6.4	TBD, 2016 by 5:00 p.m. EST
3. Notification if selected for contract negotiation	Email/Telephone	TBD, 2016

6.2 Due Date

All proposals must be submitted by **July 18, 2016 at 5:00 p.m. EST**. Late proposals, or proposals that are not complete in addressing all the required aspects as set out in this RFP will not move forward to evaluation.

6.3 Format

A proposal should not be excessively long or submitted in an elaborate format. Proposals should be 20 pages or less, plus [Form A](#) and [Form B](#).

6.4 Electronic Submission

Respondents must submit proposals electronically. Faxed, hand-delivered or e-mailed proposals will not be accepted.

6.4.1 Electronic Submission Instructions

Please read the following instructions before submitting a proposal. Proposals may be submitted electronically by following the link for electronic submissions found on this RFP's webpage, which is located in the "Service Providers" section of the NYGB website:

<http://greenbank.ny.gov/Opportunities/Service-Providers>.

1. Submit one proposal for each session.
2. Enter your e-mail address and click the "Validate Email" button.
3. You will receive an automatic email containing a link to validate your email address. Click the link to be taken back to the contracting opportunity to begin the online submission process.
4. Upload as many files as needed, one at a time.
5. The electronic file names should include the proposing entity's name in the title of the document. The character limit is 100 characters.
6. You may submit Word, Excel, Zip, or PDF files. Individual files should be less than 1 GB file size.
7. PDF files must be searchable and therefore should be converted directly from an electronic document to PDF, rather than scanned.
8. After clicking the "Upload File" button, a list of your files will appear on the web page. You can delete files from this list if needed.
9. After all necessary files have been uploaded; review the list of documents to ensure that your proposal is complete and accurate.
10. Click the "Submit Proposal button."
11. You will then be brought to a confirmation page listing the files received. Please print and save the confirmation page.
12. An auto-generated confirmation e-mail will be sent to the e-mail address you entered. Please save this e-mail.
13. When choosing to submit files electronically, the award/non-award notification letter will be sent to the e-mail address of the Primary Contact listed on the Proposal Checklist.

6.4.2 Important Reminder

The electronic proposal system closes promptly at 5.00 p.m. EST on the due date of the solicitation. Files in process or attempted for submission after 5.00 p.m. EST will be locked out of the system. Please allow at least 15-30 minutes to submit proposals.

6.4.3 Electronic Submission Error

If after you click "Submit Proposal" you discover that the document(s) you submitted are incomplete or inaccurate, follow these instructions:

1. Start the process over again and resubmit the entire proposal. You will receive another confirmation e-mail.
2. Immediately forward both confirmation e-mails (original and resubmission) to proposals@nyserda.ny.gov with the subject line of "Resubmittal | RFP No.6: Background Investigation Services".
3. NYGB will accept the second submission as your proposal. The first submission will be disregarded.
4. If you need help with this electronic proposal submission process, please notify NYGB's designated contact (see [Section 5.2](#)) and contact Roseanne Viscusi at roseanne.viscusi@nyserda.ny.gov or 518-862-1090 ext. 3418.

Required Forms

Form A: Proposal Checklist

Proposal Checklist (Mandatory) RFP No. 6: Background Investigation Services			
Proposal Title:		Due Date: July 18, 2016 at 5:00 p.m. EST	
Primary Contact (Prime Contractor):		Title:	
Company:		Phone:	Fax:
		Email:	
<input type="checkbox"/> By checking this box, I certify that the TIN number submitted is not a social security number. If your tax ID number is your social security number, please leave information blank and contact NYSERDA.		Federal Tax Identification Number:	
Address:	City:	State or Province:	Zip:
Secondary Contact:		Title:	
Company:		Phone:	Fax:
		Email:	
Address:	City:	State or Province:	Zip:
THE PRIME CONTRACTOR MUST <u>SIGN THIS FORM BELOW</u> and ANSWER THE FOLLOWING QUESTIONS:			
		YES	NO
Do you accept all Terms & Conditions in Exhibit A, Standard Terms & Conditions for all NY Green Bank Agreements? (If no, please explain separately) Note: NYGB may or may not accept any of the listed exceptions; NYGB reserves the right to limit any negotiations to exceptions specifically identified herein.			
Do you wish to have any information submitted in your proposal package treated as proprietary or confidential trade secret information? If yes, you must identify and label on each applicable page "confidential" or "proprietary" (For additional information regarding this, please refer to Section 5.4 in the solicitation document).			
Have you been indicted/convicted for a felony within the past 5 years? (If yes, explain on separate page)			

	YES	NO
Are you a Minority or Women-Owned Business Enterprise?		
Does your proposal contain Minority or Women-Owned Business enterprises as subcontractors?		
Is other public funding pending/awarded on this and/or very similar topic (prior and/or competing proposals)? (If yes, explain on separate page)		
ON WHAT PAGE(S) IN YOUR PROPOSAL CAN THESE ITEMS BE FOUND?		
		Page(s)
1. Form A: Proposal Checklist		
2. Form B: Disclosure of Prior Findings of Non-Responsibility		
3. Exceptions to Exhibit A, Standard Terms & Conditions for all NY Green Bank Agreements (if applicable)		
4. Indictment/Conviction of Felony (if applicable)		
5. NYSERDA Contracts Awarded (if applicable)		
6. Prior and/or Competing Proposals (if applicable)		
AUTHORIZED SIGNATURE & CERTIFICATION		
<p>I certify that the above information, and all information submitted in connection with State Finance Law §139-j and §139-k, is complete, true, and accurate, that unless otherwise noted herein, and that the proposal requirements noted have been completed and are enclosed. I affirm that I understand and will comply with NYSERDA's procedures under §139-j(3) and §139-j(6)(b) of the State Finance Law. I understand that this proposal may be disqualified if the solicitation requirements are not met. I, the undersigned, am authorized to commit my organization to this proposal.</p>		
Name:	Signature:	
Title:	Organization:	
Phone:	Email:	

NOTE: This completed form **MUST** be signed and attached to the front of all copies of your proposal.

Form B: Disclosure of Prior Findings of Non-Responsibility

Disclosure of Prior Findings of Non-Disclosure RFP No. 6: Background Investigation Services		
Name of Individual or Entity seeking to enter the procurement contract:		
Address:		
Date:		
Name and Title of Person Submitting this Form:		
	YES	NO
Has any Governmental Entity made a finding of non-responsibility regarding the Individual or Entity seeking to enter the Procurement Contract in the last four years? (Please indicate with an "X")		
Was the basis for the finding of non-responsibility due to a violation of §139-j of the State Finance Law? (Please indicate with an "X")		
Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please indicate with an "X")		
If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.		
Government Agency or Authority:		
Date of Finding of Non-responsibility:		
Basis of Finding of Non-responsibility: (Add additional pages as necessary)		
	YES	NO
Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named Individual or Entity due to the intentional provision of false or incomplete information? (Please indicate with an "X")		
If you answered yes, please provide details below.		
Government Agency or Authority:		

**Disclosure of Prior Findings of Non-Disclosure
RFP No. 6: Background Investigation Services**

Date of Termination or Withholding of Contract:

Basis of Termination or Withholding: (Add additional pages as necessary)

Offeror certifies that all information provided to NYGB (a division of NYSERDA) with respect to State Finance Law §139-k is complete, true, and accurate.

By: _____ Date: _____

Signature

Name: _____ Title: _____

Appendices

EXHIBIT A: Standard Terms & Conditions for all NY Green Bank Agreements

(Based on Standard Clauses for New York State Contracts and Tax Law Section 5-a)

The Parties agree to be bound by the following clauses, to the extent applicable, which are hereby made a part of the Agreement:

1. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status.

2. INTENTIONALLY OMITTED.

3. INTENTIONALLY OMITTED.

4. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds \$5,000, the Contractor agrees, as a material condition of the Agreement, that neither it nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If the Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States following execution of the Agreement, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify NYGB within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

5. SET-OFF RIGHTS. NYGB and the Contractor shall each have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, NYGB's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to NYGB with regard to this Agreement, any other agreement, including any agreement for a term commencing before the term of this Agreement, plus any amounts due and owing to NYGB for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. Nothing herein is intended to limit the Contractor's rights to common law and statutory rights of set-off.

6. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Agreement, the Contractor and NYGB acknowledge and agree that all information, in any format, submitted to NYGB shall be subject to and treated in accordance with the NYS Freedom of Information Law (“**FOIL**,” Public Officers Law, Article 6). Pursuant to FOIL, NYGB is required to make available to the public, upon request, records or portions thereof which it possesses, unless that information is statutorily exempt from disclosure. Therefore, unless the Agreement or Applicable Law specifically requires otherwise, the Contractor should submit information to NYGB in a non-confidential, non-proprietary format. FOIL does provide that NYGB may deny access to 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.” [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format that the Contractor considers a proprietary and/or confidential trade secret, the Contractor shall fully identify and plainly label the information “confidential” or “proprietary” at the time of disclosure. By so marking such information, the Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of the Contractor. Without limitation, information will not be considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to NYGB without obligation concerning its confidentiality. In the event of a FOIL request, it is NYGB’s policy to consider records as marked above pursuant to the trade secret exemption procedure set out in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, NYGB cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the Committee on Open Government (<http://www.dos.state.ny.us/coog/foil2.html>) and NYGB’s Regulations, Part 501 <http://www.NYGB.ny.gov/About/New-York-State-Regulations.aspx>.

7. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER**. As a condition to NYGB’s obligation to pay any invoices submitted by the Contractor pursuant to this Agreement, the Contractor shall provide to NYGB its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION**. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the Contractor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

8. CONFLICTING TERMS. In the event of any direct conflict between any express terms of the Agreement (including any and all attachments thereto and amendments thereof) and the express terms of this Exhibit C, the terms of this Exhibit C shall control.

9. GOVERNING LAW. This Agreement shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

10. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without NYGB's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

11. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law and Rules ("CPLR"), the Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the Contractor's actual receipt of process or upon NYGB's receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify NYGB, in writing, of each and every change of address to which service of process can be made. Service by NYGB to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

12. CRIMINAL ACTIVITY. If following the effectiveness of this Agreement, NYGB comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years before submission of the Contractor's proposal to NYGB, convicted of a felony, under the laws of the United States or Territory of the United States, then NYGB may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, NYGB may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

13. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the Services.

14. INTENTIONALLY OMITTED.

15. 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 contracts.

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

NYS Department of Economic Development

Division for Small Business

625 Broadway

Albany, New York 12207

Telephone: 518-292-5200

Fax: 518-292-5884

<http://www.esd.ny.gov>

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

NYS Department of Economic Development

Division of Minority and Women's Business Development

625 Broadway

Albany, New York 12207

Telephone: 518-292-5200

Fax: 518-292-5803

<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, the Contractor certifies that whenever the total amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, in connection with this Agreement, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities in connection with this Agreement through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such

notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

16. RECIPROCITY AND SANCTIONS PROVISIONS. The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

17. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

18. PROCUREMENT LOBBYING. To the extent this Agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, NYGB may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the Agreement.

19. COMPLIANCE WITH TAX LAW SECTION 5-a. The following provisions apply to parties that have entered into agreements in an amount exceeding \$100,000 for the purchase of goods and services:

- (a) Before such agreement can take effect, the Contractor must have on file with the New York State Department of Taxation and Finance a Contractor Certification form (ST-220-TD).
- (b) Before entering into such an agreement, the Contractor is required to provide NYGB with a completed Contractor Certification to Covered Agency form (Form ST-220-CA).
- (c) Before any renewal period (if applicable) under the agreement, the Contractor is required to provide NYGB with a completed Form ST-220-CA.

Certifications referenced in paragraphs (b) and (c) above will be maintained by NYGB and made a part hereof and incorporated herein by reference.

NYGB reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with Tax Law Section 5-a was false when made.

20. IRANIAN ENERGY SECTOR DIVESTMENT. In accordance with Section 2879-c of the Public Authorities Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law(See www.ogs.ny.gov/about/regs/ida.asp).

EXHIBIT B: NYGB Prompt Payment Policy Statement

504.1. Purpose and Applicability. (a) The purpose of this Exhibit is to provide a description of Part 504 of NYGB's regulations, which consists of NYGB's policy for making payment promptly on amounts properly due and owing by NYGB under this Agreement. The section numbers used in this document correspond to the section numbers appearing in Part 504 of the regulations.²

(b) This Exhibit applies generally to payments due and owing by NYGB to the Contractor pursuant to this Agreement. However, this Exhibit does not apply to Payments due and owing when NYGB is exercising a Set-Off against all or part of the Payment, or if a State or Federal law, rule or regulation specifically requires otherwise.

504.2. Definitions. Capitalized terms not otherwise defined in this Exhibit D shall have the same meaning as set out earlier in this Agreement. In addition to said terms, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "**Date of Payment**" means the date on which NYGB requisitions a check from its statutory fiscal agent, the Department of Taxation and Finance, to make a Payment.

(b) "**Designated Payment Office**" means the Office of NYGB's Controller, located at 17 Columbia Circle, Albany, New York 12203.

(c) "**Payment**" means payment properly due and owing to the Contractor pursuant to the terms of this Agreement.

(d) "**Prompt Payment**" means a Payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Exhibit in order for NYGB not to be liable for interest pursuant to Section 504.6.

(e) "**Payment Due Date**" means the date by which the Date of Payment must occur, in accordance with the provisions of Sections 504.3 through 504.5 of this Exhibit, in order for NYGB not to be liable for interest pursuant to Section 504.6.

(f) "**Proper Invoice**" means a written request for Payment that is submitted by the Contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered by such Contractor, in such form, and supported by such other substantiating documentation,

² This is only a summary; the full text of Part 504 can be accessed at: <http://www.nyserda.ny.gov/About/New-York-State-Regulations.aspx>

as NYGB may reasonably require; and addressed to NYGB's Controller, marked "Attention: Accounts Payable," at the Designated Payment Office.

(g)(1) "**Receipt of an Invoice**" means:

(i) if the Payment is one for which an invoice is required, the later of:

(a) the date on which a Proper Invoice is actually received in the Designated Payment Office during normal business hours; or

(b) the date by which, during normal business hours, NYGB has actually received all the purchased goods, property or services covered by a Proper Invoice previously received in the Designated Payment Office.

(ii) if the Agreement provides that a Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

(2) For purposes of this subdivision, if the Agreement requires a multifaceted, completed or working system, or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced NYGB for the portion working, completed or delivered, NYGB will not be in Receipt of an Invoice until the specified minimum amount of the systems, goods, property or services by the Contractor are working, completed or delivered.

(h) "**Set-off**" means the reduction by NYGB of a payment due to the Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by such Contractor to NYGB.

504.3. Prompt Payment Exhibit. Except as otherwise provided by law or regulation or in Sections 504.4 and 504.5 of this Exhibit, the Date of Payment by NYGB of an amount properly due and owing under this Agreement shall be no later than thirty (30) calendar days, excluding legal holidays, after Receipt of a Proper Invoice.

504.4. Payment Procedures.

(a) Unless otherwise specified in this Agreement, a Proper Invoice submitted by the Contractor to the Designated Payment Office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the Designated Payment Office during normal business hours, such

invoice shall be date-stamped. The invoice shall then promptly be reviewed by NYGB.

(b) NYGB shall notify the Contractor within fifteen (15) calendar days after Receipt of an Invoice of:

- (1) any defects in the delivered goods, property or services;
- (2) any defects in the invoice; or
- (3) suspected improprieties of any kind.

(c) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

(d) If NYGB fails to notify the Contractor of a defect or impropriety within the fifteen (15) calendar day period specified in subdivision (b) of this Section, the sole effect shall be that the number of days allowed for Payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the Contractor. If NYGB fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the Payment Due Date shall be calculated using the original date of Receipt of an Invoice.

(e) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, NYGB shall make Payment, consistent with any such correction or resolution and the provisions of this Exhibit.

504.5. Exceptions and Extension of Payment Due Date. NYGB has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Exhibit D, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the Payment Due Date:

(a) If this Agreement provides Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by this Agreement or other State or Federal mandate has not been submitted to NYGB on a timely basis, then the Payment Due Date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to NYGB and the date when NYGB has actually received such matter.

(b) If an inspection or testing period, performance verification, audit or other review or documentation independent of the Contractor is specifically required by this Agreement or by other State or Federal mandate, whether to be performed by or on behalf of NYGB or another entity, or is specifically permitted by this Agreement or by other State or Federal provision and NYGB or other entity with the right to do so elects to have such activity or documentation undertaken, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when any such activity or documentation has been completed, NYGB has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(c) If an invoice must be examined by a State or Federal agency, or by another party contributing to the funding of the Contract, before Payment, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when the State or Federal agency, or other contributing party to the Agreement, has completed the inspection, advised NYGB of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

(d) If appropriated funds from which Payment is to be made have not yet been appropriated or, if appropriated, not yet been made available to NYGB, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when such funds are made available to NYGB.

504.6. Interest Eligibility and Computation. If NYGB fails to make Prompt Payment, NYGB shall pay interest to the Contractor on the Payment when such interest computed as provided herein is equal to or more than ten dollars (\$10.00). Interest shall be computed and accrue at the daily rate in effect on the Date of Payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a Payment shall be computed for the period beginning on the day after the Payment Due Date and ending on the Date of Payment.

504.7. Sources of Funds to Pay Interest. Any interest payable by NYGB pursuant to this Exhibit shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related Payment.

504.8. Incorporation of Prompt Payment Policy Statement into Contracts. The provisions of this Exhibit shall apply to all Payments as they become due and owing pursuant to the terms and conditions of this Agreement (other than indemnification obligations of NYGB pursuant to the Agreement), notwithstanding that NYGB may subsequently amend its Prompt Payment Policy by further rulemaking.

504.9. Notice of Objection. The Contractor may object to any action taken by NYGB pursuant to this Exhibit D that prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to NYGB. Such notice shall be signed and dated and concisely and clearly set out the basis for the objection and be addressed to the Chief Operating Officer, NYGB, at the notice

address set out in this Agreement. The Chief Operating Officer of NYGB, or his or her designee, shall review the objection for purposes of affirming or modifying NYGB's action. Within fifteen (15) working days of the receipt of the objection, the Chief Operating Officer, or his or her designee, shall notify the Contractor either that NYGB's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period exceed thirty (30) working days.

504.10. Judicial Review. Any determination made by NYGB pursuant to this Exhibit D that prevents the commencement of the time in which interest will be paid is subject to judicial review in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Exhibit D or any other review procedure that may be specified in this Agreement or by other law, rule, or regulation.

504.11. Court Action or Other Legal Processes.

(a) Notwithstanding any other law to the contrary, the liability of NYGB to make an interest payment to the Contractor pursuant to this Exhibit D shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in subdivision (a) of this Section, any interest obligation incurred by NYGB after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.