



**NY Green Bank**  
A Division of NYSERDA

# NY Green Bank

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Construction & Aggregation-to-Term Financing  
for Community Distributed Generation Solar  
Projects Including Projects Paired with Energy  
Storage

Request for Proposals

(Ongoing Solicitation)

RFP No. 10

Version 2.0 – October 2018

# 1 Introduction

## 1.1 Opportunity & Overview

On July 17, 2015, the New York State Public Service Commission (“**PSC**”) established the policies, requirements and conditions for implementing a Community Distributed Generation (“**CDG**”) Program (“**CDG Program**”).<sup>1</sup>

The CDG Program is comprised of:

- (a) Eligible power generating facilities located behind non-residential host meters;<sup>2</sup>
- (b) Project members or subscribers (each, a “**Project Member**”) located at other sites who own or contract a portion of the monetary or volumetric credits, as applicable, generated by these power generating facilities (“**Bill Credits**”) to offset charges on their electric bills; and
- (c) CDG sponsors responsible for managing the operation of these power generating facilities, which includes administering billings and collections, and coordinating the allocation of Bill Credits to Project Members with the applicable distribution utility.

The CDG Program provides opportunities for:

- (a) Distributed Energy Resource (“**DER**”) suppliers to achieve greater economies of scale, expand their customer base and further the deployment of DERs in New York State (“**NYS**” or the “**State**”);
- (b) NYS ratepayers unable or unwilling to install solar, small wind, or other DERs onsite to participate directly in DER markets; and
- (c) Investors to fund scalable portfolios of CDG projects that incorporate commercially-proven technologies and may deliver attractive risk-adjusted returns.

On October 25, 2018, New York State Energy Research and Development Authority (“**NYSERDA**”) announced the Solar Plus Energy Storage Incentive.

The \$40.0 million incentive program provides \$350.0 per kWh of energy storage capacity in addition to the current NY-Sun solar incentive. Additionally, pairing PV CDG projects with an energy storage system can time shift generation to the most valuable periods, reduce demand charges, smooth energy output, and enhance power supply resilience, and reduce peak demand.

NY Green Bank (“**NYGB**”) invites project developers or sponsors (“**Proposers**”) to propose transactions (each, a “**Proposal**”) where the Proposer seeks senior secured construction and aggregation-to-term financing (a “**NYGB Loan**”) from NYGB to monetize expected cash flows to be generated by a portfolio of operating CDG solar photovoltaic (“**PV**”) generating facilities in NYS (each a “**Project**” and, collectively, the “**Portfolio**”) that meet the following key eligibility requirements (“**Key Requirements**”):<sup>3,4</sup>

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<sup>1</sup> Case 15-E-0082, *Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program*, Order Establishing a Community Distributed Generation Program and Making Other Findings (issued July 15, 2015).

<sup>2</sup> Case 15-E-0751, *In the Matter of the Value of Distributed Energy Resources*, Order on Phase One Value of Distributed Energy Resources Implementation Proposals, Cost Mitigation Issues, and Related Matters (issued September 14, 2017).

<sup>3</sup> All submissions pursuant to this RFP involving the utilization of third-party tax equity are eligible for NYGB back-leveraged loans.

<sup>4</sup> NY Public Service Law § 66-j solar project definition can be reviewed at [www.codes.findlaw.com/ny/public-service-law/pbs-sect-66-j.html](http://www.codes.findlaw.com/ny/public-service-law/pbs-sect-66-j.html), see “Solar electric generating equipment” in Section 1(d).

- (a) Will comply with all applicable provisions established under the Uniform Business Practices for DER Suppliers (“**UBP-DER**”);<sup>5</sup>
- (b) Will be compensated under the Value of Distributed Energy Resources (“**VDER**”) Phase One Tariff;
- (c) Will generate revenue from Project Member payment obligations, established and enforced under subscription agreements and/or sales agreements (each a “**Revenue Contract**”);
- (d) Will use Tier 1 panels;<sup>6</sup>
- (e) Are in advanced stages of development (commonly described as near “shovel ready”); and
- (f) Will be up to 5 MWac in size, ground-mounted, canopy-mounted or non-residential rooftop Projects at a single location.<sup>7</sup>

NYGB also invites proposers to submit Proposals that include Projects paired with electrical storage systems that meet the following key eligibility requirements:

- (a) Are certified to UL standards;<sup>8</sup>
- (b) Will remain operational and permanently installed with the Projects;
- (c) Will consist of commercial products carrying at least a 10-year manufacturer warranty;
- (d) Will be at least 100 KWac in size; and
- (e) Is designed to maintain a minimum 70% roundtrip efficiency during the system life.

NYGB will review multiple Proposals under this Request for Proposal (“**RFP**”) No. 10 from the same or related Proposers, although each Proposal will be evaluated as a separate transaction. If it receives multiple Proposals from the same or related Proposers, NYGB will process the Proposals in the order in which they are received.

NYGB encourages those that decide not to make a Proposal at this time due to the requirement of this RFP for Projects to be in an advanced stage of development to continue development of their projects, targeting areas which would enhance their ability to meet the requirements delineated in this RFP in the future. NYGB reserves the right to supplement or close this RFP at any time. If NYGB supplements or closes this RFP, details will be posted at <https://greenbank.ny.gov/Work-with-Us/Propose-an-Investment>, under RFP No.10.

Market participants who are not seeking construction and/or aggregation-to-term financing for CDG projects or who are developing projects that are not part of the CDG Program should consider submitting proposals requesting NYGB financial participation under “Clean Energy Financing Arrangements, Request for Proposals”, an ongoing solicitation known as “**RFP No. 1**”, rather than under this RFP.

Electronic submission of Proposals is required. [Instructions to Submit Proposals](#) can be found on the “**RFP Resources**” page on the NYGB website. This RFP will remain open, and Proposals will be evaluated on a rolling basis, as received. The purpose of an ongoing RFP process is to ensure that all potential NYGB clients and counterparties have an opportunity to propose transactions and financing arrangements, as market needs develop and change over time. Each submission will be reviewed in accordance with an evaluation of the

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<sup>5</sup> Case 15-M-0180, *In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products*, Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued October 19, 2017).  
<sup>6</sup> For more information on the tiering system for PV module makers developed by Bloomberg New Energy Finance see [www.about.bnef.com/content/uploads/sites/4/2012/12/bnef\\_2012-12-03\\_PVModuleTiering.pdf](http://www.about.bnef.com/content/uploads/sites/4/2012/12/bnef_2012-12-03_PVModuleTiering.pdf).  
<sup>7</sup> Upper size limit may change subject to future laws, regulations or administrative proceedings.  
<sup>8</sup> “All eligible energy storage systems must be certified for safety by a Nationally Recognized Testing Laboratory (NRTL) to UL 9540 or CAN 9540 (Standard for Energy Storage Systems and Equipment) with subcomponents meeting UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications), UL 1642 (Standard for Lithium Batteries), UL 1741 or UL 62109 (inverters and power converters) as appropriate”

completeness and quality of Proposals in addressing all the matters described in Section 3 (Eligibility Requirements), Section 4 (Proposal Contents), and Section 5 (Proposal Evaluation). This competitive selection process will be applied consistently to all complete RFP submissions.<sup>9</sup>

As an ongoing solicitation, Proposers may resubmit Proposals if circumstances change, or if the initial Proposal does not address this RFP in a complete manner. Any commonly used formats (e.g., Microsoft Word, PowerPoint, Excel and Adobe PDF) for commercial submissions are welcome. Proposers can expect the initial response following NYGB's receipt of a Proposal generally within two weeks from the date of such receipt.

Direct communication and engagement between NYGB and potential clients and counterparties is permitted, prior to proposal submittal and after NYGB's evaluation of a Proposal. If you have questions or seek further engagement, please contact [InvestmentRFPs@greenbank.ny.gov](mailto:InvestmentRFPs@greenbank.ny.gov) (including "RFP No.10" in the subject line). If you have questions regarding the Securities and Exchange Commission Municipal Advisor Rules, please see Section 6.3 (Municipal Advisor Rules).

**Please note that failure to respond to this RFP in a complete manner by addressing all the topics described in Section 3 (Eligibility Requirements), Section 4 (Proposal Contents) and Section 5 (Proposal Evaluation) renders NYGB unable to take further action on a proposal.**

## 1.2 RFP Objectives

Residential and non-residential customers offer a substantial market opportunity to DER suppliers as potential CDG Program participants. However, the ability to finance CDG projects (with or without storage) may be constrained given:

- (a) A nascent market of DER suppliers and third-party service providers;
- (b) The initial application of market strategies and business models that seek to address the ongoing acquisition, management and replacement of Project Members, which may include renters, low-to-moderate-income consumers, and small and medium-sized enterprises;
- (c) Developing models for energy storage;
- (d) Need for standardization (documentation, financial analysis, project underwriting, etc.); and
- (e) High transaction soft costs (legal, engineering, consulting, etc.) as a percent of project cost.

Under this RFP, NYGB seeks to overcome the above constraints and support the incorporation of the VDER Phase One Tariff (consisting of two components, the Phase One Net Energy Metering Tariff and the Value Stack Tariff) regulatory framework in financing structures, and acceleration of DER deployment by offering debt financing under terms that result in standardized Portfolios of aggregated Projects that will attract private sector lenders as financial participants with NYGB. Key elements of this RFP include:

- (a) A request for Proposals from a nascent market to create financing scale needed to "crowd in" broad private financial market participation;
- (b) A standardized approach to: (i) structuring; (ii) documentation; (iii) project financial analysis; and (iv) engineering and consulting, such that the analysis and underwriting process is more efficient for developers, NYGB and future private market financing participants;
- (c) Reduced transaction soft costs through a standardized approach and the utilization of a consistent set of lawyers, engineers and other consultants – all experienced in these types of transactions – on a negotiated programmatic basis;

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<sup>9</sup> Subject to the Office of State Comptroller Rule (Part 206 to NYRR Title 2) (the "Comptroller Rules") and consistent with NY Green Bank Operations & Procedures Manual.

- (d) A Revenue Contract underwriting approach that not only includes a review of the Proposer's credit policy but also considers the ability to re-assign Bill Credits to new and current Project Members in the event a Revenue Contract counterparty no longer meets its payment or contractual obligations. Critical elements of this aspect of the underwriting methodology are: (i) Proposer's (or a designated party's) ability to contract with a new Revenue Contract counterparty; (ii) assessed future value of Bill Credits to a new Revenue Contract counterparty (see [Section 3.2 \(Revenue Contract Analysis\)](#)); (iii) estimated number of eligible customers for a given Project; and (iv) Proposer's ability to administer and maintain the Project membership; and
- (e) A clearly defined RFP submission process, streamlining the transaction approval process and timeline.

Through this RFP, NYGB seeks to: (i) accelerate the deployment of clean DERs; and (ii) provide a financing framework that may be utilized in the future by equity investors and private sector lenders. In a subsequent version of this RFP, NYGB may include template term sheets.

### 1.3 Background

NYGB is a \$1.0 billion investment fund designed to accelerate clean energy deployment in NYS and is globally recognized as a leading sustainable infrastructure ("**Sustainable Infrastructure**") investor.<sup>10</sup> NYGB's participation in a growing number of transactions spurs clean energy development in the State, with benefits for New York residents and more broadly.

Since its formation, NYGB has worked to increase the size, volume and breadth of Sustainable Infrastructure investment activity throughout the State, expand the base of investors focused on NYS clean energy, and increase market participants' access to capital on commercial terms. To achieve these objectives, NYGB has collaborated with the private sector to develop transaction structures and methodologies that overcome typical clean energy investment barriers. These barriers include challenges in evaluating risk and addressing the needs of distributed energy and efficiency projects where underwriting may be oriented more toward larger opportunities and/or toward groups of more homogeneous investments that make up larger portfolios.

NYGB's mandate is to collaborate with the private sector on scalable and replicable sustainable infrastructure transactions to deliver economic and environmental benefits to NYS utility ratepayers. NYGB intends to continue to employ measures it has used to date as well as innovate new approaches to accelerate clean energy deployment and mobilize third-party capital at the portfolio level to deliver even greater benefits to NY ratepayers.

More detailed background information on NYGB can be found on its website ([www.greenbank.ny.gov](http://www.greenbank.ny.gov)).

## 2 NYGB Approach to Financing Structure & Pricing

NYGB operates as a self-sustaining entity, pricing investments to cover its operating expenses and portfolio default risk, and to preserve its capital base. NYGB intends to serve as both a prudent custodian of ratepayer and other investor funds and an agent for greater private investment in the clean energy sector in NYS. Pricing will reflect the underlying transaction credit quality, risk, position in the capital structure and level of standardization and scale NYGB seeks to facilitate, with the goal of creating investments in which private sector lenders will ultimately be willing to participate at the agreed pricing levels. NYGB investment terms will be determined by credit risk and exposure assumed by NYGB and other investment participants. For NYGB products, upfront and ongoing fees generally apply.

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<sup>10</sup> Sustainable Infrastructure relates to the deployment of carbon-free or low carbon technologies and related infrastructure that reduce aggregate carbon emissions, improve energy security and support economic growth. NYGB's Sustainable Infrastructure investments are consistent with eligible technologies established by the New York State Public Service Commission's "Order Authorizing the Clean Energy Fund Framework," (issued January 21, 2016), Cases 14-M-0094 et al. For specific examples, please see NYGB's Illustrative Guidelines for Eligible Technologies on the Service Providers page of NYGB's website.

## 3 Eligibility Requirements

### 3.1 Eligibility

As described in Section 1.1 (Opportunity Overview), the Key Requirements must be satisfied for submissions pursuant to this RFP. Eligibility requirements are designed to demonstrate shovel-ready Projects appropriate for near-term financing and to allow Proposers to make a self-determination if they meet the eligibility requirements, thus conserving resources for all parties.

Eligibility requirements are listed below in this Section 3.1. Of these requirements, those marked with an asterisk (\*) and underlined, are threshold eligibility requirements (the “**Threshold Requirements**”). NYGB will not consider Projects that do not meet the described Threshold Requirements. For all other requirements, contracts do not have to be finalized or executed although the more advanced they are, the greater the weight that will be given to them in the evaluation process. First drafts of agreements, especially those which have not been subjected to a negotiation process between the parties, will be given limited weight as they will be considered early stage.

NYGB will determine eligibility based on evaluation of the criteria set out below. All Projects within the Portfolio must be identified. For at least one Project, NYGB must be able to determine eligibility based on evaluation of the following criteria. Subsequent Projects within the Portfolio will be evaluated on the same basis as described in this RFP.

#### 3.1.1 **\*Submitted & Approved Applications for NY-Sun Incentives**<sup>11</sup>

The Proposer must provide confirmation that applications requesting financial incentives under the NY-Sun Incentive Program were submitted to, and approved by, NY-Sun. NYGB will waive this requirement for those Proposals that contain a statement identifying the Projects within the Portfolio for which the Proposer did not submit applications to receive financial incentives under the NY-Sun Incentive Program.

#### 3.1.2 **\*CESIR or Interconnection Arrangements**

The Proposer must provide confirmation that Coordinated Electric System Interconnect Review(s) (“**CESIR**”) have been completed by the respective utilities. NYGB will not evaluate Projects yet to complete Step 6 of the NYS Standardized Interconnection Requirements and Application Process.<sup>12</sup>

#### 3.1.3 **\*Site Control**

The Proposer must demonstrate how it controls or will control each Project site within the Portfolio for at least 25 years.

#### 3.1.4 **\*Energy Storage**

If the Project will include an energy storage component, as required for the Solar Plus Storage Incentive, the Proposer will include energy storage system/product description, proof of utility approval, evidence of paid 25% upgrade fee (if necessary), safety certifications (listings), system warranty, and proof of planning and zoning board approvals (or board meeting minutes if not yet approved).

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<sup>11</sup> For more information on the NY-Sun Incentive Program see [www.nyserda.ny.gov/All-Programs/Programs/NY-Sun](http://www.nyserda.ny.gov/All-Programs/Programs/NY-Sun).

<sup>12</sup> As described in “New York State Standardized Interconnection Requirements and Application Process for New Distributed Generators 5 MW or Less Connected in Parallel with Utility Distribution Systems” issued by the PSC in August 2017, as published on the NY PSC website. Since the URL is complex, Google search for “Updated NYS Standardized Interconnection Requirements (August 2017)” to be directed to the appropriate page.

### 3.1.5 Permits

Projects that satisfied the NY-Sun Incentive Program’s CESIR Milestone requirements are considered to be in an advanced stage of development regarding permitting.<sup>13</sup>

For any Projects for which the Proposer did not request financial incentives under the NY-Sun Incentive Program or any additional energy storage related permits, the Proposer must provide confirmation that all applications have been submitted for all required jurisdictional permits and approvals.

### 3.1.6 \*NYS Environmental Quality Review Act (“SEQRA”) Analysis

The Proposer must provide a short form Environmental Assessment Form (“EAF”) directly to NYGB along with any other SEQRA materials prepared for other permitting or approval agencies relevant to the Projects within the Portfolio.

### 3.1.7 \*Municipal Moratorium

NYGB may decide to defer consideration of Projects located in towns with solar moratoriums.

### 3.1.8 \*Property Tax Exemption

NYGB will need confirmation whether property tax exemptions will continue to apply to Projects within the Portfolio and if payment-in-lieu of taxes (“PILOT”) agreements pursuant to Real Property Tax Law § 487 have been or will be executed.<sup>14</sup>

### 3.1.9 Equipment Supply

NYGB will judge a Project to be in an advanced development stage if all major equipment (including but not limited to panels, inverters, racking, and energy storage equipment (module, balance of system, power conversion system, etc. if applicable) is identified and is subject to finalization of a purchase order with vendors. Panels must be classified as Tier 1. Executed agreements do not have to be in place. If equipment supply is part of an Engineering, Procurement & Construction (“EPC”) contract, these eligibility requirements will be evaluated as part of Section 3.1.10 (Construction Contracts).

### 3.1.10 Construction Contracts

Advanced development stage Projects will have well-defined and negotiated contracts for the installation of equipment, balance of plant (“BOP”) or EPC arrangements. The status of such construction contracts will be evaluated in determining the development status.

### 3.1.11 Revenue Contracts

NYGB will only consider Projects with well-developed Revenue Contracts, which comply with all applicable laws and regulations. Refer to Section 3.2 (Revenue Contract Analysis) for more information regarding NYGB’s Revenue Contract underwriting approach.

### 3.1.12 Project Member Acquisition Arrangements

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<sup>13</sup> To satisfy NY-Sun Incentive Program’s project application requirements under the “Project Maturity Track” for which a CESIR is required, no later than 180 days from the date the NYSEDA incentive was approved, a participating contractor must provide: (i) an executed NYS standardized interconnection contract; (ii) confirmation from the respective utility of receipt of advance payment for the estimated interconnection costs per the NYS Standardized Interconnection Requirements and Applications Process; and (iii) a completed CESIR Milestone Form, which includes an attestation confirming that applications have been submitted for all required jurisdictional permits and approvals. For more information, see the [NY-Sun Commercial/Industrial >200kW Program Manual](#).

<sup>14</sup> New York State Real Property Tax Law (“RPTL”) § 487 provides a 15-year real property tax exemption for properties located in New York State with renewable energy systems, including solar electric systems. For more information on RPTL § 487, see [Understanding New York State’s Real Property Tax Law § 487 fact sheet](#).

Project Member acquisition arrangements should be well-developed and include pricing and providers with demonstrated expertise and capabilities to fulfill their responsibilities.

### **3.1.13 Project Membership Management & Administration Arrangements**

Project membership management and administration arrangements should be well-developed and include pricing and providers with demonstrated expertise and capabilities to fulfill their responsibilities.

### **3.1.14 Revenue Contract Billings & Collection Servicing Arrangements**

Revenue Contract billings and collection servicing arrangements should be well-developed and include pricing and providers with demonstrated expertise and capabilities to fulfill their responsibilities.

### **3.1.15 Operations & Maintenance (“O&M”) Arrangements**

O&M arrangements should be well-developed and include pricing and providers with demonstrated expertise and capabilities to fulfill their responsibilities.

### **3.1.16 Equity Commitment**

NYGB will evaluate the amount of equity to be invested in each Project, the debt-to-equity ratio and the strength of the equity commitments at the time of the Proposal when determining eligibility. Projects without identified sources of equity may be eliminated from further consideration.

### **3.1.17 Debt Term**

NYGB intends to limit the term of a NYGB Loan to no more than 10 years from the commercial operation date (“COD”) of the last Project included within the Portfolio.

### **3.1.18 \*Pro Forma Model**

The Proposer must provide the Portfolio model (which should include a model for each Project in the Portfolio). During the transaction approval and diligence process, a more detailed operating and financial pro forma model will be used. The more detailed model will incorporate panel output and degradation, solar irradiance, if applicable, energy storage power and capacity ratings, round trip efficiency etc., and will be used by NYGB to evaluate the Projects. This model will include a data input sheet documenting the source of all inputs. The model will be a project document as defined in the loan agreement and will jointly be agreed to between NYGB and the borrower.

### **3.1.19 Key Financial Terms Including Debt Service Coverage Ratio (“DSCR”)**

NYGB intends to review the Proposer’s financial models (as submitted per Section 4.3.1 (Pro Forma Model)) to evaluate the quarterly DSCRs for the proposed transaction. In recognition of seasonality and the constraints imposed by a maximum term of 10 years, NYGB will consider alternative principal amortization schedules and/or reserves to meet acceptable DSCRs. NYGB may consider a mandatory refinancing for some level of principal repayment provided sufficient term remains under the Project’s VDER Phase One Tariff to allow for such a refinancing. Due to the cash flow issues arising from seasonality, NYGB will evaluate quarterly DSCRs over both trailing and projected 12-month periods in addition to comparing the Revenue Contract pricing with Bill Credit forecasts.

### **3.1.20 Assignment**

As part of its security package, NYGB intends to take a first-priority security interest in all assets of the borrower including all contracts and agreements. NYGB will seek to confirm that contracts have provisions for step-in rights and the assignment of major contracts and agreements to NYGB.

### **3.1.21 Reserves**

In addition to an appropriately sized debt service reserve, NYGB will generally require the establishment of a one-year O&M reserve, together with an appropriate inverter replacement reserve.

### **3.1.22 Independent Engineer (“IE”)**

Proposer should be prepared to support the complete data request that comes with the preparation of an IE report which will be completed prior to approval of any transaction. In some cases, if the Proposer has retained an IE, NYGB may accept the IE report prepared by Proposer’s IE subject to a reliance letter, provided that such report meets the requirements of NYGB.

### **3.1.23 Multiple Proposals**

If the Proposer contemplates making multiple Proposals, indication of such intent should be included in the Proposal, and the Proposer should state whether the same equity parties will be participating in all the proposed Projects.

### **3.1.24 Prevailing Wages**

If a Project is considered a public work covered by Article 8 of the NY Labor Law or a building service agreement covered by Article 9 thereof by reason of the involvement of a public entity as host or Revenue Contract Counterparty, then the borrower, project company and sponsor will, during the construction of the Project, comply (and cause each contractor and subcontractor to comply), and will certify compliance, with all NYS prevailing wage and hours laws and regulations. Proposer will be required to address the applicability of prevailing wage requirements.

## **3.2 Revenue Contract Analysis**

NYGB will evaluate the terms and conditions established under the Proposer’s Revenue Contracts, which may include, without limitation, the following:

- (a) Payment conditions and method of calculation;
- (b) Length of agreements, commencement dates, end dates and renewals;
- (c) Performance and/or savings guarantees;
- (d) Data sharing and privacy policies;
- (e) Insurance provisions;
- (f) Capacity allocation/subscription size and method of calculation;
- (g) Bill Credit types (volumetric or monetary);
- (h) Estimated Project Member benefits (expected generation, net-savings, etc.);
- (i) Potential and actual events of default;
- (j) Assignment provisions;
- (k) Cure periods and remedies; and
- (l) Contract termination conditions, requirements and costs and method of calculation.

NYGB will evaluate the Proposal with the assumption that remarketing of banked and/or unallocated Bill Credits is a credit mitigant if a Revenue Contract counterparty were to default. Furthermore, NYGB may finance

Portfolios that generate revenues from Revenue Contracts that may include indexed rate structures, low termination fees and/or short-term durations. To maintain an appropriate level of overcollateralization and mitigate refinancing risk, the NYGB Loan will be subject to a borrowing base methodology, whereby, on a quarterly basis, NYGB will compare the present value of the forecasted cash available to debt service under base-case assumptions, determined using applicable Bill Credit forecasts generated by an independent third party on NYGB's behalf, to the outstanding NYGB Loan balance. In cases where the loan-to-value ratio ("LTV") or minimum DSCR are outside required levels, distributions at the borrower level will be blocked and excess cash may be used to pay down the NYGB Loan until the required LTV or minimum DSCR is achieved.

NYGB will evaluate Revenue Contract counterparty credit issues that might imperil the transaction and will assess the following information:

- (a) Identification of remarketer which may be the Proposer (if qualified) or a qualified third party; and
- (b) Identification of potential replacement customers.

### **3.3 Credit Policy Analysis**

NYGB will review the Sponsor's credit policy, establishing, without limitation, the following:

- (a) Revenue Contract application and approval process;
- (b) Revenue Contract counterparty underwriting criteria (e.g., FICO score, utility, rent, and/or cell phone payment history);
- (c) Revenue Contract collections policy;
- (d) Project Member replacement policy;
- (e) Record retention policy;
- (f) Compliance with all applicable laws and regulations; and
- (g) Compliance monitoring activities.

## **4 Proposal Contents**

The purpose of the Proposal is to provide a complete and detailed description of the Portfolio. The Proposal should clearly demonstrate the advanced stage of project development. While being comprehensive, the Proposal should simultaneously strive to be succinct.

The Proposal should be organized as described below and should address all requested components. Should the Project(s) have special attributes or features not captured by the categories below, these should be included in the description.

The Proposal has several objectives:

- (a) NYGB should be able to develop a clear understanding of the Portfolio, including its features, structure and all associated risks;
- (b) There should be a clear demonstration of the advanced development of each Project and the readiness for financing in a relatively short time period;
- (c) The Proposal should clearly articulate the status of each aspect of the Portfolio as part of the description of each component; and

- (d) The Proposal should clearly articulate the remaining major steps requiring completion before financing, any issues expected in completing these steps and the schedule for such completion.

## **4.1 Summary**

Provide a concise summary of the Portfolio that:

- (a) Identifies the Proposer and contact information;
- (b) Summarizes salient features of the Portfolio including the project addresses, capital costs, project sizes (kW or MW for both solar and storage assets), technology and Revenue Contracts; and
- (c) Describes the key components of the requested NYGB Loan, commitment amount, term and method of amortization.

### **4.1.1 Attachment A: Project Description**

Complete Attachment A: Project Description to outline for each Project key items, including:

- (a) Project location (utility territory and New York Independent System Operator load zone);
- (b) VDER Phase One Tariff type;
- (c) NYSERDA incentive amount for solar and storage incentives;
- (d) Project size (both solar and storage);
- (e) Expected total project cost; and
- (f) Expected energy generation, and if applicable, storage charging and discharging assumptions.

## **4.2 Transaction Credit, Financial, Technical & Risk/Return Considerations**

### **4.2.1 NYGB Financing**

The Proposer should provide a detailed description of the financing that it is seeking from NYGB under this RFP. The information should be provided on a project basis and in aggregate for the Portfolio. Topics to be addressed include:

- (a) Loan amount for each Project and aggregate commitment amount for the Portfolio;
- (b) Debt-to-equity ratio;
- (c) Term;
- (d) Amortization schedule including discussion of any requested sculpting or refinancing requirements;
- (e) Minimum and average DSCRs over the term portion of the NYGB Loan;
- (f) Debt Service, O&M, and inverter replacement reserves; and
- (g) Conformity with the requirements of Section 3.2 (Revenue Contract Analysis) and Section 3.3 (Credit Policy Analysis).

## **4.2.2 Equity, Tax Equity & Other Financial Support**

The Proposal should address, at a minimum, the following topics to provide clarity on the proposed capitalization amounts, equity participants and equity amounts by source:

- (a) Equity and tax equity source(s), as applicable, amount(s) and the status of the equity and tax equity raise (see Section 3.1.16 (Equity Commitment));
- (b) If all the equity is not sourced from the Proposer or its Sponsor, the name and contact information for all third-party equity, including tax equity. NYGB may contact third-party equity during its evaluation to discuss the Portfolio;
- (c) The level of Proposer equity to be invested in the Portfolio, including the amount of Proposer equity during construction and the amount remaining during the term period post-COD; and
- (d) All incentives that will be applied to the Portfolio including any incentives received during construction and operation, including corresponding incentive amounts and timing of expected receipt thereof (see Section 3.1.1 (Submitted & Approved Application for NY-Sun Incentives)).

Note that NYGB will require that the Proposer or Sponsor equity is fully invested in the Projects, which may include payments for interconnection upgrades, before debt may be drawn.

## **4.3 Financial Model & Contractual Arrangements**

### **4.3.1 Pro Forma Model**

NYGB will review the single project model and the portfolio model (which should include a model for each Project in the Portfolio) prepared by the Proposer or a third party.

### **4.3.2 Revenue Contracts**

Provide a detailed description of the Revenue Contracts including a description of counterparties and the Revenue Contract arrangements with sufficient detail for NYGB to evaluate the revenue arrangements. Also, include the current status of the contractual arrangements, the steps necessary to complete, and the schedule for doing so. Address the requirements of Section 3.2 (Revenue Contract Analysis) and Section 3.3 (Credit Policy Analysis).

### **4.3.3 Project Member Acquisition Arrangements**

- (a) Provide information on the party that will be acquiring Project Members for each Project including their qualifications for, and experience in, this role;
- (b) A summary of basic terms of the Project Member acquisition management arrangements, including pricing and the source for determining such pricing; and
- (c) A description of the status of the Project Member acquisition management arrangements.

### **4.3.4 Project Membership Management & Administration Arrangements**

- (a) Provide information on the party that will be managing and administering the project membership and utility interactions, including their qualifications for, and experience in, this role;
- (b) A summary of basic terms of the project membership management and administration arrangements, including pricing and the source for determining such pricing; and
- (c) A description of the status of the project membership management and administration arrangements.

### **4.3.5 Revenue Contract Billings & Collection Servicing Arrangements**

- (a) Provide information on the party that will be providing Revenue Contract billing and collections servicing arrangements for the Projects, including their qualifications for, and experience in, this role;
- (b) A summary of basic terms of the Revenue Contract billing and collections servicing arrangements including pricing and the source for determining such pricing; and
- (c) A description of the status of the Revenue Contract billing and collections servicing arrangements.

### **4.3.6 Project Construction Arrangements**

- (a) A description of the contractual arrangements for the procurement of all major equipment and their current status;
- (b) Identification of the installation, EPC and/or BOP contractors, including their qualifications to perform their respective roles on the Projects;
- (c) A description of the contractual arrangements for the installation, EPC and/or BOP activities including their current status; and
- (d) A complete construction budget showing sources and uses, a draw schedule for both debt and equity and a detailed construction budget with all expenditures prior to project completion. NYGB will require that the equity be funded in advance of draws on the NYGB Loan.

## **4.4 Technical Considerations**

### **4.4.1 Technology**

Provide a complete description of the technology utilized by each Project including:

- (a) Solar and storage equipment components, configuration and suppliers for, at a minimum, the panels, inverters and racking, and confirmation that the panels are Tier 1; and
- (b) A description of warranties and performance guarantees, if any.

### **4.4.2 Interconnection**

- (a) Provide confirmation that the CESIR process has been completed through Step 6 (see Section 3.1.2 (CESIR or Interconnection Arrangements));
- (b) Detail any necessary interconnection arrangements including equipment, if any, and its status; and
- (c) Provide projected costs and timeline for construction.

### **4.4.3 Site Control**

Please provide a description of how the Proposer does or will control the project sites for at least 25 years. Include in this description details of the necessary contractual arrangements and their current status. If there are any steps remaining to fully control the site, such as conditions precedent in contractual arrangements, please identify them and describe the process and schedule for completing these steps. If the site has not yet been purchased or leased, provide confirmation that the party currently in control of the site has clear authority to enter into sale or lease arrangements.

If the site is not currently owned by a tax paying entity (e.g., public land or tax-exempt institution), detail the expected tax treatment of the Projects including expected exemptions, if any. Address the requirements of Section 3.1.8 (Property Tax Exemption).

#### **4.4.4 Permits & Environmental**

Proposer is requested to describe the following:

- (a) The status of permit acquisition including permits received, significant outstanding permits and the permitting schedule to support transaction closing (see Section 3.1.5 (Permits));
- (b) Please indicate the status of the SEQRA process with respect to the Projects (see Section 3.1.6 (NYS Environmental Quality Review Act Analysis)). Provide confirmation that the EAF has been fully completed and submitted to relevant agencies;
- (c) Describe any special site characteristics such as being a former landfill or if another kind of brownfield, previous site uses. If there are special site characteristics, describe how they are being addressed in the design and development process for the Projects along with any special permitting or consultation with environmental agencies, which is required;
- (d) Describe any identified environmental issues such as hazardous waste contamination on the Project sites. Note that NYGB will require at least a Phase 1 environmental assessment;
- (e) Indicate whether any Projects has attracted any environmental or other opposition and the extent and nature of such opposition including a description of the opposing parties. Include any steps taken to address such opposition; and
- (f) Indicate whether any of the sites in which the Projects will be located are subject to solar moratoriums and provide details on any such moratoriums (see Section 3.1.7 (Municipal Moratorium)).

#### **4.4.5 O&M Arrangements**

- (a) Provide information on the party that will be providing the O&M for the Projects including their qualifications for, and experience in, this role;
- (b) A summary of basic terms of the O&M arrangements, including pricing and the source for determining such pricing; and
- (c) A description of the status of the O&M arrangements.

#### **4.4.6 Insurance**

Provide a description of the contemplated insurance program including proposed limits for the construction, operation and liability cover, key sub-limits and deductibles.

#### **4.4.7 Remaining Development Requirements**

This section of the Proposal should clearly articulate the remaining major steps requiring completion before financing, any issues expected in their completion and the schedule for completing the outstanding steps.

### **4.5 Expected Clean Energy Outcomes & Ongoing Tracking/Reporting Capability**

The Proposal should address the following areas:

- (a) Mobilization of NYGB capital: ratio of the amount of NYGB's proposed investment to the amount of total project costs in NYS;
- (b) Magnitude of estimated clean energy generation resulting from Projects; and
- (c) Methodology that the Proposer (or designated third party) plans to employ to track, record, and monitor energy-related impacts (e.g., actual generation), greenhouse gas emissions reductions delivered, customers served, and clean energy measures supported.

Refer to Section 6.2 (Impact Metrics – Estimates, Reporting & Evaluation) for more information about the ongoing reporting and evaluation requirements for all investments closed with NYGB.

#### **4.6 Qualifications & Experience; Officers & Staffing**

- (a) Identify the officers and management of the Proposer. If the proposed borrower is different, then include the officers and managers of the proposed borrower as well;
- (b) Provide a structure diagram showing all organizational entities from the project companies and the borrower to the ultimate parent(s) including ownership percentages. If there are options or other instruments that may be exercised, include structure diagrams for both pre-exercise and post-exercise of the options, showing the structure on a fully diluted basis (as applicable);
- (c) Confirm that the owners of the borrower are in agreement regarding all elements of the Projects including the structure and the NYGB Loan terms and are prepared to proceed toward closing in accordance with the NYGB process described in this RFP;
- (d) Detail the qualifications of the Proposer for undertaking the Projects including its experience with similar projects; and
- (e) Provide summary biographies and resumes for key personnel.

### **5 Proposal Evaluation**

All Projects within the Portfolio must be identified, and Key Requirements as well as Threshold Requirements must be met. For at least one Project, the Proposal must provide all the information detailed in Section 4 (Proposal Contents). For the other Projects in the Portfolio, a summary description must be provided that includes the anticipated development schedule, the Revenue Contract counterparty, the expected date for the start of construction and the Threshold Requirements.

Proposals that meet Threshold Requirements (see Section 3 (Eligibility Requirements)) and include all applicable proposal contents (set out in Section 4 (Proposal Contents)) will be evaluated by NYGB against the criteria set out below.

#### **5.1 Evaluation of Transaction Credit, Financial, Technical & Risk/Return Considerations**

Proposals are evaluated with focus on the following key areas:

- (a) Financing structure and NYGB's financing support;
- (b) Creditworthiness (e.g., counterparties, underlying technologies, EPC provider(s), O&M, servicer(s), etc. as applicable) of the Project(s), and the terms of the financing expected to be provided by NYGB;
- (c) Pricing levels on a risk-adjusted basis, including projected ROI and IRR at the project level and specific return expectations for NYGB and other transaction participants;
- (d) Direct or indirect private market comparables (including pricing) as relates to counterparty credit and/or project risks;
- (e) Level of financial commitment of the Proposer and any other parties included in the proposed Portfolio (e.g., sponsor, tax equity investor(s), NY-Sun, other incentive provider(s), etc. as applicable); and
- (f) Consistency with the principle that NYGB prices its financial products based on usual commercial approaches to credit quality and risk, earning a return of/on investment to both preserve and grow its capital base.

## **5.2 Evaluation of Clean Energy Outcomes & Ongoing Tracking/Reporting Capability**

NYGB will consider the number of Projects to be financed, expected aggregate annual energy production (MWh), expected clean energy installed capacity (MW), expected useful life of proposed technologies, expected total amount of project costs, and economic benefits (such as job creation) in NYS in its evaluation.

In addition, NYGB will evaluate the strength of the plan pursuant to which the Proposer (or designated third party) will track and record performance data on an ongoing basis, and report that information to NYGB (at a minimum within 30 days after the end of every quarter), in all cases for at least the term of the contract.

## **5.3 Other Considerations**

Finally, NYGB will also assess the following items:

- (a) Summary and structure of the overall Proposal;
- (b) Overall fit as it relates to NYGB's portfolio, including, without limitation, contribution to aggregate financial risks and returns, technological diversity and geographic distribution; and
- (c) Attributes of the Proposal including but not limited to cohesiveness, conciseness and clarity of response.

# **6 General Conditions**

## **6.1 Costs & Expenses**

Once a Proposal has been submitted to NYGB and evaluated as meeting the requirements of this RFP, the proposed transaction will move into NYGB's active pipeline. The borrower/investee and/or sponsor of each transaction in the active pipeline shall pay all reasonable costs and expenses of NYGB associated with the preparation, due diligence, development, and administration of all investment-related documentation (including the fees, disbursements and other charges of outside counsel to NYGB, independent engineers, background investigators, or other consultants, as described in the engagement letter to be executed between sponsor and NYGB), regardless of whether or not the proposed investment is closed. In addition, Proposers may be required to provide a cash deposit on account of NYGB's third-party expenses in advance of substantive work on the part of NYGB and its advisors. Borrower/investee will also pay third-party fees and expenses incurred by NYGB in connection with the administration, amendment, waiver, modification or enforcement of any of the investment-related documentation.

## **6.2 Impact Metrics – Estimates, Reporting & Evaluation**

NYGB collects and disseminates project and investment performance data (on an aggregated and anonymized basis) to facilitate improving investor confidence in addition to promoting standardization wherever possible to help drive down transaction costs. As NYGB finalizes and executes documentation for each investment, Proposers will be required to assist NYGB in its efforts to estimate the energy, environmental and economic impact the transaction will deliver in NYS throughout the tenor of the term. This will involve the provision of data collection that supports estimated energy savings or installed capacity assumptions and agreed upon provisions to evaluate the impact the transaction has had on the clean energy finance markets. Some examples of evaluation methodologies may include: technologies deployed, technology performance, site visits, scale of projects, financial performance, access to capital, costs of capital and project costs.

After the transaction is executed, Proposers will be required to deliver impact-related data (e.g. energy, environmental and economic development-related data) as determined by NYGB and the Proposer, to be delivered no less frequently than quarterly (and within 30 days following the end of each calendar quarter), for at least the duration of the agreement. An [Illustrative Quarterly Impact Reporting Template](#) of such data as relates to energy and environmental impacts can be found on the RFP Resources page on NYGB's website. Data submitted (aggregated and anonymized) will be included in requisite public or other reports and may be used otherwise in accordance with regulatory requirements to which NYGB is subject.

NYGB will also seek periodic information relating to additional impact data, such as economic development, including job creation, use of contractors or other transaction counterparties based in New York, or impacts on New York's economy resulting through supply chain development.

### **6.3 Municipal Advisor Rules**

NYGB is aware of the amendments to Section 15B of the Securities Exchange Act of 1934 effectuated by Section 975 of Title IX of the Dodd-Frank Act, as well as SEC Release No. 34-70462 (September 20, 2013). In this regard, please note that NYGB considers discussions with potential Proposers, and the review of Proposals, to be arm's-length negotiations. NYGB recognizes that Proposers have financial and other interests that differ from NYGB; as such, NYGB does not consider a fiduciary relationship to arise in this context. NYGB has engaged an independent registered municipal advisor ("IRMA") with the intent of relying (i.e., taking into careful consideration, along with any other information deemed relevant or appropriate) on that IRMA for advice related to any potential transactions (but not bound to follow that advice), and consequently allowing Proposers to qualify for the exemption provided by 17 CFR §240.15Ba1-1(d)(3)(vi) (the "IRMA exemption"). The name and contact information of the IRMA is listed on the NYGB website at [www.greenbank.ny.gov/IRMA](http://www.greenbank.ny.gov/IRMA), and the IRMA is available to respond to any questions a Proposer may have with respect to the IRMA's independence.

### **6.4 Proprietary Information**

Among NYGB's goals is the promotion of standardization of material contract terms and structures, and the collection of project performance data across NYGB transactions. NYGB is keenly aware that commercial markets and their incumbents value non-disclosure extremely highly to protect confidential transaction terms and other competitive information and NYGB remains highly sensitized to usual and customary confidentiality practices. Nevertheless, as a division of NYSERDA, certain State laws specifically apply to NYGB and it is recommended that careful consideration be given before confidential information is submitted to NYGB as part of any Proposal. Review should include whether it is critical for evaluating a Proposal, and whether more general, non-confidential information may be adequate for review purposes.

New York's Freedom of Information Law, Public Officers Law, Article 6, provides for public access to information NYSERDA and its divisions possess. 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 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 out in 21 NYCRR Part 501. The confidentiality of any information submitted cannot be guaranteed.

### **6.5 Limitation**

This RFP does not commit NYGB to agree to participate in any transaction, proceed to negotiate any terms or definitive documentation, 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 parties or to cancel in part or in its entirety this RFP when it is in NYGB's best interest.

### **6.6 Disclosure Requirement**

The Proposer shall disclose, for any team member, any indictment for 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 the relevant circumstances. 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 comes to the attention of NYGB or NYSERDA after NYGB has indicated its interest to, or has agreed to enter into or participate in, any transaction NYGB may terminate the agreement and the Proposer may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if any team members

have ever been disbarred or suspended by any agency of the United States Government or the NYS Department of Labor.

