



**CLEAN ENERGY FUND**  
**STATIONARY FUEL CELL PROGRAM**  
**Program Opportunity Notice (PON) 3841**

Total Program Funding: \$15 Million  
\$7.5 Million Per Year

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

Funding is on a first-come, first-served basis until all funding has been fully committed, with the caveat that no single OEM's equipment can be awarded more than half of the program's budget. Applications will be accepted through December 31<sup>st</sup>, 2019 until 3:00 pm.

Financial incentives are available to support the installation and operation of continuous-duty, stationary fuel cell systems at eligible host sites in New York State, with two years of funding available totaling up to \$15 million. Only projects installed at sites where the host pays the System Benefits Charge (SBC) on the electric bill for the meter behind-which the fuel cell system will be installed are eligible to receive funding through this program. In order to participate in PON 3841, applicants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into a Standard Performance Agreement (SPA) with NYSERDA. Applicants must also adhere to the performance measurement requirements throughout the term specified in the SPA.

**Application Submission:** Applications (including any required attachments and supporting documentation) must be completed and submitted online at [https://nyserda.seamlessdocs.com/f/FuelCell\\_proj\\_app](https://nyserda.seamlessdocs.com/f/FuelCell_proj_app). Incomplete or inaccurate applications will not be accepted. Faxed or e-mailed applications will not be accepted. Proposers may submit Word, Excel, or PDF files (file formats include: csv, doc, docx, gif, jpeg, jpg, pdf, png, ppt, pptx, pps, ppsx, tif, txt, xls, xlsx, and zip). Individual files should be 100MB or less in file size. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility. Files should not be scanned. For ease of identification, all electronic files must be named using the proposer's entity name in the title of the document.

**Contact Information:** All Program Questions should be directed to: Mark Mayhew, (518) 862-1090 ext. 3319, [fuel.cells@nyserda.ny.gov](mailto:fuel.cells@nyserda.ny.gov). All Contractual Questions should be directed to: Venice Forbes, (518) 862-1090 ext. 3507, [VeniceSolicitation@nyserda.ny.gov](mailto:VeniceSolicitation@nyserda.ny.gov). Contacting anyone other than the Designated Contacts (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

**\* All applications must be received by 3:00 PM Eastern Time on 12/31/2019. Late, faxed, or emailed applications will not be accepted.** Incomplete applications may be subject to disqualification. It is the proposer's responsibility to ensure that all pages have been completed/included in the application. Please note: for online submission, there are required questions that you will have to answer in addition to uploading attachments and you should allot at least 60 minutes to enter/submit applications. The online application system closes promptly at 3:00 PM, files in process or attempted edits or submission after 3:00 PM Eastern Time on the date above, will not be accepted. If changes are made to this solicitation, notification will be posted on the "Current Opportunities" section of NYSERDA's website (<https://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

## I. Introduction

Through the Clean Energy Fund (CEF), NYSERDA seeks to promote the development of clean, local energy resources that strengthen and improve the reliability of the grid. Continuous-duty stationary fuel cells operate as dispatchable, ultra-clean distributed generation resources, which can relieve stress on the grid and where applicable, enhance the resiliency of the host site. NYSERDA's offering will provide financial support to reduce the upfront costs to install and operate fuel cells, reduce energy expenses, and greenhouse gas emissions.

The CEF Stationary Fuel Cell Program seeks to support the purchase, installation, and operation of continuous-duty stationary fuel cell electric power generation equipment at eligible host sites in New York State. The Fuel Cell Program is targeted at either (1) "behind the meter" generation (i.e. generation that is sited at the electric customer's location, used primarily to serve the electric customer's load at the meter behind which it is interconnected, and not for the purpose of significant proportions being exported to the utility grid for sale), or (2) for Community Distributed Generation. PON 3841 will support the installation of a large fuel cell module with a nameplate rating greater than 25 kW. A "fuel cell system" may consist of one or more large fuel cell module(s) installed at a project site. This initiative is aimed at quickly maximizing the amount of electricity produced by fuel cells in New York State, and therefore addresses rapid installation and long-term operation of mature, commercially-available, continuous-duty fuel cell systems. NYSERDA maintains a list of fuel cell systems which are eligible to participate in this solicitation; for details, see Appendix E and check NYSERDA's website for periodic updates to Appendix E.

## II. Program Requirements

### A. System Performance: Eligibility Criteria and Incentive Payment

Since the CEF Fuel Cell Program is aimed at electric generation, the recovery and beneficial use of heat produced by the fuel cell is not mandated under this program, however, to be eligible for the program, a project must be configured so that the fuel cell systems will have a Total System Efficiency of 45% or greater, based on the Higher Heating Value (HHV) of the input fuel. Applicants selecting fuel cell systems which do not meet or exceed 45% electrical efficiency are advised to consider maximizing the efficiency of their systems by including heat recovery features as an approach to meet the minimum program requirements and optimize the economic life cycle of their projects. Applicants will be required to submit supporting documentation as part of their application which demonstrates a design intent that will meet or exceed the 45% threshold. Total System Efficiency ( $EFF_{Total}$ ) will be calculated by dividing the sum of the Net Useful Electric Power (P) and the Net Useful Thermal Production (Q) by the Total Fuel Input (F) based on HHV; as expressed in the following equation:

$$EFF_{Total} = \frac{P + Q}{F}$$

All projects will be required to institute performance measurement procedures to be eligible to receive payment from NYSERDA. The Contractor must develop a Performance Measurement Plan (in accordance with Appendix C of this document) *in conjunction with NYSERDA's Agent*. The Performance Measurement Plan must be received and approved by NYSERDA prior to submittal (or payment) of any invoices. The Contractor shall be responsible to provide the instrumentation (sensors and meters) and communications capability specified within the approved Performance Measurement Plan; all performance measurement activities shall be conducted in accordance with the approved Performance Measurement Plan. The site will be required to install and maintain on-site sensors and meters approved by NYSERDA or NYSERDA's designated agent, which will be used for monitoring and data acquisition to confirm the amount of energy production and gas consumption. All data acquired by NYSERDA will be made available to the general public.

Contractors will be responsible for the purchase and installation of the necessary sensors and meters (e.g., revenue grade fuel and electric meters), and provide the necessary instrumentation and communications systems (e.g., phone lines, internet access) to monitor systems for remote data collection. If not provided by the project site, NYSERDA will arrange for connecting sensors and meters to data acquisition systems. Projects must provide monitoring data for a minimum of three consecutive years through an automated data collection and remote

transfer mechanism that will compile 15-minute interval data and at least once per day transfer such data to NYSERDA whereat NYSERDA will make such data available to the general public by posting at <https://der.nyserda.ny.gov/>. See Appendix C for more details.

A Performance/Efficiency Incentive payment will be offered through this program for the system’s net production (the portion of verified fuel cell electricity generation, which exceeds the fuel cell system’s parasitic consumption) and may be provided to sites that meet the efficiency criteria in the year subsequent to commissioning. Performance/Efficiency Incentives are offered based on verified net kWh of generation.

Fuel cell systems installed under PON 3841 must operate at an annual capacity factor of 50% or greater and at total system efficiency of 45% or greater based on HHV to be eligible for the Performance/Efficiency Incentive. Annual Capacity Factors (ACF) will be determined by dividing the net output of the fuel cell system during a one-year period by the maximum rated output (nameplate rating) of the fuel cell times 8760 hours per year; as expressed in the following equation:

$$ACF = \frac{\text{Actual Net Annual Output}}{\text{Nameplate rating} \times 8760} \quad \text{where;}$$

*Actual Net Annual Output* is the total verified electrical energy delivered by the fuel cell system to the site per year (i.e. fuel cell stack production minus parasitic consumption)

## **B. Eligible Customers and Host Site**

The Fuel Cell Program is targeted at “behind the meter” generation (i.e. generation that is sited at the electric customer’s location, used primarily to serve the electric customer’s load (1) at the meter behind which it is interconnected, and not for the purpose of significant proportions being exported to the utility grid for sale), or (2) for Community Distributed Generation. The Project Site is where the fuel cell is located.

The Host is the owner or tenant of the Project Site, who pays the SBC Program Surcharge. The fuel cell system must be installed behind an electric meter, where the accompanying utility account include the SBC Program Surcharge.

For Community Distributed Generation (CDG) projects, the CDG Host must also meet the requirements mandated in the most current version of the electric utility’s tariff filing with the Public Service Commission. In addition, the CDG project must also meet all the required conditions specified in said tariff.

Project Funding Cap: \$1 million per project.

Related Projects Funding Cap: \$1 million in aggregate total for a batch of related projects. A batch of related projects could consist of but is not limited to projects in a given building serving different utility meters. A batch of related projects could consist of but is not limited to projects in different buildings all located at a destination grouping such as a college campus or a shopping center or an industrial park. A batch of related projects could consist of but is not limited to projects operating in a Community Distributed Generation format that are owned and/or developed and/or operated and/or managed by a particular entity or by numerous entities that are related entities (related entities include but are not limited to those with a significant extent of common ownership and/or a significant extent of common management team). Related applications, even if submitted at different times throughout the term of this program, may nevertheless still be considered to represent a batch of related projects.

### Eligibility Note 1: Third Party Ownership

Under a third-party ownership scenario, contractors that meet the eligibility requirements included in this solicitation may be permitted to build, own, and operate a fuel cell project at an eligible host site, if the Host pays the SBC surcharge on the electric meter behind-which the fuel cell system will be installed and if the contractual relationship between the Host and the third party clearly indicates that the entire incentive payment is being

passed on to the Host (or in the case of CDG, documentation showing that the entire incentive payment is being passed on to the CDG-membership satellite accounts).

### C. Incentives

**Maximum Total Project Incentive:** The Maximum Total Project Incentive is the sum of the Total Base Incentive plus all eligible Bonus Incentives. Bonus Incentives are calculated based on the Total Base Incentive. The Maximum Total Project Incentive shall not exceed \$1,000,000 regardless of system size or qualification for Bonus Incentives.

**Base Incentive:** Fuel cell systems installed to operate in parallel with the electric grid will be eligible to receive incentives of \$1,000 per kW of installed capacity not to exceed the Maximum Total Project Incentive cap.

**Grid Independent Incentive:** NYSERDA strongly encourages the installation of distributed generation resources that are capable of grid independent operation. Fuel cell systems installed under PON 3841 that are configured to run in the event of a grid outage will be eligible to receive a grid independent operation/standalone capability incentive of \$500 per kW of installed capacity or the remainder of the Maximum Total Project Incentive cap, whichever is less. For installations with islanding capability, the Contractor shall demonstrate the actual operation of the fuel cell system in grid-parallel mode, its transition to and operation in stand-alone mode where it actually serves the facility to the fullest extent intended, and its transition back to and operation in grid-parallel mode.

**Total Base Incentive:** The Total Base Incentive is the sum of the Base Incentive plus the Grid Independent Incentive, if applicable. Any eligible Bonus Incentive will be calculated based on the Total Base Incentive. Total incentives for any project may not exceed the Maximum Total Project Incentive cap of \$1 million.

#### Bonus Incentives

**Downstate Differential Incentive:** The Total Base Incentive will be increased by 10% for fuel cell systems installed in the Downstate region of NY State. The incentive regions are defined as:

- Upstate – Customer sites located in the area of the State north and west of Westchester County.
- **Downstate – Customer sites located in New York City and Westchester County**

#### Target Zone Incentive (Consolidated Edison Territory Only):

CHP Target Zones have been established by Consolidated Edison for load service areas of particular interest and will also be applied to fuel cell projects installed via this solicitation. Each of these Target Zones has been assigned a target year. If a project site is within a Target Zone based on the Consolidated Edison Target Zone map that is in effect as of the date of application approval by NYSERDA, an additional bonus equal to 25% of the Total Base Incentive of the Fuel Cell Program incentive will be paid as part of the final invoice, provided the fuel cell system is fully operational prior to May of the target year and the total Fuel Cell Program incentive does not exceed \$1.0 million. Information about Target Zones, and maps showing their locations, can be found at: <https://www.coned.com/en/save-money/using-private-generation-energy-sources>. The Target Zone maps may be updated frequently. Sites appearing on a map in close proximity to the border of a Target Zone may be subject to confirmation by Consolidated Edison whether the site is in fact within the Target Zone.

**Critical Infrastructure Incentive:** Critical infrastructure are those systems and assets so vital to the state that the disruption, incapacitation or destruction of such systems or assets, could jeopardize the health, safety, welfare or security of the state, its residents or its economy, including sites that are designated to be an official “facility of refuge” (as recognized by the American Red Cross or the local Office of Emergency Management).

Examples of critical infrastructure include, but are not limited to:

- Hospitals and nursing homes
- Public safety facilities (police, fire, emergency medical services, emergency management, dispatch center or public safety answering point)
- Communications facilities (broadcasting, telecommunications)
- Utilities (water, wastewater treatment)

- Food and medicine warehousing and distribution centers (supermarkets, pharmacies)

The Total Base Incentive will be increased by 25% for fuel cell systems installed to support critical infrastructure provided that the electric and/or thermal output of the fuel cell benefits that portion of the building(s) designated as critical infrastructure and that the fuel cell system is configured to run during a grid outage.

Community Microgrid Incentive: NY Prize seeks to support the development of community grids connected to multiple, uniquely owned/controlled buildings that act as a group of interconnected loads and distributed energy resources, lie within a clearly defined electrical boundary and act as a single controllable entity, which can connect and disconnect from the surrounding utility grid and operate in both grid-connected or island mode, and encompassing no less than one facility providing a critical service to the public. The Total Base Incentive will be increased by 25% for fuel cell systems installed with Grid Independent capability to support at least the Critical Infrastructure component of a Community Microgrid.

### **Incentive Payment Schedule:**

Milestone 1: Capacity Incentive: 50% of the Maximum Total Project Incentive will be paid when:

- The Performance Measurement Plan has been approved by NYSERDA and NYSERDA's Agent
- The fuel cell system is fully installed, including interconnections to building systems, and written permission to operate the system has been obtained from the utility and submitted to the NYSERDA project manager
- The fuel cell system is fully commissioned and operational and reporting data to the NYSERDA Distributed Energy Resources website,
- An Installation Report, including a detailed cost breakdown, has been accepted by the NYSEDA project manager
- Documentation to substantiate any claims for Bonus Incentives (including demonstration of transitioning to and back from Grid Independent operation, if applicable) has been accepted by the NYSERDA project manager
- A copy of the final interconnection agreement between the host and the utility has been submitted to the NYSERDA project manager
- A post-installation site inspection has been completed by NYSERDA or NYSERDA's agent

Milestone 2: Performance/Efficiency Incentive: The fuel cell system must achieve full operation within 15 months of the NYSERDA contract effective date in order to be eligible for disbursement of the Milestone 2 payment, and if so the remaining 50% of the Maximum Total Project Incentive will be paid when:

- The fuel cell system has completed one year of operation subsequent to the date of commissioning and has met the minimum capacity factor and efficiency requirements for PON 3841
- A performance report detailing the operational data for one year subsequent to the date of commissioning and calculations showing that the fuel cell system has met the minimum capacity factor and efficiency requirements for PON 3841 has been accepted by the NYSERDA project manager

**The Incentive Calculator:** The CEF Fuel Cell Program Incentive Calculator (Appendix A) can be used to calculate the incentive that will be available for a particular fuel cell system design at a specific site. Note: The Incentive Calculator is only to be used to obtain an estimate of the Fuel Cell Program Incentive applicable to a proposed project. NYSERDA takes no responsibility for errors or misinterpretations resulting from its use. NYSERDA will review each application, and in its sole discretion, assign the appropriate incentive.

### **CEF Stationary Fuel Cell System Incentive Summary**

**Definitions:** Fuel cell modules greater than 25 kW

**CEF Program Funding Allocation:** \$7.5 million per year for 2 years

**Project Funding Cap:** \$1 million per project.

**Related Projects Funding Cap:** \$1 million in aggregate total for a batch of related projects. A batch of related projects could consist of but is not limited to projects in a given building serving different utility meters. A batch of related projects could consist of but is not limited to projects in different buildings all located at a destination grouping such as a college campus or a shopping center or an industrial park. A batch of related projects could consist of but is not limited to projects operating in a Community Distributed Generation format that are owned and/or developed and/or operated and/or managed by a particular entity or by numerous entities that are related entities (related entities include but are not limited to those with a significant extent of common ownership and/or a significant extent of common management team). Related applications, even if submitted at different times throughout the term of this program, may nevertheless still be considered to represent a batch of related projects.

Base Incentive:

- Fuel Cells: \$1,000 per kW not to exceed the Maximum Total Project Incentive cap.

Grid Independent Operation/Standalone Capability Incentive:

- Additional \$500 per kW of installed capacity or the remainder of the Maximum Total Project Incentive cap, whichever is less.

Total Base Incentive:

- Sum of the Base Incentive and the Grid Independent/Standalone Capability Incentive not to exceed the Maximum Total Project Incentive cap.

Downstate Differential Incentive:

- Additional 10% of the Total Base Incentive as calculated by the CEF Fuel Cell Incentive Calculator or the remainder of the Maximum Total Project Incentive cap, whichever is less.

Consolidated Edison Target Zone Incentive:

- Additional 25% of the Total Base Incentive as calculated by the CEF Fuel Cell Incentive Calculator or the remainder of the Maximum Total Project Incentive cap, whichever is less.

Critical Infrastructure Incentive:

- Additional 25% of the Total Base Incentive as calculated by the CEF Fuel Cell Incentive Calculator or the remainder of the Maximum Total Project Incentive cap, whichever is less.

Community Microgrid Incentive:

- Additional 25% of the Total Base Incentive as calculated by the CEF Fuel Cell Incentive Calculator or the remainder of the Maximum Total Project Incentive cap, whichever is less.

Maximum Total Project Incentive:

- Sum of the Total Base Incentive and all eligible Bonus Incentives, not to exceed \$1 million.

**D. Eligibility:**

To participate in PON 3841 CEF Stationary Fuel Cell Program, the following criteria must be met:

- Only new generation equipment purchased or installed under a fully-executed PON 3841 CEF Fuel Cell Program Standard Performance Agreement will be eligible for the program;
- Fuel cell modules must be greater than 25 kW;
- Project sites must be located at eligible host sites in New York State, and must be positioned at the site at an elevation above the 500-year floodplain;
  - If the site is located within a 500-year flood zone as shown on an approved or proposed FEMA flood zone map, then the fuel cell system, including all components required for proper operation (pumps, controls, switch gear, etc.) must be located above the expected 500-year flood level. NYSERDA may waive this requirement on a case-by-case bases for sites located within a 500-year flood zone, but outside of a 100-year flood zone if a flood mitigation plan acceptable to NYSERDA is provided.
- Projects must be located at sites where the Host pays the NYS SBC Program Surcharge on the electric meter behind-which the fuel cell system will be installed

- Fuel cell electricity must be generated and used primarily by the Host behind the meter to which it is interconnected, or in a Community Distributed Generation arrangement.

Fuel cell systems must:

- Consist of commercially-available technologies as listed at Appendix E,
- Be warranted for continuous-duty for three consecutive years by the original equipment vendor, and
- Have a detailed maintenance agreement with a factory service provider for the duration of the three-year warranty period.

Applications must include:

- A signed contract between the Host and the project developer (including a chain of contracts extending to the Fuel Cell OEM, if different than the project developer), showing the full team's readiness and willingness to proceed contingent upon receiving an award from NYSERDA under PON 3841.
- An analysis showing that the fuel cell system design intent is forecasted to achieve 45% or greater Total System Efficiency, based on the HHV of the input fuel and a Capacity Factor of 50% or greater.
- An analysis of the expected operation and performance of the proposed fuel cell system based on the 8760-hour load profile including monthly (12 consecutive months) and annual performance estimates, including:
  - operating efficiency,
  - fuel input, net electric (kWh) output (i.e. less parasitic electric use),
  - thermal energy generated,
  - thermal energy usable, and
  - run hours.
- A copy of 12 consecutive months utility bills for the host site
- A site plan showing the intended placement of the fuel cell system and affirming that it will be placed above the 500-year floodplain.
- An installation schedule showing delivery dates for major components and full operation within 15 months of the NYSERDA contract's Effective Date.
- A list of all permits and approvals required.
- Electric interconnect application submitted, and a Preliminary Determination and Cost Estimate for the Coordinated Electric System Interconnection Review (CESIR) received from the electric utility.
- Preliminary determination of gas availability from the gas utility, if the fuel cell system will be fueled by pipeline natural gas.
- All proposals must include a completed and signed Part 1 SEQR Short Environmental Assessment Form (Appendix G).

Applicants, contractors and Hosts must comply with all applicable:

- Federal, State and Local codes, rules, and regulations;
- Federal, State and Local permitting requirements; and
- Federal, State and Local emissions limits

#### **E. Limitations:**

Incentives will only be paid for systems installed as approved by NYSERDA. Any system modifications or equipment changes must be approved by NYSERDA in writing before a system is installed. Failure to get NYSERDA approval on any and all modifications may result in revocation of the incentive reservation or nonpayment of the incentive.

The purpose of NYSERDA's CEF Fuel Cell Program is to support the installation of customer generation that will produce electricity primarily for use by that customer or via a CDG mechanism. Consistent with this purpose, this program limits the size (kW) of the fuel cell electric generation system that can be installed. Systems shall be sized such that the expected annual energy produced (kWh/year) by the system will not exceed 110% of the Host's grid-supplied electric energy usage per year of the meter to which the fuel cell system is interconnected (therefore, in a "behind the meter" configuration, aggregation of meters for the purpose of justifying a system size is not permitted under this program). For CDG applications, the system shall be sized such that the expected annual energy produced (kWh/year) by the system will not exceed that of the CDG Host and the CDG Satellites proposed with their utility CDG application. For sites that do not have 12 months of electric consumption, or that are increasing their electric use, an estimated energy use analysis may be used to predict that usage. .

### III. Application Requirements

#### Processing of Applications

Applications (including any required attachments and supporting documentation) must be completed and submitted online at [https://nyserda.seamlessdocs.com/f/FuelCell\\_proj\\_app](https://nyserda.seamlessdocs.com/f/FuelCell_proj_app). Only projects installed at sites where the electric customer pays the System Benefits Charge (SBC) on the electric bill for the meter behind-which the fuel cell system will be installed are eligible to receive funding through this program. In order to participate in PON 3841, applicants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into a Standard Performance Agreement (SPA) with NYSERDA. Applicants must also adhere to the performance measurement requirements throughout the term specified in the SPA.

Be sure to have all required information with you before completing this application, since you will not be able to save partially completed applications. If you wish to have any information submitted as part of this application treated as proprietary or confidential, you must 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 and the associated regulations. However, NYSERDA cannot guarantee the confidentiality of any information submitted. Your written request must be uploaded in the Uploads Section, under Confidentiality.

You will receive a tracking number and confirmation on your screen to print or save after you have submitted the application, this will establish your position in the queue if and only if your submittal is full and complete. However, if your submittal is incomplete, it will be rejected, and you will need to re-submit the application in its entirety and upon doing so you will receive a new tracking number and position in the queue.

NYSERDA anticipates that there will be more requests for funds under PON 3841 than there are funds available, and therefore establishes the following rigid procedure for establishing and managing a queue of applicants.

- a) An application will be entered into the rear of the queue when NYSERDA deems the application to be full and complete. Full and complete applications will be entered into the queue in the order that they are received as determined by fuel cell application number and the date and time stamp on the completed application. If an application had previously been deemed by NYSERDA to be deficient, the new application number and the date and time stamp of receipt of the supplemental application materials that resolve such deficiencies will be used to determine its order in the queue.
- b) NYSERDA has an interest in promoting diversity of equipment in the program, therefore, no single original equipment manufacturer's (OEM) product line may be awarded more than 50% of the total program budget. NYSERDA will accept applications for fuel cell systems within each OEM's product line, regardless of vendor, until the total amount of funds requested for fuel cell systems within any single OEM's product line is equal to 50% of the total program budget. Once NYSERDA receives enough full and complete applications that the total amount of funds requested for fuel cell systems within any single OEM's product line equals 50% of the total program budget, NYSERDA will no longer accept applications involving equipment from that OEM.
- c) If an application from within an OEM's product line, which is requesting up to 50% of the program budget, cannot proceed and withdraws from the program, NYSERDA will resume accepting applications from that OEM's product line up to the 50% program budget limit. However, funds from the withdrawn application will be allocated to the next eligible full and complete application(s) in the queue regardless of OEM.
- d) When NYSERDA determines that an application is full and complete, and sufficient funds are available and have been set aside, NYSERDA will issue the applicant an SPA. The applicant will then have 30 days to return the signed SPA to NYSERDA.

NYSERDA will promptly review applications and supplemental application materials in the order that they are received, and applications deemed full and complete in their "as received" form will be entered into the queue in the order the application was received. Deficient or incomplete applications will not be accepted or entered into

the queue. Deficient or incomplete applications that have been rejected will be invited to reapply to the program once they are full and complete (at which point the applicant will be placed at the rear of the queue).

Applicants should be "ready to go" when submitting their application so that the applicant will be capable of complying with the thirty (30) day requirement to submit a signed contract with NYSERDA for the installation of the fuel cell system as proposed.

#### State Environmental Quality Review Act (SEQR)

NYSERDA is required under SEQR to consider the environmental implications of all funded projects. All proposals must include a completed SEQR Short Environmental Assessment Form (Appendix G).

#### Coordination of Public/Utility Funding

If a project to install a fuel cell system is awarded other public grant funding and/or utility incentive funding, NYSERDA may reduce the incentive amount with the intent that total public/utility funding, including NYSERDA's incentive, will not exceed 100% of the total project cost. The Applicants must inform NYSERDA's project manager of all pending and awarded public grant funding and utility incentives related to the project.

### IV. GENERAL CONDITIONS

**Proprietary Information** - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes.

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

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

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

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

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

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

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

**Tax Law Section 5-a** - NYSEDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSEDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)). Prior to contracting with NYSEDA, the prospective contractor must also certify to NYSEDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSEDA. See, ST-220-CA (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf> .

**Contract Award** - NYSEDA anticipates making multiple awards under this solicitation. NYSEDA may request additional data or material to support applications. NYSEDA will use the Sample Agreement to contract successful proposals. NYSEDA expects to notify applicants in approximately one week from the date of receipt of an application whether your application has been selected to receive an award. NYSEDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSEDA agreement.

**Accessibility Requirements** - If awardees from this solicitation will be posting anything on the web, or if the awardee will produce a final report that NYSEDA will post to the web, the following language must be included. NYSEDA requires contractors producing content intended to be posted to the Web to adhere to New York State's Accessibility Policy. This includes, but is not limited to, deliverables such as: documents (PDF, Microsoft Word, Microsoft Excel, etc.), audio (.mp3, .wav, etc.), video (.mp4, .mpg, .avi, etc.), graphics (.jpg, .png, etc.), web pages (.html, .aspx, etc.), and other multimedia and streaming media content. For more information, see [NYSEDA's Accessibility Requirements](#).

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

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

## Appendix E: PON 3841 List of Eligible Commercially Available Stationary Fuel Cells by Manufacturer Make and Model (CEF Fuel Cell Program)

Manufacturer Name and Address	Fuel Cell Model Number	Fuel Cell Type <i>(i.e. PEM, SOFC)</i>	Nameplate Rated Output	Manufacturer Contact Information
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES5-AA0AA0	SOFC	200-285 kW	Robert Gertz: 408-543-1043
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES 5700	SOFC	200-210 kW	Robert Gertz: 408-543-1043
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES5-YA1AA0	SOFC	200-300 kW	Robert Gertz: 408-543-1043
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES5-AA2AA0	SOFC	200-262.5 kW	Robert Gertz: 408-543-1043
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES5-YA8AA0	SOFC	200-300 kW	Robert Gertz: 408-543-1043
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES5-BABAA0	SOFC	200-285 kW	Robert Gertz: 408-543-1043
<b>Bloom Energy</b> (2) 1299 Orleans Drive, Sunnyvale CA 94089	ES5-MA4AAA	SOFC	150 kW	Robert Gertz: 408-543-1043
<b>Doosan Fuel Cell America</b> (1) 195 Governor's Highway, South Windsor, CT 06074	Pure Cell Model 400	PAFC	460 kW	Derek Hildreth: (860) 929-6265
<b>Fuel Cell Energy, Inc.</b> (1) 3 Great Pasture Road, Danbury, CT 06813	DFC300MA	MCFC	300kW	Ben Toby: (203) 825 6114
<b>Fuel Cell Energy, Inc.</b> (1) 3 Great Pasture Road, Danbury, CT 06813	DFC1500B	MCFC	1400kW	Ben Toby: (203) 825 6114
<b>Fuel Cell Energy, Inc.</b> (1) 3 Great Pasture Road, Danbury, CT 06813	DFC3000	MCFC	2800kW	Ben Toby: (203) 825 6114

*For instructions on how to have a particular stationary fuel cell added to the eligibility list, please see Appendix F of PON 3841*

**Footnote 1:** Fully eligible, fuel cells meet all eligibility requirements of PON 3841 CEF Fuel Cell Program

**Footnote 2:** Systems are fully eligible provided they are purchased with an Extended Warranty and Service Agreement for a minimum of 3 years subsequent to commissioning of the system