

Contractor Status Designations

The Participating Contractor shall be classified in one of the participation status designations listed below. Each status designation shall be subject to limitations or requirements associated with that classification, as detailed below. NYSERDA reserves the right to modify the definition, limitations, and requirements of the participation status designations at any time. NYSERDA retains sole discretion for determining the Participating Contractor's progression into and through each status designation. In all cases, NYSERDA's written decision is final.

1. Provisional

a. Minimum Period of Performance

The Participating Contractor shall have the participation status of 'Provisional' during, at a minimum, the first 6 months of participation. During this time, NYSERDA may limit the number of projects a Provisional Contractor can submit to the Program as determined based on reported and founded customer complaints or failed Quality Assurance (QA) field inspections, or other compliance issues deemed by NYSERDA as cause for limitation.

b. Provisional by Participation Level

- i. **Home Performance Contractors-** Must have 3 project completions meeting minimum QA standards by the 6th inspected project or within one year. All project submissions are subject to manual review. After one year, or the 6th inspected project, whichever comes first, the Program will review Provisional Contractors not meeting the above requirements to determine future Program participation.
- ii. **Audit Contractor-** Must have 3 audit reviews and/or project reviews meeting Program standards by the 6th reviewed audit or project or within one year. After one year, or the 6th review, whichever comes first, the Program will review Provisional Contractors not meeting the above requirements to determine future Program participation.

c. Past Participants

Contractors renewing Program Participation who have not completed a minimum of 12 projects during the past 12 months may, at the Program's discretion, be re-designated as Provisional and be required to meet the above criteria to be considered "Full" status.

d. Program Benefits

The Participating Contractor will be eligible for contractor incentives, its customers will have access to financing offered through the Program, and income-eligible households will be eligible to receive Program incentives. Contractors with provisional status may participate in NYSERDA pilots at the

discretion of program staff and/or pilot participation guidelines.

e. Quality Assurance/Quality Control (QA/QC)

The Provisional Participating Contractor must complete a minimum of three projects meeting the minimum standard QA requirements. These QA requirements must be met by the sixth inspected project or within a period of one year from the date of completion of the first completed project, whichever comes first. Additionally, the Provisional Participating Contractor should have no participant complaints (customer concerns) reported to the Program during their provisional period. NYSERDA will review all concerns regarding a provisional contractor before determining a status change to 'Full'.

Alternatively, the Participating Contractor must have consistently delivered quality projects for a period of greater than one year with an average score of all completed projects exceeding the minimum standard QA requirements, have no more than three (3) failed QA inspections at any time during the 12-month period, and have a positive correlation of performance over 12 months. Status may proceed to 'Full,' be extended as 'Provisional' or the Participating Contractor may be terminated from further participation.

At any time during, or at the end of a Participating Contractor's Provisional period, NYSERDA can change the Participating Contractor's status to Probation, Suspension, or Termination for any reason including, but not limited to poor workmanship, lack of responsiveness, Program participant complaints, unprofessional behavior, or failure to meet minimum production requirements of the Program.

In addition to QA, contractors will be subject to Quality Control (QC) for in-progress work. QC inspections can include desktop reviews and/or in-person site visits.

2. Full

A Participating Contractor who is not operating under any of the other status designations described herein, abides by the conditions of the Consolidated Residential Participation Agreement and Program Manual, and provides quality services utilizing industry best practices shall have the status designation of Full Status Contractor. Full Status Contractors are entitled to all applicable Program benefits. Full Status Contractors may have different QA/QC inspection rates based upon Program sub-status designations below:

a. Audit Contractor-Standard Rate

Target of 3 inspections per year or at least 10% of completed audits or projects on an annual basis.

b. Home Performance-Standard Rate

Target of 4 QA inspections per year or at least 10-15% of completed projects, and up to 3 QC inspections of in-progress projects on an annual basis as determined by the program.

c. Home Performance-Reduced Rate

For contractors in good standing, the QA inspection target is 5% or more of completed projects, and 2 or more QC inspections or 5-10% of in-progress projects on an annual basis. To be considered for a reduced-rate, contractor must have a minimum of 20 completed projects in each of the past 2 years with at least 3 QA scores per year and an average of 4.0 or higher.

3. Inactive

Includes contractors voluntarily deciding to end participation in the Program and Contractors terminated by the Program for disciplinary reasons. A contractor with an Inactive status will relinquish all privileges associated with participation, including access to incentives. The Contractor must immediately remove any reference to the Program and NYSERDA from any of the Contractor's materials.

a. Inactive-Voluntarily Withdrawal- Contractors voluntarily deciding to end participation in the Program will be placed in Inactive status. To resume participation, the Contractor may return to the Program, at the Program's sole discretion, within 30 days without penalty, providing there have been no significant changes to the Contractor's staff or certifications. After 30 days the Contractor will need to apply to the Program as a new contractor and if accepted, will have a "Provisional" status.

b. Inactive-Terminated- Contractors designated with the 'Terminated' status are prohibited from participation in the Program for the remainder of the Participation Agreement term. A Terminated Contractor shall be removed from the NYSERDA website and shall not represent themselves as a Participating Contractor, accept any applications for, nor recruit new participants except in the execution of remedial action as approved by NYSERDA. A Terminated Contractor forfeits its eligibility for contractor incentives and its customers will not have access to incentives or financing offered through the Program. All references to NYSERDA must be removed from all marketing materials, vehicles, and advertising including vehicle clings and websites, as applicable. Terminated contractors are prohibited from working as a subcontractor in the program without prior written approval from NYSERDA.

Customers with incomplete projects at the time of Contractor termination will be notified that the Contractor is no longer participating in the Program and may be offered such remedies as NYSERDA deems appropriate. If appropriate,

NYSERDA may notify the New York State Attorney General, the New York State Inspector General, the New York State Department of Labor, the Better Business Bureau, BPI, or others of NYSERDA's findings and decision to terminate the Participating Contractor. Further, a Participating Contractor who hires the officers, owners or other staff of a Terminated Contractor risks disqualification from the Program at NYSERDA's sole discretion. In the event a Terminated Contractor's company is sold to new owners, the company must reapply; the use of the terminated Company's name, or similar derivations, in Program activities will be allowed at NYSERDA's discretion. Termination of a Participating Contractor does not remove the contractor's responsibility to fulfill any remaining obligation to the Program, or Program participants.

NYSERDA has sole discretion in determining whether to terminate a Participating Contractor. A Participating Contractor may be terminated from participation in the Program for any of the following reasons:

- i. Maintaining a suspended status for more than 30 days and is unresponsive to or failed to adequately fulfill the terms of their suspension
- ii. Failure to maintain minimum credentials for participation
- iii. Submits falsified documents or unauthorized signatures to the Program
- iv. Commits illegal actions while participating in the Program
- v. Is convicted or has a principal who is convicted of a criminal charge that casts the Program in negative light or calls the integrity or workmanship of the Participating Contractor into question
- vi. Is in gross violation of Program standards
- vii. Repeatedly bills for uninstalled measures
- viii. Fails to meet the terms of the Provisional period
- ix. Fails to meet the terms of probation

4. Disciplinary Action

A Full Status Contractor who fails to comply with any of the terms of the Consolidated Residential Participation, its amendments, etc. Agreement or the Program Manual, or who provides fraudulent or misleading Program documentation, is subject to disciplinary action. Participating Contractors under disciplinary action have been notified in writing by the Program and are under disciplinary action for a set time frame or until the conditions of their disciplinary action notice have been met.

NYSERDA reserves the right to impose any of the following disciplinary measures at any time. In addition, NYSERDA reserve the right to hold approvals and payment of

incentives in question on all submissions while investigating alleged issues. In all cases involving a Participating Contractor's disciplinary status or denial of Program incentives, NYSERDA's written decision is final.

a. Probation

Probationary Status is reserved for Participating Contractors that have failed to meet the requirements of the Program. Probation is prescriptive in nature with both a specific list of results to be achieved and a time frame for achieving those results.

- i. **Minimum Period of Performance-** A Probation period will last no less than 90 days with terms outlined in the disciplinary action letter to the Program.
- ii. **Program Benefits-** Under the Probation Status, the Participating Contractor will be eligible for all contractor incentives, its customers will have access to financing offered through the Program, and income-eligible households will be eligible to receive Program incentives. Contractors with probationary status may participate in NYSERDA pilots at the discretion of program staff and/or pilot participation guidelines.
- iii. **Quality Assurance/Quality Control (QA/QC)-** Under the Probation Status, the Participating Contractor May be subject to increased QA/QC inspection rates that, if applicable, will be defined in the terms of their disciplinary letter from the Program.

A Participating Contractor may be placed on Probation for any of the following reasons:

- a. **Violation of Program Policies and Procedures or Ethical Standards-**The Participating Contractor has failed to adhere to Program policies and procedures as outlined in the Consolidated Residential Participation Agreement or Program Manual. This includes but is not limited to poor or unclear contract documents, misrepresentation of available Program participant incentives, poor quality of work, repeated submissions of inaccurate, incomplete, illegible or otherwise faulty documentation, performing work in municipalities they are not licensed to work in, failure to submit overpayment reimbursements in a timely manner, and not obtaining proper building permits before the project start date.
- b. **Minimum Production-** A Participating Contractor is not meeting the minimum production requirements of the Program.
- c. **Failure to meet Quality Requirements-** Failure to consistently deliver completed projects which pass the QA standard required for 'Full' status.

- d. **Health and Safety and other Critical Violations-** Failure to take effective corrective action on a critical deficiency.
- e. **Unprofessionalism-** Contractors exhibits repeated unprofessionalism in interactions with Program Staff, Implementation Staff, or Program participants.
- f. **Unresponsive to Open-Fail Report Resolution-** Three (3) or more Open-Fail reports that have not been responded to or remain unresolved for more than 30 days.
- g. **Program participant Complaints-** NYSERDA and its designees have received one or more valid Program participant Complaints per quarter, the Participating Contractor is unresponsive or slow in resolving Program participant issues, exhibits poor quality workmanship or unprofessional manner on one or more projects.
- h. **Contractor is Not Licensed/Not Obtaining Proper Permits-** The Program is informed that the Participating Contractor performed work in a municipality they are not licensed to work in. The Participating Contractor performs work without obtaining the proper permits as required by the governing municipality.
- i. **Failure to Follow Program Procedure-** The Participating Contractor continuously submits incorrect or incomplete documentation or requires an excessive amount of administrative or technical support.

While on Probation, the contractor must continue to put work through the Program and meet minimum production requirements. In the event a contractor is placed on probation and fails to meet the terms of the Probation within six months of the issuance date of the letter, the Program, at its discretion, may elect to Suspend or Terminate the Participating Contractor for failure to meet the terms of Probation.

b. Suspension

A Suspended Participating Contractor shall be removed from the NYSERDA website and shall not represent themselves as a Participating Contractor, accept any applications for, nor recruit new participants into, the Program except in the execution of remedial action as approved by NYSERDA. A Suspended Participating Contractor forfeits its eligibility for contractor incentives and its customers will not have access to incentives or financing offered through the Program. NYSERDA has sole discretion in determining whether to suspend a Participating Contractor. With Program permission, a Suspended Contractor may be allowed to close out in progress Projects. Projects may be subject to increased QA/QC inspection rates that, if applicable, will be defined in the terms of their disciplinary letter from the Program. NYSERDA has sole discretion in determining the length of the Suspension Period. Grounds for suspension shall include, but are not limited to, the following:

- a. **Unresponsive-Probation-** The Participating Contractor is on Probationary status and has either been unresponsive to, or failed to adequately fulfill, the terms of their probation.
- b. **Unresponsive-Other-** The Participating Contractor is unresponsive to addressing outstanding Program participant concerns, Field Inspection Report, incentive over payment reimbursements or requests from Program or Program implementation contractors.
- c. **Violation of Program Policy and Procedures or Ethical Standards-** The Participating Contractor has failed to adhere to Program policies and procedures as outlined in the Consolidated Residential Participation Agreement, Program Manual, or any subsequent changes made to either document through a Program Announcement, thereby putting the Program, NYSERDA, and Program participants at risk. This includes but is not limited to poor or unclear contract documents, misrepresentation of available Program participant incentives, poor quality of work, repeated submissions of inaccurate, incomplete, illegible or otherwise faulty documentation, billing for uninstalled measures, performing work in municipalities they are not licensed to work in, and not obtaining proper building permits.
- d. **Contractor Staffing-** The Participating Contractor has staffing changes or staffing certification status changes resulting in the contractor not maintaining the minimum Program certification requirements.
- e. **Misrepresentation-** The Participating Contractor has submitted false or fraudulent documentation to the Program at any time, during any phase of participation in the Program. This includes, but is not limited to, forging Program participant signatures, falsifying existing onsite conditions, submission of photo documentation that does not correspond to the project for which it was submitted.

Following execution of the Consolidated Residential Participation Agreement, and any subsequent updates, the Participating Contractor agrees to be an active contributor to the Program by providing high quality and professional building performance services to Program participants. As a condition for ongoing Program participation and associated benefits, each applicant and Participating Contractor understands and agrees to the terms and conditions outlined in the Consolidated Residential Participation Agreement, the Program Manual or any subsequent changes made to either document through a Program Announcement.

Leaving the Program

Should the Participating Contractor no longer participate in the Program, they are required to immediately inform NYSERDA and remove all references to NYSERDA, the Program, and Program Financing and incentives from the modeling software that generates their reports as outlined above.

Contractors who leave the Program are not permitted to use NYSERDA logos after termination.