



## STEP- HVCC TEC-SMART Construction Manager Request for Proposals (RFP)-1244

Proposals Due: August 11, 2008 by 5:00 PM Eastern Time\*

The New York State Energy Research and Development Authority (NYSERDA) invites proposals from Construction Management firms or related professional entities to provide construction management services to NYSERDA on behalf of Hudson Valley Community College (HVCC) for the construction of a building and related improvement at the Saratoga Technology + Energy Park (STEP) in the Town of Malta, Saratoga County, New York. HVCC's TEC-SMART facility will be a resource training and education facility for the alternative energy, energy efficiency, and semiconductor manufacturing industries at STEP. TEC-SMART will be a state-of-the-art training facility intended to help develop the workforce needed to support future high-tech and environmentally sound technologies and manufacturing facilities in New York State. A 40-45,000 sq. ft. facility with labs, offices and an auditorium will be built at STEP for HVCC. HVCC has developed its preliminary design (size of lab space, office space, auditorium configuration, class room sizes, etc.) and requires a construction manager (CM) to work with a design team to develop a design that will meet the specification as stated herein at the best price, provide a guaranteed maximum construction cost to fit within the estimated budget, and construct the building. Under a separate RFP (RFP 1246), NYSERDA is soliciting a design team for the design services and the preparation of plans and specifications who will work with the CM manager to design the project and provide construction inspection services.

The selected construction manager (CM) shall work with the selected design team to develop a design that fits the estimated budget and fits the needs of HVCC, and provide construction management services during construction for a 40-45,000 sq. ft. building under a ground lease from NYSERDA. The building is to be designed to comply with STEP's Master Plan and Conceptual Design Guidelines, and New York State Executive Order No. 111, and earn at least a basic LEED® certification from the U.S. Green Building Council. One award is expected to be granted as a result of this solicitation.

A state budget appropriation has been obtained for this project and NYSERDA and HVCC recognize that this funding amount cannot be increased. In order for the project to be completed, significant early-project coordination will be required to establish a project methodology to bring the project requirements in line with the project funding.

**Proposal Submission:** Proposers must submit eight (8) copies of the proposal with a completed and signed Proposal Checklist attached to the front of each copy, one of which must contain an original signature. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, RFP 1244  
NYS Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399**

If you have technical questions concerning this solicitation, contact James Reis, P.E. at (518) 862-1090, ext. 3251 or [jfr@nyserda.org](mailto:jfr@nyserda.org). If you have contractual questions concerning this solicitation, contact Doreen Darling at (518) 862-1090, ext. 3216 or [djd@nyserda.org](mailto:djd@nyserda.org).

No communication intended to influence this procurement is permitted except by contacting Jim Reis (Designated Contact) at (518) 862-1090, ext 3251 or [jfr@nyserda.org](mailto:jfr@nyserda.org). Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

\*Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will be returned. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any other NYSERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSERDA's web site at [www.nyserda.org](http://www.nyserda.org).

## **I. INTRODUCTION**

Through this Request for Proposals (RFP), the New York State Energy Research and Development Authority (NYSERDA) invites proposals from professional construction management firms, or developer teams to provide construction management services for the construction of the *Training and Education Center for Semiconductor Manufacturing and Alternative and Renewable Technologies* (TEC-SMART) facility. Once designed, the Construction Manager (CM) will construct, or subcontract with one or more construction firms or developers to construct the building and related improvements at the Saratoga Technology + Energy Park (STEP) in the Town of Malta, Saratoga County, New York. The tasks included in this RFP include working with a separate design firm to develop construction documents, who will also be required to provide inspection services during construction. The CM will construct the building, described herein, for Hudson Valley Community College, who will own the building.

The facility will be an approximately 40-45,000 square feet, two story building, with laboratory space, classroom, auditorium space, office space and related areas to be used as a training and education facility. The building will be designed in accordance with New York State Executive Order No. 111, the Conceptual Design Guidelines (Attachment B), and achieve a minimum LEED® certification from the U.S. Green Building Council. The New York State Executive Order No. 111, along with Guidelines issued by NYSERDA for compliance with the Executive Order, can be found at [www.nysERDA.org/programs/exorder111.asp](http://www.nysERDA.org/programs/exorder111.asp).

## **II. BACKGROUND of STEP and the TEC-SMART FACILITY**

STEP is a 280-acre parcel located 1.5 miles east of Exit 12 of Rt. 87 (Adirondack Northway) in the Town of Malta. STEP is the first government-sponsored, knowledge-based economic development project designated strictly for companies involved in various aspects clean-energy and environmental technology development and deployment. STEP is approved for 1.25 million sf of development while maintaining 77% green space. To achieve this, there is to be minimal disturbance and clearing, and shared parking with other companies is preferred.

The goal is to establish STEP as an environment specifically designed to meet the needs of young, knowledge-based businesses. In addition, STEP will demonstrate a comprehensive array of sustainable design features, and ideally will be itself a “laboratory” for sustainability. Among the features that NYSERDA intends to incorporate into the STEP design are:

- Respect for the natural setting;
- Recognition of the Adirondack heritage;
- Green building and innovative energy technologies;
- Creation of active and passive activity zones and recreation features; and
- A “Knowledge Community Center” featuring shared common services and small-scale retail to serve the needs of the STEP tenants.

## **A. Infrastructure at STEP**

All required infrastructure for the project shall be available for this project. The building's design will include provisions for all hook ups to services and utilities. This includes extending conduits, pipes, etc. to retention basins and infiltration ponds that are outside of the Applicant's lease line; the construction of fire lanes, and the like. NYSERDA will issue an easement to provide the Applicant access for all off-site improvements.

NYSERDA, and a CM designated by NYSERDA, will assist the designer in coordinating the proposed development with the STEP Project's infrastructure. The designer must ensure that the construction activities include coordination with NYSERDA, HVCC and with any other parties developing sites in the STEP Project, if any. The designer will be required to include all sidewalks (including street trees and street lighting); landscaped areas associated with development on the site, and all other site considerations as set forth in the Conceptual Design Guidelines.

## **III. DESIGN**

An important goal of NYSERDA is to develop well-designed, environmentally responsible buildings at STEP that can serve as models for technology park construction in this region and elsewhere. NYSERDA's policy is to implement financially feasible, technologically sound strategies in all its new buildings to make significant advances in five areas: energy efficiency; indoor environmental quality; water conservation and site management; conservation of materials and resources; and efficient operation and maintenance. The TEC-SMART building will be a training center for renewable and alternative energy technologies with laboratory space, office space, classrooms and an auditorium. See Attachment A – *TEC-SMART Training and Education Center for Semiconductor Manufacturing and Alternative and Renewable Technologies* Project Description for a discussion of the project scope, layout and size.

Among the requirements of the Design Guidelines is compliance with New York State Executive Order No. 111, which requires State entities to adopt certain energy efficiency and environmental practices. The Conceptual Design Guidelines also require that buildings at STEP be designed to earn at least the basic LEED certification from the U.S. Green Building Council. The design firm or team must include personnel who are LEED certified.

NYSERDA is committed to high-quality architecture and technology park design and construction, and will require that the designer be able to demonstrate an overall body of work recognized by their peers as showing excellence of design. In light of NYSERDA's goal of creating green buildings, the designer should have significant architectural and engineering experience in creating environmentally responsible buildings in a technology park setting, as well as a demonstrated interest in this goal.

## **IV. PROJECT CONTRACTING DETAILS**

The CM will work with NYSERDA and HVCC staff to complete the project's design. During design (and then construction), the CM will also work with a designer, separately chosen under RFP 1246, who will provide input into project design for the purpose of developing a guaranteed maximum price that fits within the budget allocated by HVCC. The designer and construction

management firm will enter into standard AIA or Consensusdocs agreement forms (AIA # A121-CMC 2003 with AGC document #565, B141 CMA-1992, A201/CMA-1992, etc.) with NYSERDA to complete the work. The designer and the construction management firm will be allowed to suggest changes to the HVCC design plan for cost savings, or to increase functionality, as long as the changes coincide with NYSERDA's and HVCC's vision for the building. The proposer may also suggest the contracting forms to be used.

## **V. PROJECT APPROVAL INFORMATION**

### **A. Master Plan**

NYSERDA's Board approved the Master Plan (Attachment D) for STEP in January 2004, and it was updated in 2008. The Master Plan is the document that is guiding the development of STEP, and includes the Land Plan, building orientation, phasing, green space, market, etc. Construction of the TEC-SMART facility must conform to the Master Plan.

### **B. State Environmental Quality Review Act**

NYSERDA staff, working with consultants, prepared an expanded environmental assessment form under the New York State Environmental Quality Review Act (SEQRA) for the Master Plan. On January 23, 2004, NYSERDA, as the designated lead agency, issued a negative declaration indicating that the development of STEP as proposed in the Master Plan will not have a significant adverse impact on the environment.

The designer will be required to comply with all applicable federal, state, and local laws and regulations, and to obtain from all appropriate government authorities all construction and ancillary approvals for the development of the selected site. This includes environmental review for the specific project and preparations of all materials required by NYSERDA as lead agency to approve the project under SEQRA. The design will include requirements for the builder to be responsible for making all filings and obtaining all approvals required for the connection of utilities to, or the furnishing of services at the selected site.

### **C. Pre-Permitting**

In late 2007, STEP received "Shovel Ready" status from the New York State Empire Development Corp. (ESD). Under this program, all development pre-permitting requirements were met, which ideally will allow for a quick response to site development. These include

- \* SEQRA;
- \* Boundary survey of STEP;
- \* Soil survey;
- \* Flood plain map;
- \* Storm Water Pollution Prevention Plan;
- \* Protected and rare species survey;
- \* Wetland non-jurisdictional letter, Army Corp. of Engineers;
- \* Traffic impact study; and
- \* Archeological Phase I B field investigation.

Copies of any and all of the above documentation, along with topographic surveys of STEP, are available upon request. Also available is the Site Vibration and Noise Survey conducted on the adjacent property, the LFTC.

**D. Approvals**

Despite the fact that NYSERDA is a public authority with a statutory mission to develop the STEP property, and as such is exempt from local zoning controls, all projects must be consistent with the Town of Malta’s zoning ordinance.

NYSERDA has signed a Memorandum of Understanding with the Town of Malta that provides that all necessary documentation for site review will be submitted to the Town Planning Board, including payment of all fees. The designer is responsible for presenting a complete set of site plans and building submissions to the Town Planning Board for its consideration. NYSERDA, as lead agency, is responsible for all required SEQRA review, and must also comply with applicable provisions of the New York State Public Authorities Accountability Act.

After NYSERDA’s approval of the designs, the designer will be required to present the site and building plans to the Malta Town Planning Board for its consideration, incorporating any reasonable feed-back into the plans.

Building permits are required from OGS rather than the Town of Malta; however, necessary documentation submitted to OGS must also be submitted to the Town of Malta and NYSERDA.

The designer is responsible for identifying all approvals that may be required to construct the Building and related improvements, and for obtaining all such approvals, and payment of any related fees.

**VI. PERSONAL SERVICES AGREEMENT**

NYSERDA shall issue a Personal Services Agreement (Attachment C) to the successful construction manager. The Personal Services Agreement provides milestone dates that are to be met for the construction of the facility by January 2010.

The chart below summarizes the milestone dates from issuance of Award Letter. Should the designer’s proposed milestone dates differ from those below, indicate the new dates and the reasoning for the difference.

<b>Milestone</b>	<b>Completion date</b>
Issue RFP for Design Services	June 2008
Issue RFP for Construction Management Services	June 2008
Proposals Due	July 2008
Interviews (if required)	July 2008
Award Contracts	August 2008
Complete Design	January 2009
Start Construction	February-March 2009
Order Equipment	June 2009
Complete Construction	January 2010
Install Equipment	January 2010

Commissioning and receipt of Certificate of occupancy	January 2010
Classes Begin	Spring Semester 2010

## VII. PROPOSALS

Applicants must submit **eight (8)** copies of the proposal. A completed and signed Proposal Checklist (Attachment A) included must be attached to the front of all **eight (8)** copies. At least one copy of the Proposal Checklist must contain an original signature. Be sure that the individual signing the checklist is authorized to commit the construction manager's organization to the proposal as submitted. Each page of the proposal should state the name of the construction manager, the RFP number, and the page number. NYSERDA reserves the right to request additional data or material to support proposals. All material submitted in response to the RFP will become the property of NYSERDA.

### **Procurement Lobbying Requirements**

#### **Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k**

Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The text of the laws are available at: <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>). In compliance with §139-j and §139-k of the State Finance Law, for proposals submitted in response to this solicitation that could result in agreements with an annual estimated value in excess of \$15,000, additional forms must be completed and filed with proposals: (1) a signed copy of the Proposal Checklist including required certifications under the State Finance Law and (2) a completed Disclosure of Prior Findings of Non-Responsibility form (Attachment B). Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

### **A. Proposal Requirements**

**Company/Applicant Information** – All Applicants must provide the following information for each member of the proposed design team:

- Name of Business Entity (including any “Doing Business As” names)
- Headquarters/Parent Company Locations
- History of Firm
- Internet Web Site Address (if any)
- Details of Entity's Business Structure (Corporation, Partnership, LLC)
- Date Founded
- Organization Chart of Business Entity
- Office Locations and Total Number of Employees at each
- Home office address and telephone number and local address and phone number
- List of any outstanding litigation that would threaten the viability of the firm or the performance of this Award Letter and Ground Lease

### **B. Proposer Information**

Applicants must submit the following information:

## **1. Letter of Commitment**

Letters of commitment from all members of the CM team must be submitted stating their interest and level of participation in the project.

## **2. Statement of Experience**

The proposer must provide a summary of experience for each member of the team assigned to the project. Experience should include a body of work that reflects similar projects undertaken, as well as experience with LEED design and construction and working with university projects. Professionals are to list and discuss their training and experience with green building technologies, and should specifically indicate whether they have previously designed and built any LEED-certified green buildings, and if said buildings received such certification. It should also be clearly identified whether the proposer has LEED-accredited professionals on staff.

## **3. Staffing**

The proposer must provide:

- a. The name of the person(s) designated as the Project Manager and all senior personnel, who will be responsible for the work effort, and any others considered to be important members of the team.
- b. Resumes for the above listed people.
- c. An estimate of the number of employees intended to be involved, and the extent of their involvement.
- d. The involvement and contractual relationship with any subcontractors for work not completed in house.

## **4. Construction Management Fees**

The proposer must include a total project budget which includes a target fee and the methodology for determining the final fees for the project related work, and any other required fees. This shall include a schedule and listing of project fees in sufficient detail for NYSERDA to ascertain how the fee will be determined, how the project will proceed and the obligations of NYSERDA and HVCC to determine participation and make project decisions.

## **5. Adherence to Milestone Dates**

The proposer must indicate that the milestone dates as identified under Section VI, Personal Services Agreement, are achievable. If the expected dates differ, provide milestone dates in a similar manner, along with the rationale for the difference.

## **6. Summary of Proposer's Ability to meet the needs of the Project Scope**

Proposals submitted in response to the RFP shall be reviewed by a Technical Evaluation Panel, consisting of NYSERDA staff and external reviewers. The proposers must address the following factors in detail:

- a. Extent of experience in designing and building similar building types, working with educational facilities, experience in value engineering and schedule control
- b. Extent of the Company's commitment to sustainable design and LEED guidelines;
- c. The quality and experience of the CM Team, and its commitment to sustainable design and LEED guidelines;
- d. Breadth and length of experience working with a designer and construction inspector in an at-risk situation;
- e. Adherence to milestones as set forth in the Personal Services Agreement and the CM's stated ability to work with the Design Team to have the building completed by January 2010 within budget;
- f. The CM's stated ability to develop a project that is biddable, constructible, and will fit with the budget set forth by HVCC while still building the maximum building for the money.
- g. The understanding demonstrated in the proposal of NYSERDA's mission and objectives at STEP, as well as special needs related to the development of STEP; and
- h. Pricing, including total cost to for CM services, salary cost ranges of all staff working on the project, and overhead rates

## **7. References**

The proposer shall list references and contact information for NYSERDA's use.

## **8. Other Criteria**

NYSERDA reserves the right to consider criteria other than the foregoing and to assign to each of the above and to such other criteria as are considered such weight as NYSERDA may in its absolute discretion determine (all criteria used by NYSERDA being collectively called the "Selection Criteria").

## **VIII. SELECTION PROCESS**

NYSERDA shall review all proposals for completeness and compliance with the terms and conditions of this RFP, and may request from any or all of the CM's additional material, clarification, confirmation or modification of any proposal. Selection will be based on clarity of proposal, completeness of provided information, amount and degree of relevant experience and, acceptable cost/fee structure. NYSERDA may request that all or some of the proposers attend a pre-selection interview. Except at the request or by the consent of NYSERDA, proposers will not be entitled to change their proposals once submitted. NYSERDA reserves the right to request, at any time in the selection process, such additional information or materials as it may

deem useful or appropriate to evaluate each designer's qualifications and past experience. Submission of a proposal shall constitute the proposer's permission to NYSERDA to make such inquiries concerning the designer as NYSERDA, in its sole discretion, deems useful or appropriate.

The proposals will be evaluated by an evaluation panel that will make a recommendation to NYSERDA management. NYSERDA will award the proposer whose proposal, in the sole discretion of NYSERDA, most successfully fulfills the Selection Criteria, and is most advantageous to the State, price and other factors considered.

## **IX. EXECUTION OF PERSONAL SERVICES AGREEMENT**

Within 10 days of receipt of the Personal Services Agreement, the selected CM must execute and deliver to NYSERDA the Personal Services Agreement in the form included as Attachment C.

## **X. REPRESENTATIONS AND WARRANTIES**

NYSERDA makes no representations or warranties, including, without limitation, representations or warranties as to the accuracy of any information or assumptions contained in this RFP or otherwise furnished to Applicants by NYSERDA; the use or progress of development of any site or any other portion of the STEP Project; site conditions or the suitability of a site for any specific use or development; and tax assessments or tax rates that may be established by the Town of Malta or other authorized municipality, or the amount of PILOT payable with respect to a site.

## **XI. 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 except it from disclosure, including a written statement of the reasons why the information should be accepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 [www.nyserda.org/nyserda.regulations.pdf](http://www.nyserda.org/nyserda.regulations.pdf). 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  
30 South Pearl Street  
Albany, NY 12245

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

Empire State Development  
Minority and Women's Business Development Division  
30 South Pearl Street  
Albany, NY 12245

**State Finance Law sections 139-j and 139-k** - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain new procurement lobbying requirements which can be found at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

**Tax Law Section 5-a** - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSERDA 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.state.ny.us/pdf/2006/fillin/st/st220td\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf)). Prior to contracting with NYSERDA, the prospective contractor must also certify to NYSERDA 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 NYSERDA. *See*, ST-220-CA (available at [http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf)). The Department has developed guidance for contractors which is available at [http://www.tax.state.ny.us/pdf/publications/sales/pub223\\_606.pdf](http://www.tax.state.ny.us/pdf/publications/sales/pub223_606.pdf).

**Contract Award** - NYSERDA anticipates making one award under this solicitation. It may award a contract based on initial applications without discussion, or following limited discussion or negotiations. Each offer should be submitted using the most favorable cost and technical terms. NYSERDA may request additional data or material to support applications. NYSERDA will use the Sample Agreement to contract successful proposals. NYSERDA expects to notify proposers in approximately four weeks from the proposal due date whether your proposal has been selected to receive an award.

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

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

**Attachments:**

Attachment A – Proposal Checklist

Attachment B – Disclosure of Prior Findings of Non-responsibility

Attachment C – Personal Services Agreement

Attachment D – STEP Master Plan

Attachment E – *TEC-SMART Training and Education Center for Semiconductor Manufacturing and Alternative and Renewable Technologies* Project Description

Attachment F – Conceptual Design Guidelines