



**Flexible Technical Assistance Services Program for
Consolidated Edison Company of New York, Inc.
And Orange and Rockland Utilities, Inc.
Electric and Gas Service Territories
Request for Proposal (RFP) 1209**

Proposals Due: June 22, 2009 by 5:00 PM Eastern Time*

PROGRAM SUMMARY:

The New York State Energy Research and Development Authority (NYSERDA) requests proposals from firms interested in providing energy efficiency technical assistance services through NYSEERDA's Flexible Technical Assistance (FlexTech) Program in the Electric and Gas Service Territories of Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc. (O&R), a Consolidated Edison, Inc. company. Selected Contractors must show a thorough understanding and experience working in the Con Edison and O&R electric and gas service territories (which includes Bronx, Kings, New York, Orange, Queens, Richmond, Rockland, Sullivan, and Westchester Counties).

Proposal Submission: Proposers must submit two (2) paper copies of the proposal with a completed and signed Proposal Checklist attached to the front of each copy, both of which **must** contain an original signature. One (1) electronic copy of the proposal must also be submitted on a standard compact disk (CD). This electronic document (pdf format only) must be an exact scanned image of the final paper copy proposal and include all relevant forms and signatures. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, RFP 1209
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399**

Information Session: An informational session for potential proposers will be held on May 21, 2009 at 10:00AM in NYSEERDA's New York City office at 485 Seventh Avenue, Suite 1006, New York, NY 10018. A conference call dial-in number will be available. Additional information is available at www.nyserda.org. Please RSVP to Teresa Cobena by COB May15, 2009 at sc2@nyserda.org if you wish to attend.

If you have technical questions concerning this solicitation, contact the Designated Contact: Sandy Hwang at (212) 971-5342, ext. 3009 or sh2@nyserda.org. If you have contractual questions concerning this solicitation, contact: Venice Forbes at (518) 862-1090, ext. 3507 or vwf@nyserda.org.

No communication intended to influence this procurement is permitted except by contacting the Designated Contact. Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the person'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 NYSEERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSEERDA's web site at www.nyserda.org.

Existing Statewide FlexTech Contractors need not apply to this RFP unless they would like to:

- **Potentially extend or provide services in the preferred areas of expertise requested in this RFP in Con Edison and O&R Service Territory through 2012**

(the Statewide RFP will be reissued in summer 2009 to obtain services for 2010-2013)

I. INTRODUCTION

OBJECTIVE OF PROGRAM

NYSERDA's Flexible Technical Assistance Program (FlexTech) provides New York State businesses, institutions, industrial and manufacturing facilities, data centers, local governments, multifamily facilities, farms and other facilities with technical assistance services that are customized to each site's needs to help make informed energy decisions. FlexTech's primary goal is to increase productivity and economic competitiveness by identifying and encouraging the implementation of cost-effective energy efficiency and carbon reduction measures. FlexTech services focus on systems-based approaches that use proven technologies and strategies to increase energy efficiency or mitigate carbon impacts. FlexTech also has been used to support other NYSERDA Programs.

Through New York State's Energy Efficiency Portfolio Standard (EEPS) and the Regional Greenhouse Gas Initiative (RGGI), NYSERDA has been tasked to support the State in achieving its energy efficiency and carbon emission reduction potential. It will be necessary for selected FlexTech Contractors to provide focused assistance relating to electric, fossil fuel, and carbon reduction in energy intensive industries to achieve substantial program penetration and deliver results in the most efficient and cost-effective manner. In order to meet the new goals and increased efforts, NYSERDA is expanding existing programs and creating new program offerings to increase opportunities for customer participation in the Con Edison and O&R service territories. As part of this effort, RFP1209 is seeking qualified contractors to provide services and expertise in the Con Edison and O&R Service Territories.

SERVICES REQUESTED

As a result of this RFP, NYSERDA plans to retain a number of qualified contractors to provide a range of services to commercial and industrial customers in Con Edison and O&R service territories. Contracts will be awarded for one year with two one-year options to renew at NYSERDA's discretion, for a total possible contract length of three years. Services will generally fall into the categories below.

- General Feasibility Studies and Technical Support
- Carbon Mitigation Studies (includes carbon master planning and carbon lifecycle assessments)
- Peak-Load Reduction Strategies
- Industrial and Process Energy Analysis (includes data center efficiency projects)
- Combined Heat and Power, Distributed Generation, and Renewable Generation
- Retro-commissioning Services
- Agricultural Technical Assistance
- Alternate-Fuel Technology
- Energy Procurement (includes hourly pricing, rate analysis, and aggregation)
- Executive Order No. 111 Requirements
- Green Buildings

- Water and Wastewater Services
- Energy Advisor Services
- Multifamily (NOTE: Multifamily residences are defined as properties that provide residential housing and contain five or more units. In general, NYSERDA's Residential Energy Affordability Program will handle multifamily facilities. However, FlexTech may be needed on a case-by-case basis and proposers are encouraged to demonstrate their expertise in servicing this sector.)

More specifically, within these categories, technical assistance services may include any of the following:

- Preliminary surveys or detailed on-site engineering studies of specific energy efficiency and carbon reduction measures/techniques
- Analysis of load shaping and peak-reducing energy management methods
- Energy or carbon-related design assistance
- Computer-assisted building or system modeling
- Monitoring and metering energy-consuming/carbon-emitting equipment and systems
- Technical guidance in improving environmental performance by reducing energy consumption and carbon emissions
- Providing guidance to comply with Executive Order No. 111 requirements
- Developing guidelines for specification or design criteria
- Developing training materials, conducting seminars, promoting or marketing technical subjects of NYSERDA services
- Other technical support and related assistance as needed for NYSERDA and its customers

EVALUATION OF PROPOSALS - OVERVIEW

One of the keys to the success of FlexTech has been the flexibility of its Contractors and the services they provide. Although each selected proposer will have expertise in one or more of the above categories, successful proposers must also have the desire to expand their technical expertise. When NYSERDA launches new programs and initiatives, the FlexTech Contractors are often used to assist in program development and to help expedite program delivery.

FlexTech emphasizes fuel-neutral, objective technical assistance for its customers. It is important that the analysis provided through FlexTech is based on customer need. Proposers to this RFP must demonstrate their ability to provide an objective, third-party perspective on FlexTech projects.

The proposer's ability to respond in a timely manner to customer and NYSERDA requests will be considered in the evaluation process. Proposers must delineate how they plan to respond to NYSERDA assistance requests including current NYSERDA and other contract commitments outside of FlexTech.

Proposers will be awarded contracts based upon their experience, ability, and qualifications to perform one or more of the services outlined in this RFP. The number and type of services requested from the selected Contractor will depend on the customer requirements and input, the Contractor's expertise, the volume of requests, geographic distribution of requests, and the Contractor's performance. Contractors are encouraged to submit proposals highlighting their specialized expertise as per the Services Requested section. NYSERDA seeks experts and firms to help with problem-solving, based on their specialized hands-on experience.

Targeted, cost-effective strategies will be key to meeting the aggressive energy savings goals established by EEPS and RGGI. NYSERDA intends to strengthen its capacity to better serve large, energy-intensive commercial and

industrial customers in the Con Edison and O&R service territories. Proposers will be evaluated based on their existing relationships, as well as their ability to develop and maintain new relationships with large commercial and industrial energy users in the Con Edison and O&R service territories.

Proposers are encouraged to submit strategies to minimize the overall cost of services (travel, indirect overhead, etc.) and maximize the benefits to customers. Proposers should clearly specify office locations that will participate in the FlexTech program and the corresponding geographic locations they will serve. Proposers do not have to have offices located in New York State to respond to this RFP.

II. RANGE OF SERVICES TO BE PROVIDED

Through this RFP, proposers with specific capabilities and experience will be retained for the purpose of providing technical assistance services to NYSERDA and its customers. These contracts are expected to provide NYSERDA with the ability to offer a full range of energy-related technical services to its customers in the Con Edison and O&R Service Territories. The following is a more detailed description of each of the general categories and services that may be requested.

General Feasibility Studies and Technical Support

This represents a majority of the services provided through FlexTech. Feasibility studies aim to assist customers in making more informed energy decisions at their facilities. This service may include equipment replacement or upgrade recommendations, comprehensive energy analysis on campus-type settings, energy-related design assistance through computer-assisted building modeling, or engineering support and other analysis requested by the customer and approved by NYSERDA. A feasibility study may require some level of design concepts to determine the feasibility of potential improvements. Although FlexTech does not provide design services, a feasibility study may require some level of design concepts to determine the feasibility of potential improvements.

Contractors may be asked to provide technical analysis and technical services for other NYSERDA efforts, which may include supplementing NYSERDA's technical staff to provide technical support on programs. This support may include: program design assistance and research, analysis of performance standards for equipment or appliances; assessing energy code, energy code compliance, and above-code opportunities; and other non-customer-specific analysis.

Additional services include assisting in the development of new programs, technical manuals, papers, and seminars. NYSERDA may use the data and knowledge gained from conducting surveys and studies to develop technical material and present seminars to other energy consumers throughout the state and country.

Carbon Mitigation Studies

Carbon mitigation studies assist customers in making more informed carbon management decisions at their facilities. This service may include, but is not limited to: performing carbon footprint analyses and developing carbon action plans to address carbon-intensive areas, water efficiency and water conservation studies, developing procurement strategies for acquiring carbon-neutral resources, equipment replacement or upgrade recommendations resulting in carbon mitigation, comprehensive carbon master planning for campus-type settings, carbon lifecycle "cradle-to-grave" assessments for processes, supply chains, company operations, specific products/product lines, etc. and various other analyses requested by the customer and approved by NYSERDA.

Peak-Load Reduction Strategies

Contractors may be asked to provide detail on peak demand impacts of study recommendations. Electric grid reliability and availability of demand response or demand reduction initiatives in the Con Edison electric service

territory during summer peak periods is especially critical and particular focus should be paid to calculating this impact in addition to the customer billing impact. The historic peak load in Con Edison's electric service territory occurs between May 1 and October 31, during the hours of 11:00 A.M. to 6:00 P.M., with the exception of some night peaking load pockets. Contractors will need to provide analysis showing how the measure coincides with or impacts the system electric summer peak. Both short term load management and long term permanent load reduction opportunities may be investigated.

This service may also provide review of real-time metering information and the benefits to facilities interested in participating in load curtailment programs within the Con Edison and O&R service territories or in tracking daily load profiles to monitor the effects of energy consuming systems. This service may help customers identify their ability to, and the financial benefit from, participating in such programs and the associated energy savings from installing real-time metering or web-enabled metering when it is used to curtail or shift loads at their facility. Contractors will be asked to identify and analyze opportunities for customers to participate in load curtailment activities of New York Independent Systems Operator (NYISO) such as Installed Capacity Special Case Resources (ICAP/SCR), Con Edison's Rider U Distributed Load Relief Program, or a Time of Use (TOU) or Real Time Pricing (RTP) program.

Industrial and Process Efficiency Analysis

Industrial facilities and processes require customized approaches to energy efficiency. Production lines and processes often have unique characteristics and functions. Site and sector specific approaches will be used to ensure that the best energy efficiency opportunities are identified and addressed. This approach will maximize process and energy reliability, productivity and energy savings. Through this RFP, NYSERDA seeks to increase its engagement of service providers who are experts in particular industrial processes and data centers. Credibility and quality of technical assistance are essential to program success as well as customer and stakeholder engagement.

Industry

NYSERDA will have an increased focus on industrial process improvements that increase the efficiency of energy or material use. Projects may also focus on increasing productivity, improving environmental performance, or minimizing waste. In addition to strong general industry experience, NYSERDA is seeking contractors with expertise and experience working with specific sub-sectors and processes (e.g. ceramics, pulp and paper, chemicals, chip fabrication, separations/purification). Analysis will predominantly focus on defining and reducing energy use per unit of production.

Data Centers

Data center energy analysis assistance will assess energy efficiency and carbon reduction potential of data center support systems and IT equipment. Strategies can include but are not limited to: cooling/IT equipment replacement or upgrade recommendations, server virtualization, redundancy optimization, temperature set point investigations, etc. NYSERDA is looking for contractors with expertise and experience working to improve the efficiency of supports systems (i.e. cooling and UPS systems) and IT equipment (i.e. server replacement, virtualization, application management). Analysis will predominantly focus on defining and reducing energy cost per unit of productive data throughput.

Combined Heat and Power, Distributed Generation, Renewable Generation

Contractors may be asked to provide technical assistance in evaluating the technical and economic feasibility of installing on-site power generation, either distributed generation (DG) alone or distributed generation with heat recovery otherwise referred to as combined heat and power (CHP). All generation studies will require specific information in the final reports as detailed in Attachment E. Generation studies will require detailed review of: energy profiles of thermal and electrical loads, overall system efficiency, pressure and availability of the fuel

source, permitting, sensitivity analysis, tariff impacts, interconnection issues, and overall system reliability.

Energy Procurement

Energy planning and purchasing support in response to the changing energy marketplace are included in this service. These analyses help customers analyze their energy rates, load shapes, energy consumption, and energy service aggregation opportunities. In addition, it can help customers prepare RFPs, review proposals, and allow them to better negotiate with power marketers and other service providers. Experience and knowledge with hourly pricing structures within specific electric territories should be highlighted.

Retro-commissioning Services

Retro-commissioning is the systematic process of verifying that all building systems perform interactively according to design intent, that they meet the operational needs of the owners and occupants, and that staff responsible for operation and maintenance are sufficiently trained. The goal of this service is to improve system performance, operation and maintenance, energy efficiency, occupant comfort, and indoor environmental quality. Retro-commissioning services will need to focus specifically on energy efficiency. Commissioning of new equipment and new facilities may be required on a case-by-case basis. In general, NYSERDA's FlexTech Contractors perform retro-commissioning on facilities and equipment that have been in use for at least one year.

Proposers wishing to perform this service should highlight experience and completion of substantive training courses on retro-commissioning such as completion of the Building Commissioning Association service provider course, or other equivalent training courses pre-approved by NYSERDA.

Agricultural Technical Assistance

This service provides technical assistance throughout the agricultural community. The proposal must present information in a manner that shows the proposer is knowledgeable in this sector including the opportunities for efficiency improvements that exist and which improvements have been generally accepted. These areas have traditionally been: motors, refrigeration, lighting, and ventilation.

Alternate Fuel Technology

Alternate fuel technology covers a broad range of expertise from vehicle fleet management and economics to renewable fuels such as ethanol or biodiesel to technical issues such as compressed natural gas refueling stations. NYSERDA seeks experts and firms to help with problem-solving, based on their specialized hands-on experience with specific alternative fuel or vehicle applications. The FlexTech Contractors will be called upon to answer challenging problems where solutions may come from applications in multiple disciplines. Some examples are: fleet management systems and purchasing decisions; re-fueling station design and siting issues; interaction with alternate-fuel providers and fire safety code officials; fueling station performance and maintenance requirements; implementation of Intelligent Transportation Systems and transportation demand management programs; and user/operator training. Expertise is also sought to help evaluate local market and economic conditions pertinent to projects, conducting technical assessments of infrastructure and equipment needs, and determining project feasibility. The FlexTech Contractor may be asked to help the end user develop an action plan with specific implementation steps and procedures identified.

Executive Order No. 111 Requirements

FlexTech provides technical assistance to customers who are required or who desire to comply with Executive Order No. 111 requirements. Services may include general technical support for commissioning green buildings, assistance with overall implementation plans, development of design or specification guidelines, review of procurement standards, limited on-site training, utilization of ENERGY STAR® Portfolio Manager, recommendation of ENERGY STAR® products, examining current building stock and developing operation and maintenance guidelines for continuous commissioning or re-commissioning.

Green Buildings

Green buildings minimize the environmental impacts of buildings throughout their life cycle. Services provided by NYSERDA FlexTech Contractors include computer modeling and energy analysis to optimize building energy performance and materials analysis to improve indoor environmental quality and occupant health. Services may also include aiding customers interested in complying with U.S. Green Building Council LEED® certification for Green Buildings or the New York State Green Building Tax Credit. In addition to energy modeling and materials analysis, these services may include design and specification guideline development. Firms with LEED® accredited professionals and experience acquiring LEED certification for Green Buildings are encouraged to apply.

Water and Wastewater Services

FlexTech provides assistance to municipal water and wastewater treatment plants to identify ways for them to use energy more efficiently. These studies may include providing the municipality with the information it needs to grow or change in the most energy efficient way possible. This could apply to facilities that are nearing capacity, ones that must meet new regulations, or any facility simply considering retrofitting the current design or wanting to become more energy efficient. Services may include equipment replacement studies, energy related process improvement studies or energy operation studies such as sub-metering and electrical peak shifting.

Energy Advisor Services

FlexTech allows commercial and industrial customers to engage a qualified contractor for long-term energy and carbon related services. The contractor will act as a member of the customer team to provide long-term support on energy and carbon management issues, actively identify opportunities, and perform analyses with the customer's and NYSERDA's approval. Services may include, but are not limited, to providing detailed technical support for decisions regarding the purchase of energy-efficient equipment, preparing bid documents for the purchase and installation of equipment, preparation of requests for proposals (RFPs), review of energy service company (ESCO) proposals, development of scopes-of-work for comprehensive energy audits conducted by a selected ESCO, review of comprehensive energy audits, review of proposed energy performance contracts, design assistance, independent verification that equipment and installations are as specified, review of annual savings reports from ESCOs during the guarantee period, conflict resolution, and guidance for regulatory or environmental permitting.

Multifamily

Multifamily residences are defined as properties that provide residential housing and contain five or more units. In general, NYSERDA's Residential Energy Affordability Program will handle multifamily facilities. However, FlexTech may be needed on a case-by-case basis and proposers are encouraged to demonstrate their expertise in servicing this sector.

III. FLEXTech PROJECT INFORMATION

ASSIGNMENT OF PROJECTS

Proposers selected under the RFP will be offered Task Work Order contracts. The Task Work Order contract is selected because an estimate cannot be made in advance as to the type, amount, or complexity of the projects or studies each Contractor will be required to perform. Assignment of projects under this RFP will be made by NYSERDA based on the Contractor's knowledge and experience, customer preference, geographic proximity to the customer, past performance, and NYSERDA-wide workload at the time of the assignment.

TASK WORK ORDER PLANS

Each FlexTech project assigned to a retained Contractor under this RFP will be defined by a written Task Work Order Plan, which will become a binding agreement for all parties involved. The Task Work Order Plan will be

prepared by the Contractor in cooperation with NYSERDA and the customer.

The Task Work Order Plan shall include:

- the project's purpose and goals
- the approach that will be taken (type of analysis)
- names of all parties involved
- background information on the customer and the customer's energy systems
- recent energy consumption data, including annual energy expense by source
- defined deliverables including development of a Case Study and completion of a Project Summary Sheet
- the project time frame
- the names or titles of individuals to work on the project
- the total not-to-exceed cost of the project or study, including a breakout by task and by title, hourly rate, hours, and non-labor costs

The detail of the Task Work Order Plan will be consistent with the level of complexity of the proposed project or study. NYSERDA must review all Task Work Order Plans before they are sent to the customer to ensure they are compliant with the program guidelines. The Task Work Order Plan Guideline is attached as Attachment F.

IV. CONTRACTOR RESPONSIBILITIES

Contractors selected under this RFP will be responsible for completing various tasks dependent on the level and type of services requested by NYSERDA. All tasks will be clearly defined in a Task Work Order Plan.

For every FlexTech technical service offered, the selected Contractor shall be required to:

1. Attend a site visit with a NYSERDA FlexTech Project Manager.
2. Prepare a Task Work Order Plan for review and approval by NYSERDA and the customer, according to the level of service being provided.
3. Negotiate the scope and cost of the technical assistance with NYSERDA, the customer, and any other co-funding entity.
4. Upon agreement by all parties to the Task Work Order Plan, provide the required assistance within the required time frame.
5. Submit periodic project updates to the NYSERDA Project Manager.
6. Submit the technical assistance deliverable to NYSERDA for review and approval; NYSERDA's review will ensure that the deliverable conforms to the Task Work Order and Participation Agreement that governed the analysis. NYSERDA will submit the deliverable to the customer. Often the deliverable is referred to as a final report. Final Report Guidelines are attached as Attachment H, Exhibit E.
7. Provide required documentation of expenditures by task based on the Task Work Order Plan when seeking payment from NYSERDA.
8. Provide NYSERDA with basic energy and facility data for each project.
9. Assist NYSERDA in the collection of data for purposes of program evaluation and database analysis.
10. Provide, when requested, on-site follow-up assistance to discuss recommendations, answer questions, and facilitate implementation.
11. Provide detailed information to customers on NYSERDA implementation programs.
12. Provide a draft case study of the project.

In addition, FlexTech Contractors are encouraged to notify NYSERDA of clients they believe are in need of, or interested in, energy-related technical assistance. FlexTech Contractors are especially encouraged to target customers with energy intensive processes and building operations in the large commercial and industrial sector. In all cases, the potential FlexTech customer has the choice of selecting any of the FlexTech Contractors.

V. NYSERDA RESPONSIBILITIES

NYSERDA will maintain overall management and control for all technical assistance services including the selection, supervision, and coordination of the Contractors. The major responsibilities of NYSERDA are to:

- Market services to various customer groups and organizations.
- Identify potential FlexTech participants and make service referrals to Contractors.
- Assist Contractors in developing Task Work Order Plans with customers.
- Provide Contractors with administrative procedures.
- Monitor the progress of each Contractor through ongoing telephone contact, review of status reports and field monitoring activities, etc., for the purpose of meeting customer needs, identifying problems and initiating corrective action.
- Provide technical review of project reports and deliverables to ensure that the deliverables conform to the Task Work Order and Participation Agreement that governed the analysis.
- Ensure adherence to NYSERDA's established policies and procedures.
- Provide completed reports to the customer under NYSERDA cover and letterhead.
- Promote the availability of technical assistance and other services to customers.
- Maintain databases of customers, technologies, and energy and dollar savings resulting from the services, reports, case studies, fact sheets, and newsletter articles.
- Disseminate technical and financial-related energy-efficiency information to Contractors.
- Process properly documented payment reimbursement requests.
- Conduct FlexTech program evaluations.

VI. COMPENSATION

The contract term for the FlexTech program is for one (1) year with two (2) one-year renewals at NYSERDA's discretion.

Compensation will be based on the Contractor's direct and indirect personal service costs plus allowable expenses; contractor fees will be fully described in each Task Work Order Plan. NYSERDA's share is expected to range from 0% to 100% depending on the number of parties sharing in the cost and the type of technical assistance being provided. For projects in which NYSERDA is not directly paying 100% of Contractor fees, the Contractor will be responsible for negotiating a payment schedule and collecting from all other parties involved.

The Contractor's fees may be paid directly to the Contractor by a combination of NYSERDA, the customers, and a third party such as a utility company. NYSERDA will only be responsible for its share of the project costs as outlined in the Participation Agreement.

Fees for technical assistance will be based on the Contractor's hourly rates for the appropriate level of staff. Staff assignments should be made with the most cost-efficient team available. Fees for all work conducted will be included in the Task Work Order Plan and approved by NYSERDA. The Task Work Order Plan will also place a ceiling or not-to-exceed dollar amount for each project. Contractors who accrue billable hours beyond the ceiling

in the Task Work Order Plan, without approval in writing by NYSERDA and all other parties to the technical assistance, will do so at their own risk. Contractors will not be compensated for time spent in the preparation of any Task Work Order Plan, including the site visit. Preparation of the Task Work Order Plan is considered to be part of the proposal to the customer, and as such, would normally be covered by the Contractor's overhead expense.

It must be noted that the Contractor is being retained by NYSERDA, and will be performing services for NYSERDA, even when these services may be related to privately owned facilities. All work done under FlexTech will be clearly identified with NYSERDA and any other parties co-funding the study. All Task Work Order Plans, reports, and project materials will be submitted to NYSERDA for review for program compliance, prior to submission to the customer by NYSERDA.

The NYSERDA agreement with a Contractor will not prevent the Contractor from providing services to NYSERDA's customers outside the energy services provided under this RFP or an individual Task Work Order Plan.

VII. PROPOSAL 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, an additional form (or 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. Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

To participate in FlexTech and be eligible to provide services under this RFP, proposers must submit a Statement of Qualifications and Experience and agree to the terms and requirements of this Request for Proposals. Proposers must submit seven (7) copies of the completed proposal to the attention of Roseanne Viscusi at the address on the front of this Program Opportunity Notice/Request for Proposal. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, one of which must contain an original signature. **Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will be returned.** Faxed or e-mailed copies will be not be accepted.

Responses to this solicitation will be reviewed and scores will be assigned based on the information submitted. A Technical Evaluation Panel will review and score all proposals. Attachment G is a guide on how the reviewers will score the proposals. Proposals will be evaluated based on the firm's previous successful experience with providing services similar to those requested for this solicitation, sample project, and available staff and their billable rates. Points will be awarded to proposers that help improve and build a network of technical assistance providers to serve Con Edison and O&R Service Territories. NYSERDA intends to contract with up to 15 firms to serve various regions of Con Edison and O&R Service Territories.

NYSERDA will negotiate contracts for services in fulfillment of the needs of this RFP on the basis of demonstrated competence, qualifications, and rates. Contract negotiations will include the Contractor's fee schedules. The contract amount will not guarantee any specific amount of work, but will contain a maximum dollar amount. The amount of funding allocated to each Contractor may be adjusted based on the number of participants in FlexTech.

All responses submitted as part of the RFP 1209 solicitation process become the property of NYSERDA. Proposers will not be reimbursed by NYSERDA for any costs associated with the preparation of their proposals. Proposals may be either single or double sided, but a page is considered one side of an 8-1/2" x 11" piece of paper. The font size shall not be smaller than 12 point. Some sections stipulate a page limit. Additional pages provided will not be reviewed.

To facilitate comparison of proposals, applicants must submit proposals in a format that corresponds to the following outline:

- **RFP 1209 Proposal Checklist (Attachment A)**
- **Disclosure of Prior Findings of Non-Responsibility Form (Attachment B)**
- **Areas of Expertise Checklist (Attachment C)**
- **A: General Information**
- **B: Statement of Work**
- **C: Sample of Energy Related Work**
- **D: Rates - Project Personnel and Rates (Attachment D)**
- **E: Liability and Insurance Bonding**
- **Contractor's Designated Contacts (Attachment I)**

A. General Information (Not to exceed **three (3)** pages, including Attachment C)

Responding proposers must include the following information with their response. If subcontractors are intended to be included as part of the proposer's team, include the following information for the subcontractor as well.

1. Attachment C – Areas of Expertise Checklist
2. Firm name, address, telephone and fax number, e-mail address and contact person
3. Federal Employer Identification Number
4. Year that firm was established
5. Name and address of parent company (if applicable)
6. Indicate type of firm:
 - Partnership
 - Corporation (also indicate State incorporated in)
 - Sole Proprietor
 - Branch Office of
 - Joint Venture (List venture partners)
 - Other (Explain)
7. This submittal applies to:
 - Parent Company
 - Subsidiary
 - Division
 - Branch Office
 - Other (Explain)

B. Statement of Work

A Statement of Work which fully specifies how the proposer will provide the required technical assistance and other services is required. The Statement of Work must contain the following components.

1. General Description: (Not to exceed **three (3)** pages) Provide a general description of the proposer and the services that can be offered under the FlexTech program.

2. Area(s) of Expertise: For each area of expertise, proposers should describe their ability to deliver technical assistance within the selected expertise **and** include 5-10 sample projects completed by the proposing firm within the selected expertise. The sample projects should have been completed within the past three years and should demonstrate the firm's experience in servicing the targeted customer base and market in Con Edison and O&R service territories. For each sample project, the proposer should specify their level of involvement, project results, and customer contact names and phone numbers.

Proposers responding to perform services under the area of combined heat and power, distributed generation or renewable generation should demonstrate their experience in respect to Appendix E – Cogeneration, Distributed Generation and Renewable Generation Final Report Requirements. Experience with interconnection of these types of systems should also be demonstrated. FlexTech services may be reviewed by a third party under contract to NYSERDA.

3 Personnel and Abilities

Include:

- A **chart or matrix** depicting the offices from which services will be provided, the geographic region the office will serve, which areas of expertise will be covered by each office, and the personnel located in each office that will be working on FlexTech projects.
- The individual who will be the **main contact** for FlexTech projects. This individual should be experienced in client relations and project development. The description of the main contact's expertise should highlight these abilities.
- **One-page resumes** that highlight recent experience of the personnel who will be directly involved in providing the technical services from each office expected to provide FlexTech services.
- A **one (1) page** description of any product, manufacturer, service **or other NYSERDA related affiliations**, including existing contracts. NYSERDA shall consider the proposers' performance in other NYSERDA contracts to help determine the proposer's ability to fulfill a potential FlexTech contract and any perceived conflicts of interest.
- A **one (1) page** explanation of how the proposer will adequately service the targeted customer base in Con Edison and O&R service territories while **minimizing travel/lodging costs**. Travel costs will be limited to 3% of total project costs on a project by project basis.
- A **one (1) to two (2) page** description of the proposer's ability to service large commercial and industrial customers in Con Edison and O&R service territories. Include past experiences and relevant references. Proposed targeted strategies to develop and maintain new relationships with large commercial and industrial customers are encouraged.

4. Objectivity (not to exceed **two (2)** pages)

Proposers to this RFP must demonstrate their ability to provide objective, third-party assistance to NYSERDA and its customers. The proposer shall:

- List any current or past (within the last three (3) years) subcontractors, affiliations, partnerships or company divisions, including NYSERDA contracts which could affect

objectivity.

- Be free from any financial interest in any product or service which may conflict with or appear to conflict with the objectivity of the technical service provided to NYSERDA and its customers. Please describe all of your product, manufacturer or service-related affiliations. If any affiliations exist, you must provide a statement verifying these affiliations do not conflict with or appear to conflict with the objectivity of providing services to NYSERDA and its customers. Non-disclosure of any affiliation can result in the termination of a contract, if awarded. These affiliations may assist customers in the implementation of recommended projects, however, it is also important to NYSERDA and its customers to be aware of the Contractor's affiliations before a FlexTech project is initiated.

Examples of such affiliations shall include, but not be limited to: a manufacturer's representative of energy-consuming or energy-efficiency equipment, financial interest in equipment that potentially may be specified or recommended in a FlexTech report, ability to provide construction services, or affiliation with a service provider to an energy service or similar company providing services in Con Edison and O&R Service Territories.

C. Sample of Energy and Carbon Reduction Related Work (Not to exceed **ten (10) pages)**

Proposers must submit a sample project pertaining to an area of expertise in which they are proposing to provide the majority of their assistance. The sample report must be consistent with the objectives of the FlexTech program and its associated scope of work and budget must be included.

Proposers are encouraged to condense the report to an executive summary accompanied by supporting engineering analysis. The executive summary should not exceed **ten (10)** pages.

The sample project must meet the following requirements:

- The project's budget must be over \$40,000 or have projected savings of at least 80,000kWh;
- The project must have been completed within the last two years;
- Inclusion of the project's Scope of Work (initial proposal);
- Inclusion of the final deliverable for the Scope of Work provided; and
- A deliverable that provides adequate calculations and data to support the energy savings estimates

D. Rate Structure

The proposer shall use the Project Personnel and Billing Rates form, Attachment D, to clearly indicate hourly salary rate range for each title classification proposed under the agreement with NYSERDA and other overhead multipliers you propose to use for the duration of the agreement with NYSERDA. The contract will last for one year with two (2) one-year renewal options at NYSERDA's discretion. Please provide rates and multiplier for each of the three years. The multiplier stated shall include all overhead, profit, and other costs. Please do not provide fully burdened rates in the chart.

Attach supporting documentation to support indirect cost (overhead) rate(s) included in your proposal as follows:

1. Describe the basis for the rates proposed (i.e., based on prior period actual results; based on projections; based on federal government or other independently-approved rates).
2. If rate(s) is approved by an independent organization, such as the federal government, provide a copy of such approval.
3. If rate(s) is based on estimated costs or prior period actual results, include calculations to support proposed rate(s). Calculation should provide enough information for NYSERDA to evaluate and

confirm that the rate(s) are consistent with generally accepted accounting principles for indirect costs.

NYSERDA reserves the right to audit any indirect rate presented in the proposal and to make adjustment for such difference. Requests for financial statements or other needed financial information may be made if deemed necessary.

E. Liability Insurance/Bonding

The response must include information on the liability insurance coverage or bonding which the proposer carries applicable to work performed under this program.

VIII. PROPOSAL EVALUATION AND CONTRACTOR SELECTION

Responses to this RFP will be reviewed and assigned scores based on the criteria highlighted in the Scoring Guide included as part of this RFP. NYSERDA, through its Technical Evaluation Panel, will review each Proposal and may contact selected references to determine whether a proposer has the necessary technical resources to successfully provide energy services in Con Edison and O&R Service Territories.

The number of proposers selected for contracts will be determined by the number of firms required to efficiently and effectively provide comprehensive technical services for the Con Edison and O&R Service Territories. This number cannot be determined until all proposals are received and reviewed. Proposers who possess, or can obtain through cooperative or joint ventures, the following capabilities will be favored under this RFP:

- The ability to use technicians or junior engineers, under the supervision of senior level staff, to provide rudimentary energy surveys or support for more technical analyses.
- The ability to commit senior level staff to complex feasibility studies.
- The ability to commit staff to projects or studies on short notice.
- The ability to complete projects on schedule.
- The ability to have a team member who is licensed to practice either engineering or architecture in New York State. Certain services conducted through this program may require a stamp of an architect or engineer licensed to practice in New York State.

The following factors will be considered during the evaluation:

- Response relevancy and accuracy to NYSERDA's request as specified in this RFP.
- Expertise in relevant areas of expertise as listed in the Introduction section.
- Previous experience in the conduct and delivery of contracted technical assistance services.
- The ability to deliver service efficiently and economically.
- The ability to deliver objective services.
- Quality of energy-related work as evidenced by the sample projects.

Further, as part of the evaluation process, proposers may be required to have appropriate representatives attend an interview prior to final selection.

NYSERDA will negotiate contracts for services in fulfillment of the needs of this RFP on the basis of demonstrated competence and qualifications, at fair and reasonable fees. Contract negotiations may include the proposed Contractor's fee schedules to ensure work is accomplished at fair and reasonable rates. These contracts will not guarantee any specific amount of work, but may contain a maximum dollar amount. The amount of work assigned to each Contractor will depend on their particular expertise, geographic area in which they agree to conduct services, the amount of work requested in the Contractor's technical and geographic area and the ability of the Contractor to provide high quality, cost-effective, and timely services.

NYSERDA reserves the right to negotiate among finalists to assure services, and to assure access to specific expertise.

IX. 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 excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 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 & 139-k. State Finance Law §139-j(6) requires that NYSERDA incorporate a summary of its policy and prohibitions regarding permissible communications during a covered procurement.

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between NYSERDA and a Proposer/Offerer during the procurement process. A Proposer/Offerer is restricted from making contacts from the earliest notice of intent to solicit offers [such as a "Program Opportunity Notice", "Invitation for Bid" or "Request for Proposal", etc.] through final award of the Procurement Contract (the "restricted period") to other than Designated Staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated Staff, as of the date hereof, are identified on the first page of this solicitation.

NYSERDA employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Proposer/Offerer pursuant to this law. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the Proposer/Offerer is debarred from obtaining governmental Procurement Contracts.

Additional guidance regarding these procurement lobbying requirements and can be found at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>.

Tax Law Section 5-a - NYSERDA is required to comply with the provisions of Tax Law Section 5-a, which requires Contractors, prior to entering an agreement with NYSERDA, to certify whether the Contractor, its affiliates, its subContractors and the affiliates of its subcontractors have registered with the New York State Department of Taxation and Finance to collect New York State and local sales and compensating use taxes. The Department of Taxation and Finance has developed guidance and a certification form (ST-220) for Contractors which is available at www.nystax.gov/sbc/nys_Contractors.htm. The completed Form ST-220 (which is available upon request or at <http://www.nyserda.org/Funding/stdforms.asp>), will be incorporated in the agreement between NYSERDA and the Contractor.

Contract Award - NYSERDA anticipates making up to 15 awards 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 13 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.

X. ATTACHMENTS

- Attachment A: Proposal Checklist
- Attachment B: Disclosure of Prior Findings of Non-responsibility
- Attachment C: Areas of Expertise Checklist
- Attachment D: Project Personnel and Billing Rates Form Scoring Sheet
- Attachment E: Cogeneration, Distributed Generation and Renewable Generation Final Report Requirements
- Attachment F: Task Work Order Plan Guidelines

- Attachment G: Scoring Sheet Disclosure
- Attachment H: Sample Agreement (Includes Final Report Requirements)
- Attachment I: Contractor's Designated Contact(s)