Energy Code Compliance Assessment
Request for Proposals (RFP) 1720
Up to $600,000 Available

SUMMARY OF REVISONS

The following changes have been made to RFP 1720: Energy Code Compliance Assessment:

- The date for acceptance of proposals has been revised from January 4, 2010, to January 18, 2010.

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Proposals Due by January 18, 2010, by 5:00 PM Eastern Time*

Program Summary:

NYSERDA seeks proposals from bidders to conduct an assessment of the rate and nature of compliance with the New York State Energy Conservation Code (Energy Code). This assessment will be a comprehensive, statewide effort to determine how well provisions of the Energy Code are being complied within both the commercial and residential construction sectors; to identify areas of non-compliance; to determine methods of verifying compliance on building plans and during construction; to present the calculation of the overall rate of compliance; and to present recommendations on ways to improve compliance. In addition, this effort will seek to determine the current rate of Energy Code compliance to ensure that the requirements of the American Recovery and Reinvestment Act of 2009 (ARRA) are being met.

A total of up to $600,000 is available for a single contract award.

Funding for this program is being provided under the American Recovery and Reinvestment Act (ARRA). If you receive funding under this solicitation you may be subject to special terms and conditions, including but not limited to: detailed reporting requirements; audit of your use of ARRA funds; Buy American and Davis-Bacon prevailing wage requirements for construction activities. You will be required to provide certain information in a timely manner to meet ARRA requirements. See attachments for a complete list of special terms and conditions. Failure to comply may result in the loss of Federal grant funding.

Proposal Submission: Proposers must submit ten (10) 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 1720
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

If you have technical questions concerning this solicitation, contact **Mark Eggers** at (518) 862-1090, ext. 3308 or mse@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 Mark Eggers (Designated Contact) at (518) 862-1090, ext. 3308 or mse@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.**

I. Program Requirements

Services Requested:

NYSERDA requests proposals to conduct a comprehensive, statewide assessment of compliance with the Energy Code in commercial and residential buildings, covering new construction, renovation and equipment replacements.

The key assessment objectives are:

1) Identify current methods of verifying compliance with the Energy Code and identify the barriers to full compliance;

2) Identify components of the Energy Code that have the greatest impact on energy use if they are not in compliance;

3) Identify areas, sections or requirements of the Energy Code that are frequently misapplied, misinterpreted or improperly installed in the field;

4) Determine the overall level of compliance with the Energy Code based upon the findings of objectives 1 - 3 above;

5) Recommend strategies and leverage points to increase compliance; and

6) Provide information on how to better inform and train code enforcement officials and the building community about Energy Code requirements.

The compliance assessment will, where possible, align with national compliance efforts, protocols and evaluation tools in order to achieve uniformity in reporting compliance. This will require coordinating with potential U.S. Department of Energy (DOE) or ARRA standards and requirements for measuring and reporting compliance pursuant to Title IV, Section 410 of ARRA. In addition, this work will be coordinated with NYSERDA's Energy Analysis Program and key findings will be integrated into the work efforts of NYSERDA RFP 1621: Energy Code Training and Support Services, which will provide wide-reaching support services for the Energy Code Program.

Methods to obtain information and determine compliance should include a variety of surveys, interviews, site and field visits, data analysis and modeling, and other applicable assessment techniques. There are over 1,600 municipalities in New York State that administer the Energy Code and enforce compliance at the local level. This comprehensive compliance assessment must gather enough information to have a statistically valid sample from which to draw conclusions. The assessment should cover the dominant commercial and residential building types in New York State, and recognize regional differences in building methodologies, particularly residential buildings. Baseline compliance will be assessed on the Energy Code which is currently in effect, which is based upon the 2004 International Energy Conservation Code (IECC) for residential buildings and the American Society of Heating, Refrigerating, & Air-conditioning (ASHRAE) 90.1-2004 Standard for commercial buildings. It is anticipated that these current New York State Energy Codes will remain in effect until late 2010.

Proposer must account for the completion of all objectives outlined above. NYSERDA anticipates making a single award.

Available Funds: Up to $600,000 is available for this activity.

II. Proposal Requirements

Each proposal MUST contain two (2) signed and notarized Agreements (Attachment E, including Exhibits B, C & D). If your proposal is selected for funding, NYSERDA will work with the proposer to develop a Statement of Work which will be appended to Attachment E as Exhibit A and constitute the final Agreement. Once agreement on the Statement of Work has been reached, NYSERDA will append it to Appendix L, countersign the Agreement, and return one fully-executed copy of the Agreement. This process is intended to facilitate the approval of projects and the expenditure of ARRA funds as quickly as possible.

Proposers must submit ten (10) 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 not be accepted.

Proposals should not be excessively long or submitted in an elaborate format that includes expensive binders or graphics. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, the RFP number, and the page number. The proposal should be in the following format: Two-sided, photocopied black and white proposal, with a cover letter on the top and stapled or bound along the left margin.

Proposer Information:

Name of Business Entity
Location of firm and locations where work will be performed
History of Firm
Internet website (if applicable)
Proposal contact person – address, telephone, fax and internet information

Approach to the Work:

Proposals must describe in detail how all aspects of the work described in this solicitation will be conducted. The proposal should demonstrate that the approach will result in a comprehensive study, conducted statewide and across predominant commercial and residential building types, for both new and renovated buildings. The approach should be through multiple channels (such as telephone surveys, written surveys, electronic surveys, interviews, market studies, focus groups, etc.) to provide robust and comprehensive data points. The approach should consider all potential sources of compliance information (designers, engineers, code officials, inspectors, builders, specifiers, energy raters, etc.).

The approach should describe the various data points that will be collected and the sample sizes anticipated to provide for a valid sampling. These descriptions should include, at a minimum: how many building officials, builders, and designers will be contacted, how many commercial and residential building designs or plans will be reviewed, and how many and what types of surveys will be used. The approach should outline what efforts will be made to assure a robust data set.

Project Management Plan:

Describe how the project will be managed, especially if there are subcontractors or consultants involved. Provide a description of the roles of each business entity named in the proposal. Explain how progress will be tracked and how it will be reported to NYSERDA. Describe tracking procedures to be used to maintain the project schedule. In the case of survey activities, explain actions to increase response rates.

Identify the Project Manager and its relationships to the project team and oversight of the project by qualified Principals in the lead firm.

Qualifications/Experience:

Describe experience in conducting survey work and data assessments. Describe experience in working on the Energy Code and with builders, code officials, architects and engineers, and the credibility that the proposer brings to these audiences. Provide a listing of qualifications to complete the work requested, and describe previous work experience in the subject areas. Demonstrate an ability to conduct all required tasks competently and comprehensively.

Staffing Plan/ Consultants:

Provide a listing of all personnel assigned to this project, including job titles and areas of responsibility. Provide short-form resumes (2 pages maximum) for all personnel.

Listing of three similar projects:

Provide a description of three similar projects completed by the proposing team(s) within the past six years. Describe the work, deliverables and outcomes of the work. Provide contact information for each project (name, address, phone number).

Deliverables:

Provide a description of all deliverables that will be provided. Proposals must demonstrate that all required deliverables will be provided within the schedule period. Capabilities to conduct the required tasks, either with current staff, new staff or teaming/consultant relationships, must be shown.

Other approaches to accomplish the work not identified in the RFP (Optional):

Proposers are encouraged to identify any other actions or activities they feel appropriate in fulfilling the minimum expectations of this solicitation. Other approaches should be identified, their benefits to enhancing the contract explained clearly, and a budget and timeframe for completion provided.

Budget:

Provide a proposed fee to accomplish the work, broken out between the six key objectives and deliverables within. Detail the proposed budget for any optional approaches. The Cost Proposal should include supporting information to verify overhead rate(s) and multipliers.

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

1. Describe the basis for the rate(s) 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 adjustments for such differences. Requests for financial statements or other needed financial information may be made if deemed necessary.

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 is 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. Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

III. Proposal Evaluation

Proposals that meet all proposal requirements will be reviewed by a Technical Evaluation Panel (TEP) using the evaluation criteria:

- **Qualifications of the Proposer and Management Capabilities** – What is the quality and depth of the firm's expertise, and prior capability of providing similar services? Are key individuals qualified for the tasks they will be assigned? Is the proportion of time allocated to management vs. service delivery reasonable? Is there demonstrated ability to manage staff and contractors in fulfillment of tasks? Does the Proposer have the ability to effectively manage individuals who may be working out of regional offices or formats away from central control? Is there a good mix of senior and junior level staff? Is staff proposed to conduct field survey work qualified and experienced?
- **Experience in survey and evaluation work with similar projects and references:** What is the Proposer's experience in general, in the subject areas, and in the particular areas for which they are responding? The firm should have demonstrated experience and success. References should be current and relevant. What is the Proposer's experience in conducting reliable survey assessments, through multiple channels, from a comprehensive sampling of respondents from all regions of New York State? Is there a demonstrated understanding of survey and evaluation techniques and cost-effective strategies to gather data? What is the timeframe to conduct survey work and what are plans to increase overall response rates? How does the Proposer plan to measure code compliance and is this consistent with DOE/ARRA protocols?
- **Expert knowledge of the NYS Energy Code and the NY construction marketplace:** Does the Proposer have a strong working application of the Energy Code in commercial and residential settings? Do they have an understanding of the various construction markets in New York and in New York City, and their differences? What is the team's knowledge of residential and commercial buildings, and the chain of approval and review for Energy Code compliance? Is there demonstrated knowledge of these building sectors, methods of construction and the market actors involved in each sector? Does the Proposer have the skill set to meet with professionals in these markets and gather meaningful data?
- **Cost of the proposal and values of services to be provided:** Anticipated costs of services and the value of each service as compared to the cost. Is there a willingness to work with NYSERDA to minimize costs, and use junior-level staff where appropriate to minimize costs? Is technology being used in the best way to achieve cost-economies and realize high response rates? What is the value and benefit of any optional services that are proposed?
- **Schedule and timeliness:** Ability to develop and deliver services quickly and to maintain schedule. Are examples of work delivered under tight timeframes provided
- **Overall quality and clarity of the proposal:** General organization and flow of the proposal. Factors include clarity, organization, conciseness and readability.

IV. General Conditions

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary and confidential trade secret information should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to exempt it from disclosure, including a written statement of the reasons why the information should be exempted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 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 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). 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). The Department has developed guidance for contractors which is available at 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 pertaining to the Statement of Work. 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 reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal. NYSERDA expects to notify proposers approximately six weeks from the proposal due date whether their proposal has been selected.

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. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

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.

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V. Attachments

Attachment A – Proposal Checklist Form
Attachment B – Disclosure of Prior Findings of Non-responsibility Form
Attachment C – Intent to Propose Form
Attachment D – Contract Pricing Proposal Form
Attachment E – Sample Agreement