

**“PROPERTY MANAGEMENT SERVICES”
Request for Proposal (RFP) 2675**

Proposals Due: by March 26, 2013 5:00 PM Eastern Time*

The New York State Energy Research and Development Authority (NYSERDA) requests proposals from firms interested in providing full service, comprehensive professional building management services to maintain and preserve the grounds and building located at 17 Columbia Circle in Albany, New York. The building is a two-story Class A professional office building comprising approximately 66,000 square feet, including 12,000 square feet of partially finished basement space. NYSEERDA is the sole occupant and owner.

NYSERDA intends to award a contract for a period commencing April 1, 2013 with the term expiring on March 31, 2018.

Proposal Submission: To respond to this RFP, you must submit **5 clearly labeled copies of the proposal**. A completed and signed Proposal Checklist must be 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 2675
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399**

If you have technical questions concerning this solicitation, contact Project Manager Stan Brownell at (518) 862-1090, ext. 3211 or sb2@nyserda.ny.gov or if you have contractual questions concerning this solicitation, contact Elsyda Ahmed at (518) 862-1090, ext. 3232 or ela@nyserda.ny.gov.

No communication intended to influence this procurement is permitted except by contacting Stan Brownell (Designated Contact) at (518) 862-1090, ext. 3211 or sb2@nyserda.ny.gov. 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 non-responsible, and (2) may result in the proposer not being awarded a contract.

**Late proposals will be returned. Incomplete proposals may be subject to disqualification. It is the bidder’s responsibility to ensure that all pages have been included in the proposal. 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.ny.gov.*

I. INTRODUCTION

The New York State Energy Research and Development Authority (NYSERDA) is a public-benefit corporation established by the State Legislature in 1975 to address the State's energy and environmental challenges, pursuant to Title 9 of Article 8 of the Public Authorities Law of the State of New York. NYSERDA's principal mission is to develop innovative solutions to some of the State's most difficult energy and environmental problems, in ways that improve the State's economy.

NYSERDA owns and occupies, as sole occupant, a two-story, masonry and steel, professional Class A office building located on a 3.67 acre parcel at 17 Columbia Circle in Albany, New York. The building contains approximately 66,000 square feet of gross rentable space, including approximately 12,000 square feet of partially finished basement area containing storage, computer room, mechanical rooms, and locker/restrooms.

II. SCOPE OF SERVICES

The Building Manager (also referred to herein as "Offeror") will be required to provide full service, Professional Building Management Services ("Building Management Services") necessary to maintain and preserve the building and property located at 17 Columbia Circle, Albany, New York. The Building Manager will be responsible for regularly assessing the condition of the building and its systems; developing and implementing building operations; performing preventive maintenance; and, establishing capital plans necessary to maintain, preserve, and keep the premises in good repair and condition. At NYSERDA's request, the Building Manager shall also oversee the design and build out of building renovations and improvements.

The services of the Building Manager are to be of a scope and quality generally performed by professional property managers and are to be performed in a reasonable, diligent and careful manner so as to manage and supervise the operation, maintenance and servicing of the property in a manner that is comparable to, or better than, that generally found in other "Class A" office properties located in the Albany market. Furthermore, all work must comply with all applicable local, state and federal laws, as well as Executive Orders including, but not limited to, Executive Order (EO) No. 4 and 88. Services shall be provided in accordance with the highest standards of professionalism, skill, workmanship, and applicable trade practices and shall conform to all applicable codes and regulations.

1. Building Management Services include but are not limited to the following:
 - a. Lighting Systems
 - b. Pest Management
 - c. Electrical Switchgear and Electrical Systems
 - d. Landscaping, tree maintenance, and maintaining walkways
 - e. Automatic Doors
 - f. Daily responsiveness to problems identified by NYSERDA staff
 - g. Rubbish Removal and Recycling Services
 - h. Monthly site inspections and verification of such inspection.

- i. Solicit written bid proposals from at least three (3) qualified suppliers or service providers on each requirement having an expected value greater than \$5,000.
 - j. Refer to Executive Order (EO) No. 4 products and service specifications, for all procurement, to ensure compliance with the Executive Order. A copy of EO No. 4 is located on the Office of General Services website.
 - k. Maintain inventory, supply list and spare parts documentation
 - l. Maintaining the Building Generator
 - m. Fire Alarm and Fire Suppression Systems
 - n. Provide staff to maintain and perform routine inspections and required maintenance
 - o. Custodial Cleaning
 - p. Maintain all drawings, as-builts and other schematic drawings current as well as site/equipment manuals
 - q. Plumbing
 - r. Provide timely monthly operating report with invoice
 - s. Elevator Maintenance
 - t. Review work order, maintenance tracking and scheduling systems.
 - u. Maintain grounds and parking lot
 - v. Provide Operational and Preventative Maintenance Plans
 - w. HVAC
 - x. Window Cleaning
 - y. Security
 - z. Painting
 - aa. Participate in NYSERDA led sustainability and energy efficiency efforts
2. The Building Manager shall develop an Annual Operating and Preventative Maintenance Budget for submission to and approval by NYSERDA.
 3. The Building Manager shall assess the conditions of the building and its systems and review all existing warranties, manufacturer's instructions, and other contracts. The Building Manager shall develop and implement the following: a preventive measure schedule in accordance with manufacturer's recommendations and a comprehensive facility operation plan and manual.
 4. The Building Manager shall review existing building related service contracts and make a recommendation to NYSERDA on when such contracts should be rebid and shall also develop and implement bid packages for such service contracts.
 5. Building Manager is responsible for soliciting, bidding and entering into contracts for any necessary HVAC, equipment maintenance, elevator inspection and maintenance, janitorial, window cleaning, trash removal, vermin extermination, landscaping, lawn care and tree maintenance, snowplowing, fire alarm testing/inspection and other services as shall be advisable. NYSERDA shall be directly responsible for payment of gas and electric utility payments.

6. With the prior written consent of NYSERDA, Building Manager shall negotiate and review contracts to be entered into by the Building Manager for capital repairs and improvements to the Building and supervising all work to be performed under such contracts and authorizing payment for all work performed under such contracts. Building Manager shall engage, as necessary, the services of architects and engineers as required for the planning and supervision of alterations and/or improvements made or proposed to be made to the Building. The Building Manager shall receive a fee (as proposed to and accepted by NYSERDA, not to exceed 15%) of the actual costs incurred for overseeing such capital related projects.
7. The Building Manager shall hire, or cause to be hired, paid and supervised, all persons necessary to properly maintain and operate the building who, in each instance, shall be the Building Manager's (and not NYSERDA's) employee or independent contractor, as applicable. Prevailing wages for Albany County are to be paid for all work done (Exhibit E).
8. The Building Manager shall maintain, preserve, and keep the building in good repair and condition and cause to be made all necessary and proper repairs, replacements and renewals. This includes preventative maintenance on the building and equipment; painting; interior and exterior cleaning; causing routine repairs and incidental alterations of the building to be made including, but not limited to, electrical, plumbing, steamfitting, carpentry, masonry, elevator and any other repairs and incidentals as may be required in the ordinary course of maintenance of a building.
 - a. Where specifications or standards are not included, maintenance shall be in accordance with manufacturer's recommendations and standards.
9. Building Manager shall ensure that all work performed at the Building is performed by competent trained technicians and that such work performed will not interfere with the operations of NYSERDA whose normal hours of operation are 8:30 AM to 5:00 PM Monday through Friday.
10. Building Manager shall ensure that any equipment to be replaced shall be new or remanufactured, be manufactured by a reputable manufacturer, shall provide appropriate warranties, and use the Executive Order No. 4 purchasing specifications when procuring products and services to ensure compliance with the EO. If no specification exists for the desired product or services, the building manager shall seek guidance from NYSERDA and propose options that minimize environmental impact and maximize the protection of public health. Building Manager shall submit any proposed purchases to NYSERDA for its review and approval.
11. Building Manager shall provide emergency services as needed on a twenty- four (24) hour, seven (7) day a week basis. The Building Manager agrees to provide an emergency telephone service on a twenty-four (24) hour, seven (7) day a week basis. From the time a call is made by NYSERDA to the emergency telephone service, the Building Manager has a maximum of one hour to respond.

12. Building Manager shall establish and maintain orderly books, records and files containing correspondence, receipted bills, contracts and vouchers and all other documents and papers pertaining to the Building and the operation and maintenance thereof, which NYSERDA may review at any time.
13. Building Manager shall review all bills received for services, work and supplies ordered in connection with maintaining and operating the Building and shall cause such bills to be paid from funds deposited into an Operating Expense Account as described below.
14. Building Manager shall establish, subject to NYSERDA's approval, a segregated bank account (hereinafter referred to as the "Operating Expense Account") with a New York State bank, subject to NYSERDA's approval, for the purposes of maintaining funds available for Building Manager's payment of supplies, equipment, and services associated with maintaining and repairing the property.
15. Reporting and Meeting Requirements
 - a. Building Manager shall be responsible for the completion of a variety of administrative and reporting requirements as part of its Management Fee as defined in Section V(d) Part II – Cost Proposal including but not limited to detailed product and cost information for green products and services purchased in accordance with Executive Order No. 4.
 - b. Building Manager shall provide written monthly reports to NYSERDA within ten (10) business days of the end of each month including a precise description of services provided to the building, including all systems and equipment, number of employees/subcontractors involved, and the costs incurred.
 - c. Building Manager shall maintain a log of all hours worked for all employees and subcontractors.
 - d. Unless otherwise determined, there shall be monthly meetings for the following purposes:
 - i. Review building management progress and quality of work
 - ii. Identify and resolve problems
 - iii. Coordinate the efforts of all concerned so that these services are rendered efficiently and effectively
 - iv. Maintain a sound working relationship between the Building Manager and NYSERDA
 - v. Maintain a mutual understanding of the contract
 - vi. Maintain sound working procedures.
 - e. Upon award of the contract and prior to the start of any work, the Building Manager shall be available for an initial job meeting with NYSERDA. This meeting shall include a review of all facility use rules and an introduction to the organization and appropriate staff.
16. Building Manager shall provide updates of all changes to existing wiring diagrams and drawings for all existing systems and any systems that are added to the building. Drawings and diagrams are to be in compliance with accepted drafting standards.

17. In accordance with the New York State Toxic Substance Act (Right-to-Know Law) and the United States Occupational Safety and Health Administration's Hazard Communication Standard, the State has established and implemented a Right-to-Know/Hazard Communication Program. The Building Manager shall provide information and training to advise employees of the Building Manager and NYSERDA of potentially hazardous substances known to be in the work place. Part of this information is a collection of Material Safety Data Sheets for all chemicals used by contract vendors. Before any chemical product is used on or in the building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by NYSERDA before the chemical is applied.
18. Building Manager shall maintain continuous communication with assigned NYSERDA staff on all building related issues including conducting meetings and providing required written reports on a monthly basis, or such other schedule as may be determined.
19. Perform such other building management tasks for NYSERDA properties as may be mutually agreed upon

III. TERM OF THE AGREEMENT

The initial term of the contract(s) awarded under this RFP will be for the time period of April 1, 2013 to March 31, 2018. NYSERDA expects to award a contract to the successful Offeror on or before March 1, 2013. The contract awarded herein is expected to commence on or before April 1, 2013.

IV. MINIMUM QUALIFICATIONS

- i. To be considered for award under this RFP, the Offeror must be able to demonstrate to the satisfaction of NYSERDA's Evaluation Team that it has successfully managed a minimum of three commercial office buildings consisting of at least 50,000 rentable square feet in the aggregate in each of the past three years for other property owners. The firm must have a direct contractual agreement for the referenced properties and the scope of building management services must be at least as extensive as the services required by this RFP.
- ii. The Offeror must have experience in the following:
- iii. Successful operation of commercial building mechanical, Heating Ventilation And Cooling (HVAC) and control systems
- iv. Successful troubleshooting and/or performance verification of mechanical control systems and HVAC systems
- v. Successful troubleshooting and/or performance verification of other building systems including but limited to: energy management systems (EMS); fire alarm/security systems; and general building and lighting electrical control systems

- vi. Testing instrumentation
- vii. Performance of testing and balancing of HVAC systems
- viii. Planning and delivery of property management systems
- ix. Producing capital repair and improvement plans for office buildings and building operating systems
- x. Maintaining regular liaison with building tenants/occupants and resolving building orientated complaints
- xi. Implementing cost control and savings measures to ensure the building is operated effectively, efficiently and within budget.

V. PROPOSAL REQUIREMENTS

- Proposer must submit **FIVE** copies of a complete proposal in response to this RFP using the format defined herein.
- **YOUR PROPOSAL MUST CONTAIN IN THE FOLLOWING ORDER:**
 - Attachment A – Proposal Checklist with **AT LEAST ONE COPY** with an original signature (**MANDATORY**)
 - Attachment B – Disclosure of Prior Findings of Non-Responsibility
 - Attachment C – Cost Proposal
 - Technical and Management Proposal (Part I) and a Cost Proposal (Part II)

Proposals lacking a signed Proposal Checklist will be returned and will not be considered for award.

- If you do not accept the standard terms and conditions attached to the supplied Sample Agreement (Attachment D), provide alternate terms and with justification based on the risk and benefit to New York State. Any negotiation of terms will be NYSERDA's sole discretion. If you do not include exceptions to these terms with your proposal and the proposal is awarded funding, no adjustment to these terms will be allowed in the NYSERDA contract. Attachment D does not need to be completed. It is provided only as a reference.

- Each page of the proposal should state the name of the proposer, the RFP number, and the page number.

A. Necessary Documents

- a) Each proposal must consist of a Proposal Checklist (Attachment A), Disclosure of Prior Findings of Non-Responsibility (Attachment B), a Technical and Management Proposal (Part I) and a Cost Proposal (Part II).
- b) Part I and Part II of the proposal must each be complete in and of themselves so that the evaluation of both parts can be accomplished independently and concurrently. The technical proposal should be able to be evaluated strictly on the basis of its merits. Cost information is **not** to be included in the Part I submittal.

- c) In compliance with §139-j and §139-k of the State Finance Law, the Offeror must submit ONE completed copy of Attachment B - Disclosure of Prior Findings of Non-Responsibility

B. Part I: Technical and Management Proposal

A. Each Proposal shall contain the following information:

i. Company Information

1. Name of Agency/Company (including any “Doing business As” names)
2. Headquarters/Parent Company Locations
3. History of firm
4. Details of Entity Business Structure (Corporation, Partnership, LLC)
5. Date Founded
6. Organization Chart of Business Entity
7. Office Locations and Total Number of Employees at each
8. Home office address and telephone number and local address and phone number
9. List of any outstanding litigation that would threaten the viability of the firm or the performance of this contract
10. Proof of insurance as specified in Section 4 of the Sample Management Agreement
11. Indication of how long it would take to implement service after authorized to begin

B. Qualifications

1. A detailed list of buildings managed in the last three years, their respective rentable square feet, and the name of the property owner for whom the property is managed.
2. An explanation of why the Offeror is the best qualified to perform the contract and demonstrate its qualifications including an item-by-item disclosure outlining how the Building Manager meets or exceeds the requirements of this RFP.
3. Please submit a business plan, schedule of proposed deliverables, and project management system for this project using methodologies that have been successfully employed in other engagements of similar size and complexity. The plan should include, in the Offeror’s own words, their understanding of the issues and tasks of the project at hand. Offerors are required to present a detailed description of the methodology to be used by it in achieving the objectives of the project and accomplishing the tasks described in the Scope of Services with separate and specific reference to each subsection.
4. Provide a description of any specific experience and qualifications in building management and any specific experience it has in each of the particular building operations and management disciplines (i.e.: mechanical systems, electrical systems, fire alarms, energy management systems, plumbing systems, or green building

operations and maintenance practices, etc.) along with an indication of what building management areas will be performed directly and what will be sub-contracted.

5. Provide a sample (or actual if available) building management manual containing actual procedures developed, reports generated, forms utilized and other pertinent data that will assist NYSERDA to determine the technical merit of the proposal.
6. Demonstrate the ability to meet the subcontracting requirements for green goods and services referenced in section D2, 4, and 5 in Executive Order No. 4., which are regularly updated on the Office of General Services website.

C. Staffing

1. Provide the size and experience of the corporate staff pool from which staff assigned to the management contract can be drawn.
2. Describe the level of staff to be assigned to this project. Identified staff must have direct building management related experience.
3. Submit the composition of the staff team the Offeror shall dedicate to this assignment including:
 - a. The names of the employees in the area responsible for this contract
 - b. Their function in the company, title, and number of years service with the Offeror's firm.
 - c. Detailed resumes for the specific individuals designated to work on this contract, specifying educational and work experiences deemed relevant to the type of work to be undertaken.
4. Provide the name of the person designated as the "Project Leader" who will be responsible for the coordination of work efforts of the other individuals. Information to be provided regarding the project leader is to include:
 - d. Length of career in providing Building Management Services
 - e. Professional designations
 - f. Number and size of buildings managed in the last three years
5. Indicate the anticipated volume of work to be performed directly and to be subcontracted. Where any subcontractor shall be utilized in a particular discipline describe, if known, the subcontractor's qualifications in detail.

D. References

1. Each Offeror must submit a list of at least three (3) references documenting its experience, including the following information for all building management services provided over the last three years, or currently in process:

- a. A listing of all buildings where the Offeror is the building manager highlighting those buildings that have leases with the State of New York or other governmental organizations.
 - b. Firm's list of notable accomplishments including name of entity or company serviced, transaction size, level of difficulty, and dates from onset to conclusion.
 - c. Team personnel assigned to the project.
 - d. Name and Title of Reference.
 - e. Telephone number(s).
2. Individuals identified as references will be assured of anonymity to the fullest degree possible under applicable law.

NYSERDA retains the right to request any additional information pertaining to the Offeror's ability, qualifications, and procedures used to accomplish all work under the contract as it deems necessary to ensure safe and satisfactory work.

C. Part II: Cost Proposal

All Offerors must submit their fee proposal for required services necessary to provide NYSERDA with the required deliverables in the format contained in Attachment C marked "Cost Proposal." Each Cost Proposal must include:

- a) The annual Management Fee, to be paid in equal monthly installments, to be charged for each year of the agreement as well as the This must be a fixed dollar amount and not a percentage based on expenses.
 1. For the purposes of this contract, the "Management Fee" shall include the following: cost of off-site corporate building management and administrative personnel; all overhead and profit; all administrative expenses including payroll processing cost, auditing, accounting, reporting or other requirements.
- b) A detailed listing of any other expenses or fees to be paid directly to the Offeror (excluding those additional services provided below).
 1. These expenses shall be based on the actual costs incurred with no mark-up allowed. These items should include a list of the Building Manager's on-site employee(s) (in Full Time Equivalent) by title, their respective salary(s), all fringe benefits, any other ancillary items provided to employees (such as 401K, leased vehicles, paid parking, etc.) together with a list of any other items and their respective cost to be charged by the Offeror as part of this agreement. If periodic building related services (e.g. electricians, plumbers) are to be provided by employees of the Offeror, the listing should include those titles and their respective hourly rates and fringe benefits. Unless otherwise agreed to by NYSERDA, reimbursement for these items will be limited to the amount contained in the Offeror's proposal. Any expenses not specifically included will not be eligible for reimbursement and must be absorbed by the Management Fee.

- c) A fee proposal and detailed explanation for supplemental work that may be performed in addition to the foregoing such as to supervise or secure renovation or construction services, including capital repairs and replacements. The proposal must clearly identify what types of services will be separately billed to NYSERDA as opposed to those that are included in the Management Fee. This fee should be shown as a percentage of the direct construction costs but may not exceed 15%.
- d) If construction related services are provided by other employees of the Offeror (e.g. engineers, electricians, plumbers), the listing should include those titles and their respective hourly rates. Unless otherwise agreed to by NYSERDA, payment for these items will be limited to the hourly rates contained in the Offeror's proposal.

V. AWARD CRITERIA

- a. The Proposal selected will be the one determined to provide the "best value" to NYSERDA. The best value will be determined in accordance with the selection criteria set forth herein. Proposal evaluation is an assessment of the proposal and the Offeror's ability (as conveyed by the proposal) to successfully accomplish the prospective contract.
- b. NYSERDA will establish an "Evaluation Team" comprised of executive managers and program staff. NYSERDA will also establish a review committee comprised of senior executive managers.
- c. Each Proposal will be evaluated using the following criteria:

Part I: Technical and Management Proposal

- 1. Approach and Scope of Services
 - a. Completeness. The proposal is complete and follows the outline in section V of this RFP.
 - b. Quality of approach and methodology for performing the effort clearly demonstrates an understanding of the applicable issues and requirements for building management.
 - c. Quality, clarity and completeness of scope of services, including extent to which alternative approaches/tasks will achieve objectives.
 - d. Quality, clarity and completeness of the sample (or actual, if available) building management manual.
- 2. Experience
 - a. Quality, extent and relevance of Offeror's operational experience (including sub-contractors) in conducting all facets of building operations.
 - b. Quality, extent and relevance of Offeror's building management experience (including sub-contractors) in conducting similar efforts, particularly of a magnitude and setting similar to that described by this RFP.
 - c. Quality, extent and relevance of experience, education and training of key personnel (including subcontractors).

- d. Preference given to those who are experienced in green buildings operations and maintenance.
3. References
 - a. Offeror's service capability, reputation, facilities, equipment and past performance.
 - b. Offeror's previous performance in contracts or business dealings with municipal, state or federal agencies, or other entities, including NYSERDA.
4. Organization, Staffing and Management Plan
 - a. Quality of project organization and management plan; extent to which they will provide for successful, timely and fully compliant program implementation as evidenced by the following:
 - b. Plan for controlling the effort.
 - c. Coordination of subcontractors, joint ventures or teaming arrangements.
 - d. Plan for phasing personnel into the effort.
 - e. Quality of interaction and coordination with NYSERDA.
 - f. Reporting methodologies.
5. Extent and reasonableness of location(s) from which services are provided.
6. Quality, extent and relevance of experience, education and training of key personnel (including subcontractors).
7. Diversity Practice
 - a. The percentage of proposer's gross revenues involving the use of minority- and/or women-owned business enterprise subcontractors for servicing clients and/or manufacturing products and/or performing on contracts in the proposer's prior year of business activity.
 - b. The percentage of such proposer's gross revenues involving the use of joint ventures, partnerships, or other similar arrangements with certified minority- and/or women-owned business enterprises in the contractor's prior year of business activity.
 - c. The percentage of such proposer's gross revenues involving the use of government or private sector contracts that had certified minority- and/or women-owned business enterprise utilization requirements.
 - d. The percentage of such proposer's gross revenues that the proposer paid to certified minority- and/or women-owned business enterprise subcontractors and paid to certified minority- and/or women-owned business enterprise joint ventures, partnerships, or other similar arrangements.
 - e. The percentage of such proposer's overhead expenses for the prior year of business activity that were certified minority- and/or women-owned business enterprise expenditures.
 - f. Any training or mentoring programs provided for certified minority- and/or women-owned business enterprises by such proposer. Any such programs shall be described and attached as an exhibit.

- g. Any financial assistance provided to certified minority- and/or women-owned business enterprises by such proposer. Any such programs shall be described and attached as an exhibit.
- h. Any supplier and subcontractor diversity goals involved in such proposer's procurements. Proposer shall provide examples of any such goals.
- i. The established goals, if any, for certified minority- and/or women-owned business enterprise suppliers or a total purchasing budget allocated to certified minority- and/or women-owned business suppliers by such proposer. Such proposer shall provide a copy or policy or statement of any such established goals.
- j. Any other information that demonstrates such proposer's commitment to diversity practices, or information explaining why such contractor should be exempt from an assessment of diversity practices.

Part II: Cost and Contract Submittal:

- 1. The pricing proposal will be evaluated for reasonableness of cost for the total effort. It may also serve as the basis for subsequent negotiations of price if necessary.

VI. METHOD OF SELECTION

- a. Each Proposal will be initially evaluated for conformance and qualitative compliance with the selection criteria. The Evaluation Team will use a point system to create a list of Proposals in ranked order. Up to 60 points shall be awarded for Part I of the proposal identifying experience, qualifications, and business plans. Cost Proposals (Part II) will be evaluated separately by the Evaluation Team and up to 40 points awarded. In addition, consideration will be made to whether the Offeror can perform at the quoted prices while maintaining adequate levels and quality of service over the full term of the contract. The "best value" will be based on the combination of the two scores.
- b. The Contract award under this RFP will be made to the Offeror receiving the highest point total using the evaluation criteria listed above.

VII. 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 Offeror 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 accept 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 <http://nyserda.ny.gov/~media/Files/About/Contact/NYSERDARegulations.ashx>. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

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

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

Empire State Development
Division For Small Business
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 Offeror 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 Offeror 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 perspective 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. 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 Offerors in approximately two 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 Offeror 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 Offeror 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. Offerors 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
Attachment C	Cost Proposal
Attachment D	Sample Agreement (Exhibit B – F)
Attachment E	Prevailing Wages
Attachment F	New York State Executive Law Article 15-A
Attachment G	Executive Order No. 4 “ <i>Establishing a State Green Procurement and Agency Sustainability Program.</i> ” http://www.governor.ny.gov/archive/paterson/executiveorders/eo_4.html
Attachment H	Executive Order No. 88 “ <i>Directing State Agencies and Authorities to Improve the Energy Efficiency of State Buildings.</i> ” http://www.governor.ny.gov/executiveorder/88