

Items that are highlighted are to be completed by the Contracting Unit Issuing the RFP

[NAME] of Contracting Unit]

Request for Proposals RFP No. [XXX]

TO SELECT AN ENERGY SERVICES COMPANY TO DEVELOP AND IMPLEMENT AN
ENERGY SAVINGS PLAN THROUGH NEW JERSEY'S
ENERGY SAVINGS IMPROVEMENT PROGRAM
USING THE (SELECT ESCO or HYBRID) MODEL

CONTACT PERSON:

Name, Title

Address

Phone

Email

SCHEDULE OF EVENTS

Date Issued: [DATE] at [TIME]

Pre Proposal Meeting: [DATE] at [TIME]

Last Day for Questions: [DATE] at [TIME]

Date & Time Proposal Due: [DATE] at [TIME]

Important web information

RFP Information found at [Contracting Unit website where RFP information will be]

Contracting Unit sharefile location

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Part I: General Information

This **Request for Proposals** ("RFP") is issued by the [NAME of Contracting Unit] to solicit proposals from an experienced and qualified **Energy Service Company** ("ESCO") to develop and finance the implementation of an **Energy Savings Plan** ("ESP") through the **Energy Savings Improvement Program** ("ESIP").

See Part VI below for defined terms used in this RFP.

The Contracting Unit's potential project features _____ buildings, _____ square feet, _____ MWhs of electricity consumption, and _____ BTUs of natural gas consumption.

Issuing Officer (IO)

For the purposes of this procurement process, the **Issuing Officer** and main contact for the Contracting Unit is:

Name:

Phone No.

E-mail:

Address:

Questions related to the RFP should be directed in writing to the Issuing Officer. See Section Question and Answer Period.

RFP Information

The Contracting Unit will follow all Local Public Contract Law requirements. All information regarding this RFP, including addenda, shall be provided to interested Proposer by the Contracting Unit by notifying potential Proposers who received the RFP in writing in accordance with N.J.S.A. 40A:11-4.6 and if using eprocurement, N.J.A.C. 5:34-5.3(e).

Purpose and Intent

The Contracting Unit is interested in contracting with one (1) ESCO for a full range of energy services and energy-related capital improvements (energy conservation measures or ECMs), financed through an ESIP project with the Contracting Unit at the sites identified and within the framework of the allowable contract term. If energy-related capital improvements are implemented, public bidding requirements shall apply for those improvements. The allowable contract term is fifteen (15) years if no Combined Heat and Power (CHP) is included or twenty (20) years if CHP is included. It is the Contracting Unit's intent, subject to an independent third-party verification of the ESP, and the Contracting Unit's review and approval thereof, to authorize the selected ESCO ("**Contractor**") to implement the ESP through an ESIP project, in

accordance with the requirements of the Energy Savings Improvement Program's Law, N.J.S.A. 40A:11-4.6 ("ESIP Law").

These services and improvements shall be delivered through an ESSC and fulfill the following objectives for the Contracting Unit:

Buildings

- Increase energy efficiency and building performance with the goal of reducing energy usage and demand associated with the heating, ventilation and air conditioning ("HVAC") systems; lighting systems; building envelope; hot water systems; water consumption; sewage costs; and other energy using equipment;
- Obtain consistent levels of occupant comfort and system functionality to improve indoor environmental quality for occupants;
- Address deferred repair and maintenance projects;
- Reduce facility life cycle costs including: maintenance, equipment replacement, energy and water utilities, waste disposal, emergency power outages, etc.;

Financing

- Incur no initial capital cost;
- Obtain financing for the project through a lease-purchase agreement or through the issuance of energy savings obligations through a refunding bond over an extended contract term.

Savings

- Achieve significant long-term savings that are measured and verified; and
- If selected, obtain an annual savings guarantee, which will be equal to or greater than the total annual project costs.

Proposers are encouraged to structure and submit a Proposal that provides the greatest possible energy, water, operational and maintenance ("O&M") savings and the most financially beneficial project scope for the Contracting Unit. The Proposer shall also look for savings that may not reduce consumption but are aimed at cost savings such as fuel switching; demand reductions; on-site generation; electrical sub-metering; automated utility bill auditing; and utility rate changes and distribution upgrades.

The ESP shall be designed to conserve energy and improve energy efficiency within the specified Contracting Unit facilities delineated herein through the implementation of energy conservation, capital improvements, and other measures whose costs will be paid by the verified energy cost savings that result from implementation of the ECMs. The savings achieved by the ECMs must be sufficient to cover all project costs including service maintenance costs and monitoring fees on an annual basis for the duration of the contract term. The contract must provide that the project's total savings each year will yield a positive cash flow to the extent necessary to make required payments under the contract. The ECMs and services must include an **investment grade energy audit** ("IGEA") and may include, but are not limited to the design, acquisition, installation, modification, and the training of Contracting Unit's personnel.

Project Schedule (Subject to Change at the Discretion of Contracting Unit)

Activity Date

Procurement

RFP advertised (BPU approved)	Week 1	Insert Date
Optional Pre-Proposal Meeting*	Weeks 3-4	Insert Date
Mandatory Facility Tour	Weeks 3-4	
Additional Facility Walk-Throughs, if requested	Weeks 3-4	TBD
Deadline for Proposers’ Written Inquiries	Week 5	Insert Date
Deadline for Contracting Unit’s Response to Inquiries	Week 6	Insert Date
Proposals Due**	Weeks 7-10	Insert Date
Oral Interviews	Weeks 11-12	Insert Date
Notice of Award to Selected ESCO	Week 13	Insert Date

Scope of Work

Investment Grade Energy Audit (IGEA) Contract Executed	Week 14	Insert Date
IGEA Completed	Week 18	
Energy Savings Plan Submitted to the BPU	Week 22	Insert Date
Energy Savings Plan Approval by BPU	Week 25	
Financing Secured	Weeks 26-27	Insert Date
ECMs Finalized	Weeks 29-33	Insert Date
Energy Savings Services Contract Executed/ Construction Begins	Week 36	Insert Date

* Must be held at least 10 days post advertisement.

**Proposals shall be due no earlier than 20 business days after publication. Additional time should be allowed to larger Contracting Units and/or RFPs involving a significant number of facilities.

Buildings Included & Areas of Concern

Proposers should propose ECMs that address and resolve the specific areas of concern identified for the buildings listed below.

<u>Building Name and Address</u>	<u>Facility Size: Square Footage (Sq Ft)</u>
	SqFt
	SqFt
	SqFt
	SqFt
	SqFt
	SqFt
	SqFt
CREATE ADDITIONAL LINES IF NEEDED	SqFt

Specific areas of concern and capital improvements (e.g. old boilers, chillers, etc.) are listed below.

1
2
3
4
5

Proposer Qualifications

Per N.J.S.A. 40A:11-4.6, all Proposers must be classified by the Department of Treasury, Division of Property Management and Construction (“DPMC”) as Class Code “C036 – Energy Services (ESCO)” to be eligible to participate in this RFP process. If awarded the contract, the Contractor must maintain valid DPMC classification status throughout the project’s construction. Any and all Contractors and/or Subcontractors performing work must maintain DPMC contractor classification or consultant prequalification within the appropriate discipline throughout their work on the project.

Proposers shall demonstrate to the Contracting Unit, the ability to provide a range of services, including, but not limited to, the following:

Investment Grade Energy Audit and Project Development

- Perform IGEA to evaluate costs and savings of a variety of energy and water-saving measures
- Develop project proposal including financial analysis
- Conduct benchmarking using ENERGY STAR tools
- Create a measurement and verification plan
- Perform utility bill data analysis to capture credits from utility bill errors
- Prioritize ECMs to create ESP

Project Implementation

- Engineering design
- Equipment procurement and purchasing in the name of the ESCO
- Construction management
- Hazardous waste disposal or recycling
- Ability to arrange financing
- Commissioning of ECMs installed
- Contracting Unit staff training on routine maintenance and operation of systems

Performance Guarantee (If purchased)

- Guarantee of performance and cost savings
- Measurement and verification for validation and reporting of the performance and savings

- Performance of buildings for the duration of the performance guarantee

Contractor must also have the technical capability to address a broad range of systems, including, but not limited to:

- Mechanical Systems. HVAC systems, energy management and control systems, domestic hot water systems, distribution systems, etc.
- Plants. Distribution systems, cogeneration systems, etc.
- Lighting systems. Indoor and outdoor lighting systems, lighting controls, daylighting strategies, etc.
- Building envelope systems. Windows, insulation, weatherization, etc.
- Specialty Systems. Laundry equipment, kitchen equipment, pool systems, etc.
- Water and Sewage Systems. Automatic controls, low-flow faucet aerators, low-flow toilets, cooling tower modifications, pool covers, and irrigation system controls or modifications.
- Renewable Energy Systems and Alternative Energy Generation. Solar electric (photovoltaic, PV) systems, solar water heating, small wind, etc.
- Desired projects.

[Note: Identify any specific needs or desires that the Contracting Unit would like included in this project, or projects that are of particular interest to the Contracting Unit. Keep in mind that the Contractor should be given the flexibility to use its own expertise to determine a broad scope of work, so avoid using this section to pre-define the scope of work.]

[Note: Delete items above that do not exist in the facilities.]

Preliminary Documents

Per **ESIP Law**, the Contracting Unit will have conducted a preliminary energy audit (ASHRAE Level II and Level III for Lighting) prior to issuing this RFP. A copy of the audit report can be found at the website address located in the RFP Information Section. All Proposers must use the audit report as a guide to evaluate the preliminary energy usage and cost associated with the buildings identified by the Contracting Unit.

For utility cost and usage analysis purposes, a complete 24-month history of all relevant and the most recent utility bills for each utility serving the Contracting Unit facilities identified in this RFP (electric, natural gas, fuel oil, water, sewer, and propane) can be found at the website address located in the RFP Information Section. The utility information shall be used to conduct utility cost and usage analysis and establish baselines for the proposed, preliminary ESP savings.

The preliminary audit report, the 24-month utility histories, and site inspection(s) conducted by interested Proposers will serve as the foundation to develop Proposals in response to this RFP.

Pre-Proposal Meeting and Walk Through Inspection

The Contracting Unit will conduct a pre-proposal meeting. This Pre-Proposal meeting is optional, but walk-through inspections of the buildings that have been included within the scope of the

RFP is mandatory. The date and address for the pre-proposal meeting are listed on the [Cover Page](#).

Participation in the pre-proposal meeting will help to ensure that proper communication is established between the Contracting Unit and interested Proposers, the Contracting Unit's program expectations are addressed and understood by all Proposers, all relevant project data is delivered to appropriate personnel, and all facility inspections are properly coordinated through designated personnel. Contracting Unit personnel and representatives will be present at the meeting and walk-through inspection. Any technical information, including any technical information provided via responses to written questions submitted as a result of the pre-proposal meeting and walk-through, supplemental to material contained in this RFP will be made available by addendum.

The Contracting Unit shall arrange additional site visits at the request of interested Proposer at mutually convenient times prior to the date for submission of Proposals. A Proposer may, at its election, participate in multiple site visits. No additional clarifications or information will be provided during such site visits, although additional information may be added to the responses referenced in the preceding paragraph.

All ESIP projects and related parties must comply with any existing health and safety protocols applicable to construction projects.

[Project Development and Contract Execution](#)

The services awarded through this RFP are carried out in three parts. The first part of the ESSC covers an IGEA and the development of the Contracting Unit's ESP. The second part of the ESSC implements the ECMs and commissions the equipment. In the third part of the process, the Contracting Unit has the option to purchase a guarantee of energy savings.

Please note: To protect its own interests, the Contracting Unit should consider drafting any agreements to be entered into with the Contractor.

- 1. Energy Savings Services Contract – Part 1 (Agreement for IGEA and ESP)**

The Contracting Unit may execute a contract for IGEA to be performed and for the ESP to be developed. Then, if moving forward, the Contracting Unit may execute a second part of the ESSC to implement the ESP as described below. The Contracting Unit may elect not to proceed to Part 2. In such instance, the Contracting Unit shall compensate the Contractor for the development of the ESP and IGEA.

- 2. Energy Savings Services Contract– Part 2 (Agreement for Implementation of ECMs and Project Close out & Commissioning)**

Once the final draft of the ESP has been approved by BPU staff, the Contracting Unit will work with the Contractor to develop Part 2 of the ESSC. All program development, conceptual engineering design and permitting costs incurred by the Contractor pursuant to the IGEA Agreement in Part I shall be rolled forward and incorporated into the ESSC. The ESSC will define the final agreed-upon list of ECMs, applicable incentives in debt

service, equipment and labor costs and guaranteed cost savings. It will document equipment specifications and warranties. The ESSC will establish the schedule and responsibilities of the Contractor and the Contracting Unit. If ECM implementation entails public works then public bidding requirements shall apply for those improvements. Commissioning will verify that the building's energy systems and components meet the Contracting Unit's project requirements. The final form of the ESSC must comply with all applicable laws, rules, and regulations governing public contracts under the laws of New Jersey. Upon the parties' agreement to the terms of the ESSC, the final engineering design for the selected scope of work will be initiated.

3. **Performance Guarantee Services- Part 3 (Optional)**

The ESSC must include the option to purchase a savings performance guarantee which must be offered by the Contractor. The Contracting Unit may purchase or decline in its discretion. Such option may occur subsequent to the initial award of the contract. If the Contracting Unit decides to purchase the guarantee, it will begin after the first year after the project has been constructed and commissioned.

[Optional Performance Guarantee](#)

Each proposal shall include a performance guarantee on savings proposed in the project. The performance guarantee cannot be financed with the savings obligations in a project. It allows the Contracting Unit to pay for a guarantee that will cover any shortfalls in energy savings during the repayment period.

If purchased, the Contractor will be required to guarantee energy and cost savings for each year for which it was purchased. No credit for the achievement of savings above and beyond the annual guarantee will be credited to satisfy performance guarantees in future years of the contract.

If the Contracting Unit declines to purchase the guarantee, the Contracting Unit shall provide annual reports of the achieved savings to the BPU, if requested.

[Question and Answer Period](#)

Proposers may submit electronic inquiries to the Issuing Officer. See Part I, [Issuing Officer's](#) email address. All inquiries shall be submitted by email. Telephone calls/faxes shall not be accepted.

The cut-off date for electronic questions and inquiries relating to the RFP is indicated on the [Cover Page](#) of the RFP.

All electronic inquiries must meet the following criteria:

1. The subject line of the email should be: "QUESTIONS – 202X-RFP-XXX – ENERGY SAVINGS IMPROVEMENT PROGRAM"
2. Questions should be directly related to the RFP and asked in a consecutive order, following the configuration of the RFP.
3. Each question should begin with reference to the RFP page and section number to which it relates.

4. All questions and/or requests for information must contain contact information for the primary person to whom the response can be directed.

All questions received and answers given in response to the RFP will be provided pursuant to N.J.S.A. 40A:11-4.6 and if applicable, N.J.A.C. 5:34-5.3, and will be posted on the Contracting Unit's website. In addition, if changes are made to the proposal documentation, the contracting unit shall notify only those potential vendors who received the proposal documentation of any and all changes in writing and all existing documentation shall be changed See Section RFP Information for the website address.

Restriction of Contact

From the issue date of this RFP until a determination is made regarding the final selection of a Contractor, all contact with Contracting Unit's personnel concerning this RFP must be made only through the Issuing Officer. A Proposer may not contact the Contracting Unit's requesting department, other officials of the Contracting Unit, the members of the selection committee or any other staff/Contracting Unit member directly, in person, by telephone, fax, mail or e-mail concerning the RFP.

Revisions to this RFP

Clarifications and/or revisions to the RFP, if any, will be made via addendum. Only written modifications will be legally binding. No employee or agent of the Contracting Unit may verbally alter the contents of this RFP. There are no designated dates for release of Addenda. All Addenda will be posted to the Contracting Unit's website, and in addition, all vendors will be notified in accordance with N.J.S.A. 40A:11-4.4, under the topic ["LIST EXACT SEARCHABLE TOPIC"]. All addenda will become part of the RFP and any resulting Contract(s). Proposers are solely responsible for keeping informed of all addenda which are issued in accordance with N.J.S.A. 40A:11-4.4 and this RFP.

Written notice of addenda will be provided as stated above. In addition, interested Proposers should check the Contracting Unit's website daily, from the date of issuance of the RFP through the submission due date and time. See Section [RFP Information](#) for a link to the Contracting Unit's Website address.

Proposal Discrepancies

In evaluating Proposals, discrepancies between words and figures will be resolved in favor of words. Discrepancies between Unit Prices and totals of Unit Prices will be resolved in favor of Unit Prices. Discrepancies in the multiplication of units of work and Unit Prices will be resolved in favor of the Unit Prices. Discrepancies between the indicated total of multiplied Unit Prices and units of work and the actual total will be resolved in favor of the actual total. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum of the column of figures.

Responses to Proposals

The Contracting Unit reserves the right to:

- Reject all proposals in accordance with N.J.S.A. 40A:11-13.2;
- Reject any proposal in accordance with applicable law;
- Schedule interviews with none, all or only the most highly qualified Proposers (as determined by the Contracting Unit to request clarifications of any portion of the proposals received) in accordance with N.J.A.C. 5:34-4.3(d)3;
- Waive minor informalities or non-material exceptions in a proposal in accordance with applicable law; and
- Terminate the RFP process at any time, in accordance with applicable law and subject to compliance with all notice requirements.

Pay to Play

The contracting unit and any awarded vendor shall at all times comply with N.J.S.A. 19:44A-20.26 and N.J.S.A. 19:44A-20.27.

This is the end of Part I.

Part II: Scope of Work

Through the ESSC, the Contracting Unit expects to achieve energy efficiency, cost savings, and building improvements that better enable the functioning of the building(s). The Contracting Unit reserves the right to reduce the scope of work, to conduct the work in phases, or to segment work in facilities based on technological improvements. If work is conducted in phases, the initial phase must be commissioned prior to starting a second phase.

The Contractor shall be responsible for completing the Investment Grade Energy Audit and developing the Energy Savings Plan as set forth in the timeline and can be found in Part I, [General Information Section](#).

Investment Grade Energy Audit

Upon award, the selected ESCO will be expected to further analyze the preliminary energy audit to better inform its own Investment Grade Energy Audit (IGEA) of all identified facilities. In combination with the preliminary energy audit, the IGEA will provide the foundation for a final, customized ESP that is responsive to the Contracting Unit's unique requirements and will achieve maximum energy savings. The Investment Grade Energy Audit (IGEA) will identify potential cost-saving measures, determine the cost and savings of each measure, and present a measurement and verification plan to validate future savings of each measure. The IGEA shall be performed by a DPMC certified energy auditor (P051). The auditor may be either an employee of the ESCO or may be engaged by the ESCO for this task.

The IGEA shall include, at minimum, data and information listed below. The results of the IGEA will be the basis for the Contracting Unit's final ESP.

- An executive summary;
- A detailed energy analysis for all facilities in scope;
- Feasibility studies for renewables at the Contracting Unit's facilities;
- Baseline energy consumption and utility rates;
- Existing conditions, deficiencies and areas of concern;
- ECM descriptions (narrative) and scope of work;
- Energy savings calculations;
- Operation and maintenance cost savings calculations, if any;
- Environmental impacts;
- Available grants, rebates, and incentives;
- Detailed technical and financial terms for the program and transaction;
- Project implementation schedule and permits needed along with construction and installation schedule;
- Procurement plans for subcontractors in accordance with ESIP and public bidding requirements;
- Equipment manufacturer or type and equipment warranties;
- Pre-existing equipment inventory and equipment to be installed by Contractor

Energy Savings Plan

The **Energy Savings Plan (ESP)** is the core of the ESIP process. The Contractor shall deliver an ESP to the Contracting Unit. The ESP describes the ECMs that are planned and the cost calculations that support how the plan will pay for itself in energy savings.

Pursuant to the ESIP Law (N.J.S.A. 40A:11-4.6), an ESP shall:

1. Contain the results of an IGEA;
2. Describe the ECMs that will comprise the program and include any ECMs which were evaluated, but not recommended;
3. Estimate greenhouse gas reductions resulting from those energy savings;
4. Identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;
5. Include an assessment of risks involved in the successful implementation of the plan;
6. Identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;
7. Include schedules showing calculations of all costs of implementing the proposed ECMs and the projected energy savings;
8. Identify Contracting Unit's maintenance responsibilities and requirements necessary to ensure continued energy savings; and describe how they will be fulfilled; and
9. If developed by an ESCO, a description of, and cost estimates for an energy savings guarantee, as an option available to the Contracting Unit.

Upon completion of the ESP, the Contracting Unit will separately procure a consultant who is a DPMC qualified third-party energy auditor (P-051) and Estimating/Cost Analysis (P-025) to review the ESP and certify that savings are sufficient and can pay for ECMs and have been calculated pursuant to the International Performance Measurement and Verification Protocol (IPMVP) and within [BPU's Technical Reference Manual \(TRM\)](#). The ESCO or the Contracting Unit shall submit the third-party audit of the ESP along with all related correspondence to the BPU along with the final ESP.

Project Information Material

If the Contractor is selected, they shall create a one-page Case Study for the Contracting Unit upon completion of the project to share the success of the project with its community via the web, print, and email.

Financing Coordination

The Contractor shall facilitate the rebates and incentives for which the project is eligible. The Contracting Unit will arrange financing. The Contracting Unit is responsible for developing a separate financing agreement, including Contractor payment schedules and lender financing terms and schedules.

The Contracting Unit will finance the ESIP project using either refunding bonds or lease purchase agreements. Neither refunding bonds nor lease-purchase agreements can be used to finance the maintenance, guarantees, or verification of guarantees of ECMs, but can be used to finance

the cost of an energy audit or cost of verification of energy savings. Current market conditions may impact both options. Therefore, both options should be explored by the Contracting Unit. The maturity schedules for energy savings obligations must not exceed the estimated useful life of the individual ECMs. The duration of the repayment term can commence on the date upon which construction and installation of the energy savings measures is completed.

Reporting

After the project has been constructed and commissioned, the Contractor shall be responsible for completing the appropriate reporting during the length of the contract. Energy savings will be tracked and reported to BPU per the Clean Energy Act requirements, with incentives and associated savings delineated by source. This may include, but is not limited to, an updated as-built reflecting final project installation with updated energy savings and cash flow. This deliverable should be done by the Contractor and included within their response to the RFP and be factored into timeline and pricing of project.

If required by the BPU pursuant to its authority under N.J.S.A. 48:3-109, the Contractor shall collect and report project data to the BPU through the BPU-designated platform, with the assistance of the Contracting Unit as necessary.

Measurement and Verification (if guarantee selected)

The Measurement and Verification plan for monitoring and verifying energy savings for the proposed ECMs (post construction) is based on the methods described in the IPMVP and within BPU's TRM.

Incident Response Contractor shall maintain an information security incident response capability that includes adequate preparation, detection, analysis, containment, recovery, and reporting activities. Information security incident response activities shall include, at a minimum, the following:

- A. Information security incident reporting awareness;
- B. Incident response planning and handling;
- C. Establishment of an incident response team;
- D. Cybersecurity insurance;
- E. Contracts with external incident response services specialists; and
- F. Contacts with law enforcement cybersecurity units.

Media Releases

News releases, social media and general media contacts regarding this project will only be made by the Contracting Unit, unless the Contracting Unit directs otherwise in specific instances. No

postings, comments or releases are to be issued without the express authorization of the Contracting Unit.

This is the end of Part II.

Part III: Proposal

ESIP Process

The flow chart below outlines the six components of an ESIP Project. The Contracting Unit seeks a comprehensive Proposal that addresses each component for steps 3-6 below. Each component should have a general assumption of time to complete and estimated cost structure and should be specifically laid out in the Proposal.



Proposer Responsibility

Proposals must be a complete response to the RFP and be straightforward, concise presentations. To be considered, Proposals must be received by the date listed on the Cover Page at the address provided in Part I, for the Issuing Officer. The Contracting Unit will not consider late or incomplete Proposals delivered after the due date regardless of the reason. Further, the Proposer's Checklist shall be properly completed and submitted to the Contracting Unit with the Proposal.

The Proposal is considered an offer to perform. The Proposer assumes sole responsibility for all efforts required to submit a Proposal in response to the RFP. No consideration shall be given, after Proposals are opened, for a Proposer's failure to be informed of all requirements of the RFP.

Proposers may submit (with the proposal) supplemental information deemed useful to the Contracting Unit in evaluating the Proposal. Further, Proposers may provide alternative energy solutions that supplement the energy audit and are consistent with the requirements of the ESIP Law. Sales brochures and other similar materials should not be included in a Proposer's response.

As a part of Proposal, the Proposer will provide a previously completed example (either hardcopy or via link) of an ESP to the Contracting Unit.

A project proposal will present a bundle of measures that can be financed through guaranteed savings over the proposed financing term, including a cash-flow table.

The Proposal must remain valid for no less than sixty (60) calendar days from proposal submittal date. All Proposals become the property of the Contracting Unit.

A Proposal shall be duly executed by an authorized representative of the Proposer and shall clearly identify: the Proposer's address, a contact person, and the name and title of the person(s) preparing the proposal. Proposals by partnerships shall be signed in the partnership name by one of the members or by an authorized representative. Proposals by corporations shall be

signed with the name of the corporation followed by the signature and title designation of an individual authorized to bind the corporation.

Conflict of Interest

The Proposer must disclose and describe in its Proposal any actual or potential conflict(s) of interest that may exist with either its personnel or any subcontracting personnel that will be assigned to perform work against the resulting Contract(s). Such conflict(s) include(s) a direct familial or personal monetary interest and/or any prior or existing personal/professional relationship with the Contracting Unit.

If the Contracting Unit, in its sole discretion, determines that a conflict exists, whether real or perceived, the individual(s) involved shall be immediately removed from all involvement with the Proposal and from work performed under the resulting Contract(s), if awarded to the Proposer.

Proposal Format

Proposals must be submitted in the format outlined within this section, with each of the prescribed forms completed in full (with the exception of any sections described as optional). Each Proposal will be reviewed prior to substantive evaluation for completeness and responsiveness. Failure to submit information as indicated in this Section may result in the Proposal being deemed non-responsive and eliminated from further consideration.

Each Proposer shall respond fully to all questions and requests for information set forth in each category. Proposals should be submitted on 8½ x 11" sheets of paper, with the number and title of each answer referenced by category. All pages provided should be numbered sequentially. Each page should clearly indicate the name of the Proposer. Font size shall be no smaller than 10 point. The response to each of the forms and sections described below should begin on a separate page. Proposals should be limited to thirty (30) single-sided pages, excluding attachments (forms, exhibits, sample work).

Use of URLs in a Proposal should be kept to a minimum and may not be used to satisfy any material term of an RFP. If a preprinted or other document included as part of the Proposal contains a URL, a printed copy of the URL page shall be provided and will be considered a part of the Proposal. Additional URLs on the copy of the URL page shall not be considered as part of the Proposal, unless a copy of those URL pages is also provided.

Outline of Proposal Contents

The following is the format outline of the requirements for proposal contents described in this section:

A. Table of Contents

Proposers shall include a Table of Contents that indicates the section and page numbers that correspond with the information included.

B. Executive Summary

The Proposal shall include a concise abstract, no more than six (6) pages in length. Proposers shall briefly describe the most important aspects of their proposed ESP, highlighting the Proposer's qualifications. It may contain a detailed statement explaining why the Proposer is most qualified and best suited to assist the Contracting Unit with the project.

C. Technical Proposal

This section should contain the following information about the Proposer's ESP and technical approach to meeting the Contracting Unit's energy efficiency and conservation objectives:

a. Technical Summary and Preliminary ESP

Proposers shall utilize Forms II, III, and IV to present their proposed ECMs for each of the buildings, which are identified in the RFP.

b. Project Development and Management Overview

Proposers shall include a project organizational chart of all project related staff and project timeline.

c. Description of Savings Calculations, Monitoring, M&V and Guarantee

For proposal purposes, all Proposers shall use the BPU established standardized [5%] interest rate for a base case in the calculations for the annual cash flow. As a reminder, N.J.S.A. 40A:11-4.6 (e)(1)(b) states that the savings calculation cannot assume, include, or reference capital cost avoidance savings, the current or projected value of solar renewable energy certificates or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings.

d. Description of Post-Construction Training and Services

A detailed description regarding how Proposer would train, support, manage and work with the Contracting Unit's existing staff to provide post-construction services, such as maintenance programs, for the ECMs and related systems implemented under an ESIP.

D. Financial Aspects of the Proposals Project Financials

This section should include:

a. Proposer Fees and Preliminary Projections of Project Cash Flow (Forms V & VI)

A detailed description of the Proposer fees, costs, and preliminary project cash flow projections shall be provided on Forms V and VI.

b. Utility and Other Rebates and Incentives Available for Project

A detailed description of all State and Federal tax benefits and grants and BPU approved energy efficiency rebates and incentive programs the

Proposer anticipates incorporating into its proposal. Renewable energy is the only exception to allowable sources.

E. Schedule for Completion of the Project

This section must include the Proposer's projected schedule for completion of the tasks and responsibilities outlined in the proposal.

F. Proposer Information (Form I & Form VII)

a. Background, Qualifications

- i. General Information about Proposer
- ii. Project Team Resumes
- iii. Organizational Chart of all Project Related Staff
- iv. Statement of Affirmation of No Debarment
- v. Disclosure of any Conflicts of Interest

b. Sample Case Studies

This is where the Proposer may attach copies of the sample work done for previous clients related to energy performance contracting. New Jersey based project examples are preferred. (Proposers that have not yet completed a project in New Jersey, are required to provide out of state examples, but an additional description of the states' requirements and how they differ from NJ requirements must be provided.)

G. Required Project Documentation

NJ State Standard Bid Requirements

Below is the list of State required documents needed for the Contracting Unit to accept and consider proposals. These are the forms that are required as of the date of posting this RFP Template (Forms are not included in template). **The Contracting Unit's procurement specialist is responsible for providing all of the required State Standard Bid forms and ensuring that they are submitted. The procurement specialist is also responsible for ensuring that the forms include any language necessary to comply with State procurement requirements.**

- a. Proposer Signature Form with Acknowledgement of Addenda (Due with Bid Submission)
- b. Ownership Disclosure Form (Due with Bid Submission)
- c. Bid Guarantee (Due with Bid Submission)
- d. Consent of Surety (Due with Bid Submission)
- e. Named Subcontractors in Bid for Listed Specialty Trades (Due with Bid Submission)
- f. Federal Debarment Certification (Due Prior to Contract Award)
- g. Business Registration Certificate (Due Prior to Contract Award)
- h. Public Works Contractor Registration Certificate (Due Prior to Contract Award)

- i. Certification of Non-Involvement in Prohibited Activities in Russia or Belarus (Due Prior to Contract Award)
- j. Disclosure of Investment Activities in Iran (Due Prior to Contract Award)
- k. EEO/AA Form AA-201 (Due After Notice of Award, Prior to Signing Contract)
- l. EEO/AA Form AA-302 or Letter of Federal Approval or Certificate of Employee Information Report (Due After Notice of Award, Prior to Signing Contract)
- m. Acknowledged All Addenda on Proposer's Signature Form (Due with Bid Submission)

BPU Required ESIP Project Forms

In addition to the state bid forms above, BPU requires the following ESIP project forms. **All ESIP forms are due with Proposer's response.** Instructions and forms can be found in the [Appendix](#).

- a. **Form I** ESCO Information Form
- b. **Form II** Energy Conservation Measures Summary Form
- c. **Form III** Projected Annual Energy Savings Data Form
- d. **Form IV** Projected Annual Energy Savings Data Form in MMBTUs
- e. **Form V** ESCO's Proposed Project Costs and Cash Flow Analysis
- f. **Form VI** ESCO's Preliminary Annual Cash Flow Analysis Form
- g. **Form VII** Supplemental ESCO Information

Proposal Submission

Contracting Unit chooses Paper-based Process or Electronic Process (via eProcurement). N.J.A.C. 5:34-5.4.

Paper Based Proposal Submission (Hard Copy)

If the Contracting Unit chooses the Paper-based process, Proposers must submit an original bound proposal along with (XX) copies of their proposal to the Issuing Officer no later than the date and time on the RFP Cover Page or as indicated on any Addenda issued under this RFP if the Proposal Opening Date has been changed.

A hard copy proposal must be delivered in a sealed envelope/package and be clearly labeled with the RFP Number, Title, proposal due date and proposer name and address, as indicated below.

202X-RFP-XXX – Energy Savings Improvement Program for [Contracting Unit]
 Proposal Due Date
 Proposer's Name and Address

Hard copy proposals must be delivered to the address listed in Section: Issuing Officer.

The Contracting Unit shall not be responsible for delivery/postal service delays. Postmark dates will not be considered in honoring date and time of receipt. Proposers using the United States

Postal Service for delivery should allow additional time to ensure the Proposal is received on time. Proposals submitted by facsimile (fax) will not be considered.

Electronic Proposal Submission (eProcurement)

The use of electronic procurement through eProcurement by Contracting Units shall be pursuant to N.J.A.C. 5:34-5.3(f) et seq.

Proposers must submit one electronic copy of the Proposal no later than the date and time on RFP Cover Page or as indicated on any Addenda issued under this RFP if the Proposal Opening Date has been changed.

When submitting electronic Proposals, Proposers are cautioned to allow adequate time to ensure timely uploads of all proposal documents to mitigate unforeseen delays or issues.

Local units may accept a bid bond, performance bond, or surety company certificate in a format where the bond or certificate can be verified electronically through a verification code issued by the surety agency. If a local unit accepts a guarantee in the form of a cashier's check or certified check when authorized by law; the Contracting Unit shall be responsible for meeting the requirements for such payment in N.J.A.C. 5:34-5.3(f).

Proposers shall submit a complete, signed electronic Proposal in Adobe Acrobat Reader .pdf read-only format. The submission must be viewable by the Contracting Unit's evaluators. By submitting an electronic signature, the Proposer is agreeing to be bound by the electronic signature. Scanned physical signatures will also be accepted, provided that the forms are otherwise properly completed.

The subject line of the Proposal and all associated documents submitted must be clearly labeled. Each file/document (proposal, attachments, submittals, etc.) should be named using the following format:

“Proposer’s Company Name – Proposal Submission 202X-RFP-XXX – Energy Savings Improvement Program for [Contracting Unit] –File/Document Title”

Questions regarding the use of the eProcurement platform may be directed to the Issuing Officer or platform helpdesk. [See Part 1 above for](#) Issuing Officer for the IO's contract information.

Price Alteration in Hard Copy Proposals

Proposal prices must be typed or written in ink. Any price change (including “white outs”) must be initialed. Failure to initial price changes shall be cause for rejection of the Proposal.

Conflicts in Proposal

Proposals that conflict with the terms and conditions contained in the RFP, as may be amended by addenda, or that diminish the Contracting Unit's rights under any Contract resulting from the RFP shall be rejected. The Contracting Unit is not responsible for identifying conflicting terms and conditions before issuing a Contract award.

After award of Contract, if a conflict arises between a term or condition included in the Proposal and a term or condition of the RFP, the resulting Contract(s) shall be void. Proposers are advised to thoroughly read and follow all instructions contained in the RFP, including the instructions on the RFP Signatory Page when preparing and submitting a proposal.

Public Disclosure of Proposal

Proposals can be released to the public pursuant to the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., or the common law right to know.

In the event of any challenge to a Proposer's assertion of confidentiality with which the Contracting Unit does not agree, the Proposer shall be solely responsible for defending its designation, but, in doing so, all costs and expenses associated therewith, including, but not limited to, any costs incurred by the Contracting Unit, shall be the responsibility of the Proposer. The Contracting Unit assumes no such responsibility or liability.

This is the end of Part III.

Part IV: Evaluation and Award of Proposal

Selection of the successful Proposer(s) will be based upon such factors as deemed by the Contracting Unit, in accordance with the criteria set forth in this RFP. The award shall be made to the most advantageous proposal, price and other factors considered. Once the bid is awarded, Contracting Units are responsible for meeting the requirements attaching to any public works portion of the awarded bid.

Responsive Proposals will demonstrate that the Proposer has (i) proposed a plan for the site that are consistent with the Contracting Unit's policy goals and requirements; (ii) possesses sufficient relevant experience in performing contracts of similar size and scope; and (iii) the financial capacity and ability to successfully implement the project and offer an attainable timeline with cash flow positive and energy savings results.

Among other factors, responses will be evaluated for completeness, market feasibility, innovative ideas, strength of community benefits, and the strength of the financial response as detailed further in this section.

Proposals shall be compared based on the overall value of the proposal to the Contracting Unit in terms of projected program costs, energy savings and environmental benefits.

Factors that will be considered include the duration of the ESIP, projected economic benefit to the Contracting Unit, level of savings projected to be achieved in the facilities included within the scope of this RFP, level of guaranteed energy savings (in dollars), length of simple payback to the Contracting Unit, and projection of the cash flows that will be generated by the program. The costs include: all proposed ECMs, costs of construction including the costs of suppliers and subcontract trades at prevailing wages, potential break-up fees, risks associated with the failure to implement the project, as well as other fees.

Procurement Evaluation Process

To achieve the Contracting Unit's goals, proposals will be evaluated according to the following process:

- 1. Submission of Written Proposal.** The Contracting Unit, through its designated representatives on the Evaluation Committee, will review and evaluate the proposals submitted by the submission date in response to this RFP based on the evaluation criteria.
- 2. Oral Interview.** Proposers may be invited to participate in an oral interview. If invited, oral interview will only be used to clarify questions in the proposal. Interviews will not involve alterations to the terms and conditions of the RFP or the proposal and will not involve negotiations.

Clarification of Proposal

After the submission of Proposals, unless requested by the Contracting Unit as noted below, Proposer's contact with the Contracting Unit is not permitted.

After the Proposals are reviewed, Proposers may be asked to clarify certain aspects of their Proposal. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any deficiencies or material omissions or revise or modify a Proposal.

Further, the Contracting Unit reserves the right to request a Proposer to explain, in detail, how the proposal price was determined.

Right to Waive

The Contracting Unit reserves the right to waive minor variances or irregularities in responses to this RFP, in accordance with applicable law. Any such waiver will not modify any other RFP requirements nor excuse any Proposer from full compliance with the RFP specifications and other legal requirements.

The Contracting Unit shall reject the response of any Proposer which is determined not to be responsible or whose response is deemed to be non-responsive in accordance with the criteria set forth in this RFP.

Oral Presentation

Based on results of the evaluation, the Contracting Unit may invite one or more of the highest scoring Proposers for an oral interview. Scores for the Proposals may be modified based on clarifications to responses provided in the interview. It is within the Contracting Unit's discretion whether to invite the Proposer to give an oral presentation or require the Proposer to submit written responses to questions regarding their Proposal. Action by the Contracting Unit in this regard should not be construed to imply acceptance or rejection of a Proposal. The Contracting Unit's Issuing Officer will be the sole point of contact regarding any request for an oral presentation or written clarification. No additional information outside of the proposal can be presented. Interviews will not involve alterations to the terms and conditions of the RFP or the proposal and will not involve negotiations.

A Proposer may not attend the oral presentations of its competitors.

Evaluation Committee (Selected by Contracting Unit)

Proposals may be evaluated by a cross-functional Evaluation Committee composed of staff and/or members of the Contracting Unit, management, and other state/local agencies and/or industry subject matter experts to evaluate, score and rank proposals received in response to the RFP under the criteria established herein.

Evaluation Criteria

Responses will be evaluated and scored based on the completeness and quality of the information provided in the proposal, attachments, and client references. Failure to provide any of the requested information may result in disqualification.

The following evaluation criteria categories and the percentage weights for each category, not necessarily listed in order of significance, will be used to evaluate proposals received in the response to this RFP solicitation.

EVALUATION CRITERIA CATEGORY	POINTS
Technical Approach	25
Financial Approach	20
Project Management	25
Innovation	5
Qualifications and Project Experience	25
TOTAL	100

The Evaluation Team recognizes it is premature to place a major emphasis on projected financial benefits prior to the completion of the IGEA, because the Audit will define the potential scope and cost benefit.

Detailed evaluation criteria for each category is listed below.

Technical Approach (25 points)

- Proposer proposed innovative, market-viable ideas for energy savings and a detailed and sound technical approach to meeting the Contracting Unit’s energy efficiency objectives was provided.
- Quality of a proposed technical approach to conducting a facility energy review, including methods of analysis, engineering and understanding of existing building systems and conditions.
- Quality of the sample facility review.
- Quality of approach to savings measurement and verification.
- Quality of approach to project commissioning.
- Quality of sample IGEA for project like the Contracting Unit’s project.
- Quality of baseline energy calculations and methodology for handling modifications/changes to the baseline.
- Quality of proposed training for facility staff.
- Quality of approach to savings measurement and verification.
- Quality of the Contracting Unit savings reports for similar clients to the Contracting Unit.
- Quality and feasibility of proposed preliminary technical measures.

Financial Approach (20 points)

- Financial soundness and stability of Proposer.
- Capability to develop projects which qualify for attractive financing terms.
- Reasonableness of IGEA costs.
- Reasonableness of Preliminary Project Costs and Cash Flow Analysis.
- Cost of annual fees for measurement and verification of savings.
- Adequate bonding capability.

Project Management (25 points)

- Clear assignment of responsibility for various project tasks to specific individuals.
- Ability to effectively manage project construction and complete the project on schedule and within budget.
- Proposer has demonstrated ability to carry out all tasks and responsibilities listed in the proposal.
- Proposer is able to meet the Contracting Unit's project completion deadline date.
- Quality of approach to operations and maintenance.
- Quality of monitoring, measurement, and verification services, and reporting on past projects.
- Clarity, organization, and level of detail in written proposal.
- Quality of communication skills of the Proposer's representatives at the oral interview.

Innovation (5 points)

- Quality of proposed innovative ECMs.
- Quality of benefits from innovative ECMs.
- Ability to implement innovative ECMs.

Qualifications and Project Experience (25 points)

- Verification that Proposer is DPMC classification in New Jersey. A Proposer must demonstrate that it has the necessary DPMC classification and is in good standing.
- Qualifications and experience of Proposer's personnel with guaranteed energy savings contracts on projects similar to the Contracting Unit's project show that they are qualified to execute the proposed development plan.
- Having successfully served in lead developer roles for completed projects of a similar scale and scope to the project proposed by the Proposer. This includes examples of at least three clients within the past 5 years for which Proposer has successfully implemented an ESSC, NJ based projects preferred, where energy savings were calculated and verified as occurring in a manner consistent with projected results.
- Reliability of equipment performance on past projects.
- Documented energy savings on past projects similar to the Contracting Unit's project.
- Quality and completeness of past project documentation.
- Quality of client references.
- Quality of maintenance on past projects.
- Proposer is in good standing with the State and has all necessary certifications, registrations, and clearances.

Contracting Unit Award of RFP

After the Evaluation Committee completes its evaluation, it recommends to the Contracting Unit for award to the responsible Proposer whose Proposal, conforming to this RFP, is most

advantageous to the Contracting Unit, price and other factors considered. The Evaluation Committee considers and assesses the evaluation criteria listed in this RFP and makes a recommendation to the Contracting Unit. The Contracting Unit may accept or reject the recommendation of the Evaluation Committee, in accordance with applicable law.

[Protest of Recommended Award](#)

The BPU must be notified that a Contractor has been selected within 5 days of award by the Contracting Unit. Any protest of award must follow Local Public Contract Law.

This is the end of Part IV.

Part V: Terms and Conditions

The following terms and conditions shall apply to the ESSC:

Laws and Regulations

All applicable Federal, State and local laws and regulations shall apply to the RFP process and any resulting ESSC and are hereby incorporated by reference.

Subcontracting and Assignment

No portion of the work associated with this project may be subcontracted or assigned without the prior written approval of the Contracting Unit except to the extent required or permitted pursuant to N.J.S.A. 40A:11-4.6(b). To the extent that subcontracting is required pursuant to statute, subcontractors must be obtained through a public bidding process in a manner consistent with all applicable public bidding and prevailing wage laws and requirements. All subcontractors must be classified by the New Jersey Department of Treasury, Division of Property Management and Construction, as applicable.

Modifications of RFP, Award and ESSC

No modification of the RFP, the scope of award, or the resulting ESSC shall be binding upon the Contracting Unit unless authorized by law and duly approved in writing and signed by a duly authorized representative of the Contracting Unit.

Qualifications of Proposers

The Contracting Unit may make such investigation as it deems necessary, in accordance with applicable law, to determine the qualifications of the Proposers and, if subcontractors are included in the proposal, the qualifications of the proposed subcontractors to perform the work. The Proposer shall promptly furnish any information and data for this purpose as shall be requested by the Contracting Unit. The failure of a Proposer to timely produce information and data requested by the Contracting Unit may provide a basis for rejection of the proposal.

All Proposers shall submit a statement affirming that as of the time the proposal is submitted, neither Proposer nor any of its affiliates is included on the list of debarred, suspended or disqualified contractors maintained by the New Jersey Department of the Treasury, New Jersey Department of Labor and Workforce Development or any Federal agency. Proposer shall immediately notify the Contracting Unit if Proposer is placed upon the list of debarred, suspended or disqualified contractors after submission of the proposal. All DPMC qualifications must be maintained through project, not just at time of award.

Ownership Disclosures Required

Pursuant to N.J.S.A. 52:25-24.2, Proposer shall submit prior to or with its proposal, a statement setting forth the names and addresses of all stockholders if Proposer is a corporation, or of all individual partners if Proposer is a partnership, or if the Proposer is a limited liability company, of all members who own or control a ten percent (10%) or greater interest therein. Please submit using the linked form.

If one or more stockholder or partner is itself a corporation or partnership, the Proposer shall submit such further disclosures as are required by law and this RFP.

Form of Agreement

The ESSC shall be issued by the contracting unit and executed with the Contractor. It shall meet the requirements set forth in this RFP. The ESSC shall be subject to all statutes, rules and regulations applicable to public contracts under the laws of the State of New Jersey, as well as any requirements for the design, implementation, financing, commissioning, maintenance and training established for energy savings programs by the ESIP Law and the Contracting Unit.

Ambiguity, Conflict or Errors in the RFP

If a Proposer discovers any ambiguity, conflict, discrepancy, omission or error in the RFP, the Proposer shall immediately notify the Contracting Unit of such error in writing, which notice can be delivered by E-mail to the Issuing Officer.

Conditional Proposals

Conditional proposals will not be accepted. Proposals may be withdrawn prior to the advertised time for receipt of proposals. Proposals received after the advertised time will not be considered.

Costs

The Contracting Unit assumes no responsibility for costs incurred by Proposers in the development, preparation and submittal of responses to this RFP.

The Contracting Unit assumes no responsibility and bears no liability for costs incurred by a Proposer in the preparation and submittal of a Proposal in response to the RFP. Proposers are responsible for assuming all proposal-related costs and will not be compensated or reimbursed for these costs.

Proposal Opening

Examination of the proposals will commence after public opening and the evaluation process will be initiated at that time. No proposal-related information or results will be conveyed via telephone. Proposals, amendments to proposals or withdrawal requests received after the time advertised for proposal opening will be void regardless of when they were mailed.

Basis of Proposal Award

The award shall be made to the most advantageous proposal, price and other factors considered, as determined by the Contracting Unit, in accordance with applicable law, based upon the Proposal evaluation criteria set forth within this RFP. The award covers all phases of the Energy Savings Services Contract: Part 1 (Agreement for IGEA and ESP); Part 2 (Agreement for Implementation of ECMs and Project Close out & Commissioning) and Part 3 (Optional Performance Guarantee Services). The contracting entity can opt to not continue the contract into the construction phase just as it can opt not to include the price of the savings guarantee. The award covers the price the ESCO can charge for all phases.

Disclaimers

The Contracting Unit reserves the right to cancel this RFP at any time and for any reason, and to issue such clarifications, modifications, and/or amendments as it may deem appropriate, in accordance with applicable law. Receipt by the Contracting Unit of a response to this RFP confers no rights upon the Proposer, nor obligations upon the Contracting Unit in any manner.

Competitiveness and Integrity

The proposal process defined within this RFP is designed to prevent biased evaluations and to preserve the competitiveness and integrity of contract awards. All evaluations will apply a consistent method of review and metrics to score Proposals. Proposers are to direct all communications regarding their proposal only to the Issuing Officer designated above and are not to contact Contracting Unit employees directly unless specifically directed to do so by an authorized individual. Attempts to circumvent this requirement will be viewed negatively and may result in rejection of the offending Proposer's proposal.

Political Contribution Annual Disclosure

New Jersey State law requires that Contractors receiving contracts from public entities, which, in the aggregate, exceed \$50,000.00 within a calendar year, file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission. N.J.S.A. 19:44A-20.27. The successful Proposer must determine if such filing is necessary.

Political Contribution Disclosure Regulations

New Jersey State law requires that contractors receiving contracts from public entities which, in the aggregate, exceed \$50,000.00 within a calendar year, file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission. N.J.S.A. 19:44A-20.13. The successful Proposer shall determine whether such filing is necessary.

Common Language

Unless otherwise specified in this document, all words shall have a common meaning unless the context in which they are used clearly requires a different meaning. Words in the singular include the plural, and words in the plural include the singular. Additionally, words in the masculine shall include the feminine, and words that are gender neutral may refer to either gender.

Payments

Payments will be made by the Contracting Unit in accordance with the terms and conditions of the resulting ESSC Agreement with the awarded ESCO. If the Contracting Unit elects not to proceed with program implementation, payment will be made to the ESCO for the ESCO's proposed ESP and other agreed costs in accordance with the provisions of the executed IGEA Agreement as set forth herein.

Any contract for the improvement of real property entered into as a result of this RFP shall be subject to the Prompt Payment Act, N.J.S.A. 2A:30A-1 et seq. and shall provide that disputes regarding whether a party has failed to make payments under such contract may be submitted to

a process of alternative dispute resolution. Alternative dispute resolution, however, shall not apply to disputes concerning the bid solicitation or award process, or to the formation of contracts or subcontracts. In any civil action brought to collect payments pursuant to this section, the action shall be conducted inside of this State and the prevailing party shall be awarded reasonable costs and attorney fees.

Liability

The Contractor shall agree to assume all risk of loss and to indemnify and hold the Contracting Unit, its officers, agents and employees, harmless from and against any and all liability, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, for injuries to persons (including death) and for loss or damage to, or destruction of property (including Contracting Unit property) arising out of any act or omission of the successful Proposer, its employees or agents in the performance of the ESSC, except losses resulting from the negligence of the Contracting Unit. The successful Proposer agrees to reimburse the Contracting Unit for all costs and attorneys' fees expended by the Contracting Unit to enforce this indemnity provision.

The successful Proposer shall indemnify, defend and hold the Contracting Unit harmless from and against any claim that the work performed, or goods provided as a part of the ESSC infringes upon a patent, copyright, trademark or other intellectual property right by paying all amounts in settlement of the claim or as otherwise awarded by a court of law or other judicial or quasi-judicial body having jurisdiction over any such claim. The successful Proposer shall also reimburse the Contracting Unit for all reasonable expenses incurred by the Contracting Unit.

Neither Party nor its respective officers, directors, agents, employees, parent, subsidiaries or affiliates or their officers, directors, agents or employees shall be liable to any other Party, or its parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insureds, for any incidental, indirect, punitive or consequential damages, connected with or resulting from performance or non-performance of the ESSC (irrespective of whether such claim of liability is based upon breach of warranty, strict liability, tort, contract, operation of law or otherwise) or anything done in connection therewith including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under the ESSC), and increased expense of, reduction in or loss of power generation production or equipment used therefore.

Termination of Contract

Consistent with N.J.S.A. 40A:11-4.6, the Contracting Unit shall have the ability to terminate the ESIP Agreement in the event of a material breach by the other party. Notice of such breach shall be provided in writing and the breaching party shall be afforded a period of sixty (60) days to cure the breach. If the breach is not cured during such period, the Contracting Unit may then terminate the contract.

For the ESSC portion of the contract term, the Contracting Unit may terminate the contract on sixty (60) days written notice, with or without cause, subject to any termination provisions in the contract.

Without prejudice to any other right or remedy available to the Contracting Unit at law or in equity in connection with any event described below, the ESSC may be terminated by the Contracting Unit if the successful Proposer, or any parent company of the Proposer, shall:

- (a) File a voluntary petition in bankruptcy, or have an involuntary petition filed against it under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect (and such order or case is not stayed, withdrawn or settled within sixty (60) days thereafter) or have an order for relief entered against it. The provisions of Section 365(e)(2)(A) of Title 11 of the United States Code, as amended, or any successor statute thereto, shall be applicable to the ESSC.
- (b) File for reorganization, become insolvent or have a receiver or other officer having similar powers appointed to take control of its affairs in any court of competent jurisdiction, whether or not with its consent (unless dismissed, bonded or discharged within sixty (60) days thereafter); or
- (c) Admit in writing its inability to pay its debts as such debts become due.

Antidiscrimination and Equal Employment Opportunity Act

Pursuant to N.J.S.A. 10:2-1, the successful Proposer agrees that:

- a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

Buy American

Proposer agrees that in the performance of the work, only manufactured and farm products of the United States will be used in the work, wherever available, pursuant to N.J.S.A. 40A:11-18.

Governing Laws and Consent to Jurisdiction

The ESSC shall be governed by the laws of the State of New Jersey. The successful Proposer shall agree that the venue for any action or proceeding that arises in any manner out of performance of the RFP or ESSC shall be [NAME] County, State of New Jersey, and the Proposer shall consent and submit to the jurisdiction of the New Jersey Superior Court.

Federal Funds Utilized within Project (Contracting Unit is responsible to include the relevant procurement documents, to the extent any portion of the ESSC is paid with federal funds.)

The Proposer, its employees, agents, representatives or subcontractors, shall agree to be bound by all terms and conditions of the federal reporting requirements and federal contract provisions.

Document Retention

The successful Proposer shall maintain all documentation related to products, transactions or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller and/or BPU ESIP Program Coordinator upon request.

Duration of Contract

The duration of the ESSC will be for a term not to exceed fifteen (15) years, or twenty (20) years if **Combined Heat and Power**, also known as cogeneration, is part of the ESIP. In the event the Contracting Unit determines not to proceed with the ESIP construction portion of the services, the successful Proposer will be paid for the work done to that point in accordance with the amounts as agreed by the Proposer and Contracting Unit. If an energy performance guarantee is purchased, the term will start upon construction completion.

Labor and Prevailing Wages

The Proposer shall provide, at its expense, qualified, union or licensed labor in the applicable trades.

The successful Proposer shall be subject to the provisions of the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-25 et seq. Under the Act, "Public work" means construction, reconstruction, demolition, alteration, custom fabrication, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. "Public work" shall also mean construction, reconstruction, demolition, alteration, custom fabrication, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract the property or premises is owned by the public body or:

- (a) Not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and
- (b) The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

The Proposer and its subcontractors shall be obligated to pay the prevailing wage, to register and submit certified payrolls to the Department of Labor (currently the link can be found here: <https://www.nj.gov/labor/wageandhour/prevailing-rates/njwagehub.shtm>) and to permit on-site monitoring by the Contracting Unit. In the event it is found that any worker, employed by the ESCO or any subcontractor covered by this contract, has been paid a rate of wages less than the prevailing wage required to be paid by such contract, the Contracting Unit may terminate the

contractor's or subcontractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages and to prosecute the work to completion or otherwise. The ESCO and its sureties shall be liable for any excess costs occasioned thereby to the Contracting Unit.

The Proposer's signature on this proposal shall represent its guarantee that Proposer is not listed or on record in the Office of the Commissioner of the Department of Labor as having failed to pay prevailing wages in accordance with the provisions of the Prevailing Wage Act.

Registered contractors performing public work are required to report certified payroll records via the [New Jersey Wage Hub](#) (NJ Wage Hub). NJ Wage Hub includes the NJ Certified Payroll Database, where construction contractors who perform public work can submit certified payroll records that are made available to the public in accordance with [P.L. 2023, c. 138](#).

Additionally, the WALL (Workplace Accountability in Labor List) has been established by law to hold businesses accountable for failing to satisfy their outstanding liabilities to the State for violations of State wage, benefit and tax laws enforced by NJDOL. Examples of outstanding liabilities include unpaid wages due to workers, unemployment insurance contributions due to the state, or worker's compensation penalties. **Any business whose name appears on the WALL is prohibited from public contracting** under [N.J.S.A. 34:1A-1.16](#), the law establishing the WALL. The WALL is maintained by NJDOL and updated monthly. Questions about the WALL should be directed to OSECInquiries@dol.nj.gov or 609-376-4952.

Permits and Licenses

The successful Proposer shall, at its own expense, be required to provide and maintain any and all permits and licenses as required by law.

Public Works Contractor Registration

Pursuant to N.J.S.A. 34:11-56.51, the Proposer shall hold a valid Public Works Contractor Registration at the time the Proposal is submitted and for the term of the contract. All listed subcontractors must also hold a valid Public Works Contractor Registration Certificate at the time the Proposal is submitted. All non-listed subcontractors shall hold a valid certificate prior to commencing work on the project. All contractors and subcontractors shall hold said certificates throughout the term of their work on the contract. No subcontractor, including a subcontractor not listed in the proposal, shall engage in the performance of any public work subject to the contract, unless the contractor or subcontractor is registered pursuant to N.J.S.A. 34:11-56.51. If a Joint Venture is a Proposer, the Joint Venture as a Contracting Unit must hold a valid Public Works Contractor Registration.

Records Retention for The New Jersey State Comptroller

Pursuant to N.J.S.A. 52:15C-14(d), relevant records of private vendors or other persons entering into contracts with the Contracting Unit are subject to audit or review by the New Jersey Office of the State Comptroller. Therefore, the Contractor shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted Contracting Unit employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase and Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase and Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1 et seq.

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)

N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2.

The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) The contractor or subcontractor shall interview the referred minority or women worker.

(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted Contracting Unit employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD,

Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

This is the end of Part V.

Part VI: Definitions

ESIP RFP Definitions

The following words and terms, when used in this RFP template, shall have the following meanings, unless the context clearly indicates otherwise:

“ASHRAE Audit” means the standard set by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) for Commercial Building Energy Audits. There are three levels of ASHRAE Audit:

- Level 1 – Walk-Through Survey;
- Level 2 – Energy Survey and Analysis; and
- Level 3 – Detailed Analysis of Capital-Intensive Modifications.

The Board relies on the latest standards and procedures for defining the levels of audit.

“Board” or **“BPU”** means the New Jersey Board of Public Utilities.

“BPU’s Technical Reference Manual” means the document containing standardized methodologies, updated periodically and posted on the New Jersey Clean Energy Program website as the Protocols to Measure Resource Savings that have been developed to measure resource savings or generation from measures and technology eligible for incentives from the New Jersey Clean Energy Program (formerly “BPU Protocols”).

“Cash Flow Analysis” means demonstration of the method to examine how an ESIP generates and spends money over the project’s financing term with a net positive cash flow in accordance with the ESIP laws, pursuant to N.J.S.A. 40A:11-4.6(d)(2).

“Combined Heat and Power” or **“CHP”** means an energy efficient technology that generates electricity and captures the heat that would otherwise be wasted to provide useful thermal energy that can be used for space heating, cooling, domestic hot water and industrial processes.

“Contingency fund” means a sum of money allocated for use in an emergency or to cover unforeseen expenses.

“Contracting Unit” is defined pursuant to N.J.S.A. 40A:11-2(1).

“Contracting Unit Project Manager” means a designated employee from the Contracting Unit with decision making authority to coordinate with the Contractor and the Board to address issues associated with the implementation of the ESIP as they arise, provided that any decision requiring a change order shall be made only upon approval of the Contracting Unit.

“Contractor” means the ESCO selected pursuant to this RFP that undertakes an ESSC to provide materials or labor for the services identified in the ESSC.

“Current Market Rate” means the price currently asked for a commodity or service in a particular market or the current annual percentage rate of interest on loans or accruing to investments as determined by market forces.

“Direct Digital Control Systems” means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating,

ventilating, and air conditioning system. Direct digital controls shall be open protocol format and meet the interoperability guidelines established by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

“Do-It-Yourself ESIP Model” or **“DIY”** means the choice by an authorized Contracting Unit with in-house expertise to complete the ESIP work or to retain an engineer or an architectural firm with engineering capabilities to assist with the ESIP and the procurement of ESIP-related services.

“Energy Conservation Measure” or **“ECM”** means an improvement that results in reduced energy use and costs without capital expenditure, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures, or facilities; building envelope improvements that are part of an ESIP; and related control systems for each of the foregoing.

“Energy Savings” means a measured reduction in fuel, energy, operating, or maintenance costs resulting from the implementation of one or more ECMs services when compared with an established baseline of previous fuel, energy, operating, or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an Energy Savings Plan (ESP).

“Energy Savings Improvement Program” or **“ESIP”** means an initiative of a contracting unit to implement ECMs in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program’s ECMs.

“Energy Savings Obligation” means a bond, note, or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy savings improvements.

“Energy Savings Plan” or **“ESP”** means the document that describes the actions to be taken to implement the ESIP.

“Energy Savings Services Contract” or **“ESSC”** means a contract with an energy savings company that may include three phases. The first phase includes an Energy Savings Plan and an Investment Grade Energy Audit. The second phase includes an agreement for Implementation of ECMs and Project Close Out & Commissioning and may include the preparation of bid specifications, managing the performance, provision, construction, and installation of energy conservation measures by subcontractors and managing the bidding process. The third phase is an optional performance guarantee.

“Energy Services Company” or **“ESCO”** means a commercial entity that is qualified to develop and implement an ESP.

“ESCO Model” means the choice by an authorized Contracting Unit to complete ESIP work by hiring the services of an ESCO to do the entire project including the capital improvements and public works construction phases.

“ESIP Coordinator” means a staff member from the Board of Public Utilities (Staff) designated to review and approve the ESIP components, including RFP, plan, and implementation by a Contracting Unit.

“ESIP Law” means legislation developed in 2009 and amended in 2012 that enabled this program (N.J.S.A. 40A:11-4.6)

“ESIP RFP” means a standard request for proposal provided by the BPU to be used for all ESIP projects to be undertaken by any Contracting Unit authorized to implement an ESIP. This RFP shall be approved by the ESIP Coordinator prior to advertising.

“Hybrid ESIP Model” or **“Hybrid”** means a combination of ESCO and DIY models where the Contracting Unit retains a licensed professional (architect/engineer) to design and manage the ESIP and the ESCO serves as a sub-contractor. This template is required for hiring an ESCO for the Hybrid Model.

“Investment Grade Energy Audit” or **“IGEA”** or **“IGEA Agreement”** means a study by the qualified energy service provider selected for a particular energy performance contract project, the estimated costs of the improvements, and the operations and maintenance cost savings and utility cost savings projected to result from the recommended improvements.

“Issuing Officer” means the purchasing agent, school business administrator or counsel that is authorized to issue the RFP.

“Measurement and Verification” or **“M&V”** means a method to measure and verify, in a defined, disciplined, and transparent way, the energy savings resulting from planned and defined changes to all or parts of the energy infrastructure of a specific facility or a group of specific facilities. The savings are measured and verified without regard to the energy performance of any facility other than the facility at which an ECM is implemented.

“Milestone Reporting Schedule” means the schedule of required periodic reporting concerning the implementation of the ESP.

“Operations and Maintenance” or **“O&M”** means the functions, duties and labor associated with the daily operations and normal repairs, replacement of parts and structural components, and other activities needed to preserve a mechanical component of a facility so that it continues to provide acceptable services and achieves its expected life.

“Procurement” means the stages of the ESIP, from development of RFPs for equipment, materials, and services through the issuance of contracts.

“Project Manager” means the designated main point of contact on the Contractor side who is responsible for overseeing the planning, design, construction, and M&V of the project. If a performance guarantee is purchased, the designated person shall be identified.

“Proposal” means a comprehensive package that includes all project related information such as estimates, quotes and any other required documents with specific details to the scope, timelines, deliverables and costs.

“Proposer” means the ESCO responsible for submitting a proposal which, if accepted, would result in a Government Contract.

“Request for Proposal” or **“RFP”** means a document that solicits a proposal, often made through a bidding process, by an agency interested in procurement of a commodity, service, or asset, to potential suppliers to submit business proposals.

“Subcontractor” means businesses or individuals that carry out work for a contractor as part of the larger contracted project.

“Water Conservation Measure” means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

Part VII: Appendix

ESIP PROJECT FORMS INSTRUCTIONS

Each of following forms are **due with Proposer's response**. See instructions below and specific notes for each form.

Form I ESCO Information Form: Complete the form by inserting general information requested about ESCO and project team.

Form II Energy Conservation Measures Summary Form: Complete the form.

- List all ECMs to be utilized in the project including their cost, savings, and payback.
- List any optional ECMs that were considered for the project, if applicable.
- List any facility alternations required to implement ECMs and those that are included in project but may not reduce energy usage.
- The total value of Hard Costs is defined in accordance with standard AIA definitions that include: Labor Costs, Subcontractor Costs, Cost of Materials and Equipment, Temporary Facilities and Related Items, and Miscellaneous Costs such as Permits, Bonds Taxes, Insurance, Mark-ups, Overhead, Profit, etc.

Form III Projected Annual Energy Savings Data Form: Complete the chart.

Data should be given in the form of fuel units that appear in the utility bills. ESCOs are to use the rates provided as part of this RFP to calculate "Avoided Emissions". Calculations for all project energy savings and greenhouse gas reductions will be conducted in accordance with BPU's Technical Reference Manual (TRM), formerly "BPU Protocols". Proprietary calculations are not permitted for determining values for use in this form.

The "ESCOs Developed Baseline" is derived from Contracting Unit's current annual usages and costs as determined by the proposer and "Proposed Annual Savings" means proposed savings resulting from the Contracting Unit's implementation of the proposed ESP, as based upon "ESCOs Developed Baseline".

Form IV Projected Annual Energy Savings Data Form in MMBTUs: Complete the chart.

Data should be given in the equivalent MMBTUs.

MMBTU Defined: A standard unit of measurement used to denote both the amount of heat energy in fuels and the ability of appliances and air conditioning systems to produce heating or cooling.

Form V ESCO's Proposed Project Costs and Cash Flow Analysis: Complete form.

Approximate Construction Fees and Annual Service Fees for the project should be listed in both dollar values and percentages. Fees should include all mark-ups, overhead, and profit. Figures stated as a range will not be accepted.

The total value of Hard Costs is defined in accordance with standard AIA definitions that include: Labor Costs, Subcontractor Costs, Cost of Materials and Equipment, Temporary Facilities and Related Items, and Miscellaneous Costs such as Permits, Bonds Taxes, Insurance, Mark-ups, Overhead and Profit, etc.

Form VI ESCO's Preliminary Annual Cash Flow Analysis Form: Complete the chart by projecting out each year of the proposed contract term.

Include any rebates/incentives that may be used for the project. These need to be broken out by type (i.e. federal, state, utility).

Respondents must use the following assumptions in all financial calculations: The cost of all types of energy should be assumed to inflate at 2.4% for gas and 2.2% for electric per year. **No other escalators are permitted.** The term of agreement should be either 15 or 20 years.

The interest rate to be used for proposal purposes is 5.0%. Hard costs and project service fees are defined in FORM V. The Contracting Unit cost for savings guarantee should not be included in the Financed Project Cost. BPU is requiring that all ESIP projects consult with the DCA and follow all DCA guidance regarding procurement and use of incentives.

Form VII

Supplemental ESCO Information: Answer each of the questions and include in Proposer response.

[Form I](#)

ESCO Information Form

Contracting Unit

Name of ESCO or Firm:

Address:

Name of ESCO or Firm Project Manager:

Title:

Phone:

Email Address:

Please list all Lead Personnel below:

<u>Name</u>	<u>Title</u>
1).	
2).	
3).	
4).	
5).	

Form II

Energy Conservation Measures Summary Form

Contracting Unit _____

ESCO Name: _____

Proposed Preliminary Energy Savings Plan: ECMs (Base Project)	Estimated Installed Hard Costs ⁽¹⁾ \$	Estimated Annual Savings \$	Estimated Simple Payback (years)
1.			
2.			
3.			
4.			
5.			
Totals			

Optional ECMs <i>Considered, but not included</i>	Estimated Installed Hard Costs ¹ \$	Estimated Annual Savings \$	Estimated Simple Payback (years)
1.			
2.			
3.			
4.			
5.			
Totals			

Proposed Facility Alterations needed to Implement Energy Conservation Measures			
<i>Description</i>	Supporting ECM	Estimated Cost	Percentage of Total Project Cost (Not to exceed 15%)
1.			
2.			
3.			
Totals			

Proposed Energy Related Capital Improvements (that do not reduce energy usage)			
<i>Description</i>		Estimated Cost	Alternate Funding Source (may not be funded through ESIP)
1.			
2.			
3.			
Totals			

(1) The total value of Hard Costs is defined in accordance with standard AIA definitions that include: Labor Costs, Subcontractor Costs, Cost of Materials and Equipment, Temporary Facilities and Related Items, and Miscellaneous Costs such as Permits, Bonds Taxes, Insurance, Mark-ups, Overhead, Profit, etc.

Form III

Projected Annual Energy Savings Data Form

Contracting Unit _____ ESCO Name: _____

The projected annual savings for each fuel type MUST be completed using the following format. Data should be given in the form of fuel units that appear in the utility bills.

Energy/Water	ESCO Developed Baseline (Units) (2)	ESCO Developed Baseline (Costs \$) (2)	Proposed Annual Savings (Units) (3)	Proposed Annual Savings (Costs \$) (3)
Electric Demand KW				
Electric Energy KWH				
Natural Gas (ccf)				
Fuel Oil (Gallons)				
Steam (Lbs)				
Water (Gallons)				
Other (Specify) (Units)				
AVOIDED EMISSIONS (1)	Provide in Pounds (Lbs)			
NOX	Lbs			
SO2	Lbs			
CO2	Lbs			

(1) ESCOs are to use the rates provided as part of this RFP to calculate Avoided Emissions. Calculations for all project energy savings and greenhouse gas reductions will be conducted in accordance with BPU’s Technical Reference Manual (TRM), formerly “BPU Protocols”.

(2) “ESCOs Developed Baseline”: Contracting Unit’s current annual usages and costs as determined by the proposing ESCO; based off Contracting Unit’s utility information as provided to proposing ESCO.

(3) “Proposed Annual Savings”: ESCOs proposed annual savings resulting from the Contracting Unit’s implementation of the proposed ESP, as based upon “ESCOs Developed Baseline”.

[Form IV](#)

Projected Annual Energy Savings Data Form in MMBTUs

Contracting Unit _____ ESCO Name: _____

The projected annual energy savings for each fuel type MUST be completed using the following format. Data should be given in equivalent MMBTUs.

ENERGY	ESCO Developed Baseline	ESCO Proposed Savings Annual	Comments
Electric Energy (MMBTUs)			
Natural Gas (MMBTUs)			
Fuel Oil (MMBTUs)			
Steam (MMBTUs)			
Other (Specify) (MMBTUs)			
Other (Specify) (MMBTUs)			

NOTE: MMBTU Defined: A standard unit of measurement used to denote both the amount of heat energy in fuels and the ability of appliances and air conditioning systems to produce heating or cooling.

Form V

ESCO's Proposed Project Costs and Cash Flow Analysis

Contracting Unit _____ ESCO Name: _____

Fee Category	Fees ⁽¹⁾ Dollar Value \$	Percentage of Hard Costs
PROPOSED CONSTRUCTION FEES		
Estimated Value of Hard Costs ⁽²⁾		
Project Service Fees		
Investment Grade Energy Audit		
Design Engineering Fees		
Construction Management /Project Administration		
System Commissioning		
Equipment Initial Training Fees		
ESCO Overhead		
ESCO Profit		
Project Service Fees Sub Total		
TOTAL FINANCED PROJECT COSTS:		

PROPOSED ANNUAL SERVICE FEES

Fee Category	Fees ⁽¹⁾ Dollar Value \$	Percentage of Hard Costs
PROPOSED ANNUAL SERVICE FEES		
Savings Guarantee (OPTIONAL)		
Measurement and Verification		
ENERGY STAR™ Services		
Post Construction Services (If applicable)		
Performance Monitoring		
On-going Training Services		
Verification Reports		
TOTAL FIRST YEAR ANNUAL SERVICES		

ESCO's interest rate for this project at the time of submission: **5% (Standard Base Case)**

Financial Institution: _____

Contact Person: _____

NOTES:

(1) Fees should include all mark-ups, overhead, and profit. Figures stated as a range will not be accepted.

(2) The total value of Hard Costs is defined in accordance with standard AIA definitions that include: Labor Costs, Subcontractor Costs, Cost of Materials and Equipment, Temporary Facilities and Related Items, and Miscellaneous Costs such as Permits, Bonds Taxes, Insurance, Mark-ups, Overhead and Profit, etc.

Form VI

ESCO's Preliminary Annual Cash Flow Analysis Form

Contracting Unit _____ ESCO Name: _____

Note: Respondents must use the following assumptions in all financial calculations:

(a) The cost of all types of energy should be assumed to inflate at **2.4% gas, 2.2% electric** per year. No other escalators are permitted.

1. Term of Agreement: 15 years (___ Months) or 20 years (___ Months) 2. Construction Period ⁽²⁾ (months): _____

Total Estimated Project Cost ⁽¹⁾: _____ Interest Rate to Be Used for Proposal Purposes **5.0%**

Year	Annual Energy Savings	Annual Operational Savings	Energy Rebates/Incentives		Total Annual Savings	Annual Project Costs	Contracting Unit Costs	Annual Service Costs ⁽³⁾	Net Cash-Flow to Client	Cumulative Cash Flow
			Value	Utility						
1	\$	\$	\$		\$	\$	\$	\$	\$	\$
2	\$	\$	\$		\$	\$	\$	\$	\$	\$
3	\$	\$	\$		\$	\$	\$	\$	\$	\$
4	\$	\$	\$		\$	\$	\$	\$	\$	\$
5	\$	\$	\$		\$	\$	\$	\$	\$	\$
6	\$	\$	\$		\$	\$	\$	\$	\$	\$
7	\$	\$	\$		\$	\$	\$	\$	\$	\$
8	\$	\$	\$		\$	\$	\$	\$	\$	\$
9	\$	\$	\$		\$	\$	\$	\$	\$	\$
10	\$	\$	\$		\$	\$	\$	\$	\$	\$
11	\$	\$	\$		\$	\$	\$	\$	\$	\$
12	\$	\$	\$		\$	\$	\$	\$	\$	\$
13	\$	\$	\$		\$	\$	\$	\$	\$	\$
14	\$	\$	\$		\$	\$	\$	\$	\$	\$
15	\$	\$	\$		\$	\$	\$	\$	\$	\$
Totals	\$	\$	\$		\$	\$	\$	\$	\$	

NOTES:

(1) Includes: Hard costs and project service fees defined in ESCO's PROPOSED "FORM V"

(2) No payments are made by the Contracting Unit during the construction period.

(3) This figure should equal the value indicated on the ESCO's PROPOSED "FORM V". **DO NOT include in the Financed Project Cost**

(4) BPU is requiring that all ESIP projects consult with the DCA and follow all DCA guidance regarding procurement with regard to any utility incentives for which guidance has not been issued. Additionally, utility incentives must be detailed on ESIP forms.

Form VII

Supplemental ESCO Information

1. State whether the Proposer is a manufacturer of or is associated with a particular product or product line as an authorized supplier, distributor, or installer.
If so, the products manufactured shall be identified and/or such product associations or relationships shall be described with specificity.
2. State whether any products identified in response to this section will be proposed for use by the Contracting Unit as part of the ESP.
3. The proposer shall state whether it is owned, in whole or in part by, affiliated with, or is a division or subsidiary of a public utility or fossil fuel supplier. If so, identify the company with which the ESCO is affiliated or by which the ESCO is owned.
4. State the percentage of Proposer's business that is devoted to energy-savings related services, including, but not limited to, energy efficiency and conservation, energy supply management, renewables, demand response, and power purchase arrangements.
5. State whether Proposer utilizes open protocol system architecture.
6. Identify and describe with specificity any proprietary solution to be offered that is incompatible with open protocol system architecture.

Proposer's Checklist

	Initials
Conducted No Less than 1(one) Site Inspection of each RFP Specified Facility (Prior to Bid Submission; as indicated in Part I)	
Fully Completed and Included all BPU Required Proposal Forms I – VII (Due with Bid Submission)	
Fully Completed State Required Documents below:	
<ul style="list-style-type: none"> • Proposer Signature Form with Acknowledgement of Addenda (Due with Bid Submission) 	
<ul style="list-style-type: none"> • Ownership Disclosure Form (Due with Bid Submission) 	
<ul style="list-style-type: none"> • Bid Guarantee (Due with Bid Submission) 	
<ul style="list-style-type: none"> • Consent of Surety (Due with Bid Submission) 	
<ul style="list-style-type: none"> • Named Subcontractors in Bid for Listed Specialty Trades (Due with Bid Submission) 	
<ul style="list-style-type: none"> • Federal Debarment Certification (Due Prior to Contract Award) 	
<ul style="list-style-type: none"> • Business Registration Certificate (Due Prior to Contract Award : Subcontractors, when procured, will also need to provide this certificate) 	
<ul style="list-style-type: none"> • Public Works Contractor Registration Certificate (Due Prior to Contract Award: Subcontractors, when procured, will also need to provide this certificate) 	
<ul style="list-style-type: none"> • Certification of Non-Involvement in Prohibited Activities in Russia or Belarus (Due Prior to Contract Award) 	
<ul style="list-style-type: none"> • Disclosure of Investment Activities in Iran (Due Prior to Contract Award) 	
<ul style="list-style-type: none"> • EEO/AA Form AA-201(Due After Notice of Award, Prior to Signing Contract) 	
<ul style="list-style-type: none"> • EEO/AA Form AA-302 or Letter of Federal Approval or Certificate of Employee Information Report (Due After Notice of Award, Prior to Signing Contract) 	
<ul style="list-style-type: none"> • Proposer’s Checklist (Due with Bid Submission) 	

NOTE: FAILURE TO COMPLY WITH THE RFP PROCESS, AND COMPLETE AND SUBMIT THE ABOVE DOCUMENTS ON THE FORMS PROVIDED HEREIN AND BY THE TIMES HEREIN STATED, MAY RESULT IN REJECTION OF YOUR PROPOSAL.

The Proposer will provide the above checklist which shall be properly completed with the proposal and submitted to the Board as part of the proposal.

By placing my initials in the boxes above, I acknowledge having read and fully understand all the requirements of each of the documents referenced herein.

PROPOSER (SIGNATURE): _____