



**REQUEST FOR PROPOSALS  
ENERGY SAVINGS PERFORMANCE CONTRACTING &  
FINANCING PROGRAM**

**DECEMBER 21, 2018**

**Request for Proposals (RFP)**  
**DASNY Energy Savings Performance Contracting &**  
**Financing Program**

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## **Section 1 General Information:**

### **1.1 Introduction to DASNY and Energy Performance Contracting**

- a. **DASNY** - The Dormitory Authority of the State of New York (“**DASNY**”) is a public benefit corporation of the State of New York empowered by Titles 4 and 4-B of the Public Authorities Law (the “**Act**”), to provide design and project management services to certain public and private not-for-profit entities, and to issue its bonds, notes, and other obligations, for a wide variety of public purposes. Under the Act, DASNY provides a multitude of services in various forms in connection with the design, construction and financing of capital facilities for the State University of New York, including residence halls, educational facilities and Community Colleges; City University of New York Senior and Community Colleges; facilities for the Office of Mental Health, Office of People With Developmental Disabilities, and Office of Alcoholism and Substance Abuse Services; Boards of Cooperative Educational Services (BOCES); Cities and Counties with respect to Court Facilities and combined occupancy structures, as defined by law; the Department of Education of the State of New York with respect to certain facilities under its jurisdiction; other State and local governmental entities; independent colleges and universities; facilities for the aged; certain not-for-profit hospitals and nursing homes, as well as a wide variety of other not-for-profit organizations specifically described in the Act. All of the entities for which DASNY provides financing, construction or other services are referred to as clients in this RFP.

DASNY's construction management team geographically serves the entire State of New York, and has offices in Albany, Buffalo, and New York City. DASNY is one of the largest financiers and builders of social infrastructure facilities in the United States. In 2017 DASNY issued \$7.43 billion in tax-exempt debt, making DASNY the nation's second most prolific issuer of tax-exempt debt according to the Bond Buyer while also managing a portfolio of approximately 1,000 design and construction projects valued at approximately \$6.0 billion.

- b. **Energy Performance Contracting for Public Sector and Private Not-for-Profit Clients** - New York State is committed to implementing new policies to promote the efficient use of energy and natural resources in the interest of the long-term protection and enhancement of the State's environment, economy, and public health.

DASNY and DASNY's public sector clients are currently authorized to enter into energy performance contracts under and in accordance with Article 9 of the New York State Energy Law. Over the past 20 years DASNY's Construction Division has delivered a substantial number of energy performance projects using its list of energy performance contractors to its public sector clients procured in accordance with Article 9 of the New York State Energy Law primarily for projects benefitting the Office of Mental Health and the City University of New York (the “**Existing Program**”). Under its Existing Program, DASNY has entered into energy performance contracts, which enable DASNY to issue discrete work orders for each component of an energy savings project, including for (i) facility energy assessments, (ii) design and (iii) installation and construction. The energy performance contractors under the Existing Program are required to meet a minimum level of guaranteed energy savings established at an initial assessment during the commissioning of a project and do not include

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any ongoing measurements and verification (“**M&V**”) services. In contrast to the projects anticipated to be delivered under contracts entered into as a result of this request for proposal (“**RFP**”), the Existing Program’s projects are financed through traditional tax exempt bonds issued by DASNY.

**c. DASNY TELP Program**

DASNY has issued \$3.7 billion under its Tax-Exempt Equipment Leasing Program (“**TELP**”) since 1995. Some of the projects issued under the TELP program have included financing energy conservation and power generating facility improvements. As described further below, some of DASNY’s clients may be able to utilize TELP to finance ECMS delivered by ESCOs in connection with this RFP. Further details regarding the TELP program are provided on DASNYs website <http://www.dasny.org/services/tax-exempt-leasing-program-telp>.

**1.2 Purpose**

**a. Generally**

Pursuant to this RFP, DASNY seeks statements of qualifications and cost proposals (“**SOQPs**”) from energy savings and performance contractors (“**ESCOs**”) to be selected as pre-qualified ESCOs available to provide a range of energy performance services, which may include for designing, constructing, and potentially financing, performing M&V services as well as potentially operating and maintaining energy conservation measures (“**ECMs**”) for various DASNY clients both public and not-for-profit across the State (“**Program Participants**”) (collectively, the “**ESCO Program**”). DASNY also plans to concurrently pre-qualify under a separate procurement process financing parties that will be available to provide financing through DASNY’s TELP program for projects to be delivered under the ESCO Program. DASNY will then, through the process described in this RFP, select and contract with pre-qualified ESCOs and potentially pre-qualified financing parties to deliver and finance ECMS for Program Participants wishing to access these services through DASNY. This ESCO Program will differ from DASNY’s Existing Program in the following ways:

- the ESCO will be entering into a fixed-price, date certain design-build contract for the delivery of ECMS, as opposed to separate work orders for each component of work;
- the ESCO must guarantee that the total cost of the ECMS, including design, construction, financing, M&V and other associated costs must be equal to or less than the anticipated energy savings to be realized by the ESCO Program Participant from the ECMS;
- the ESCOs may be obligated, based on the project, to perform some level of ongoing M&V and remedy any deficiencies between the guaranteed energy savings and the actual energy savings; and
- project financing, including self-financing or third-party private financing by the ESCOs, will be included as an optional service for projects delivered under the ESCO Program.

**b. Existing Program**

This new procurement is separate and in addition to DASNY's Existing Program. Firms with an existing energy performance term contract under the Existing Program must respond to this RFP and be selected for inclusion on the list of pre-qualified ESCOs to participate in this new ESCO Program.

**c. Procurement and Program Objectives**

- (i) Projects undertaken as part of this ESCO Program are expected to meet one or more of the following objectives:
  - a net decrease in energy consumption;
  - a net reduction in energy costs over the life of a project; or
  - any other criteria determined by DASNY to be consistent with the intent of the ESCO Program and State law.
- (ii) DASNY's public policy objectives for the ESCO Program include to:
  - offer additional services and capabilities for its clients and as a result increase and enhance the number of successful energy performance contracts that DASNY delivers for its clients state-wide; and
  - provide DASNY clients options through DASNY to procure ECMs and financing from qualified firms and financing parties in a timely and cost-effective way.
- (iii) Responses submitted in connection with this RFP will enable DASNY to determine in accordance with its Procurement Guidelines, internal evaluation procedures and consideration of the criteria described in Section 2.2 (*Qualifications and Evaluation Criteria*) which ESCOs:
  - (a) may be best qualified to provide as-needed energy performance contracting services to Program Participants and (b) are technically and financially capable and skilled in delivering ECMs to clients similar to the ESCO Program Participants under the ESCO Program's standard form Energy Performance Contract ("EPC"). Based on a review and analysis of each ESCO's SOQP, DASNY may only issue a project specific request for proposal (a "**Project Specific RFP**") to those ESCOs that DASNY deems, in its sole discretion, are most qualified to respond to such Project Specific RFP.

### 1.3

### Program Options

The ESCO Program will include the following financing and contractual options for Program Participants to select from:

DASNY Energy Savings Performance Contracting & Financing Program Matrix		
<u>PART 1 - DASNY DIRECT OPTIONS</u>		
DASNY acts as both “owners’ representative” for Program Participants and as a contractual conduit.		
<b>Option 1</b>	<b>DASNY Turnkey Solution + DASNY Financing</b>	<ul style="list-style-type: none"> <li>• DASNY enters into the <u>EPC directly</u> with an ESCO on behalf of a Program Participant</li> <li>• DASNY arranges TELP Financing or other tax-exempt financing for the Project</li> </ul>
<b>Option 2</b>	<b>DASNY Turnkey Solution + ESCO Financing</b>	<ul style="list-style-type: none"> <li>• DASNY enters into the <u>EPC directly</u> with an ESCO on behalf of a Program Participant</li> <li>• ESCO will finance the ECMS either directly or through its own third-party private financing</li> </ul>
<u>PART 2 – PROGRAM PARTICIPANT DIRECT OPTION</u>		
Instead of acting as a contractual conduit between a Program Participant and an ESCO, DASNY will act as an “owners’ representative” on behalf of a Program Participant in developing and facilitating a procurement to select a pre-qualified ESCO through a Project Specific RFP and the ESCO will enter into the EPC directly with the ESCO Program Participant.		
<b>Option 3</b>	<b>DASNY Owners Rep + DASNY Financing</b>	<ul style="list-style-type: none"> <li>• <u>Program Participant enters into the EPC directly</u> with an ESCO and DASNY facilitates and oversees the EPC for the ESCO Program Participant</li> <li>• DASNY arranges TELP Financing or other tax-exempt financing for the Project</li> </ul>
<b>Option 4</b>	<b>DASNY Owners Rep + ESCO Financing</b>	<ul style="list-style-type: none"> <li>• <u>Program Participant enters into the EPC directly</u> with an ESCO and DASNY facilitates and oversees the EPC for the ESCO Program Participant</li> <li>• ESCO will finance the ECMS either directly or through its third-party private financing</li> </ul>

## **1.4 Program Overview & Engagement**

### **a. Program Overview**

#### **-Pre-qualification Process**

The following is the anticipated process for implementation of the ESCO Program:

- (i) Once ESCOs are notified by DASNY that they have been identified for participation in the pre-qualification process for the ESCO Program (a “**Preliminary Pre-qualification Notice**”):

(1) ESCOs will be issued drafts of the ESCO Program's form documentation for review and comment, which will include a form investment grade audit agreement (the “**IGA**”), the EPC and a template Project Specific RFP, (collectively, with the Project Specific RFP, the IGA and the EPC, the “**Program Documents**”);

(2) once the Program Documents are negotiated and finalized they will be attached to each ESCO’s base contract (the “**Base Contract**”) and the ESCO will execute the Base Contract. All Program Documents will be in the same identical form for each ESCO’s Base Contract; and

(3) upon DASNY’s execution of the Base Contract with each ESCO, such ESCO will formally become a pre-qualified ESCO under the ESCO Program and DASNY will issue a formal notice of award. Finalizing the Program Documents and executing the Base Contract are conditions precedent to any ESCO becoming pre-qualified under the ESCO Program.

- (ii) Following execution of the Base Contracts and the identification by a Program Participant of an eligible energy performance project (a "ESCO Project"), DASNY will issue a Project Specific RFP on behalf of the Program Participant to pre-qualified ESCOs that DASNY and the Program Participant will select to respond to the requirements of a ESCO Project. The process for determining which pre-qualified ESCOs will be eligible to receive a Project Specific RFP will be based upon the ESCO Program’s ESCO Project evaluation manual and will take into consideration the size, scope, complexity and location for each ESCO Project relative to the expertise, capabilities and geographic focus of each pre-qualified ESCO as determined based on each ESCO’s SOQP and any additional ESCO qualifications requested by DASNY for such ESCO Project and any other selection procedures adopted by DASNY.

#### **-Project Specific RFP Process**

- (iii) A Project Specific RFP will be issued to certain pre-qualified ESCOs, as determined by DASNY. The recipient ESCOs will be entitled to conduct, at their own expense and risk, a preliminary investigation as part of its process of developing an ESCO Project specific proposal. DASNY will indicate in each Project Specific RFP the various financing options for each ESCO Project and the ESCO will take such options into consideration when developing its ESCO Project specific proposal and its Final Proposal described below.

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- (iv) Following receipt of ESCO Project specific proposals, DASNY will select a preferred proposer ("Preferred ESCO Proposer") to enter into the IGA. Pursuant to the terms of the IGA the Preferred ESCO Proposer will conduct a thorough ESCO Project analysis and investment grade audit. Upon conclusion of such analysis, audit and work, the Preferred ESCO Proposer shall submit a final fixed price, lump sum, date certain proposal for delivering ECMs to a Program Participant (the "Final Proposal").
- (v) If DASNY and the ESCO Program Participant accept the Preferred ESCO Proposer's Final Proposal, DASNY or the ESCO Program Participant will coordinate with the ESCO to determine the most efficient means of financing and once agreed will enter into the EPC with the Preferred ESCO Proposer. If DASNY does not accept the Preferred ESCO Proposer's Final Proposal, DASNY may seek similar proposals from other ESCOs that responded to the relevant Project Specific RFP and may issue a new Project Specific RFP.
- (vi) Prior to executing the EPC, DASNY will confirm the various financing options for the project, and the parties will agree at that time the most efficient means of financing. DASNY may offer TELP (or other tax-exempt financing solutions) as part of those options and would serve as the conduit for such TELP financing.
- (vii) During design, construction and commissioning, DASNY may act as the ESCO Program Participant's representative and oversee implementation and delivery of the project.
- (viii) Following project completion, DASNY may continue to serve as a Program Participant's representative in connection with any ongoing M&V or operations and maintenance work provided by an ESCO.

**b. Compensation**

Compensation and commercial terms for specific ESCO Projects will be detailed in the resulting IGAs and EPCs.

**c. ESCO Engagement**

DASNY intends to use a list of pre-qualified ESCOs to participate in the ESCO Program and future ESCO Project opportunities. The list of pre-qualified firms will be active for a period of four (4) years following the execution of the Base Contract with the pre-qualified ESCOs. All sizes of firms are encouraged to submit SOQPs for consideration. DASNY has sole discretion over the method by which the pre-qualified list of ESCOs will be used; however, use of the participants on the list will be consistent with the scope of services in this RFP and the Base Contract and the evaluation process described in Section 1.4a(ii).

As described above, work conducted under the Project Specific RFP will be authorized in two separate, but continuous phases: (i) an IGA and (ii) an EPC. The Preferred ESCO Proposer for any ESCO Project will be required to hold all subcontracts for design, construction, operations, maintenance and M&V and procure such subcontractors to deliver the necessary bonding and insurance for each ESCO Project.

**1.5 Key Events and Dates**

<u>Event</u>	<u>Date</u>
Issuance of RFP	12/21/18
Pre-Proposal Meeting	01/15/19 (10:00 AM)
Deadline for RFP Questions	01/21/19 (5:00 PM)
Post Responses to RFP Questions	01/25/18
SOQP Due Date	02/08/19 (5:00 PM)
Interviews/Presentations (not earlier than)	02/13/19
Preliminary Pre-qualification Notification & Issuance of Draft Program Documents (not earlier than)	02/20/19
Finalization of the Program Documents & Execution of Base Contracts	03/29/19
Notice of Award	03/29/19

A **Pre-Submission Web Conference** is scheduled to be held on January 15, 2019 at 10:00AM. Firms interested in attending this meeting can [Click here](#) to join the meeting. Please allow time for registration prior to the start of the event. Your attendance at the Pre-Submission Conference is recommended but not required.

The purpose of this meeting is to describe the ESCO Program's goals, discuss upcoming opportunities within the ESCO Program and next steps for the ESCO Program and to answer any questions presented by potential proposers. Representatives from DASNY's construction, finance, legal divisions, and opportunity programs group will be available to answer questions regarding this RFP.

## **Section 2 Engagement Requirements:**

### **2.1 Scope of Services**

**DASNY EPC Program Flow Chart**



DASNY may select and contract with ESCOs from the pre-qualified list of ESCOs to consult with DASNY and/or Program Participants for particular ESCO Program or ESCO Project specific services as they may arise. The scope of these services may include, but are not limited to, the following items:

#### **2.1.1 Base ESCO Services**

The scope of services to be provided is included within Sections 3 and 4 of the Base Contract which is attached to this RFP. The types of ECMs that ESCOs will be expected to deliver under various Projects may include, but are not limited to:

##### **a. Primary Heating**

- (i) Boiler replacement with units of greater efficiency
- (ii) Replacement of hydronic or steam distribution system specialties including thermostats, steam traps and control valves
- (iii) Burner replacement
- (iv) Reinsulating of steam and hydronic system piping and equipment
- (v) Ground source heat pumps

##### **b. Domestic Hot Water**

- (i) Installation of domestic hot water heating units
- (ii) Installation of summer load boilers

- (iii) Fixture replacement to decrease consumption

**c. Building Air Conditioning & Ventilation**

- (i) Installation or expansion of energy management systems with addition of energy saving control routines including optimal /stop, night setback and discharge temperature reset
- (ii) Fume hood replacement and/or modification of laboratory air systems
- (iii) Retro-commissioning of building controls and other building systems

**d. Chilled Water Plants**

- (i) Replacement of existing electric centrifugal, steam turbine centrifugal or absorption chiller units with new, high efficiency equipment
- (ii) Replacement of existing cooling towers with new or alternate type units
- (iii) Replacement of DX or ancillary system equipment with high efficiency units and reconfiguration of pumping system layout
- (iv) Cooling tower replacement

**e. Lighting / Building Improvements**

- (i) Lighting fixtures and controls, including LED lighting retrofits
- (ii) Building envelope improvements
- (iii) Street and traffic lights
- (iv) Occupancy sensors

**f. Alternative Energy**

- (i) Cogeneration and combined heat and power
- (ii) Renewable power facilities
- (iii) Installation of solar and photovoltaic systems

**g. Resiliency / Resilience Measures**

- (i) Backup power/gas supplies
- (ii) Energy storage (battery, thermal, etc.)
- (iii) Micro grid design and construction

### **2.1.2 Preliminary Site Investigation**

Conduct a preliminary facility and site investigation, at the ESCO's cost, in accordance with good industry practice, provide indicative pricing and comply with the requirements of any Project Specific RFP.

### **2.1.3 Investment Grade Audit and Project Development Phase**

Conduct an IGA, where requested, which will identify potential cost-saving ECMs, determine the cost and savings of each measure, and present a M&V plan, where appropriate, to validate future savings of each measure. A project development proposal will present a bundle of ECMs that can be financed through guaranteed savings over the proposed financing term, including a cash-flow table.

### **2.1.4 Energy Performance Contract**

Through an EPC, the ESCO will proceed to final design, construction, and commissioning of the ECMs. Following DASNY's and the subject Program Participant's acceptance of the ESCO's Final Proposal, DASNY, the ESCO Program Participant and the ESCO will only update the standard form EPC solely for the project specifics and the outcome of the IGA. The EPC will define the final agreed upon (i) ECMs, (ii) project costs, (iii) guaranteed cost savings, (iv) financing, (v) equipment and comfort specifications and warranties, (vi) the schedule for the project's delivery and (vii) procedures and obligations for design, construction, commissioning, testing, operations, maintenance and M&V.

### **2.1.5 Financing**

The ESCOs may, where appropriate and agreed to by DASNY, and a Program Participant, provide direct or third-party financing.

### **2.1.6 Post-Construction**

As described above, where appropriate based on the complexity of a project, DASNY may be engaged by a Program Participant to oversee the ESCO's performance of ongoing M&V as a Program Participant's representative. The ESCOs may be required to perform M&V services under and in accordance with project specific EPCs.

## **2.2 Qualifications and Evaluation Criteria**

Without limiting DASNY's ability to consider other factors, the following indicate some areas of experience that DASNY will value and assess when determining which entities will be pre-qualified to participate in the ESCO Program:

- experience with delivering ESCO Projects across a broad spectrum of ECMs, including any of the services described in this RFP in which an ESCO agrees to install, maintain, or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues;

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- experience in financing or arranging financing for ESCO Projects, including TELP financing;
- experience in delivering ESCO Projects for existing and potential Program Participants and entities similar to Program Participants;
- ability to employ experienced dedicated personnel with a depth of knowledge in their area(s) of expertise;
- experience in performing ongoing M&V;
- the percentage of performance guarantees that an ESCO has had to either pay or perform remedial work under;
- demonstrated ability to meet deadlines on other similar projects;
- in good standing under any other energy savings and performance contracting program that the ESCO participates or has participated in;
- each ESCO's cost proposal is consistent with reasonable market practice and includes supporting documentation demonstrating a financial capability and standing to successfully deliver ESCO Projects; and
- With respect to Minority and Women Owned Business (“**M/WBE**”) and Service Disabled Veteran-Owned Business (“**SDVOB**”), diversity and equal employment opportunity, DASNY shall consider the following the proposer’s:
  - Utilization Plan listing, where available, subcontractors for both the design and the construction phases of a project and identifying ESD Certified M/WBE firms the proposer intends to use for any project;
  - Diversity Questionnaire. DASNY shall review the proposer’s history of hiring, training, developing, promoting and retaining minority and women staff; of encouraging participation by certified M/WBE firms; and of demonstrating a work environment that shows a strong commitment to diversity; and
  - Service-Disabled Veteran-Owned Businesses Plan listing all, where available, proposed Subcontractors and sub-consultants for both the design and the construction phases of a potential project identifying, where available, OGS Certified SDVOB that the proposer intends to use for any project and that are of equal quality to those that may be obtained from non-SDVOBs.

## **2.3 Project Management Software**

- ESCOs should be prepared to utilize program management software used by DASNY. While DASNY is in active procurement for a new program management software, the current management software is Primavera Contract Management™.

**2.4 Project Labor Agreements**

Projects located in New York City may be required to execute a Project Labor Agreement (“PLA”) for a ESCO Project. Any selected ESCO, as a condition of being awarded an IGA or EPC may be required to execute a PLA.

A copy of the PLA may be viewed on DASNY’s website at <http://www.dasny.org/services/diversity-inclusion/dasny-nyc-project-labor-agreements-plas>. Where required for a project the work undertaken as part of an IGA or EPC will be governed by and subject to the conditions set forth in the PLA. All subcontractors of every tier will be required to execute a letter of assent, included in the PLA, agreeing to be bound by the PLA. The PLA has been approved by the Building and Construction Trades Department, AFL-CIO and executed Building and Construction Trades Council of Greater New York and Vicinity and its participating affiliated local unions.

## **Section 3 Content of Technical Proposal within the SOQP**

### **3.1 Information to be Provided by Proposers**

The following is a list of required information that must be provided by a proposer. Provide your response in the same order in which it is requested below using numbered side tabs that correspond with each of the numbered tabs below. Your SOQP must contain sufficient information to assure DASNY of its accuracy.

Tab 1. Include a cover letter with the following items:

- a. The name, title, telephone number, fax number and email address of the individual within each proposer who will be DASNY's primary contact concerning this RFP.
- b. The primary contact's name, title, telephone number, fax number and email address for each sub-consultant, if available, who are anticipated to perform work under the ESCO Program.
- c. The identities of the primary staff proposed to provide services relating to this RFP.
- d. A statement to the effect that each proposer is willing to perform all services identified in this ESCO Program and will abide by the terms of the RFP and the Base Contract, including all attachments.
- e. A statement that each proposer understands selection does not guarantee that any services will be requested from any proposer.
- f. The cover letter must be signed by the individual(s) authorized to bind each proposer contractually. Indicate the title or position that the signer holds within each proposer. DASNY reserves the right to reject a SOQP that contains an unsigned cover letter. If the proposer is a joint venture, the SOQP must be signed by the joint venture. Anyone signing the SOQP as an agent must file with it, legal evidence of his or her authority to execute such SOQP.

Tab 2. Provide a description of your firm's organization, typical team makeup including expected sub-consultants, that sufficiently would cover all phases of a potential ESCO Project, and the resumes of partners, principals, associates and other key staff to deliver ESCO Projects under the ESCO Program. Please include Standard Form 330 (limited to the last five years). For more information on Standard Form 330 and to obtain a copy, visit GSA's website at <https://www.gsa.gov/forms-library/architect-engineer-qualifications>. (**15 Page Limit**)

Tab 3. Provide a description of your firm's experience in engineering, designing, installing, financing (including by utilizing TELP financing, ESCO self-financing or project financing), commissioning, M&V, operations and maintenance for any one or more of the ECMs described in this RFP by completing Attachment 12 - Project Experience Form attached to this RFP or providing materials which include all of the required information stated in such form. Priority should be placed on describing similar work done for DASNY's existing clients or similar entities to DASNY's clients. (**20 Page Limit**)

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Include the names, titles and phone numbers of at least three (3) project references, excluding DASNY employees.

- Tab 4. Provide a detailed description of your firm's approach to providing the requested scope of services, including financing of ESCO Projects, generally as well as in the State of New York for the type of clients that may be Program Participants. **(15 Page Limit)**
- Tab 5. Describe your firm's specific expertise and approach to construction management of ESCO Projects, specifically mechanical and electrical inspection capabilities, M&V procedures, commissioning and performance testing. **(10 Page Limit)**
- Tab 6. Provide a sample ESCO Project's metrics report for one of the examples listed in Tab 3.
- Tab 7. Provide a sample redacted IGA report for one of the examples listed in Tab 3.
- Tab 8. Describe any ESCO Project where the ESCO has had to pay or perform under a performance guarantee. Describe any projects and the associated issues where an ESCO was issued a notice of default or terminated for cause and how those issues were resolved. **(10 Page Limit)**
- Tab 9. Provide a completed Utilization Plan, included in this RFP as an attachment, listing all proposed sub-consultants including ESD Certified M/WBE firms you "intend" to use if selected for this contract. **No dollar amounts should be entered at this time.** With each public project assignment, a new plan with dollar amounts will be required. M/WBE goals on not for profit projects will be established in conjunction with the not for profit. Please note that while no final determination has been made at this stage, the aspirational goals for public work projects are 18% MBE & 12% WBE. The goals refer to the percentage of utilization of your M/WBE sub-consultants. Please also explain the proposer's anticipated approach to maximizing M/WBE and SDVOB participation in both the design and construction phases of any ESCO Project and provide summaries showing the proposer's and any of its team member's performance meeting M/WBE and SDVOB goals on past projects.
- Tab 10. Provide a complete Diversity Questionnaire, included in this RFP as an attachment. It is the goal of DASNY to utilize qualified firms that have a demonstrated history of hiring, training, developing, promoting and retaining minority and women staff and to encourage participation by certified M/WBE and Service-Disabled Veteran-Owned Business firms. This questionnaire elicits information about each responding proposer in order to verify that its work environment demonstrates a strong commitment to diversity. Certified MWBE firms can be identified at <https://ny.newnycontracts.com/>.
- Tab 11. Provide a completed Use of Service-Disabled Veteran-Owned Businesses Plan, included in this RFP as an attachment listing all proposed sub-consultants including OGS Certified SDVOB that are of equal quality to those that may be obtained from non-SDVOBs if selected for this contract. Certified SDVOBs can be identified at <https://ogs.ny.gov/Veterans/>. **No dollar amounts should be entered at this time.** With each project assignment, a new plan with dollar amounts will be required. Please note that while no final determination has been made at this

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stage, the SDVOB aspirational goals for this contract are 6% for public work projects. SDVOB goals on not for profit projects will be established in conjunction with the not for profit.

Tab 12. Provide license numbers or copies of registration certificates, as appropriate. Business entities proposing to provide professional engineering services must possess a Certificate of Authorization to provide Engineering Services in New York State from the State Education Department. Include a copy of this certificate.

Tab 13. Additional Information - The proposer must also provide statements regarding the following:

- a. the proposer must agree to provide DASNY with pre and post-audit access to documents, personnel and other information necessary to conduct audits on request during the term of the Base Contract or any applicable EPC and for six years thereafter;
- b. the SOQP submitted must contain a representation that the proposer is willing and ready to provide any services requested or required in a timely manner;
- c. disclose any potential conflicts of interest (refer to the "Code of Business Ethics - Certification" attached); and
- d. a confirmation and acknowledgement of the PLA requirement in Section 2.4 (*Project Labor Agreements*).

## **Section 4 Content of Cost Proposal within the SOQP**

### **4.1 Information to be Provided by Proposers**

The following is a list of required information that must be provided by the proposer. Provide your response in the same order in which it is requested using numbered side tabs that correspond with each of the numbered tabs below. Your cost proposal must contain sufficient information to assure DASNY of its accuracy.

Tab 1. Include a **cover letter** with the following items:

- a. The name, title, telephone number, fax number and email address of the individual within each proposer who will be DASNY's primary contact concerning this RFP.
- b. A statement to the effect that the cost proposal is an irrevocable offer and unless otherwise negotiated by DASNY will be the pricing attached to the Base Contract.
- c. The cover letter must be signed by the individual(s) authorized to bind each proposer contractually. Indicate the title or position that the signer holds within the firm. DASNY reserves the right to reject a cost proposal that contains an unsigned cover letter.

Tab 2. Provide the following information and documentation for the entity that (i) is expected to enter into a ESCO Project's EPC or (ii) will execute any parent company performance guarantee in connection with an ESCO Project (a "**ESCO Entity**"):

- a. submit approved audited financial statements, or equivalent, for three (3) of the most recent fiscal years for each ESCO Entity. Financial statements" include (i) an opinion letter (auditor's report), (ii) balance sheet, (iii) income statement, (iv) statement of cash

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- flow; and (v) footnotes. If such information is considered confidential or proprietary, please mark all such documents accordingly.
- b. Provide copies of the recent credit rating(s) by the major credit rating agencies (i.e., Moody's, S&P, and Fitch) (if any) for the debt of each ESCO Entity. If the ESCO Entity's debt is not rated by any such rating agency, include a statement to that effect.
  - c. To the extent not included in the financial statements, provide information regarding any outstanding commitments and contingent liabilities for each ESCO Entity. This should include completion or performance guarantees above and beyond any collateral pledged via real estate assets.
  - d. Provide information regarding material changes in the financial condition of each ESCO Entity for the three (3) year period prior to the SOQP submission date and as projected for the next fiscal quarter. If no material change has occurred and none is pending, include a statement to that effect.
  - e. Provide a list and details of any current non-performing loans or loan defaults in the past ten (10) years for each ESCO Entity.

- Tab 3. Provide a completed Price Proposal Form attached to this RFP as Attachment 6.
- Tab 4. Provide a statement indicating the proposer is capable of obtaining the required bonding for ESCO Projects (assuming bonding requirements are consistent with industry practice) as well as the required insurances as stated in Exhibit H of the Base Contract.
- Tab 6. Provide a completed W-9 Form, included in this RFP as an attachment. If the proposer is a joint venture, provide a W-9 in the name of the joint venture and provide a copy of the executed joint venture agreement.

**Provide the following forms loosely. Do not include these forms in your technical or cost proposal.**

- A NYS Vendor Responsibility Questionnaire included in this RFP as an attachment. **DASNY recommends that all firms file the required Questionnaire online via the New York State VendRep System and only provide a copy of the certification page to DASNY.** To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.
- A completed Procurement Lobbying Law – Certification included in this RFP as an attachment.

**Section 5 Evaluation of SOQPs:**

The selection process will begin with the review and evaluation of each of the written SOQPs. The purpose of this evaluation process is twofold: (1) to examine the responses for compliance with this RFP; and (2) to identify which complying firms have the highest probability of (i) satisfactorily performing the scope of services, (ii) meeting the ESCO Program's objectives and pre-qualification requirements and (iii) will be most advantageous to DASNY to include in the ESCO Program. The evaluation process will be conducted in a comprehensive and impartial manner, and pre-qualification determinations will be made in DASNY's sole discretion.

**5.1 Preliminary Review**

DASNY reserves the right to reject and return to any proposer a SOQP received after the RFP's due date and time. All SOQPs will be reviewed to determine if they contain all required submittals specified in this RFP. Incomplete SOQPs may be rejected.

**5.2 Evaluation**

SOQPs will undergo an evaluation process conducted by a committee selected by DASNY. The committee will evaluate the SOQPs based upon the criteria for selection described in this RFP and any internal DASNY evaluation manual.

**5.3 Interviews**

DASNY reserves the right to determine whether interviews will be necessary. The purpose of the interview will be to further document each proposer's ability to provide the required services and to impart to the committee an understanding of how specific services will be furnished. The proposed lead principal, as well as all other key personnel proposed to provide the services must be present and participate in the interview. The interview will be evaluated based on whether it substantiates the characteristics and attributes claimed by the proposer in its SOQP and any other information requested by the committee prior to the interview.

**Section 6 Submission of SOQPs:**

Submit one (1) electronic copy and one (1) hard copy of the technical proposal and cost proposal (saved separately in PDF format on thumb drive media only), on or before 5:00 p.m. on February 8, 2019 to:

Stacie Bennett  
RFP Coordinator  
DASNY  
515 Broadway  
Albany, New York 12207-2964

\*Firms are encouraged to submit environmentally-friendly SOQPs.

## **Section 7 Important Information Affecting Proposers:**

### **7.1 SOQP Requirements**

- 7.1.1** All inquiries regarding this RFP should be addressed to the following “**RFP Coordinator**”:

Stacie Bennett

Email: RFPAdministrator@dasny.org

All questions must be submitted in writing to the RFP Coordinator by email, citing the particular RFP section and paragraph number. Proposers should note that all clarifications and exceptions, including those related to the terms and conditions of the Base Contract are intended to be resolved prior to the submission of a SOQP. A list of all substantive inquires received with relevant responses will be posted on DASNY’s website, [www.dasny.org](http://www.dasny.org).

- 7.1.2** A proposer may withdraw a SOQP any time prior to the final due date and time by written notification, signed by an authorized agent, to the RFP Coordinator. The SOQP may thereafter be resubmitted, but not after the final due date and time. Modifications offered in any other manner, oral or written, will not be considered.
- 7.1.3** If a proposer discovers an ambiguity, conflict, discrepancy, omission or other error in this RFP, the proposer should immediately notify the RFP Coordinator. Notice of such error or omission should be submitted prior to the final due date and time for submission of SOQPs. Modifications shall be made by addenda to this RFP. Such clarifications will be given by written notice on DASNY’s website.
- 7.1.4** If a proposer fails, prior to the final due date and time for submission of SOQPs, to notify DASNY of a known error or an error that reasonably should have been known, the proposer shall assume the risk of proposing.
- 7.1.5** A proposer indicates its acceptance of the provisions and conditions enumerated in this RFP by submitting a SOQP.

### **7.2 DASNY Requirements**

- 7.2.1** By submitting a SOQP, the proposer covenants that the proposer will not make any claims for or have any right to damages because of any misinterpretation or misunderstanding of this RFP or because of lack of information.
- 7.2.2** DASNY shall not be liable for any cost incurred by the proposer in SOQP preparation or in activities related to the review of this RFP or any interview costs.
- 7.2.3** Other than the RFP Coordinator, or their designee(s), prospective proposers shall not approach DASNY employees during the period of this RFP process about any matters related to this RFP or any SOQPs submitted pursuant thereto.

### **7.3 DASNY Rights and Prerogatives**

DASNY reserves the right to exercise the following prerogatives, at any time, for any reason, in its sole discretion:

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- 7.3.1** To accept or reject any or all SOQPs and amend, modify or withdraw this RFP or any SOQPs.
- 7.3.2** To correct any arithmetic errors in the SOQPs.
- 7.3.3** To change the final due date and time for SOQPs.
- 7.3.4** To accept or reject any of the firm's employees or proposed sub-consultants assigned to provide services on any project and to require their replacement at any time. The proposer shall obtain the written approval of DASNY of changes to the SOQP after it is submitted, including any changes with respect to sub-consultants. DASNY shall have the right to reject any proposed change to the proposer's SOQP.
- 7.3.5** To waive or modify any irregularities in SOQPs received after prior notification to the proposer. This will in no way modify the RFP documents or excuse the proposer from full compliance with its requirements.
- 7.3.6** To consider modifications to SOQPs at any time before the award is made, if such action is in the best interest of DASNY. Require additional information from a proposer concerning its SOQP or require additional evidence of qualifications to perform the work described in this RFP.
- 7.3.7** To request best and final offers, including a revised cost proposal from firms.
- 7.3.8** To accept a SOQP for the engagement containing other than the lowest cost SOQP.
- 7.3.9** To interview proposers prior to selection.
- 7.3.10** To add additional ESCOs to the list of pre-qualified ESCOs in the future through future RFPs or other means or methods of procurement.
- 7.3.11** To reject any SOQP containing false or misleading statements or that provides references that do not support an attribute or condition claimed by the proposer.
- 7.3.12** To begin negotiations with as many responsive proposers to this RFP as DASNY deems appropriate.
- 7.3.13** To enter into Base Contracts with more than one firm, which is the purpose of the ESCO Program and the RFP.
- 7.3.14** To modify the procurement process under this RFP or any documentation described in this RFP.
- 7.3.15** To modify any and all aspects of the ESCO Program.
- 7.3.16** To terminate this RFP at any time.
- 7.3.17** Disqualify any proposer for violating any rules or requirement of the procurement stated in this RFP, any other communication by DASNY or applicable law.
- 7.3.18** Exercise any other right reserved or afforded to DASNY under this RFP or applicable laws and regulations.

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- 7.3.19** Exercise its discretion in relation to matters that are the subject of this RFP as it considers necessary or expedient in light of all circumstances prevailing at the time which DASNY considers relevant.

**7.4 Public Announcements**

Upon selection of the pre-qualified ESCOs and Base Contract execution, public announcements or news releases pertaining to the Base Contract shall not be made without prior written consent of DASNY.

**Section 8 Notification and Award**

Upon completion of the evaluation process, DASNY will notify all firms of its decision to invite ESCOs to participate in the pre-qualification process by issuing a Preliminary Pre-qualification Notice. Notification will be sent to the primary contact only. Pre-qualification and issuing of a notice of award will be subject to each ESCO entering into the Base Contract as described above.

## **Exhibit 1**

### **Definitions Glossary**

**“Act”** is defined in Section 1.1a of the RFP.

**“Base Contract”** is defined in Section 1.4a(i)(2) of the RFP.

**“DASNY”** is defined in Section 1.1a of the RFP.

**“ECMs”** is defined in Section 1.2a of the RFP.

**“EPC”** is defined in Section 1.2c(iii) of the RFP.

**“ESCO Entity”** is defined in Tab 2 of Section 4.1 of this RFP.

**“ESCO Program”** is defined in Section 1.2a of the RFP.

**“ESCO Project”** is defined in Section 1.4a(ii) of the RFP.

**“ESCOs”** is defined in Section 1.2a of the RFP.

**“Existing Program”** is defined in Section 1.1b of the RFP.

**“Final Proposal”** is defined in Section 1.4a(iv) of the RFP.

**“IGA”** is defined in Section 1.4a(i)(1) of the RFP.

**“M&V”** is defined in Section 1.1b of the RFP.

**“M/WBE”** is defined in Section 2.2 of the RFP.

**“PLA”** is defined in Section 2.4 of the RFP.

**“Preferred ESCO Proposer”** is defined in Section 1.4a(iv) of the RFP.

**“Preliminary Pre-qualification Notice”** is defined in Section 1.4a(i) of the RFP.

**“Program Documents”** is defined in Section 1.4a(i)(1) of the RFP.

**“Program Participants”** is defined in Section 1.2a of the RFP.

**“Project Specific RFP”** is defined in Section 1.2c(iii) of the RFP.

**“RFP”** is defined in Section 1.1b of the RFP.

**“RFP Coordinator”** is defined in Section 7.1.1 of the RFP.

**“SDVOB”** is defined in Section 2.2 of the RFP.

**“SOQPs”** is defined in Section 1.2a of the RFP.

**“TELP”** is defined in Section 1.1c of the RFP.