



**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
TO PROVIDE STUDIES OF THE POTENTIAL FOR
ENERGY SAVING IN DELAWARE**

**ISSUED BY:
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF ENERGY AND CLIMATE
1203 COLLEGE PARK DRIVE, SUITE 101
DOVER, DE 19904**

CONTRACT NUMBER: NAT12001-ENERGY_SAV

I. Overview

The State of Delaware, Department of Natural Resources and Environmental Control seeks Professional Services for Studies of the Potential for Energy Saving in Delaware. This request for proposals ("RFP") is issued pursuant to 29 *Del. C.* §§ 6981 and 6982.

The proposed schedule of events subject to the RFP is outlined below:

SCHEDULE

Public Notice of RFP	October 12, 2012
Statement of Intent	October 26, 2012
Questions Submitted	October 26, 2012
Questions Answered	November 2, 2012
Deadline for Receipt of Proposals	November 9, 2012
Notification of Award	November 23, 2012

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing firm's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. (Applicant exceptions must also be recorded on Attachment 3). Furthermore, the transmittal letter must attest to the fact that no activity related to this proposal contract will take place outside of the United States. The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

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II. Scope of Services

A. INTRODUCTION

Delaware, like the rest of the nation and the world, faces the uncertain prospect of rising energy prices and restrictions on fossil fuel combustion. At the same time, its citizens have available a wide array of technologies and cost-containment measures that are economically attractive today, and they have the opportunity to invest in energy efficiency measures and renewable sources to offset the risks of future fuel shortages and higher prices. Finally, they can also expand businesses enterprises and build new ones that respond with innovative technology to emerging market opportunities created by changing energy costs.

In 2010, Delaware ranked 34th among US states in terms of per-capita energy consumption (at 284.7 Million Btu annually per person) and 45th in consumption per dollar of economic output (4.6 Thousand Btu per year 2005 Dollar of GDP). With dollar energy expenditures at 5.8 percent of state GDP, compared to the national figure of 8.3 percent, Delaware ranked a respectable 49th by that measure. (Source: [Energy Information Administration](#))

Although states differ in their climates and demographic and economic structures, it is interesting to note that while the states of Connecticut and New York spend nearly the same

percentages of their GDP on energy as Delaware (6.0 percent and 5.3 percent, respectively), they both consume approximately 30 percent less energy per capita and 20 percent less per dollar of GDP. These figures suggest that while their average energy prices may be higher than in Delaware, New York and Connecticut have been able to compensate with greater efficiency.

The ranking suggests that by investing similarly in efficiency, Delaware residents, commercial and industrial firms, and other institutions have the opportunity to save on the order of perhaps 25 percent of their current energy costs and at the same time to soften the impact of any future fuel and electric price increases. The prospect of rising prices also creates opportunities to develop economically competitive renewable resources suited to the state's geography.

Given the potential benefit to the state and its people, the state conducts programs to advance the goals of cutting present and future energy costs and, at the same time, creating business opportunities that take advantage of emerging energy technology. Focusing on market and institutional barriers to implementing efficiency and renewable energy measures, the programs embody a wide array of approaches, including regulation, financial assistance, improvements in the state government's own operations and facilities, and a variety of planning, coordination and information dissemination efforts designed to facilitate sound technological and economic decision-making.

Among the barriers the program seeks to address are:

- *High Initial Costs*
- *Uncertainty - inadequate information*
- *Competition for time, attention, resources*
- *Perception of risk*
- *Inadequate income; defective credit*
- *Split incentives*
- *Prices not equal to marginal costs (e.g., rolled-in utility pricing, externalities)*
- *Lack of trained people*
- *Multiple decision-makers*

1. Energy Efficiency Potential Study Contract Components, Objectives, and Outcomes

While Delaware has ongoing programs, the Division of Energy and Climate (DE&C), a Division of the Department of Natural Resources and Environmental Control (DNREC), seeks to understand more precisely the potential for future economic savings and environmental impact mitigation from current and possible future public energy efficiency programs. This insight will help answer policy-makers' questions about what the public is receiving for its investments of funds during times of fiscal restraint, and it will help the Department refine its strategies so as to maximize the beneficial return from the program support it receives. Specifically, the Governor's Energy Advisory Council submitted a five-year energy plan for Delaware in 2009¹ outlining broad goals and recommending an extensive list of actions. In order to distill a cost-effective set of coherent policies, programs and measures from the plan, DE&C needs to understand in quantitative detail where the energy savings opportunities lie within the state's economic structure. With this information in hand, the agency and its stakeholders will be in a better position to refine the strategy, determine the appropriate scope of the state's efficiency efforts, and set rational priorities among competing candidate program elements. With the foregoing in mind, the energy potential study is intended to answer the following questions:

¹ Delaware Energy Plan 2009-2014. The Governor's Energy Advisory Council, <http://www.dnrec.delaware.gov/energy/information/Pages/DelawareEnergyPlan.aspx>

1. *How large is the gap, in energy and dollar terms, between projected annual electric and fossil fuel consumption in Delaware and an ideal based on widespread deployment of currently available, cost-effective technology between now and 2025.*
2. *In what economic sectors and energy use categories is this gap widest, for which customer classes and energy sources are potential savings the greatest?*
3. *Where the wide gaps occur, what are the technologies and applications that account for the differences between actual and potential efficiency levels?*
4. *What are the principal financial, institutional and technical barriers impeding the adoption of cost-effective measures to close these gaps?*
5. *What programs and initiatives at the state level would most effectively address the barriers?*
6. *What is the achievable potential for closing the gaps assuming the state adopts these programs?*

DE&C expects to conduct the study in two phases, to allow for interaction with stakeholders and policy-makers as it progresses. The initial phase will address Questions 1-3 from among the objectives above at a level of detail and precision consistent with a “top-down” analytical approach relying on existing assessments of technologies’ performance and cost and on aggregate economic data available from state and national sources. The result of this phase will be an early indication of the principal energy efficiency gaps and opportunities to close them, in the form of an efficiency “supply curve,” which will inform program design and policy formulation.

The second phase, to begin in 2013, will refine the estimates for Questions 1-3 by collecting locally specific data and performing “ground-up” analysis to reflect more accurately the unique circumstances of energy consumers in Delaware. This stage will also identify and investigate the barriers in Question 4, and it will recommend effective programs and initiatives for consideration by DE&C. After consultation with DE&C on alternative policies and program designs, the study will go on to estimate the achievable potential in Question 6. The results of this phase will address concerns raised by Delaware’s Energy Efficiency Resources Standards Workgroup regarding funding, targets and time frames to achieve legislated goals.

2. Term of Contract

DNREC seeks a Contractor to estimate the potential for reduced energy consumption through efficiency measures (“Contractor”) for the State of Delaware. The successful bidder of this RFP will provide the full scope of services described within this document from the date of contract execution to December 31, 2013, with possible extensions for future work to be negotiated between the parties.

The funding available for “Phase I” (date of contract execution to July 31, 2013) of the contract that will be executed as a result of this RFP is approximately \$80,000.00. The funding for Phase I is negotiable. Proposals that meet evaluation objectives but are more cost-effective by pricing the bid under \$80,000.00 are encouraged. Alternatively, DNREC may also appropriate additional funding for Phase I. Funding and authorization to proceed with Phase I will be subject to DNREC’s approval of a detailed Scope of Work (SOW) and budget to be negotiated and agreed after the successful bidder has been selected.

Funding and authorization to proceed with “Phase II” (April 1, 2013 to December 31, 2013) will be determined based on the experience with Phase I and on the review by DNREC of a detailed SOW and budget prepared by the Contractor. Subject to DNREC’s approval, the Contractor will be authorized to proceed with Phase II. The contract may also be renewed for up to two one-

year periods thereafter through contract amendments to include revised and expanded scopes of work. DNREC reserves the right in the event of inability to agree on terms for future contract amendments to seek alternative contractors.

B. SCOPE OF WORK

The Contractor shall undertake the following activities to fulfill the objectives of this contract. These activities and tasks are not necessarily sequential and DNREC anticipates that the Contractor will be working on several activities and tasks concurrently.

1. Phase I – Preliminary Estimate of Efficiency Potential

- Task 1.1 - Identify existing data sources for energy consumption in Delaware and applicability of efficiency measures. These will likely initially include regional and national data that can be disaggregated to the state's level
- Task 1.2 – Define energy-consuming sectors and estimate their rates of consumption in Delaware
- Task 1.3 – Define efficiency measures and technologies for each sector and characterize their cost and energy-saving performance
- Task 1.4 – Estimate the amount of energy each measure could save in each consuming sector over a twelve-year timeframe and rank the contributions in order of cost per saved kWh for electricity, and separately, per saved million Btu for fossil fuels.
- Task 1.5 – Create a “Supply Curve” for efficiency measures in Delaware
- Task 1.6 – Draft Report and presentation to DE&C staff and advisors
- Task 1.7 – Plan and budget for Phase II, including data collection to refine results of Phase I and address Questions 4-6
- Task 1.8 – Final Report for Phase I, including plan and budget for Phase II, reflecting comments on the draft from DE&C.

2. Phase II – Estimate of Efficiency Potential Achievable by State Policies and Programs (to be authorized separately, based on DE&C’s evaluation of the results of Task 1.7)

- Task 2.1 – Collect local energy consumption data as needed to supplement shortfalls due to time limitations in Phase I; visit or interview representative or major Delaware energy consumers and local experts as needed
- Task 2.2 – Produce refined energy saving estimates and efficiency “supply curves” corresponding to Tasks 1.4 and 1.5 in Phase I
- Task 2.3 - Identify barriers to implementation of cost-effective measures with specific references to actual consumers and potential investors in Delaware
- Task 2.4 – In Consultation with DE&C Staff, identify Delaware programs and policies that now address the barriers identified in Task 2.3 and recommend others that have achieved favorable results elsewhere
- Task 2.5 – Building on the results of Tasks 2.2 and 2.4, estimate achievable energy savings that are likely to result from implementing the policies and programs identified in Task 2.4.
- Task 2.6 - Draft report and presentation to DE&C staff and advisors
- Task 2.7 - Final report for Phase II, reflecting comments on the draft from DE&C
- Task 2.8 - Monthly Reports. The Contractor shall prepare and submit a monthly report to DNREC that provides an activity report and provides status updates on Potential Study activities.

C. CONTRACTOR COMPENSATION

The Contractor shall be compensated for reasonable and appropriate services provided and expenses incurred in order to perform the Statement of Work. Compensation for such services and expenses shall be based on the Contractor’s actual costs incurred and services rendered. Billing and payment shall be based on detailed SOW and budget approved by DNREC. Proposals should be based on time and materials estimates with a not to exceed limit.

III. Required Information

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

A. Minimum Requirements

1. Delaware business license:

Provide evidence of a Delaware business license or evidence of an application to obtain the business license.

2. Professional liability insurance:

Provide evidence of professional liability insurance in the amount of \$1,000,000.00/\$3,000,000.00

B. Response Format and General Evaluation Requirements

Bidders are required to present their proposals in accordance with this section. Proposals should be prepared simply and economically to provide a concise description of the bidder's approach and capabilities for satisfying the required services outlined in this RFP. Bidders should address any and all anticipated difficulties and/or problem areas along with potential approaches to their resolution. See Section 7.4 for more requirements regarding proposal submission.

1. Organizational and Management Capacity to Meet Requirements

Bidders shall demonstrate the capability of their company/organization to perform the services described in this RFP. Bidders shall describe the business structure under which they typically operate (i.e., for-profit corporation, not-for-profit corporation, partnership, etc.). If a new organizational structure is planned by the bidder, that structure should be described fully and clearly.

1.1 Bidder Qualifications and Experience

Bidders shall describe their firm and/or team's experience and capabilities in providing services similar to the EM&V services outlined in the Scope of Work. Bidders should highlight any experience with developing EM&V frameworks, market assessments studies, TRM development, developing uniform EM&V methodology for programs or measures, and with stakeholder groups.

1.2 Staffing and Subcontracting Plan

Bidders shall describe a staffing plan and the roles of each of the positions listed in bidder's staffing plan. Bidders shall specify any anticipated subcontractors. Two or more companies/organizations may team up on one bid.

1.3 Expertise of Key Personnel

Bidders shall identify key personnel to be assigned to this project, describe their primary responsibilities in regards to the Scope of Work, and include resumes that describe the individuals' experience and qualifications related to the functions they are expected to perform with the Contractor. Note that key Contractor personnel qualifications are more critical than firm qualifications and that staffing changes for

key personnel are subject to approval by DNREC.

1.4 Client References

Bidders shall provide four references from previous (or current) clients. References should include specific services provided, company name and location, contact name, contact title, telephone number and, where available, email address. In the event the bidder is forming a new organization to bid on this proposal, the bidder should provide relevant references for key personnel. References should be provided in the form in Attachment 4.

1.5 Sustainability

Bidders shall describe measures your business/organization has taken to increase the environmental and energy sustainability of your business and/or physical building.

2. Statement of Work

As a sample of the services to be provided under the Contract, if awarded, each bidder shall provide a detailed description of the proposed work and timeline for each task listed above under Section II, B. Scope of Services, Scope of Work for Phase I - *Preliminary Estimate of Efficiency Potential*. Bidders also shall use this section to explain the proposed sample budget in Item 3.0, below. Finally, each bidder shall present in general terms how it would approach Phase II of the study - *Estimate of Efficiency Potential Achievable by State Policies and Programs*, should it be awarded.

The following references may be of value in formulating the proposed tasks in Phase I.

Task 1.1 -

US Census Bureau business and industry data at <http://www.census.gov/econ/index.html>; housing data at <http://www.census.gov/housing/>

Other Delaware data at <http://quickfacts.census.gov/qfd/states/10000lk.html>

US Energy Information Administration residential, commercial building and manufacturing end use consumption data and surveys at <http://www.eia.gov/consumption/>

- Task 1.2 –

See earlier potential study, Center for Energy and Environmental Policy: [*Delaware's Energy Efficiency Potential and Program Scenarios to Meet Its Energy Efficiency Resource Standard*](#): University of Delaware, May 2011, at:

http://www.ceep.udel.edu/energy/publications/2011_DNREC_EERS_CEEP_Report_May_2011.pdf

- Task 1.3 –

See [*American Council for an Energy Efficiency Economy: Energy Efficiency: The First Fuel for a Clean Energy Future – Resources for Meeting Maryland's Electricity Needs*](#): Report No. E082: February 2008 at <http://www.aceee.org/sites/default/files/publications/researchreports/e082.pdf>

Bonneville Power Administration has a more recent source of candidate emerging technologies at:

http://www.bpa.gov/energy/n/emerging_technology/ and

http://www.bpa.gov/energy/n/emerging_technology/pdf/E3TNW_TechList_2012_01_30.pdf

California has an Emerging Technology Coordinating Council at: <http://www.etcc-ca.com/>

Also, see Energy Star calculation tools at

http://www.energystar.gov/index.cfm?c=products.pr_save_energy_at_home

- *Task 1.4 –*

For an example, see Optimal Energy: [*Forecast 20 - Electricity Savings in Vermont from 20 Years of Continued End-Use Efficiency Investment*](#): Efficiency Vermont: December 2009at

<http://www.optenergy.com/assets/files/F20%20Final%20Report.pdf>.

- *Task 1.5 –*

An instructive model is the Northeast Energy Efficiency Partnership's graphic representation in [*From Potential to Action: How New England Can Save Energy, Cut Costs, and Create a Brighter Future with Energy Efficiency*](#) at <http://neep.org/public-policy/policy-outreach-and-analysis/potential-study>

3. Proposed Budget

Bidders shall propose a sample budget for each Activity and its associated Tasks in the Scope of Work for Phase I (date of contract execution to April 30, 2013) using the budget templates in Attachment 8. In Table 8-3, bidders shall list staff, hours and, billing rates. In Table 8-4, bidders shall provide budget estimates of Potential Study activities to July 31, 2013. Please note that material (direct) costs must be billed at their cost to the consultant. Subcontractor labor billing rates, however, may include a minimal administrative charge.

The funding initially available for Phase I of the contract that will be executed as a result of this RFP is approximately \$80 thousand. The funding available for Phase I is negotiable. Proposals that meet evaluation objectives but are more cost-effective by pricing the bid under \$80 thousand are encouraged. Alternatively, DNREC may also appropriate additional funding for Phase I. If funding and time is available, Phase II may proceed in 2013, with additional funds, pursuant to a plan to be negotiated at the end of Phase I.

4. Essay Questions

To encourage bidders to demonstrate their creativity and their understanding of DNREC's requirements, bidders are required to include short essay responses to the questions below. The essays should be concise, no longer than two paragraphs, and reflect an understanding of best practices in estimating energy saving potential:

1. What, if any, changes does the bidder suggest to the Scope of Services for this RFP?
2. Describe the approaches taken in other state-level energy efficiency potential studies and explain the bidder's selection of the proposed method in terms of its relative advantages.
3. Explain the bidder's proposed analytical methodology for determining economic feasibility of candidate technologies.
4. Describe how the bidder would determine where economically feasible efficiency measures are underutilized.
5. Describe how the bidder proposes reporting uncertainty of the results.

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Obtaining Copies of the RFP

This RFP is available in electronic form [only] through the State of Delaware Procurement website at <http://www.bids.delaware.gov/>. Paper copies of this RFP will not be available.

2. Public Notice

Public notice has been provided in accordance with 29 *Del. C.* § 6981.

3. Assistance to Vendors with a Disability

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Bahareh van Boekhold
Department of Natural Recourse and Environmental Control
Division of Energy and Climate
1203 College Park Drive, Suite 101
Dover, DE 19904
Phone: 302.735.3480 (ext. 3495)
Fax: 302.739.1840
Bahareh.vanBoekhold@state.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Consultants and Legal Counsel

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Bidders shall not contact consultant or legal counsel on any matter related to the RFP.

6. Contact with State Employees

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently

doing business in the State who require contact in the normal course of doing that business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

8. Exclusions

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a) Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b) Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c) Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d) Has violated contract provisions such as:
 - 1) Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e) Has violated ethical standards set out in law or regulation; and
- f) Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

B. RFP Submissions

1. Acknowledgement of Understanding of Terms

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with two paper copies and one electronic copy on CD.

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than **5:00 PM EDT on November 9, 2012**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

Bahareh van Boekhold
Department of Natural Recourse and Environmental Control
Division of Energy and Climate
1203 College Park Drive, Suite 101
Dover, DE 19904
Phone: 302.735.3480 (ext. 3495)

Any proposal submitted by US Mail shall be sent by either certified or registered mail. Proposals must be received at the above address no later than **5:00 PM EDT on November 9, 2012**. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

The State of Delaware will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor's conference, system demonstrations or negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through February 2, 2013. The State of Delaware reserves the right to ask for an extension of time if needed.

6. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

7. Proposal Opening

The State of Delaware will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of the State of Delaware personnel. Any unopened proposals will be returned to Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

8. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

9. Concise Proposals

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

10. Realistic Proposals

It is the expectation of the State of Delaware that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

11. Confidentiality of Documents

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

The State of Delaware is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all the State of Delaware's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the State of Delaware and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without

including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed.

12. Multi-Vendor Solutions (Joint Ventures)

Multi-vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "**prime contractor**". The "**prime contractor**" must be the joint venture's contact point for the State of Delaware and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendors' systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the State of Delaware, and approval of a request to subcontract shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, vendor shall be and remain liable for all damages to the State of Delaware caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each vendor.

a. Primary Vendor

The State of Delaware expects to negotiate and contract with only one "prime vendor". The State of Delaware will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the State as a result of this procurement. The State will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

Nothing in this section shall prohibit the State of Delaware from the full exercise of its options under Section IV.B.16 regarding multiple source contracting.

b. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime vendor shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any sub-contractors must be approved by State of Delaware.

c. Multiple Proposals

A primary vendor may not participate in more than one proposal in any form. Sub-contracting vendors may participate in multiple joint venture proposals.

13. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by State of Delaware.

14. Discrepancies and Omissions

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

a. RFP Question and Answer Process

The State of Delaware will allow written requests for clarification of the RFP. All questions will be consolidated into a single set of responses and posted on the State's website at www.bids.delaware.gov by the date of October 26, 2012. Vendors' names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

Question

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word.

15. State's Right to Reject Proposals

The State of Delaware reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the State of Delaware may deem necessary in the best interest of the State of Delaware.

16. State's Right to Cancel Solicitation

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the State of Delaware. Vendor's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

17. State's Right to Award Multiple Source Contracting

Pursuant to 29 *Del. C.* § 6986, the State of Delaware may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

18. Notification of Withdrawal of Proposal

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

19. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at www.bids.delaware.gov. The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

20. Exceptions to the RFP

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be recorded on attachment 3. Acceptance of exceptions is within the sole discretion of the evaluation committee.

21. Award of Contract

The final award of a contract is subject to approval by the State of Delaware. The State of Delaware has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the State of Delaware will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that the State of Delaware is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the State of Delaware; remaining vendors will be notified in writing of their selection status.

C. RFP Evaluation Process

An evaluation team composed of representatives of the State of Delaware will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The State of Delaware reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that the State of Delaware may deem necessary to make a decision.

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of the State of Delaware. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ 6981 and 6982. The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The

Team shall make a recommendation regarding the award to the DNREC, who shall have final authority, subject to the provisions of this RFP and 29 *Del. C.* § 6982, to award a contract to the successful vendor in the best interests of the State of Delaware.

2. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor’s proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals all contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team’s consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 *Del. C.* §6986. Such selection will be based on the following criteria:
 - Complementary strengths among the criteria listed below
 - Cost advantage derived from engaging separate vendors for specific work elements

a. Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
1. Organizational and Management Capacity to Meet Requirements	40
– Bidder qualifications and experience in relevant studies	
– Staffing and subcontracting plan	
– Expertise of key personnel	
– Client references	
– Geographic Accessibility to Delaware	
2. Technical Approach	40
– Proposal comprehension and clarity regarding meeting project objectives	
– Proposed approach for implementing tasks	

Criteria	Weight
– Thoroughness and practicality of approach	
– Creativity of approach	
– Knowledge of Delaware Energy Economy	
3. Cost	20
– Billing rates and direct costs	
– Total cost of sample for Phase I	
– Answer to essay question No. 1	
Total	100%

3. Proposal Clarification

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

4. References

The Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

5. Oral Presentations

Selected vendors may be invited to make oral presentations to the Evaluation Team. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the vendor's responsibility.

D. Contract Terms and Conditions

1. General Information

- a. The term of the contract between the successful bidder and the State shall be from contract execution until December 31, 2013 with up to two extensions for periods of one year for each extension.
- b. The selected vendor will be required to enter into a written agreement with the State of Delaware. The State of Delaware reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the State of Delaware. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with the State of Delaware, which will result in a formal contract between parties. Procurement will be in

accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.

- d. The State of Delaware's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated with the finalist during actual contract negotiations.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after award of the contract. No vendor is to begin any service prior to receipt a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.
- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

2. Collusion or Fraud

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

3. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

4. Solicitation of State Employees

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a State of Delaware employee who has initiated contact with the vendor. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

5. General Contract Terms

a. Independent contractors

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party, or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

b. Non-Appropriation

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

c. Licenses and Permits

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2502.

Prior to receiving an award, the successful vendor shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE

19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

d. Notice

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

Bahareh van Boekhold
Department of Natural Recourse and Environmental Control
Division of Energy and Climate
1203 College Park Drive, Suite 101
Dover, DE 19904
Phone: 302.735.3480 (ext. 3495)
Fax: 302.739.1840
Bahareh.vanBoekhold@state.de.us

e. Indemnification

1. General Indemnification.

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, whole or part, to the State, its employees or agents.

2. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- (a) Procure the right for the State of Delaware to continue using the Product(s);
- (b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- (c) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

f. Insurance

- 1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney’s fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor’s negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
- 2. The vendor shall maintain such insurance as will protect against claims under Worker’s Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
- 3. During the term of this contract, the vendor shall, at its own expense, carry insurance minimum limits as follows:

a.	Comprehensive General Liability	\$1,000,000 per person and \$3,000,000 per occurrence
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And at least one of the following, as outlined below:

b.	Medical or Professional Liability	\$1,000,000/\$3,000,000
c.	Misc. Errors and Omissions	\$1,000,000/\$3,000,000
d.	Product Liability	\$1,000,000/\$3,000,000

The successful vendor must carry (a) and at least one of (b), (c), or (d) above, depending on the type of Service or Product being delivered.

If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverage’s, secure at its own expense the following coverage:

a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to others)	\$ 25,000

4. The vendor shall provide a certificate of insurance as proof that the vendor has the required insurance.

g. Performance Requirements

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

h. Warranty

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.

i. Costs and Payment Schedules

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the State of Delaware. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The State of Delaware will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The State of Delaware may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

j. Penalties

The State of Delaware may include in the final contract penalty provisions for non-performance, such as liquidated damages.

k. Termination for Cause.

If for any reasons, or through any cause, the Vendor fails to fulfil in timely and proper manner his obligations under the contract, or if the Vendor violates any of the covenants, agreements or stipulations of the contract, the State of Delaware shall thereupon have the right to terminate the contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination, In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of the State of Delaware, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is useable to the State of Delaware.

l. Termination for Convenience

The State of Delaware may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished

documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of the State of Delaware, become its property, and the Vendor shall be entitled to compensation for any satisfactory work completed on such documents and other materials which is useable to the State of Delaware. If the contract is terminated by the State of Delaware as so provided, the Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Vendor as covered by the contract, less payments of compensation previously made. Provided however, that if less than 60 percent of the services covered by the contract have been performed upon the effective date of termination, the Vendor shall be reimbursed (in addition to the above payment) for that portion of actual out of pocket expenses (not otherwise reimbursed under the contract) incurred by the Vendor during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

m. Non-discrimination

In performing the services subject to this RFP the vendor will agree that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

n. Covenant against Contingent Fees

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the State of Delaware shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

o. Vendor Activity

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

p. Work Product

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the State. The vendor will seek written permission to use any product created under the contract.

p. Contract Documents

The RFP, the purchase order, the executed contract and any supplemental documents between the State of Delaware and the successful vendor shall constitute the contract between the State of Delaware and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, State of Delaware's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered.

These documents will constitute the entire agreement between the State of Delaware and the vendor.

q. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

- (1) the laws of the State of Delaware;
- (2) the applicable portion of the Federal Civil Rights Act of 1964;
- (3) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- (4) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- (5) that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

r. Scope of Agreement

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

s. Other General Conditions

- (1) **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- (2) **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer’s latest design. All material and equipment offered shall be new and unused.
- (3) **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.

- (4) **Prior Use** – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.
- (5) **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
- (6) **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
- (7) **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the State of Delaware.
- (8) **Additional Terms and Conditions** – The State of Delaware reserves the right to add terms and conditions during the contract negotiations.

E. RFP Miscellaneous Information

1. **No Press Releases or Public Disclosure**

Vendors may not release any information about this RFP. The State of Delaware reserves the right to pre-approve any news or advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of the State of Delaware.

2. **Definitions of Requirements**

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

3. **Production Environment Requirements**

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

V. ATTACHMENTS:

- Attachment 1 - No Proposal Reply Form
- Attachment 2 - Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Confidentiality and Proprietary Information
- Attachment 5 – Business References
- Attachment 6 – Subcontractor Information Form
- Attachment 7 - Office of Minority and Women Business Enterprise Certification Application
- Attachment 8 – Budget Forms

IMPORTANT – PLEASE NOTE:

- Attachments 2, 3, 4, and 5 **must** be included in your proposal
- Attachment 6 must be included in your proposal if subcontractors will be involved

REQUIRED REPORTING:

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested Vendors.

In accordance with Executive Order 14 – Increasing Supplier Diversity Initiatives within State Government, the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to report on the participation by a minority and/or women owned business (MWBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the MWBE, MWBE contact information (phone, email), type of product or service provided by MWBE and any MWBE certifications for the subcontractor (State MWBE certification, Minority Supplier Development Council, Women’s Business Enterprise Council). The format used for this 2nd Tier report is found in Attachment 7. This

report shall be submitted to the contracting Agency’s Supplier Diversity Liaison found at vendorusage@state.de.us on the 15th (or next business day) of the month following each quarterly period. For consistency, quarters shall be considered to end the last day of March, June, September and December of each calendar year. Contract spending during the covered periods shall result in a report even if the contract has expired by the report due date.

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E. Attachment 5 Business References

CONTRACT NO. NAT12001-ENERGY_SAV
Contract Name STUDIES FOR POTENTIAL ENERGY SAVING

Business References

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please list the contract.

1. Business Name/Mailing Address:
Contact Name/Phone Number:
Number of years doing business with :
Describe type of work performed:

2. Business Name/Mailing Address:
Contact Name/Phone Number:
Number of years doing business with :
Describe type of work performed:

3. Business Name/Mailing Address:
Contact Name/Phone Number:
Number of years doing business with :
Describe type of work performed:

F. ATTACHMENT 6

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. NAT12001-ENERGY_SAV	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OMWBE Classification: Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (<i>Signature</i>)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (<i>Signature</i>)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

* Use a separate form for each subcontractor

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G. Attachment 7 Minority and Women Business Enterprise Certification Application
Insert most recent OMWBE Certification Application found here:
<http://gss.omb.delaware.gov/omwbe/certify.shtml>

State of Delaware

Office of Minority and Women Business Enterprise Certification Application



Complete application and send via email, fax or mail to:

Office of Minority and Women Business Enterprise (OMWBE)
100 Enterprise Place Suite # 4 Dover, DE 19904-8202 Telephone: (302) 857-4554 Fax: (302) 677-7086
Email: deomwbe@state.de.us

Web site: <http://gss.omb.delaware.gov/omwbe/index.shtml>
Link to Certification Application: <http://gss.omb.delaware.gov/omwbe/certify.shtml>

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H. Attachment 8 **Budget Templates for Proposals**

Budget Templates for Proposals

Bidder Name:	Example	Bidder provides input in shaded cells
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Table 8-1: Staffing Rates (Example)

Job Title	Employee Name	Prime or Sub-Contractor	2011-2012 \$ Rate	2012-2013 \$ Rate
President	Caesar Rodney	Prime	150	150
Vice President	Joe Biden	Prime	100	100
Attorney	John Dickinson	Sub	250	260
Coach	Judy Johnson	Sub	150	150
Abolitionist	Thomas Garrett	Prime	100	105
Attorney	Mary Ann Shadd	Prime	250	260
Editor	Alice Dunbar-Nelson	Prime	125	140
Civil Rights Attorney	Louis Redding	Prime	250	260
Astronomer	Annie Jump Cannon	Prime	175	175
Trumpet Player	Clifford Brown	Sub	125	140
Additional staff categories as needed				
Markup (percent) on subcontractor labor and materials/directs: (Optional)				

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Bidder Name: Example

Bidder provides input in shaded cells

Table 8-2: Phase I (to July 31, 2012) Estimated Hours (Example)

Tasks	Rodney	Biden	Dickinson	Johnson	Garratt	Shadd	Nelson	Redding	Cannon	Brown	Total Hours	Material Costs \$	Task Cost \$
Hourly Rates (2011-2012)	\$150	\$100	\$250	\$150	\$100	\$250	\$125	\$250	\$175	\$125			
Task 1.1 - Identify existing data sources for energy consumption in Delaware and applicability of efficiency measures	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.2 – Define energy-consuming sectors and estimate their rates of consumption in Delaware	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.3 – Define efficiency measures and technologies for each sector and characterize their cost and energy-saving performance	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.4 – Estimate the amount of energy each measure could save in each consuming sector over a twelve-year timeframe and rank the contributions in order of cost per saved kWh for electricity, and separately, per saved million Btu for fossil fuels	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.5 – Create a “Supply Curve” for efficiency measures in Delaware	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.6 – Draft Report and presentation to DE&R staff and advisors	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.7 – Plan and budget for Phase II, including data collection to refine results of Phase I and address Questions 4-6	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Task 1.8 – Final Report for Phase I, including plan and budget for Phase II, reflecting comments on the draft from D&EC	10	10	10	10	10	10	10	10	10	10	100	10	16,760
Total Cost \$													\$335,200.00

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Bidder Name:

Bidder provides input in shaded cells

Table 8-3: Staffing Rates

Job Title	Employee Name	Prime or Sub-Contractor	2011-2012 \$ Rate	2012-2013 \$ Rate
			0	0
			0	0
			0	0
			0	0
			0	0
			0	0
			0	0
			0	0
			0	0
			0	0
			0	0
Additional staff categories as needed				
Markup (percent) on subcontractor labor and materials/directs: (Optional)				

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Bidder Name:

Bidder provides input in shaded cells

Table 8-4: Phase I Estimated Hours (to July 31, 2013)

Tasks												Total Hours	Material Costs \$	Task Cost \$
Hourly Rates (2011-2012)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0			
Task 1.1 - Identify existing data sources for energy consumption in Delaware and applicability of efficiency measures														
Task 1.2 – Define energy-consuming sectors and estimate their rates of consumption in Delaware														
Task 1.3 – Define efficiency measures and technologies for each sector and characterize their cost and energy-saving performance														
Task 1.4 – Estimate the amount of energy each measure could save in each consuming sector over a twelve-year timeframe and rank the contributions in order of cost per saved kWh for electricity, and separately, per saved million Btu for fossil fuels														
Task 1.5 – Create a “Supply Curve” for efficiency measures in Delaware														
Task 1.6 – Draft Report and presentation to DE&R staff and advisors														
Task 1.7 – Plan and budget for Phase II, including data collection to refine results of Phase I and address Questions 4-6														
Task 1.8 – Final Report for Phase I, including plan and budget for Phase II, reflecting comments on the draft from D&EC														
Total Cost \$														

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