

**Proposals Due by October 29, 2013 by 5:00PM Eastern Time**

The New York State Energy Research and Development Authority (NYSERDA) requests proposals from firms interested in providing both pre-construction and full construction management services for NYSEERDA's future New York City office located at 1359 Broadway in New York, NY. The new office space is on a multi-tenant floor comprising approximately 21,386 rentable square feet.

The expected initial term of the contract(s) awarded under this RFP will be for the time period of November 14, 2013 to March 31, 2014.

**Proposal Submission:** To respond to this RFP, you must submit **5 clearly labeled copies of the proposal**. A completed and signed Proposal Checklist must be attached to the front of each copy, one of which must contain an original signature. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, RFP 2867  
NYS Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399**

If you have technical questions concerning this solicitation, contact Senior Project Manager John Schott at (212) 971-5342, ext. 3013 or [jcs@nyserda.ny.gov](mailto:jcs@nyserda.ny.gov) or if you have contractual questions concerning this solicitation, contact Elsyda Ahmed at (518) 862-1090, ext. 3232 or [ela@nyserda.ny.gov](mailto:ela@nyserda.ny.gov).

No communication intended to influence this procurement is permitted except by contacting John Schott (Designated Contact) at (212) 971-5342, ext. 3013 or [jcs@nyserda.ny.gov](mailto:jcs@nyserda.ny.gov). Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer's behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed non-responsible, and (2) may result in the proposer not being awarded a contract.

\*Late proposals will be returned. Incomplete proposals may be subject to disqualification. It is the bidder's responsibility to ensure that all pages have been included in the proposal. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any other NYSEERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSEERDA's web site at [www.nyserda.ny.gov](http://www.nyserda.ny.gov).

**I. Introduction**



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

NYSERDA will be relocating from its existing New York City office space at 485 Seventh Avenue to 21,386 rentable square feet of office space on the 19<sup>th</sup> floor of 1359 Broadway. The 19<sup>th</sup> floor will be a multi-tenant floor and will be turned over by the landlord in an “as is” condition. Through working with its design team, NYSERDA is looking to create a new workplace to increase collaboration, productivity and creativity through smart and innovative design. The space will be designed with energy efficiency and sustainability as the primary guiding principles, and is targeting LEED Gold certification.

The current condition of the space is considered to be raw, with the exception of the restrooms. The restrooms were recently constructed and there will be no additional work done to the restrooms. NYSERDA’s current design for the space will have a mix of workstations and offices. Workstations will be on the perimeter with offices and meetings spaces in the core. There will be a large board room that holds approximate 45 people, 2 medium size conference rooms and 4 smaller conferences rooms. There will also be a pantry and a shower. Base building heat and hot water is provided, but NYSERDA will need to design and install its own HVAC system for air conditioning and ventilation.

Please see Attachment D for the floor plan and NYSERDA’s schematic design.

Project Team:

Project & Cost Manager	Gardiner & Theobald
Architect	Corgan Associates
MEP Engineer	Integral Group
Lighting Consultant	Lighting Workshop
Acoustical Consultant	Cerami Associates
Expeditor	Rizzo Group
Low Voltage / IT Consultant	RTS Unified Communications
Commissioning Agent	YRG Associates
LEED Consultant	Gardiner & Theobald

Schedule:

The Construction Manager is required to recognize the commitment and flexibility that will be required of the successful company with regard to the schedule.

Please refer to Attachment E for the preliminary Master Schedule.

Design Development Phase Complete	October 25, 2013
Early Bid Packages	October 28, 2013
Construction Documents Phase Complete	January 3, 2014

Construction Start	December 3, 2013
Construction Complete	February 28, 2014
Relocation	February 28, 2014

## II. Scope of Services

The Construction Manager will be required to provide both pre-construction and full construction management services and at the request of NYSERDA, when the buyouts have been significantly or fully completed, to convert the project to a lump sum. The Construction Manager will be expected to include for all field conditions, coordination and schedule within the lump sum offer.

The following scope of services are to be provided during each phase by the selected Construction Manager. Some tasks, however may apply to both phases. The Construction Manager understands this list is not exhaustive and other tasks may be required at no additional cost.

### **Pre-Construction tasks include, but are not limited to, the following:**

1. Assist in preliminary planning, budgeting and scheduling while providing continuous updates.
2. Determine availability of trades and materials. Particular attention should be paid to the availability of trades that are certified Minority and Women-Owned Businesses (M/WBE)
3. Establish site mobilization plan.
4. Establish site security and safety plans.
5. Identify long lead items. Establish procedures for purchasing and pre purchase.
6. Establish management procedures including bid and award procedures, reports, contract administration, invoicing and disbursements.
7. Develop a critical path management program, resource schedules and other necessary detailed schedules. The schedules shall identify all project activities including FF&E and will be integrated into Gardiner & Theobald's, NYSERDA's Project Manager, master schedule. The Construction Manager's schedule remains however the contractual schedule for construction and for the Construction Manager's activities.
8. Take responsibility for the rapid development of a cost model from the overall budget costs given; the development of a detailed cost estimate from the agreed model; regular cost checking, estimating, budgeting, and reporting of updated costs; and finally the breaking down of the cost estimate into the various subcontract bid packages.
9. Assist in value engineering, value management and cost savings as is required.
10. Assist architects and engineers in the development of drawings and specifications and suggest ways to eliminate areas of conflict and overlap of trade contractors.

11. Prepare comparative cost analysis of similar projects. Assist the client with comparable data for their evaluation.
12. Make recommendations for pre-qualifications criteria for bidders, establish bidding schedules and recommend bidders for trades and vendors.
13. Submit bid documents to Gardiner & Theobald and NYSERDA for validation and approval.
14. Manage bidding procedures including the selection of qualified bidders.
15. Assist architects and engineers in assembling bid packages, augmented by trade specific scope of work. Conduct pre-bid conferences to familiarize bidders with bidding documents and management techniques. Assist the architect with bidders' questions and with the issuance of Addenda.
16. Receive and analyze all bids. Prepare written analysis and comparisons and recommend the trade contractors or vendors. Assist Gardiner & Theobald Inc, and NYSERDA in negotiations with trade contractors and / or vendors. Work with Project Manager & Design team to develop a unit cost list which must be completed by all trades bidding the proposal.
17. Attend and provide minutes of weekly construction meetings with consultants to ensure all matters of Pre-Construction and Construction feasibility are being considered.
18. Analysis of "Green" initiatives that can have a positive impact on the environment. This will be a LEED certified project. NYSERDA is interested in analyzing materials/methodologies and the costs associated with using sustainable or green methodologies to construct the space.
19. Construction Manager must divert 75% of Construction Waste per Credit 2 under Materials and Resources for LEED.
20. Prepare a bid schedule indicating dates for receipt of bid information, bid and approval periods necessary to meet the Master Project Schedule.

**Construction Management tasks include, but are not limited to, the following:**

1. Assume overall responsibility for managing, supervising and coordinating all aspects of construction.
2. Coordinate with all client direct vendors, furniture, audio visual, security etc, to ensure overall success of the project. Assist direct vendors as needed i.e. booking freight cars, building access and clean up.
3. Obtain construction permits in conjunction with the project code consultant and obtain required overtime variances.
4. Interface with base building systems and ensure compliance with all building standards and requirements. Adhere to all building rules & regulations (see Attachment F – Building Rules and Regulations).

5. Maintain full-time, on-site experienced project managers and superintendents, and clerical support. You will be required to have a project manager and/or supervisor on site at all times when any work is being done. Any deviation from this requirement will result in the immediate dismissal of the CM.
6. Inspect the work daily to assure that NYSERDA's objectives are being carried out in accordance with the working drawings, specifications, all other contract documents and local laws, ordinances and regulations.
7. Coordinate MEP, IT, Audiovisual, and Security scope, including production and ongoing development of coordination drawings.
8. Assure that only first quality workmanship and materials are being used.
9. Recommend courses of action to NYSERDA when requirements of a contract are not being fulfilled and the non-performing party will not take satisfactory corrective action.
10. Schedule the work in advance of actual construction operations to assure that trade contractors are utilized to their fullest extent.
11. Attend weekly progress meeting with NYSERDA, Gardiner & Theobald, architects and engineers to assure that all relevant matters of construction are being considered. Provide submittal logs, RFI logs and two week look-ahead's. The Construction Manager shall also be required to provide a "hot list" identifying items which require immediate attention. The Construction Manager shall be responsible for the tracking these items and advising the project team of dates necessary to ensure completion of the project on time.
12. Establish and maintain safety procedures, risk management, O.S.H.A. and other programs necessary for the safe and expeditious execution of the work.
13. Arrange for delivery, storage, protection and security of all purchased items and equipment, which are part of the project until they are incorporated into the project.
14. Establish and maintain procedures for processing shop drawings, material samples, mock-ups and off-site testing and inspections as defined by project specifications.
15. Maintain daily records covering manpower, work in progress, accidents and field observations.
16. Maintain at the project site, on a current basis, a record copy of all contracts, drawings, specifications, addenda, change orders and other modifications, in good order and marked to record all changes made during construction, shop drawings, samples, product dates and all related documents and revisions. This is essential in order to enable a complete set of "As-Built" documents to be prepared at the end of the project.
17. It shall be the CM's task to manage the process for change orders resulting from, but not limited to field conditions, scope changes to the work as defined by project specifications. Upon discovery of a potential change order the CM shall advise in writing to G&T Inc, within 1 working day, the nature of the change order and its origin, if approved, the CM shall work on a price and proceed basis and shall submit a formal change order for approval

within 3 working days from approval to proceed. Change orders submitted after this time period shall be accepted or denied at the sole discretion of NYSERDA.

18. Update and submit change order logs to NYSERDA on a weekly basis. (See item 32.)
19. Negotiate with trade contractors on behalf of client, all change orders as deemed appropriate by client.
20. Receive all trade contractors', vendors' and suppliers' applications for payment, review and adjust same, and issue an application for payment to the project manager and architect for review and approval.
21. If required assist in IDA procedures with regard to trade contractors / payments.
22. Receive and maintain partial and final waivers of liens, which will be turned over to owner with monthly requisitions.
23. Take responsibility for comprehensive tie-in of building systems, including emergency power systems and prepare a program for substantial completion and staged occupancy.
24. Comply with all local codes and ordinances as well as building standards and requirements as to methods and means of construction and safety.
25. Maintain required insurance on all trade contractors, suppliers and vendors. Provide NYSERDA with full details of all insurance policies carried by you, relevant to your role as Construction Manager. e.g. worker compensation, general liability, etc. Add NYSERDA, the State of New York, and Gardiner & Theobald, Inc. as additionally insured on all insurance certificates of trade contractors, suppliers and vendors. Insurance levels must adhere to building requirements and building additional insured's – see Attachment K.
26. Prepare site for substantial completion and staged occupancy and provide for all required testing.
27. Provide closeout reports including guarantees, warranties, "As-Built" drawings, and maintenance and procedures manuals for new equipment and provide sign-offs by authorities having jurisdiction over the project. The Construction Manager is required to submit all close out documents and sign off's as directed by Project Manager and required by Landlord in accordance with the lease. CM's required to submit ALL close out documents, with the exception of fire department sign-offs, NO LATER THAN 30 business days following client move in. CM will be responsible to update the project completion checklist on a weekly basis and issue to PM. A set amount of 10% retainage to be held until close out is complete including receipt of Certificate of Occupancy. Please prepare your subcontractor documents accordingly
28. Resolve any disputes between trade contractors.
29. Coordinate preparation and completion of punch-lists. Punch-lists must be complete, with the exception of long lead items (approved by Project manager) no later than the Friday move in start date. A set amount of 10% retainage will be held until punch list is complete. Please prepare your subcontractor documents accordingly

30. Obtain all jurisdictional signoffs and controlled inspections.
31. Coordinate with furniture consultant and trade contractors, the delivery, installation and wiring of the furniture.
32. Coordinate with trade contractors, the delivery, installation and connections for any client purchased items.
33. CM shall discharge any mechanic's lien filed against the Real Property for work claimed to have been done for, or for materials claimed to have been furnished to, Tenant (or any Person claiming by, through or under CM) within thirty (30) days after Tenant has received notice thereof, at CM's expense, by payment or filing the bond required by law.
34. CM must confirm in writing when responding to this RFP they will work on a price and proceed basis for change orders. This schedule is aggressive and the project will NOT be held up while waiting for signature.
35. CM must establish and maintain a site security plan in coordination with NYSERDA and G&T.

### **III. Financial Controls**

The successful Construction Manager will be required to agree and adhere to the following procedures throughout the duration of the project:

- Cash Flow Forecast: submit to Gardiner & Theobald Inc a forecast showing the gross valuation of the Works, at the date of each Interim Requisition throughout the Contract period and based upon the Schedule for the Works.
- Give reasonable notice (not less than two working days) to Gardiner & Theobald Inc. before covering up work that requires to be reviewed.
- Time Sheets: Give reasonable notice to Gardiner & Theobald Inc of the commencement of any work for which Time Sheets are to be submitted. Before being delivered, each Time Sheet must be referenced to the verbal/written instruction under which the work is authorized, and signed by the person in charge as evidence that the workmen's names, the time spent by each, the plant and materials shown are correct.
- The Contractor shall submit to Gardiner & Theobald Inc signed Time Sheets no later than the end of the week following that in which the work was done.
- A Time Sheet bearing the signature first of the Sub-Contractor and then the Construction Manager, will only act as a record of work done and will not necessarily constitute a Change for which payment should be made under the Contract.
- Change Order Submittals: Construction Manager shall submit to Gardiner & Theobald Inc all Change Order work, with complete substantiation, no later than one week following that in which the work was done. No Change Order work shall be approved by NYSERDA unless received with complete substantiation, no later than one week following that in which the work was done.

- Interim Requisitions: At least 3 days before the end of each established Period for interim requisitions, Construction Manager shall submit to Gardiner & Theobald Inc details of amounts due under the Contract together with all necessary supporting information.
- Information provided by others: the Construction Manager shall check all information provided, for discrepancy and/or omission and give written notice to Gardiner & Theobald Inc forthwith should these occur.

### **SUB-CONTRACTOR PAYMENTS and LIEN WAIVERS**

- The Construction Manager shall submit within 14 days of receipt of payment for a requisition. NYSERDA shall receive evidence of payment to all sub contractors denoted in said requisitions and unconditional waivers. Failure to do so will result in a breach of contract.
- All Lien Waivers whether contingent or subcontractor, conditional or unconditional shall be provided with dollar amounts, percentage lien waivers will not be accepted unless the project is converted to a lump sum.

### **CHANGING OF PERSONNEL**

- The Superintendent(s) and Project Manager(s) shall be named persons within the contract. The Construction Manager agrees that neither the Superintendent(s) nor the Project Manager(s) shall be removed or replaced (death and serious illness excluded) without prior written consent of NYSERDA. Failure to adhere to this will result in the Construction Manager agreeing to relinquish 50% of his fee per incident.

### **SUB-CONTRACTOR BIDDING**

The methodology for bidding and approvals is as follows:

- Upon appointment, the Construction Manager (CM) shall formulate and issue a Bidding Schedule to the Owner.
- Prior to issuance of trade bids, the CM shall issue to the Project Team, on a package by package basis, schedules of the subcontractors that they propose to issue the documentation to. The Project Team shall be afforded the opportunity to add, provided they meet the CM's requirements or remove from the schedule. Bidders will not be removed without explanation.  
Construction Manager will be required to fill out and submit NYSERDA's M/WBE Utilization Plan Form. This Plan asks the CM to undertake "good faith" efforts to actively solicit MBE/WBE subcontractor participation. Please see Attachment H.
- All bids shall be open book.
- All bids shall be sealed bids and sent to NYSERDA or G&T Inc
- All bids shall be opened in the presence of a representative from NYSERDA, G&T and the CM at a minimum unless otherwise agreed
- The CM shall level the bids and submit to G&T and the Design Team for final approval.

- Prior to submitting letters of approval for the successful trade package contractor(s), the CM shall submit to G&T a draft copy of the leveled bids, copies of all bid correspondence between the CM and bidders and a draft approval letter. Upon agreement by G&T, the CM shall submit the form for formal sign off.
- Prior to submitting the final letter of approval the CM shall obtain formal acceptance from the Architect, MEP, Structural Engineer or other relevant designer that the bids are in accordance with their drawings and specifications. This approval shall be in a timely manner and shall not be unreasonably withheld.
- All bidders shall be required to provide a schedule of unit rates associated with their work. Hourly rates shall also be provided.
- The CM shall be responsible for ensuring that the bidders' unit and labor rates are fixed for the duration of the contract plus 3 months.
- Along with the issuance of drawings and specifications, the CM shall issue a 'preamble' defining general provisions, requirements regarding health and safety, construction schedule, scope of work, quality, best practices, building rules & regulations (see Attachment F: Building Rules and Regulations), OT requirements for CM and trades, etc.
- The CM shall advise G&T of any 'allowances' included within the submitted approval letters. These 'allowances' shall be agreed with G&T prior to inclusion.
- All allowances included in trade packages shall be treated as specific allowances for the stated work only e.g. allowances for electrical overtime are for electrical overtime only and not mechanical overtime or coordination (defined as Construction Allowances). The Construction Manager shall have the discretion to expend these allowances but these shall be submitted to the Cost Manager as an expenditure allowance with the necessary back up information for audit.
- The CM will not replace any subcontractors without prior written authorization from NYSERDA and Gardiner & Theobald.

#### **IV: PROPOSAL REQUIREMENTS**

Proposers must submit **five(5)** copies of the proposal. A completed and signed Proposal Checklist (Attachment A) included must be attached to the front of all **five(5)** copies. At least one copy of the Proposal Checklist must contain an original signature. Be sure that the individual signing the checklist is authorized to commit the construction manager's organization to the proposal as submitted. Each page of the proposal should state the name of the construction manager, the RFP number, and the page number. NYSERDA reserves the right to request additional data or material to support proposals. All material submitted in response to the RFP will become the property of NYSERDA.

Your proposal must contain in the following order:

- Attachment A – Proposal Checklist with at least one copy with an original signature
- Attachment B – Disclosure of Prior Findings of Non-Responsibility
- Part 1: Technical and Management Proposal – Sections 1-9 – See below
- Part 2: Cost Proposal – See below including Attachment C- General Conditions Matrix

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

**Part 1: Technical & Management Proposal**

**1. COMPANY INFORMATION**

- 1.1. Construction Manager (Firm Name):
- 1.2. Business Address
- 1.3. Telephone Number:
- 1.4. Person to Contact:
- 1.5. Type Of Organization: (Select One)
  - Individual of Sole Proprietorship
  - Partnership
  - Professional Corporation/Association
  - Joint Venture
  - Corporation
  - Other\*

*\*If Joint Venture or Other, provide details*

- 1.6. Confirm if the company is part of a group – if yes, provide details.
- 1.7. Confirm if the company has any subsidiaries – If yes, provide details

**2. GENERAL INFORMATION**

- 2.1. Names of Principals
- 2.2. Professional History:
- 2.3. Registration Status:
- 2.4. Key Personnel Contact: (*Principal in Charge or other*)
- 2.5. Indicate the principal office location, with the number and type of professional staff employed by the Company in New York and in particular in Manhattan. Describe how you will support the project team.
- 2.6. Confirm you have a union contractor license to work in New York City. Non-union contractors/subcontractors are NOT allowed to work in 1359 Broadway.
- 2.7. Indicate the amount and type of work primarily performed by your Company.

**3. STATEMENT**

- 3.1. Describe, briefly, any pending or contemplated legal proceedings known to you that (i) relate to business activities and (ii) to which the Company or any Affiliates, former Affiliates or any of their Principals or former Principals is a party or to which any of their property is subject. Include in such description the name of the court or agency in which the proceedings are pending, the date instituted the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought. Likewise, describe any judgment, order, or determination of any court or government authority to which the Company or any Affiliate or their Principal or Principals is subject.
- 3.2. Provide a list of outstanding Mechanics Liens.

#### **4. PROJECTS**

- 4.1. Please provide a comprehensive list of all interior construction projects or similar related experience your office has been involved in over the last three years. This should include the following information (i) value and size (ii) start date (iii) completion dates or present status if not complete.
- 4.2. Please provide a list of all fast track construction projects. This should include the following information (i) value and size (ii) schedule duration (iii) completion dates or present status if not complete.
- 4.3. Please provide a list of all projects undertaken within W&H Properties buildings within the last three years. This should include the following information (i) value and size (ii) current status (iii) client reference (iv) building address & client.
- 4.4. Please provide a list of all LEED projects your Company has completed. This should include the following information (i) LEED level achieved, (ii) value and size, (iii) current Status (iv) client reference

#### **5. REFERENCES**

- 5.1 Provide specific project references.  
*(List name, addresses and telephone numbers.)*

#### **6. PROJECT TEAM**

- 6.1. Provide an organizational chart for both the pre-construction and construction phases. Include the hourly time allocation to the project for key staff during each stage. Also indicate the percentage commitment of such individuals to on-site versus off-site.
- 6.2. Confirm which individuals are charged through the Construction Management Fee and which are charged through the General Conditions. Any charges for home office overhead or for home office personnel shall be included within the Construction Management Fee.
- 6.3. Provide a list of other projects which the proposed team (i) is working on now, (ii) is expected to be working on, or (iii) on which you are proposing / bidding during the time period of this project (iv) have worked on in the last three years

*Note: There will be no substitutions of staff/ trades/etc. without specific approval from the client.*

## **7. RESUMES**

- 7.1. Provide resumes for all key members of your organization who will be involved in the project and 3 current references for each individual (whom we may contact directly).

## **8. FINANCIAL QUALIFICATIONS**

- 8.1. Please provide the following financial information

- (a) The last three years audited financial statements
- (b) Bonding capacity and rating
- (c) Maximum coverage limits for insurance broken down by category of insurance

## **9. ADDITIONAL INFORMATION**

- 9.1. As previously noted NYSERDA is currently considering converting the project to a lump sum agreement following the substantial / complete buy out of the trade packages. As part of this RFP submission the Construction Manager shall provide the following:

- Provide the pros and cons in converting to a lump sum agreement.
- Advise on the financial incentives and potential savings achievable by converting to a lump sum. This should include any form of proposed agreement, potential buyout savings for converting to a lump sum.
- Alternate procurement option(s) to ensure an aggressive buy out to reduce costs for NYSERDA.

- 9.2. The Construction Manager will confirm their ability in writing to meet the project schedule. The Construction Manager has this opportunity only to issue queries or requests relating to the project schedule. Any undeclared assumptions relating to the agreement to meet the schedule will not warrant an extension.

- 9.3. As outlined in Attachment H, The CM will be required to undertake “good faith” efforts to actively solicit MBE/WBE subcontractor participation. Please briefly describe your experience with any M/WBE certified subcontractors and a plan for meeting the % M/WBE goals outlined in Attachment H.



**Part 2: Cost Proposal**

You are requested to provide a lump sum bid for the pre-construction fee, construction and general conditions fee and percentage offer for & insurance. Provide a full analysis of your general conditions offer in the format attached.

Pre-Construction Service Charge	\$ _____	Lump Sum
Construction Management Fee	\$ _____	Lump Sum
General Conditions (use format attached)	\$ _____	Lump Sum
GL Insurance	_____	%

***Change Orders:***

Adjustments/mark ups to change orders for client driven changes:

General Conditions*	_____	%
Fee	_____	%
Insurance	_____	%
Proposed General Conditions/Management Fee waiver value**:	\$ _____	

\*The General Conditions % for change orders should include for all items scheduled out within your lump sum general conditions offer including all necessary overtime project labor and supervision. It should also include for all temporary protection.

\*\*General Conditions and Construction Management Fee will be waived until this value is met (accumulation of all change orders until the figure is met). General Conditions and CM fees to be applied to change orders after this value is exceeded. All Change Orders, would however, include the applicable insurance percentages.

**BY RESPONDING TO THIS RFP CONSTRUCTION MANAGER AGREES TO NO MARK UPS TO ANY CHANGES EXCEPT CLIENT DRIVEN CHANGES.**

**Construction Manager will be contractually obligated to pay their subcontractors within 14 days of receipt of payment by NYSERDA. The Construction Manager will be contractually obligated to provide lien waivers within one week from receipt of payment including dollar value of payment tied to the approved requisition. Additionally, Construction Manager will be contractually obligated to provide subcontractor’s lien waivers within one week of their receipt of payment including dollar value of payment tied to the requisition.**

**All waivers will include dollar value of payment in accordance with the awarded contract amounts and requisitions unless the project is converted to a lump sum.**

**Hourly Rates & Multipliers**

Provide a complete list of hourly rates and multipliers. The rates and multipliers shall remain valid during the duration of the contract.

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

1. Describe the basis for the rates proposed (i.e., based on prior period actual results; based on projections; based on federal government or other independently-approved rates).
2. If rate(s) is approved by an independent organization, such as the federal government, provide a copy of such approval.

3. If rate(s) is based on estimated costs or prior period actual results, include calculations to support proposed rate(s). Calculation should provide enough information for NYSERDA to evaluate and confirm that the rate(s) are consistent with generally accepted accounting principles for indirect costs.

## **V. Evaluation Criteria**

All proposals received by the due date, and meeting the submission requirements established in this RFP, will be reviewed and ranked by a Technical Evaluation Panel (TEP), which consists of NYSERDA staff members and outside technical experts using the Evaluation Criteria identified below.

### **Part I: Technical and Management Proposal**

1. Approach and Scope of Services:
  - a. Completeness. The proposal is complete and follows the outline in section IV of this RFP.
  - b. Quality of approach and methodology for performing the effort clearly demonstrates an understanding of the applicable issues and requirements.
2. Experience:
  - a. Quality, extent and relevance of Offeror's operational experience (including sub-contractors) in conducting all facets of construction management.
  - b. Quality, extent and relevance of Offeror's construction management experience (including sub-contractors) in conducting similar efforts, particularly of a magnitude and setting similar to that described by this RFP.
  - c. Quality, extent and relevance of experience, education and training of key personnel (including subcontractors).
  - d. Preference given to those who are experienced in green buildings.
3. References:
  - a. Offeror's service capability, reputation, facilities, equipment and past performance.
  - b. Offeror's previous performance in contracts or business dealings with municipal, state or federal agencies, or other entities, including NYSERDA.
4. Organization, Staffing and Management Plan:
  - a. Quality of project organization and management plan; extent to which they will provide for successful, timely and fully compliant program implementation as evidenced by the following:
  - b. Plan for controlling the effort.
  - c. Coordination of subcontractors, joint ventures or teaming arrangements.
  - d. Plan for phasing personnel into the effort.
  - e. Quality of interaction and coordination with NYSERDA.
  - f. Reporting methodologies.
5. Extent and reasonableness of location(s) from which services are provided
6. Quality, extent and relevance of experience, education and training of key personnel (including subcontractors).

### **Part II: Cost and Contract Submittal:**

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

## **METHOD OF SELECTION**

Each Proposal will be initially evaluated for conformance and qualitative compliance with the selection criteria. The Evaluation Team will use a point system to create a list of Proposals in ranked order. Up to 80 points shall be awarded for Part 1 of the proposal identifying experience and qualifications. Cost Proposals (Part 2) will be evaluated separately by the Evaluation Team and up to 20 points awarded. In addition, consideration will be made to whether the Offeror can perform at the quoted prices while maintaining adequate levels and quality of service over the full term of the contract. The “best value” will be based on the combination of the two scores.

b. The Contract award under this RFP will be made to the Offeror receiving the highest point total using the evaluation criteria listed above. NYSERDA will award the proposer whose proposal, in the sole discretion of NYSERDA, most successfully fulfills the Selection Criteria, and is most advantageous to the State, price and other factors considered.

### **Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k**

Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The text of the laws is available at: <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>). In compliance with §139-j and §139-k of the State Finance Law, for proposals submitted in response to this solicitation that could result in agreements with an annual estimated value in excess of \$15,000, additional forms must be completed and filed with proposals: (1) a signed copy of the Proposal Checklist including required certifications under the State Finance Law and (2) a completed Disclosure of Prior Findings of Non-Responsibility form. Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

Proposers must submit the appropriate number of copies of the completed proposal to the attention of Roseanne Viscusi at the address on the front of this Program Opportunity Notice/Request for Proposal. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, one of which must contain an original signature. **Late proposals will be returned and proposals lacking the appropriate completed and signed Proposal Checklist may be returned. Faxed or e-mailed copies will not be accepted.**

Proposals should not be excessively long or submitted in an elaborate format that includes expensive binders or graphics. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, the PON/RFP number, and the page number

NYSERDA reserves the right to audit any indirect rate presented in the proposal and to make adjustment for such difference. Requests for financial statements or other needed financial information may be made if deemed necessary.



## GENERAL CONDITIONS

**Proprietary Information** - Careful consideration should be given before confidential information is submitted to NYSEERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSEERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSEERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 <http://nyserda.ny.gov/~media/Files/About/Contact/NYSEERDARegulations.ashx>. However, NYSEERDA cannot guarantee the confidentiality of any information submitted.

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

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

Empire State Development  
Division For Small Business  
625 Broadway  
Albany, NY 12207

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development  
Minority and Women's Business Development Division  
625 Broadway  
Albany, NY 12207

**State Finance Law sections 139-j and 139-k** - NYSEERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

**Tax Law Section 5-a** - NYSEERDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSEERDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has



created a form to allow a prospective contractor to readily make such certification. *See*, ST-220-TD (available at

[http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)).

Prior to contracting with NYSEERDA, the prospective contractor must also certify to NYSEERDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSEERDA. *See*, ST-220-CA (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

**Contract Award** - NYSEERDA anticipates making one award under this solicitation. It may award a contract based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each offer should be submitted using the most favorable cost and technical terms. NYSEERDA may request additional data or material to support applications. NYSEERDA will use the Sample Agreement to contract successful proposals. NYSEERDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal (see Proposal Checklist). Proposers should keep in mind that acceptance of all standard terms and conditions will generally result in a more expedited contracting process. NYSEERDA expects to notify proposers in approximately 6 weeks from the proposal due date whether your proposal has been selected to receive an award. NYSEERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSEERDA agreement.

**Limitation** - This solicitation does not commit NYSEERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSEERDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSEERDA's best interest. NYSEERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

**Disclosure Requirement** - The proposer shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When a proposer is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSEERDA after the award of a contract, NYSEERDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

**Prevailing Wages** - Construction Manager shall comply with Article 8 of the New York State Labor Law and any and all applicable Federal or New York wage, hour, and benefit laws relating to the Project. All contractors and subcontractors shall pay laborers, workmen and mechanics employed in connection with the Project the prevailing rate of wages and benefits, as defined by the NYS Department of Labor, applicable for the work being performed on the Project.

**Attachments:**

Attachment A: Proposal Checklist

Attachment B: Disclosure of Prior Findings of Non-Responsibility

Attachment C: General Conditions Matrix

Attachment D: Schematic Floor Plan

Attachment E: Preliminary Master Schedule

Attachment F: Building Rules and Regulations

Attachment G: Sample Agreement Form

Attachment H: NYSERDA M/WBE Provisions

Attachment I: Project Completion Checklist

Attachment J: Building Approved Vendor List

Attachment K: Building Certificate of Insurance Requirement

*Note: Bidder must include a COI with submission and NYSERDA, the State of New York, and Gardiner & Theobald, Inc. must be noted as additional insureds.*