



**DISTRICT OF COLUMBIA**

**NATIONAL CAPITOL ENERGY FINANCE ADMINISTRATION**

**REQUEST FOR PROPOSALS**

**RFP ISSUANCE:** **Wednesday, June 30, 2010**

**PREBID  
CONFERENCE:** **Tuesday, July 13, 2010, 10am – 12pm**  
Washington DC Economic Partnership  
1495 F Street, N.W.  
Washington, DC 20004  
Telephone: (202) 661-8670

**PROPOSAL  
DUE DATE:** **Thursday, August 19, 2010, 3:00pm**  
Office of the Deputy Mayor for Planning and Economic Development  
Office of Contracts and Procurement  
2025 M Street N.W., Suite 600  
Washington, DC 20036

**ORAL  
PRESENTATIONS:** **Tuesday, August 31, 2010, time to be determined**  
District Department of Environment  
1200 First Street, N.W., 5<sup>th</sup> Floor  
Washington, DC 20002

**FIRM SELECTION:** **September 10, 2010**

**CONTRACT AWARD  
DATE:** **No later than September 30, 2010**

**RFP DOWNLOAD:** <http://dcbiz.dc.gov> (under: *Procurement Opportunities*) and  
<http://greenenergy.dc.gov> (under: *PACE*)

**Per Sections 205 and 305 of Energy Efficiency Financing Act of 2010 (B18-580),  
this RFP is exempt from the District of Columbia Procurement Practices Act of 1985.**

**This Request for Proposal (“RFP”) is designated for the OPEN MARKET.**

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## SECTION A: DEFINITIONS

- A.1        **Administrative Fee:** A fee charged to the recipient of PACE financing, which fee is used to pay the NCEFA’s financing (to include bond interest spread coverage and other), marketing, salaries, accounting, general services, the Government’s overhead and other costs.
- A.2        **ARRA:** Title III of the “American Recovery and Reinvestment Act” of 2009, P.L. 111-5.
- A.3        **CAEA:** the “Clean and Affordable Energy Act of 2008,” D.C. Law 17-250, D.C. Official Code § 8-1773.01, *et seq.*
- A.4        **CA:** Contract Administrator.
- A.5        **CO:** the Contracting Officer.
- A.6        **Council:** the Council of the District of Columbia.
- A.7        **DDOE:** District Department of Environment.
- A.8        **District:** the District of Columbia.
- A.9        **DMPED:** Office of the Deputy Mayor of Planning and Economic Development.
- A.10       **DOES:** the Department of Employment Services.
- A.11       **DSLBD:** the Department of Small and Local Business Development.
- A.12       **Fee(s):** the District-approved fee to be paid to the Contractor for providing the services specified in the awarded contract.
- A.13       **Fund:** is used interchangeably with NCEEF.
- A.14       **Green Building Act:** the Green Building Act of 2006, D.C. Law 16-234, D.C. Official Code § 6-1451.01 *et seq.*
- A.15       **Government:** the Executive Branch of the Government of the District of Columbia, as defined in part B of Title IV, Subchapter IV of Chapter 2 of Title 1 of the D.C. Official Code.
- A.16       **M&V:** Monitoring and verification, as required in Section C.3.10.
- A.17       **NCEEF:** the National Capitol Energy Efficiency Fund, which finances energy efficient retrofits for all building types, and is replenished by the PACE collection mechanism.

- A.18        **NCEFA:** the National Capitol Energy Finance Administration.
- A.19        **OCFO:** the Office of the Chief Financial Officer.
- A.20        **OCP:** the Office of Contracts and Procurement.
- A.21        **OMB:** the federal Office of Management and Budget.
- A.22        **OTR:** the Office of Tax and Revenue.
- A.23        **PACE:** Property Assessed Clean Energy, which is a municipal payment mechanism to collect repayment of energy financing.
- A.24        **PACE Legislation:** the “Energy Efficiency Financing Act of 2010” (B18-580).
- A.25        **Program:** the comprehensive set of functions and outcomes associated with implementing PACE and creating the NCEFA, as described in this RFP.
- A.26        **Program Design Phase:** defined in Section C.3.12.1.
- A.27        **QA/QC:** Quality Assurance/Quality Control.
- A.28        **RFP:** Request For Proposal.
- A.29        **SEP:** the State Energy Program, a Government energy program, funded in part by ARRA.
- A.30        **SEU:** the Sustainable Energy Utility, as authorized by the CAEA.
- A.31        **USDOE:** the United States Department of Energy.

## **SECTION B: SUPPLIES AND SERVICES AND COST**

- B.1** The Government is soliciting the services of a firm or a single team of firms (hereinafter referred to as either “**Contractor**” or “**Offeror**”) to manage the NCEEF and coordinate, deliver, and manage the Program for a period of at least one (1) year, with two (2) extension options, which exercise of such option(s) shall be decided at the Government’s sole discretion and subject to Council approval.
- B.2** **UNTIL THE PROGRAM GENERATES ADMINISTRATIVE FEES, THE CONTRACTOR SHALL BE WORKING COMPLETELY AT-RISK. THAT IS, THE CONTRACTOR SHOULD NOT EXPECT TO BE PAID UNLESS AND UNTIL ADMINISTRATIVE FEE REVENUE IS GENERATED BY THE PROGRAM.**
- B.2.1** DDOE is requesting approval from USDOE to utilize SEP funds to offset the cost of the contract. If USDOE approval is granted (expected confirmation date is end of June/early July 2010), and subject to District payment procedures, DDOE will use SEP funds to pay the portion of the Fee the Contractor incurs in the Program Design Phase, and in implementing the Pilot Program. DDOE’s use of such funds will require compliance by the Contractor with the terms of the Government’s ARRA award (see Section N). Upon exhaustion of SEP funding (if available), the Contractor shall be again working at-risk. USDOE APPROVAL HAS NOT YET BEEN RECEIVED. THE OFFEROR SHALL MAKE ITS PROPOSAL ASSUMING NO FUNDING, EXCEPT FOR ADMINISTRATIVE FEES, IF AND WHEN RECEIVED, IS AVAILABLE FOR THIS CONTRACT.
- B.2.2** The Contractor may also be paid from bond proceeds for its work in assisting the District and its financing team with the structuring of the bond transactions(s) and participating in the preparation of any offering documents, explanations of the Program, and drafting of the relevant bond documents. That is, the portion of the Contractor’s Fee which relates solely to developing and preparing the bond documents may be paid from the bond proceeds. AGAIN, UNTIL SUCH TIME AS BOND PROCEEDS MAY BECOME AVAILABLE, THE CONTRACTOR SHALL BE WORKING AT-RISK.
- B.2.3** Subsequently, the Contractor shall be paid from solely and only from Administrative Fees collected from the Program. If the Administrative Fee revenue equals or exceeds the Contractor’s Fee, the Contractor shall be paid in full. If the Administrative Fee revenue is not adequate to cover the Contractor’s Fee, the Contractor shall be paid in the amount of Administrative Fee revenue available. THE GOVERNMENT ASSUMES NO OBLIGATION TO PAY THE CONTRACTOR’S FEE IN EXCESS OF THE ADMINISTRATIVE FEE REVENUE GENERATED BY THE PROGRAM. To this point, the Contractor needs to thoroughly develop the information required by Section L.3.5, so that all parties can understand the Program’s minimum cash flow required to compensate the Contractor for its work.

**B.3**

**Cost Reimbursement Ceiling.** The Offeror shall provide its Fee proposal and justification in the Price Proposal submission (Section L.3.5). The Government-approved Fee shall constitute the Cost Reimbursement Ceiling, which Fee shall be entered here:

Cost Reimbursement Ceiling: [AMOUNT TO BE DETERMINED]

## **SECTION C: SPECIFICATIONS/ STATEMENT OF WORK**

### **C.1 SCOPE**

The Contractor shall provide general management, oversight, and coordination of the Program, to include meeting all requirements set forth in section 304 of the PACE Legislation. Throughout the contract term, the Contractor shall provide the necessary personnel and resources to accomplish the following six (6) key tasks, each of which is further detailed in Section C.5.

- C.1.1 *Task 1 – Program Design Phase:* Provide leadership and management of the Program Design Phase and Pilot Program. Conduct and provide all analyses, produce the plans required, and make recommendations necessary to implement a successful Program and get the Program to scale quickly.
- C.1.2 *Task 2 - Organization and Administration:* Provide the leadership, management, quality assurance, and coordination for the NCEFA. Administer all aspects of the Program. Develop all internal and external protocols, procedures, and other operational standards that will create and govern the Program. Ensure compliance with SEP and other Government and federal government reporting requirements. Prepare a comprehensive annual third-party audit that confirms the NCEFA’s fiscal, contracting, workforce, and energy savings performance.
- C.1.3 *Task 3 - Fund management:* Develop and implement the Fund’s portfolio profile, underwriting criteria, and Fund management requirements, which portfolio will be managed to maximize market penetration across all asset types and maximize energy savings. Recruit private sector banks to originate and hold investments, as targeted in Table 2 (see Section C.3.2.4).
- C.1.4 *Task 4 - Marketing:* Develop and implement an aggressive marketing strategy to reach property owners in all asset classes, which achieves substantial market penetration and meets the target market penetration targets indicated in Table 1 (see Section C.3.2.3).
- C.1.5 *Task 5 - Energy retrofit service delivery:* Develop and implement the energy savings profile and, in coordination with the SEU, the standards to which to benchmark, monitor, and verify energy savings, as well as the systems by which to report to multiple types stakeholders. Achieve the target energy impacts provided in Table 2. Develop the specifications, certifications, and qualifications for service providers to participate in the Program and benefit from the NCEEF. Continually research and track nationally-emerging and industry-recognized certification programs and specification standards.
- C.1.6 *Task 6 – Green business and job development:* Coordinate with the Government, the SEU, and workforce development providers to ensure that the Program results in: (1) creating new or augmenting existing District-based businesses, and (2) District residents being adequately trained and hired into resulting green job opportunities. Continually

research and track business development metrics, job pipeline and job skill requirements. Achieve the job retention and creation goals indicated in Table 2.

**C.2 APPLICABLE DOCUMENTS**

<b>Item</b>	<b>Title of Applicable Law</b>
1	Energy Efficiency Financing Act of 2010 (B18-580).
2	Clean and Affordable Energy Act of 2008, D.C. Law 17-250, D.C. Official Code § 8-1773.01, <i>et seq.</i>
3	Green Building Act of 2006, D.C. Law 16-234, D.C. Official Code § 6-1451.01 <i>et seq.</i>
4	Title III of the American Recovery and Reinvestment Act of 2009, P.L. 111-5.

**C.3 BACKGROUND**

**C.3.1 Introduction**

The Government has the authority to create a Program to assist in overcoming existing market barriers to private investment in energy retrofit projects. On March 16, 2010, the Council passed PACE Legislation (Attachment J.1), which law authorizes PACE in the District, along with bond authority to support the energy retrofit financing program.

DMPED and DDOE are seeking a firm or team of firms (hereinafter referred to as either “**Contractor**” or “**Offeror**”) to perform the role of the NCEFA, which role is to design, promote, and administer the Program, as well as to work with the Government to manage the NCEEF. The Government seeks to award a single contract. The Offeror may be comprised of several firms or individuals but must bid on all tasks described in Section C.5.

**C.3.2 Program has the following goals and objectives:**

C.3.2.1 GOAL 1: Achieve critical mass and broad participation in energy efficiency improvements.

C.3.2.1.1 *Achieve large-scale market participation by utilizing neighborhood-based marketing techniques.* Attract unprecedented breadth of participation across all real property asset types through existing public/private partnerships, a network of non-profit energy-related organizations, and proven neighborhood service delivery mechanisms such as business improvement districts, advisory neighborhood commissions, and other neighborhood-based organizations.

C.3.2.1.2 *Implement immediately.* Build on the Government’s established green building and energy efficiency policy and infrastructure to implement the energy retrofit program



immediately. Utilize private sector capacity and financing to immediately ramp-up, implement, and scale the program.

- C.3.2.1.3 *Achieve significant energy impact.* Achieve measurable and significant energy savings and emissions reductions. Ensure participating property owners comply with the Green Building Act's mandate to register all buildings greater than 50,000 square feet into the ENERGY STAR Portfolio Manager system by 2013. Use this national benchmarking best practice to establish baseline information against which to target and measure energy performance improvements, and to target energy efficiency improvements to aging and low-performing buildings.
- C.3.2.1.4 *Overcome existing capital barriers by establishing the PACE financing mechanism.* Work with the Government to establish and actualize the PACE application process. Track and participate in the national dialogue about standardizing PACE underwriting and lending practices.
- C.3.2.1.5 *Authorize and implement a bond funded secondary market.* Utilize long term municipal bonds to create large-scale, replicable market efficiency by establishing a secondary market for energy improvement financing. Manage and implement up to \$250 million in bond issuances.
- C.3.2.1.6 *Partner with private-sector banks to provide capital for PACE-financed energy retrofits.* Successfully identify and secure partnerships with private capital providers, as well as successfully negotiate the terms under which they would partner with and/or support the Program.
- C.3.2.1.7 *Maximize opportunities with other District energy programs.* Work with the SEU, DDOE and other entities implementing energy efficiency programs to ensure NCEFA is maximizing resource and leveraging opportunities, as well as achieving energy impacts across all building types. Coordinate with the SEU to build brand awareness of Green Energy DC. Coordinate with the SEU for service program requirements, and efficiencies in reporting, to ensure maximum resource allocation.
- C.3.2.2 GOAL 2: Develop and implement a new, high growth green economic sector and industry.
- C.3.2.2.1 *Increase the District's energy efficiency industry sector.* Increase the energy efficiency industry sector in a manner that is broadly replicable throughout the District, and potentially regionally. Assist in promoting, expanding and preparing District-based businesses to meet the demands of new contracting opportunities.
- C.3.2.2.2 *Create and retain jobs.* Catalyze an estimated 640 energy efficiency jobs in three (3) years, with a goal to fill 100% of those jobs with District residents. Work with the Government, SEU, workforce development providers and funders to prepare District residents for the full spectrum of living-wage and/or career path jobs, by leveraging a variety of training resources, relationships, and funding sources.

C.3.2.2.3 *Realize employment and energy savings economies of scale.* Implement ongoing energy retrofits across all building types, towards providing a stable employment and service industry.

C.3.2.3 **Table 1: Market Penetration Targets.** The following is a preliminary marketing strategy, designed to achieve both market penetration across real estate asset classes and geographic scale within the three (3) year target period. The Contractor will be required to refine the following general strategy into a marketing plan. When this RFP references that the Contractor shall be evaluated against the performance targets set in Table 1, this refers to the updated and final version of Table 1 that the Contractor confirms and Government approves.

<b>Timeframe</b>	<b>Commercial</b>	<b>Residential</b>	<b>Public/Institutional</b>
<b>At completion of Program Design Phase</b>	Identify a set of building owners with whom to partner to initiate a Pilot Program (see <u>Section C.5.2.3</u> ) and issue the first PACE financing.	Identify a set of building owners with whom to partner to initiate a Pilot Program and issue the first PACE financing.	
<b>Year 1</b>	Co-market with BIDs, DCBIA, ENERGY STAR Portfolio Manager, Green Energy DC. Leverage corporate sponsorship opportunities.	Co-market with AOBA. Deploy door-to-door marketing campaign, focused on co-op opportunities. Create an interactive social web network for residents to track their energy usage.	Complete energy benchmark for DC buildings. Work with GSA on demonstration projects. Educate faith-based organizations on programs available.
<b>Years 2-3</b>	Work through BIDs on neighborhood-scale retrofit initiatives.	Leverage relationships of ANCs. Partner with affordable housing owners to create retrofit solutions.	Demonstration projects with universities and faith-based organizations. Create opportunities for non-profits and leverage marketing capacity of those organizations.

C.3.2.4

**Table 2: Program Target Goals.** The following represents a set of target performance goals metrics against which the Contractor may be evaluated. During the Contractor’s development of the Work Plan, they will confirm the targets contained in Table 2 and develop other targets, if appropriate, to assist in measuring or benchmarking attainment of energy savings goals, greenhouse gas emission goals, jobs created or retained, and efficiency in performance of the NCEEF and NCEFA. When this RFP references that the Contractor shall be evaluated against the performance targets set in Table 2, this refers to the updated and final version of Table 2 that the Contractor confirms and Government approves.

Project Impact Metrics	During Project Period		
	Year 1	Year 2	Year 3
<b>Number of buildings retrofitted</b>	<b>160</b>	<b>303</b>	<b>485</b>
Office	18	37	59
Retail/business	30	50	80
Multi-family residential	12	50	80
Single-family residential	100	167	267
<b>Total SF of buildings retrofitted</b>	<b>2,990,000</b>	<b>4,983,333</b>	<b>7,973,333</b>
Office	1,650,000	2,750,000	4,400,000
Retail/business	300,000	500,000	800,000
Multi-family residential	900,000	1,500,000	2,400,000
Single-family residential	140,000	233,333	373,333
<b>Avg. utilities savings per unit</b>	<b>\$ 1,451,000</b>	<b>\$ 2,418,333</b>	<b>\$ 3,869,333</b>
Office (\$0.50/SF/yr)	\$ 825,000	\$ 1,375,000	\$ 2,200,000
Retail/business (\$0.40/SF/yr)	\$ 120,000	\$ 200,000	\$ 320,000
Multi-family residential (\$500/unit/yr)	\$ 450,000	\$ 750,000	\$ 1,200,000
Single-family residential (\$560/house/yr)	\$ 56,000	\$ 93,333	\$ 149,333
<b>Jobs created or retained</b>	<b>120</b>	<b>200</b>	<b>320</b>
<b>Average emissions reductions (MMT CO2) per unit</b>	<b>2,934</b>	<b>4,891</b>	<b>4,891</b>
Office (99.7 MMT, Year 1)	1,827	-	-
Office (83.6 MMT, Year 2/3)	-	3,046	3,046
Retail/business (8.9 MMT)	266	443	443
Multi-family residential (0.8 MMT)	717	1,196	1,196
Single-family residential (1.2 MMT)	124	207	207
<b>Leveraged funds expended</b>	<b>\$ 30,000,000</b>	<b>\$ 50,000,000</b>	<b>\$ 80,000,000</b>

### **C.3.3 Energy Targets**

70% of the District’s electricity use is attributed to commercial building operations, and 75% of the District’s greenhouse gas emissions are attributed to buildings of all classes. Also, while the District’s carbon-dioxide (CO<sub>2</sub>)-equivalent emissions rate of 20 tons CO<sub>2</sub> per capita annually is comparable to other large cities (New York and Boston are at 19 and 22 tons/capita respectively), the District’s overwhelming source of emissions is related to energy losses by energy use of buildings (26% in the District compared to 14% nationally), as well as on the electrical grid (47% loss compared to 20% nationally).<sup>1</sup> Due to the disproportionately high percent of greenhouse gas production that is attributable solely to buildings, there is a greater opportunity to reduce emissions in the District by utilizing of available energy retrofit financing than in cities with different emissions drivers.

The Program seeks to include solutions for commercial buildings, as well as residential properties, in part because a majority of energy use and greenhouse gas emissions is generated by commercial buildings. As a result, the Government is proposing that the NCEEF’s target energy financing portfolio mix is: 55% commercial, 10% retail/business, and 35% residential (which includes both multi-family and single-family). This portfolio target may be revised upon analysis and recommendation of the selected Contractor during the Program Design Phase, and approval of DDOE.

### **C.3.4 Program Description**

The NCEFA is expected to focus on increasing energy efficiency, increasing financing availability, and providing job and business opportunities. The Government recognizes that traditionally these three areas of expertise ((i) finance, (ii) energy, and (iii) workforce development) have not needed to collaborate and that the energy efficiency retrofit “industry” is in its early stages of growth. However, the NCEFA, if properly designed and managed, will be an organization that specializes in energy finance solutions and coordinates with workforce providers to project a pipeline of green jobs and business opportunities.

In addition to creating a new paradigm for the above, the purpose of the Program is to rapidly scale the availability of financing for energy efficiency retrofits for both commercial and residential buildings. As a result, the NCEFA will need to implement an aggressive marketing strategy, as well as employ the required legal and other specialized expertise, as needed, to resolve existing obstacles to implementing PACE in the District. The target performance measures for the Program are provided in Tables 1 and 2.

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<sup>1</sup> “Strategic Opportunities for Accelerating the Development of a Future Sustainable Metropolitan Economy: Energy and Environment,” report by McKinsey & Company, 2009 ([Attachment J.13](#))

### **C.3.5 PACE Financing**

The two components to developing the Program are: (1) establishing the PACE financing mechanism itself, and (2) utilizing the availability of Government bond authority to create a secondary market mechanism for PACE financing. As a result of wanting to provide solutions for the commercial sector, the District's Program may have different obstacles (and solutions) to implementing PACE compared to other jurisdictions. As currently conceived:

C.3.5.1 PACE allows all properties (except properties that are exempt from paying special assessments) in the District to opt into a voluntary special assessment so that property owners can repay their PACE financing via their property taxes. This special assessment will commence upon issuance of the financing and expire upon full repayment (up to a 20-year amortization term). OTR bills the property owner through its tax collection function, thereby achieving the following: (a) the property does not have to be refinanced in order to benefit from PACE financing, and (b) the fund is in a property tax position for repayment (comparable to the traditional position of any real estate tax assessment), with the property subject to a special assessment tax lien, should the owner default.

C.3.5.2 PACE is a financing mechanism that is still in development nationally and many aspects of the concept (including its underwriting criteria, repayment mechanisms, marketability within the financial markets, etc.), must still be worked out. Nonetheless, the general terms the lending process is assumed to be as follows:

- A property owner initiates an energy audit and applies to a qualified financial institution for PACE financing;
- Meeting at least the energy savings and underwriting criteria established by NCEFA, the financial institution underwrites and evaluates the credit worthiness of the energy savings on that property;
- NCEFA evaluates the project, establishes the energy performance goals with the owner, provides its approval for PACE, and performs ongoing monitoring and verification; and,
- Following approval by the financial institution and NCEFA, at closing, the financial institution will deposit funds with the NCEEF, which will be secured by a note issued to the lender allowing the lender to be repaid with special tax assessment payments from the property owner. NCEFA will then provide the lender proceeds to the property owner. The property owner will make special assessment tax payments through a trustee to the financial institution to satisfy the note. The Government will aggregate the special assessment tax payment revenues and sell revenue bonds secured by these revenues. The proceeds from the bond sale will be used to cover issuance costs and refund the banks that financed the energy retrofit.

C.3.5.3 A current issue the Government has identified is that PACE financing will likely need to be secured in order for private sources of funds to participate in the Program. A possible solution to this is for the Government to authorize issuance of short-term (3-year) bond anticipation notes to secure PACE financing.

A specific example of this mechanism is as follows: At closing, a financial institution (“**Bank A**”) will provide capital to NCEFA is secured by a bond anticipation note at 7% (interest only) issued by the Government. NCEFA will issue Bank A’s funds to the property owner at a rate equal to the bond anticipation note rate, plus 250 basis points (interest only). NCEFA (through a trustee) will collect payments from the property owner in the form of special assessment payments and in turn make payments to the bank to satisfy the bond anticipation note. When the PACE portfolio of loans is of adequate size to justify a bond issuance, NCEFA will aggregate and package the notes and respective special assessment payment revenue streams and issue bonds secured by these notes and respective revenue streams. The interest rate paid by the property owner will then be adjusted to equal the bond interest rate, plus 150 basis points (amortizing). Net proceeds (after issuance costs) will first be used to refund all bond anticipation notes issued to the Bank prior to the bond sale, as well as to capitalize the reserve fund of the NCEEF and offset NCEFA administrative costs.

C.3.5.4 PACE financing shall be issued in a manner consistent with standard prudent lending practices, structured to incentivize participation of property owners across all property types at a competitive interest rate (ex. 10-year treasury rate, plus 150 basis points), and with an Administrative Fee. One hundred percent (100%) of the Administrative Fee will be used to cover NCEFA and Government overhead costs.

### C.3.6 **Secondary Market Created By Deploying Long-Term Government Bonds**

C.3.6.1 The PACE Legislation authorizes the issuance of up to \$250 million in long-term governmental bonds securitized by the PACE special assessment notes and corresponding revenue streams. A portion of the proceeds from the bond issuance will be returned to NCEEF to cover the costs of NCEFA. The combination of these financing mechanisms ensures a critical mass of energy retrofits, economies of scale, high leverage ratios and evergreen funding sustainability, together providing the foundation for a new energy financing market. This structure offers several key leveraging advantages:

- *Secondary Market:* The bond authority creates a secondary market to refund initial special assessment financing from banks to continuously finance energy retrofits in the District. Once the program is proven successful, additional bond authority above the \$250 million may be requested from Council.
- *Building on the Government’s financing capacity:* The Government has a proven track record of issuing successful bond financing over many decades. The systems, expertise and market confidence are in place to implement the energy efficiency bonds upon receipt of funds.

- *Successful bond implementation:* In addition to the Government’s proven track record, market confidence will be driven by the tax lien securitization structure of PACE financing and the fact that the energy retrofits financed through the Program must be completed prior to their sale into the bond market.

C.3.6.2 Bond proceeds from the first bond issuance will be used to reimburse for the upfront costs associated with starting NCEEF. Subsequently NCEFA will be paid based on the Administrative Fees associated with financing each retrofit (e.g., origination fee plus 30-100 basis points above the interest rate). Therefore after the first bond issuance, the size of the contract will be proportional to the number of energy retrofits completed.

### **C.3.7 Private Financing**

C.3.7.1 The Contractor will be responsible for raising approximately \$30 million in private capital to seed the NCEEF in Year 1 and increase the level of private financing to \$50 million in Year 2 and \$80 million in Year 3. The more aggressive the Contractor is in raising private capital, the faster the Government’s authorized \$250 million bond allocation can be deployed. Several commercial banks, community development financial institutions and credit unions have indicated interest in underwriting, originating, participating in and servicing the Program, as well as working on a pilot program.

C.3.7.2 As the volume of PACE funds increases, the NCEFA should become financially solvent and self-sustaining over time, which means that at stabilization of the program, the volume of PACE-financed projects is sufficient such that fees generated by the Program will fully cover the Contractor’s Fee and Government administrative costs.

C.3.7.3 NCEFA is expected to explore additional financing mechanisms and models that leverage repayment through special tax assessment. These may include working with the SEU to collect the necessary historical data and evaluate the opportunity to enter into the PJM forward energy capacity auction market. This may also include creating new leverage opportunities with existing energy financing tools (such as energy services companies, affordable housing funds, new market tax credits, federal energy tax credits, other).

### **C.3.8 Relationship to the SEU**

C.3.8.1 The CAEA authorizes the creation of a SEU and designates the SEU to be the one-stop resource for energy efficiency and renewable energy services for District residents and businesses. The SEU will establish, consolidate, monitor and report on the energy policies for the Government. An RFP will be issued in Summer 2010 for DDOE to contract with a contractor to perform the requirements of the SEU (the “**SEU RFP**”) and is expected to be awarded in Fall 2010. A draft of the SEU RFP is provided at:

[http://rrc.dc.gov/green/lib/green/pdfs/SEU\\_RFP\\_10.26.09.pdf](http://rrc.dc.gov/green/lib/green/pdfs/SEU_RFP_10.26.09.pdf).

- C.3.8.2 The NCEFA RFP and the SEU RFP are separate. However, the Contractor shall be required to coordinate its efforts with the SEU, which coordination can be facilitated by DDOE. Neither RFP will prevent an Offeror from submitting responses to both RFPs, provided that the Offeror can demonstrate capacity to successfully run both programs.
- C.3.8.3 NCEFA and SEU will coordinate the following activities, so that residents and businesses are fully informed as to the full set of energy incentives available: (a) branding and marketing, (b) District business and workforce development, (c) monitoring and verification standards, (d) energy efficiency contractor certification, (e) public reporting requirements, (f) cross-leverage opportunities, (g) others as required.

### **C.3.9 Marketing**

- C.3.9.1 The Government has multiple existing energy savings programs. As required by the CAEA, the fourteen (14) existing programs are being consolidated and will be managed by the SEU. To date, there has not been a cohesive marketing campaign for the Government's energy programs. With both the SEU and NCEFA ramping up at approximately the same time, the NCEFA's marketing strategy will need to achieve the market penetration targets indicated in Table 1, as well as coordinate with the SEU to ensure that there is coordination and cross-promotion through the use of Green Energy DC. Green Energy DC is the brand name established for all of the Government's energy programs. The programs should be similarly branded to achieve the objective of a seamless "one stop shop" for energy efficiency and renewable energy in the District.
- C.3.9.2 The specific marketing goals of the NCEFA are to promote fast awareness results and participation in the Program. The marketing strategy must have both geographic reach as well as asset-type penetration (e.g., across commercial, residential, and other building classes). In Year 3, NCEFA should explore regional partnerships and opportunities to secure wider marketing exposure and financing support for PACE financing to District residents. NCEFA can also pursue regional expansion in so far as it will create additional jobs for District residents. However, NCEEF cannot make PACE financing available to non-District residents, and all regional efforts should be made in pursuit of benefits to District property owners seeking PACE financing or District workers seeking employment. The marketing function of the NCEFA will manage multiple outreach strategies to achieve both geographic and asset-class reach.

### **C.3.10 Benchmarks, Measurement and Verification of Energy Savings**

Benchmarks, measurement and verification ("M&V") of energy savings is a major aspect of the Program. As such, the NCEFA will be required to iteratively research and understand national standards across all those areas, comply with the Green Building Act, the CAEA, and other applicable Government energy policies. Specifically, the NCEFA should meet the ENERGY STAR Portfolio Manager mandates provided in the Green Building Act. The Government desires that the M&V standards set forth in the "PJM Manual 18B: Energy Efficiency Measurement & Verification" (Attachment J.2) be established as the standard for the Program. The Government will look to the expertise



of the Contractor to assess and respond to the viability of implementing this standard for the NCEEF. The Contractor's assessment will be shared and coordinated with the SEU, since the Government desires to establish one standard for M&V.

### **C.3.11 Green Jobs**

- C.3.11.1 The Government's job creation challenge is significant and must be balanced with both the energy savings goals and market penetration goals. The numbers of new jobs created and jobs retained as a result of the Program is estimated to total 640 jobs over three years. This estimate was derived using the USDOE job calculator.<sup>2</sup>
- C.3.11.2 To ensure greater access to green jobs for District residents, the Government is in the process of establishing a workforce intermediary ("WI") to focus on green job creation. The WI is intended to perform the following functions: (a) establish partnerships with employers to continually assess current and future job demand across employers, in terms of the quantity and types of jobs and communicate these needs to training providers; (b) develop training or other programming that addresses employers' skill needs and provide feedback to training providers; (c) develop relationships and structure agreements between employers, training providers, and other organizations to solidify referral relationships and supportive services (e.g. case management) and to ensure quality control on referrals.
- C.3.11.3 The role of the Contractor in workforce development is to: (a) coordinate with the WI, DOES and other workforce development partners to: (i) identify the job skills requirements for PACE-financed energy retrofits, (ii) project a jobs pipeline based on PACE financing, and (iii) achieve the target jobs goal for District residents; and, (b) develop a funding plan for workforce training, which includes: (iv) specifying a fee structure within the Program that includes an allocation for workforce development; (v) partnering with existing programs that have internal resources; and (vi) identifying new grant opportunities.
- C.3.11.4 To ensure that jobs created by the Program reach the District's target population, subcontractors to the NCEFA should be committed to filling one hundred percent (100%) of new jobs with District residents. As indicated in Section H.5, beneficiaries of Government-assisted projects of One Hundred Thousand Dollars (\$100,000) or more must enter into a First Source Employment Agreement, which requires that a minimum of fifty-one percent (51%) of new hires and fifty-one percent (51%) of new apprentices and trainees must be District residents. The Government seeks a Contractor that is committed to working with District-based subcontractors and that can articulate and implement a District-resident placement strategy.

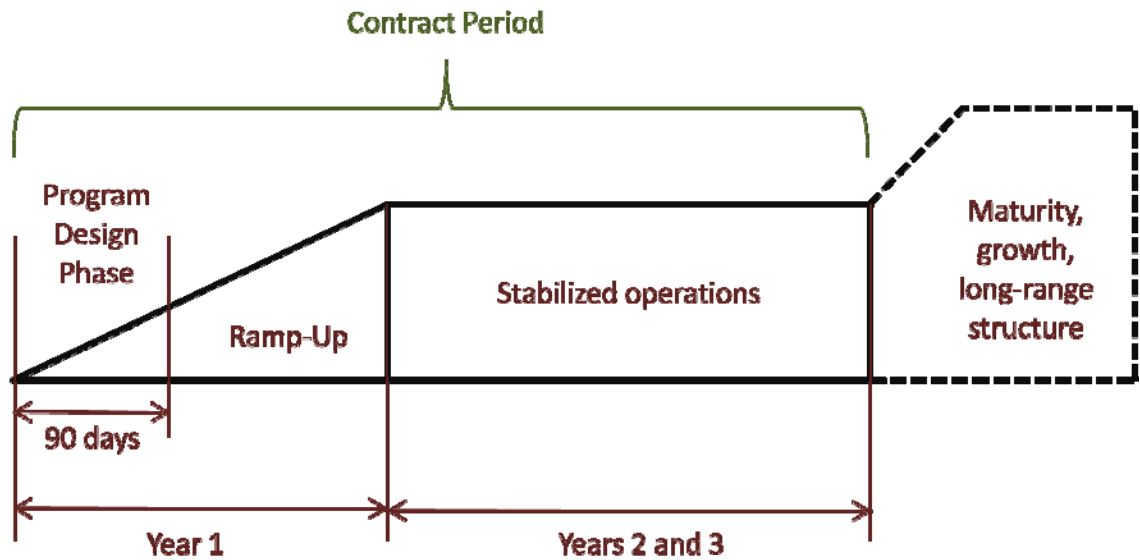
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<sup>2</sup> Job calculator can be found at: <http://www.waptac.com/sp.asp?id=6878>, under "WAP Basics > Regulations and Guidance > Program Guidance > WPN 10-14 CALCULATION OF JOB CREATION THROUGH DOE RECOVERY ACT FUNDING > Jobs Creation Calculator"

C.3.11.5 The Contractor must understand the historical challenges the Government has experienced in achieving its First Source Employment requirements and be committed to aggressively working with existing workforce development partners and trainers to achieve the Government’s employment goals, particularly in the green building sector. The Contractor must also understand the definitions and development of green jobs, what skills are required, and how to train and prepare currently low-income, under-employed or unemployed residents for a living wage career. Finally, the Contractor must strategically approve the projects in the funding pipeline, such that there is a reasonable distribution of types of projects to accommodate new District graduates of the jobs training programs and give District residents the needed opportunity to get promoted into living wage jobs.

**C.3.12 Timeline**

This RFP discusses two general phases of the contract: (1) ramp-up in Year 1, which includes an estimated ninety (90)-day program design and fundraising period (“**Program Design Phase**”), and (2) stabilized operations in Years 2 and 3. At start-up, the goal is to issue a limited number of PACE-financed energy retrofits (a pilot) to primarily commercial (and potentially residential) property owners at the end of the Program Design Phase.



**C.3.13 Long-term NCEFA Structure**

The Government has not determined at this time what the long-term governmental structure of the NCEFA will be. The Government will determine over the course of the contract period what direction and what form NCEFA will take over the long-run. The three general options are as follows:

- Create a quasi-governmental, independent energy finance agency;

- Augment internal Government staff to manage the Program; and,
- Enter into a new or extended contract with a contractor.

All the databases, processes, policies, regulations, software applications, and other systems either purchased or developed by the Contractor to perform the functions of the NCEFA will belong to the Government throughout the term of the contract and upon termination of the contract. The purpose of the Contractor is to establish the NCEFA and manage it, until such time that the Government determines what the long-range structure of the NCEFA will be. All systems, processes and information developed by the Contractor in its role as agent to the Government will be transitioned to the long-term entity that will be the NCEFA.

#### **C.3.14 Carbon War Room**

The District has been selected by the Carbon War Room as one of the cities in the Green Capital Global Challenge, which means that it will receive technical assistance from the Carbon War Room to develop and design the Program. The Carbon War Room is a not-for-profit organization of national thought-leaders on energy efficiency programs, such as PACE, that will be working across cities to help standardize underwriting requirements for PACE financing, participation requirements of financial institutions, as well as galvanize support from financial institutions to invest and pool capital. The mission and additional information about Carbon War Room can be found at: [www.carbonwarroom.com](http://www.carbonwarroom.com).

#### **C.4 ROLES OF GOVERNMENT AGENCIES**

Coordination will be required between multiple Government agencies to accomplish all the goals of the Program, to include DMPED, DDOE, OCFO, DOES, DSLBD, and others as required. The Contractor shall be prepared to work with the required government agencies to accomplish the goals of the Program. Generally speaking, DDOE and DMPED are principal agencies involved in implementing the program. Additional detail is provided below on the specific roles of the agencies.

##### **C.4.1 District Department of Environment**

The resulting contract from this RFP will be entered into by and between the Contractor and DDOE, as DDOE will be the managing agency for the Program. DDOE will jointly evaluate and select the Contractor with DMPED. DDOE is responsible for the Government's energy programs and the SEU contract. DDOE works regularly with utility servicers and providers, green businesses, property owners, and stakeholders in green job development. DDOE is the prime recipient of SEP funds and responsible for compliance and oversight of such funds.

#### **C.4.2 Office of Deputy Mayor of Planning and Economic Development**

DMPED will jointly evaluate and select the Contractor with DDOE. DMPED provides oversight to DOES and DSLBD, and will assist as necessary in coordinating those agencies to support the Program. DMPED also works regularly with the multiple stakeholders in the real estate finance industry, with the OCFO on bond issuances, and with property owners. DMPED is working with DOES to establish a WI.

#### **C.4.3 Office of the Chief Financial Officer**

OTR is an office within OCFO, and will implement the PACE financing mechanisms and collect the special assessments. OCFO is responsible for Government bond evaluation and issuances. OCFO works regularly with bond underwriters, financial advisors, rating agencies, and trustees.

#### **C.5 CONTRACTOR REQUIREMENTS**

The Contractor shall provide or be responsible for providing all the management, supervision, personnel, facilities, equipment, materials, supplies and incidentals required to act as an agent and administer the NCEFA on behalf of the Government. The Contractor shall perform but not be limited to performing the following specific tasks (deliverables for each of these tasks are specified in Section F).

##### **C.5.1 Post-Award Meetings**

Within five (5) business days from the contract award date the Contractor shall meet with the Government to review the contract requirements, project participant's roles and work plan. Throughout the term of the contract, the Contractor shall meet with the Government as required to coordinate and implement the Program.

##### **C.5.2 TASK 1: PROGRAM DESIGN PHASE**

During the first ninety (90) days after award, the Contractor shall complete design for the Program, raise an initial sum of private funding, and identify property owners interested in initiating PACE to finance their energy efficiency retrofits. The Program Design Phase includes, but is not limited to, the components described in this Section C.5.2.

C.5.2.1 The Contractor shall prepare a work plan, which establishes a detailed project schedule for achieving the goals and objectives of the Program ("**Work Plan**"). The Contractor shall organize coordination meetings with the Government's staff to receive feedback on the identified tasks and schedule. The Contractor shall submit the Work Plan to the CA for approval prior to initiating work. The Work Plan developed by the Contractor shall identify at a minimum:

- Review and confirm the specific strategy and tasks designed to meet the objectives provided in Table 1, and submit any proposed revisions to CA for approval;

- Review and confirm the specific performance targets set in Table 2, and submit any proposed revisions to CA for approval; and,

- A timeframe for implementation of the Program.

- C.5.2.2 The Contractor shall review: (i) the overall demographic, geographic, climate, economic, and built environment conditions of the District; (ii) the proposed financing and legal/legislative structure of PACE; and (iii) the strategy for implementing and administering the Program. The Contractor shall design the Program and its strategies to: maximize resources; maximize Program efficiency; optimize the level of private investment; minimum participant default rates; and enhance the marketability of the Program to potential Program participants, installers, and investors.
- C.5.2.3 The Contractor shall provide general advice and recommendations relevant to the Program, including advice on the impact of technological innovations, proposed District or federal legislation and regulations, and/or market conditions that could affect the viability of the Program and its risk/reward structure.
- C.5.2.4 The Contractor shall complete and substantiate: (i) market feasibility analysis; (ii) cash flow analysis; (iii) debt service and loan repayment projections; and (iv) revenue and expenditure estimates, and administration or project costs. This should be a confirmation or refinement of the analyses completed to satisfy the requirements of Section L.3.5.
- C.5.2.5 The Contractor shall develop processes for: participant applications, appropriate and timely invoicing to Program participants, and verification of use of PACE financing proceeds. The Contractor shall develop the criteria for owner eligibility for participation in the Program. These criteria may include the following: credit and income requirements, loan-to-value ratios, financing amount requested, a description of the energy efficiency improvement, energy efficiency audit results, cost effectiveness statement of the cost of the financing relative to the value of the energy saved over time, and other financial metrics.
- C.5.2.6 The Contractor shall identify any reports, schedules, or other disclosure documents that may be required to support the issuance of bonds or underwriting of PACE financing, for the IRS, SEC, and/or other regulatory bodies.
- C.5.2.7 The Contractor shall develop or recommend (as well as implement to the greatest extent feasible during the Program Design Phase) the systems, software, applications, models, templates, and reporting mechanisms for the NCEFA to reliably monitor its risk and performance.
- C.5.2.8 The Contractor shall develop a marketing strategy and plan that achieves the marketing targets identified in Table 1.
- C.5.2.9 The Contractor shall develop a service delivery plan and QA/QC program that ensures quality of the energy retrofit service delivery component of the Program, which may

include: (i) required business certifications for participating contractors/subcontractors; (ii) required contractor/subcontractor employee training certifications; (iii) energy benchmark requirements; (iv) retrofit installation inspection process and procedures; (v) analytical tools for projecting energy savings; and (vi) software systems to monitor and verify energy savings over time.

C.5.2.10 The Contractor shall determine the feasibility of using the M&V standards set forth in “PJM Manual 18B” (Attachment J.2) and present the Contractor’s assessment of its ability to implement such standards to the Government and SEU.

C.5.2.11 The Contractor shall implement the funding plan to support workforce development targets. This funding plan may include: identifying likely grant sources, fees/surcharges on contractor/subcontractor contracts, privately-funded training programs, government workforce development sources of funds, other. This funding plan should include:

- Analysis and assumptions about the amount of funding required to adequately train District residents to meet the projected job skills pipeline;
- The sources of funds, annualized;
- The uses of funds, annualized; and,
- Letters of Commitment from identified funding partners, if any (or identified prospects to continue to work with to reach a commitment).

C.5.2.12 The Contractor shall work with private sources of financing (“**Banks**”) and confirm parties who will partner with the NCEFA to service and loan funds. The goal of the Program Design Phase is to secure private financing partner(s) who will commit \$30 million in Year 1. Prior to entering into negotiations with Banks, the Contractor shall develop and determine the financial parameters by which partner Banks shall comply, and which terms shall be included in a Government-approved agreement for the Banks (“**Bank Agreement**”), which shall include, but not be limited to:

- Aggregate amount of the principal amount to be issued from time to time over the term of the Bank Agreement;
- Interest rate on each loan or bond, and whether such rates are fixed or stated as a fixed spread over a verifiable index;
- Form and size of the security for the financing (the Government’s preference is to limit its security obligation for any reserve which may be required, while still allowing a competitive lending rate);
- Amortization term, with principal and interest calculations;

- Terms for take-out financing by Government conduit bonds and any associated fees or penalties (the Government assumes that there will be no pre-payment penalties or additional fees charged by the Banks for early payment of loans);
- Transfer restrictions, if any;
- NCEFA underwriting standards by which the Bank must adhere; and,
- Government-required clauses and provisions for agreements of this type.

C.5.2.13 In addition, the Contractor shall recommend and develop the following:

- The need for legal opinions as to the validity and enforceability of the Bank Agreements, position of PACE lien with respect to existing mortgages, structure of bonds, other;
- The financial parameters for the secondary sale of bonds or loans, and the recommended strategies to achieve the widest competition for bond purchase, while maintaining a prudent level of risk for the Government; and,
- Any credit enhancement and/or liquidity support deemed cost-effective for PACE transactions.

C.5.2.14 The Contractor shall identify a pilot program to initiate the Program; that is, the Contractor shall identify a select group of properties and property owners to participate in the first PACE-financed energy retrofits (“**Pilot Program**”). The purpose of this Pilot Program is to: (i) test the PACE collection mechanism; (ii) identify with participating property owners and lenders any outstanding roadblocks or issues to implementing PACE; and (iii) demonstrate that PACE can work on commercial properties.

**C.5.3** Throughout the term of the contract, the Contractor shall perform Tasks 2 through 6.

**C.5.4** [Intentionally left blank]

**C.5.5 TASK 2: ORGANIZATION AND ADMINISTRATION**

C.5.5.1 The Contractor shall meet with, coordinate and update the Government throughout the term of the contract to ensure prudent, yet aggressive, Program implementation.

C.5.5.2 The Contractor shall maintain and update, as required, all the administrative, organization and operating structures required to run the NCEFA, to include managing the Program’s internal and external protocols, procedures, regulations, and/or other operating structures.

C.5.5.3 The Contractor shall track and update, as required, its: (i) market feasibility analyses; (ii) cash flow analyses; (iii) debt service and loan repayment projections; and (iv) revenue and expenditure estimates, and administration or project costs. The Contractor shall

manage the NCEFA's operating budget to achieve financial solvency as soon as possible, ideally no later than the end of Year 1.

C.5.5.4 The Contractor shall maintain the systems, software, applications, models, templates, and reporting mechanisms for the NCEFA to reliably monitor and assess: (i) project feasibility; (ii) financing risk; (iii) repayment projections; (iv) efficiency of the NCEEF; and (v) market penetration.

C.5.5.5 The Contractor shall produce and submit all deliverables and reports required to satisfy:

- The IRS, SEC, and/or other finance regulatory bodies;
- The Government's reporting requirements (defined in Section F); and,
- ARRA compliance and reporting requirements (defined in Section N).

C.5.5.6 The Contractor shall coordinate with the SEU on various aspects of the Program, including exploring new financial leveraging opportunities, cross-promotion opportunities, green jobs development, as well as provide various reports to the SEU which allow the SEU to perform its required functions.

C.5.5.7 The Contractor shall work with tenants, property managers/owners and lenders to identify and resolve existing lease restrictions or related disincentives for implementing energy retrofits, such that tenants and property managers/owners are properly incentivized to invest in and maintain energy retrofits.

C.5.5.8 The Contractor shall develop and manage the required relationships to make the Program as successful as possible.

### **C.5.6 TASK 3: FUND MANAGEMENT**

C.5.6.1 The Contractor shall remain current with the on-going national dialogue to identify and resolve financial and/or legal complications which may arise between owners and lenders, or between loan services, bond purchasers, institutional lenders, and/or Fannie Mae/Freddie Mac, as a result of the PACE finance mechanism. To the extent that the District's Program can accommodate resolve these issues, the Contractor shall implement the identified solutions.

C.5.6.2 The Contractor shall work with the Government to implement the NCEFA, processing and collection of PACE financing. The Contractor shall identify and report any District-specific administrative or legal hindrances related to implementing PACE. The Contractor shall consult with Carbon War Room to compare its proposed standards with national standards as they evolve.

C.5.6.3 The Contractor shall continually work with the Government to reduce the risk associated with providing and paying debt service in Government bonds.

C.5.6.4 The Contractor shall manage the underwriting, financing, and other credit standards for evaluating applications for PACE financing. The Contractor shall manage the application



in-take process for the Program. Per the Contractor's proposed approach, the Contractor may choose to manage this process internally or to out-source this process.

C.5.6.5 The Contractor shall conduct, but not be limited to conducting the following PACE administrative functions:

- Work with OTR to collect appropriate documents for the PACE special assessment, record tax liens, and other information required. This information may include the annual amount of special assessment on the lot and the allocations of principal, interest and administrative costs, the date of commencement and projected date of termination of the special assessment based on the date and term of the financing agreement, and instructions to terminate the special assessment based on prepayment or full payment of the financing;
- Submit a memorandum of special assessment to be recorded in the land records of the Government;
- Work with OTR and property owners to ensure transfer of special assessment upon property sale. Establish a process to inform prospective property buyers of the special assessment, including energy savings estimates to justify the special assessment; and,
- Establish and work to maintain the appropriate reserve fund requirements for the NCEEF.

C.5.6.6 The Contractor shall work with the OCFO and its financial advisors and bond underwriters to determine the bond issuance requirements, salability and timing of bond issuances. The Contractor shall perform, but not be limited to performing the following bond issuance related activities, including:

- Working with the Government to reduce bond default risk to the bond investor;
- Collecting and submitting required documentation about the financing portfolio to market and sell energy retrofit bonds;
- Working with the Government and bond issuers to ensure timely issuance of replacement bonds; and,
- Upon issuance of bonds, work with the Government, if requested, to ensure compliance with the bond documents.

C.5.6.7 The Contractor shall develop a portfolio management plan for the NCEEF. The NCEEF should be managed and monitored by the Contractor to achieve the following minimum requirements:

- Review and update financing underwriting requirements and criteria;

- Oversee financing underwritten by financial institutions;
- Collect application fees to cover the costs associated with the NCEFA;
- Manage application intake;
- Work with financial institutions and property owners to ensure the quality of energy retrofit installations;
- Manage the Fund to meet the targets indicated in Table 2;
- Identify gaps in programming when projections fall short of targets;
- Continually monitor the performance of PACE financing across all asset classes;
- Project future demand for PACE financing and energy savings impact based on existing volume of PACE financing; and,
- As needed, develop new energy financing products to address unmet demand (e.g., retrofits of affordable housing, non-profit and government buildings, rental properties, other).

C.5.6.8 The Contractor shall recruit private-sector financial partners and secure initial private-sector leverage funding for private loans to property owners. The Contractor shall develop and negotiate the terms of participation with private-sector financial institutions, with the raising private-sector funds to achieve the funding minimums identified in Table 2. The Contractor shall manage and report on the status of all Bank Agreements entered into.

C.5.6.9 The Contractor shall perform, but not be limited to performing the following activities to develop additional financial leverage:

- Evaluate new structured finance or additional leverage solutions to address affordable housing retrofits and other hard-to-serve segments (e.g., underwater properties, low income populations) and non-profit owned property and government-owned property;
- Perform a technical and strategic assessment of aggregating energy savings with SEU and other providers to enter into the PJM forward auction; and,
- Develop approach to recruit new funding partners to achieve the additional fund leverage requirements.

C.5.6.10 All financing terms, negotiations, or activities related to Government financing shall be made with approval from the OCFO.

**C.5.7 TASK 4: MARKETING**

- C.5.7.1 The Contractor shall implement and update the marketing strategy and aim to achieve the marketing targets identified in Table 1.
- C.5.7.2 The Contractor shall coordinate marketing efforts with the SEU, through the use of Green Energy DC, which may include: (i) maintenance of the website; (ii) determination of which data to publish and at what intervals; (iii) pursuing private sponsorship partners; (iv) conducting public education sessions; (v) sharing market research; and (vi) co-branding.
- C.5.7.3 The Contractor shall conduct tailored outreach strategies to drive demand for PACE financing in each asset class, by informing eligible property owners of the existence and benefits of the Program. The Contractor shall develop marketing materials (e.g. press release, website, brochures, other) geared at reaching target partners and target consumers. The communication methods deployed should allow the general public to learn about energy retrofits, applying for PACE financing, understanding the cash flow and energy savings potential, and identify qualified energy auditors and contractors.
- C.5.7.4 The Contractor shall work with DOES and other workforce providers to develop outreach and marketing strategies to inform and educate perspective trainees for green jobs, with an emphasis on recruiting District residents for jobs.
- C.5.7.5 The Contractor shall work with DSLBD and private business associations or trade groups to develop outreach and marketing strategies to inform and educate perspective businesses about certification requirements to participate in the Program.
- C.5.7.6 The Contractor shall gauge demand and price points of target consumers of energy retrofit financing.
- C.5.7.7 The Contractor shall pursue and leverage in-kind or sponsorship marketing opportunities to maximize local and regional awareness of the Program.

**C.5.8 TASK 5: ENERGY RETROFIT SERVICE DELIVERY**

- C.5.8.1 The Contractor shall provide recommendations for improving the Program’s energy retrofit service delivery, including advice on: (i) available technological innovations; (ii) energy savings opportunities and investment priorities; (iii) new financing approaches for energy retrofits; (iv) more easily implemented or new District regulations; and/or (v) new methods of service delivery which ensures the highest standards of performance.
- C.5.8.2 Where there are opportunities to share research and establish the same criteria, processes, and standards with the SEU’s programs, the Contractor shall coordinate with the SEU to adopt the same criteria, processes, and standards.

C.5.8.3

The Contractor shall implement the service delivery plan for energy benchmarking, auditing, retrofit installation, and M&V work. This includes, but is not limited to, the following:

- The Program’s energy savings projections, profile, and requirements;
- Types of and numbers of service providers required to achieve the square footage benchmarks identified in Table 2;
- Energy audit requirements, to include property owners compliance with the ENERGY STAR Portfolio Manager provision in the Green Building Act and section 302 of the PACE Legislation;
- Specifications, certifications, and requirements for contractors/subcontractors to achieve in order to participate in the Program;
- Contractor/subcontractor employee required training certifications, based on regionally- or nationally-adopted standards;
- Implementation of the M&V standards required by “PJM Manual 18B”; and,
- Publication of results of the above.

C.5.8.4

The Contractor shall maintain and monitor the QA/QC program to ensure the quality of energy retrofits is meeting the energy targets for the Program and the energy underwriting requirements to satisfy the Banks. Components of the QA/QC program include, but are not limited to:

- Compliance of participating businesses with the business certification requirements;
- Compliance of participating contractors/subcontractors with employee training requirements;
- Compliance of retrofit installation standards;
- Quality and efficiency of the retrofit installation inspection process;
- Analysis of the projected energy savings against actual energy savings and report on significant deviations between the two; and,
- Publication of results of the above.

C.5.8.5

The Contractor shall work with property owners to benchmark their buildings, agree upon priority uses of NCEEF financing, and establish energy saving targets for the building.

C.5.8.6 The Contractor shall work with existing contractors/subcontractors, trade industries, and applicable regulators to determine and develop accreditation and certifications available for designating approved businesses.

C.5.8.7 Collect data through the term of the contract as required by the “PJM Manual 18B”, such that the information can be utilized to bid in the PJM forward auction market. Contractor shall work with SEU to determine the feasibility or desirability of the District to bid into the PJM forward auction market.

**C.5.9 TASK 6: GREEN BUSINESS AND JOB CREATION**

C.5.9.1 The Contractor shall implement the job placement plan to maximize District resident hiring into new and replacement jobs created by the Program.

C.5.9.2 The Contractor shall quantify and communicate the pipeline of number of jobs anticipated, associated skill sets required, and the types of jobs to be hired as a result of the Program to DOES and other workforce providers.

C.5.9.3 The Contractor shall work with contractors/subcontractors to identify the skills and job requirements needed and when, so that workforce trainers can appropriately prepare District residents for the correct skills and to meet employment demand.

C.5.9.4 The Contractor shall implement the workforce development funding plan, to include identifying and receiving commitments from funding partners, and setting up the processes for raising additional funds.

C.5.9.5 The Contractor shall work with contractors/subcontractors to identify areas of business growth. Contractor shall assist, as needed, in communicating with DSLBD or other technical resources to identify opportunities for green business expansion as a result of the Program.

**SECTION D: PACKAGING AND MARKING**

Not applicable to this contract.

## **SECTION E: INSPECTION**

- E.1** The inspection and acceptance requirements for the resultant contract will be governed by the Standard Contract Provisions For Use with Supplies & Services Contracts dated March 2007, incorporated herein as Attachment J.3.
- E.2** The Contractor shall comply with any and all ARRA inspection requirements.
- E.3** The Contractor shall submit the Work Plan developed under Section C.5.2.1 for review and approval by the Government prior to initiating performance under the contract. The Government will review the Work Plan and provide written approval.
- E.4** The Contractor shall submit to the CA for review and approval prior to use all software or databases and any use of non-standard graphics or presentation software.

### **E.5 Inspection of project sites**

To the fullest extent possible, the Contractor shall require in its agreements with property owners access to the Contractor and the Government to visit and inspect the project site(s) where retrofit and installation work is being performed. The Government shall obtain written consent in advance from the Contractor to have the Government, and/or any other entities specified under the terms and conditions incorporated into the Contract, access the project site(s) for inspection of work at an interim phase of performance and after completion. The Contractor shall require that its subcontractors and vendors comply with the requirements set forth in this paragraph.

## **SECTION F: DELIVERIES OR PERFORMANCE**

### **F.1 TERM OF CONTRACT**

The Government contemplates awarding a one (1) year contract, which may include up to two (2) one-year options, the exercise of such option(s) shall be at the Government's sole discretion. The Government may only exercise its option after receiving Council approval for a multi-year contract.

### **F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT**

F.2.1 Upon receipt of Council approval, the Government may extend the term of this contract for a period of two (2) one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the Government gives the Contractor preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the Government to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the CO prior to expiration of the contract.

F.2.2 If the Government exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in the Section B of the contract.

F.2.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed three (3) years.

### **F.3 DELIVERABLES**

F.3.1 The Contractor shall perform the activities required to successfully complete the Government's requirements and submit each deliverable to (1) the CA identified in Section G.9, with a copy to (2) the DMPED designee identified here:

Senthil Sankaran, Director of Development  
Office of the Deputy Mayor of Planning and Economic Development  
1350 Pennsylvania Avenue N.W., Suite 317  
Washington, DC 20004  
Telephone: (202) 340-6358  
Email: Senthil.Sanakaran@dc.gov

When the method of delivery is specified below to be "Digital Copy", the Contractor shall submit the deliverable in Microsoft Word, Excel, or Powerpoint, or PDF, or other format specified by the CA, to the CA and the DMPED designee via Email. When the



method of delivery is specified to be “Hard Copy”, the Contractor shall deliver one printed (1) copy of the deliverable to the CA and one printed (1) copy of the deliverable to the DMPED designee at their respective mailing addresses.

<b>CLIN</b>	<b>Deliverable</b>	<b>Method of Delivery</b>	<b>Due Date</b>
Task 1 C.5.2	Work Plan, to include revisions, if any, to Tables 1 and 2.	Digital Copy	90 days from contract award date
Task 1 C.5.2.4	Report containing market feasibility analysis, cash flow analysis, debt service and loan repayment projections, revenue and expenditure estimates, and administration costs.	Digital Copy	90 days from contract award date
Task 1 C.5.2.5	Policies and procedures for reviewing and certifying owner applications for PACE financing.	Digital Copy	90 days from contract award date
Task 1 C.5.2.6	List of reports, schedules or other documents required to support the issuance of bonds.	Digital Copy	90 days from contract award date
Task 1 C.5.2.7	Presentation of recommendation for systems, applications, models and templates to be used during contract term.	Digital Copy	90 days from contract award date
Task 1 C.5.2.8	Marketing plan	Digital Copy	90 days from contract award date
Task 1 C.5.2.9	Service delivery and QA/QC plan	Digital Copy	90 days from contract award date
Task 1 C.5.2.10	Recommendation on adoption of M&V standards as set forth in “PJM Manual 18B.”	Digital Copy	90 days from contract award date
Task 1 C.5.2.11	Workforce development funding plan	Digital Copy	90 days from contract award date
Task 1 C.5.2.12	Financial parameters for Bank Agreement.	Digital Copy	45 days from contract award date
Task 1 C.5.2.12	Draft Bank Agreements with identified partner Banks.	Digital Copy	90 days from contract award date
Task 1 C.5.2.13	Financial parameters for secondary sale of bonds or loans.	Digital Copy	45 days from contract award date
Task 1 C.5.2.14	Presentation of the Pilot Program, to include selected partners and Pilot parameters.	Digital Copy	90 days from contract award date
Task 2 C.5.5.2	Draft organizational plan, including organizational chart, number of employees, roles and responsibilities of each employee.	Digital Copy	90 days from contract award date
	Final organizational plan.	Digital Copy	10 days from Government approval
Task 2 C.5.5.2	Draft internal and external protocols, procedures and regulations for NCEFA.	Digital Copy	120 days from contract award date
	Final internal and external protocols, procedures and regulations for NCEFA.	Digital Copy	30 days from Government approval

Task 3 C.5.6.2 through C.5.6.4	Draft internal and external financial protocols, procedures and regulations for NCEEF.	Digital Copy	120 days from contract award date
	Final internal and external financial protocols, procedures and regulations for NCEEF.	Digital Copy	30 days from Government approval
Task 3 C.5.6.5	Documentation required by OTR (special assessment documentation, record tax liens, record land records, other) for PACE financing.	As required by OTR	On-going
Task 3 C.5.6.6	Documents required by OCFO to support bond issuances.	As required by OCFO	On-going
Task 3 C.5.6.8	Draft Bank Agreement term sheets and Bank Agreements.	Digital Copy	On-going
	Final Bank Agreements.	Digital Copy	30 days after Government approval
Task 4	Draft marketing materials, form of sponsorship agreements, press releases.	Digital copy	On-going
	Final marketing materials, sponsorship agreements, press releases.	Digital Copy	15 days after government approval
Task 4 C.5.7.2	Maintain current information on Green Energy DC website.	Web content	On-going
Task 5 C.5.8.2	Draft criteria, processes, and standards for energy retrofit service delivery.	Digital Copy	120 days after contract award date
	Final criteria, processes, and standards for energy retrofit service delivery.	Digital Copy	30 days after Government approval
Task 6 C.5.9.2	Issue to DSLBD and DOES, on a no-less-than-quarterly basis, an estimate of (a) contracting opportunities and (b) jobs to be created in the coming quarter.	As preferred by DSLBD and DOES	On-going
Task 6 C.5.9.3	Draft recommendations for growing District-based businesses and placing District residents into jobs.	Digital Copy	On-going
	Final recommendations for growing District-based businesses and placing District residents into jobs.	Digital Copy	30 days after Government approval

F.3.2

In addition to the above listed deliverables, the Contractor shall submit to the CA and the DMPED designee listed above in Section F.3.1 the following:

- A quarterly report summarizing the project progress, outstanding issues, status of action items, and the schedule status. Specifically, the quarterly report will include the following sections:
  - Executive summary: Describe what was accomplished in the past quarter and what is expected to be accomplished in the following quarter. Status of performance metrics in Table 2.
  - Financing: Summarize the performance of the NCEEF, to include but not be limited to: the number of applications, number properties with outstanding

PACE financing, PACE financing paid off to term, PACE financing prepaid, delinquent financing, status of Bank Agreements, status of bond issuances, other;

- Service delivery: Report on the number of energy retrofits financed to date, estimated square feet retrofitted, estimated energy savings to date, quality of installations completed, problems encountered during service delivery, recommendations for improvement, other;
  - Marketing: Report on market penetration rates by asset class, number of inquiries or hits on website, sponsorship agreements, PACE demand metrics, pricing data for origination fees and retrofit services, upcoming key meetings or presentations;
  - Business and jobs development: Summary of results reported to DOES and DSLBD, Contractor's activities to achieve the District hiring goals, job placement or business growth metrics, other. Workforce development funds secured and delivered.
- Reporting requirements of section 304 of the PACE Legislation.
  - Annual third-party audit of NCEFA and NCEEF, which audit will confirm: expenditures, revenues, fees charged by NCEFA, administrative costs, CBE contracting, First Source hiring, other items to be determined by the Government.
  - Reports required by Section H.5.3, H.5.5, H.5.7, and H.11.1.
  - Energy performance and related reports to the SEU, as may be required for the SEU to comply with the provisions of the CAEA.

F.3.3 The Contractor shall submit to (1) the CA and to (2) DDOE's ARRA Manager listed below, all the required ARRA reports described in Section N, for the period of time that ARRA funds are utilized to pay the Fee. DDOE's ARRA Manager is:

Brendan Shane, Chief, Office of Policy and Sustainability  
District Department of Environment  
1200 First Street N.W., 5<sup>th</sup> Floor  
Washington, DC 20002  
Telephone: (202) 834-6385  
Email: Brendan.Shane@dc.gov

F.3.4 The Contractor shall produce and submit any required documentation and reports to satisfy the IRS, SEC, and/or other finance regulatory bodies, which may have jurisdiction over the NCEEF and Program. The requirements for such submittals will be determined when identified.

## **SECTION G: CONTRACT ADMINISTRATION DATA**

### **G.1 INVOICE PAYMENT**

G.1.1 Subject to Section G.3, DDOE will make payments to the Contractor upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.

G.1.2 DDOE will pay the Contractor on or before the thirtieth (30<sup>th</sup>) day after receiving a proper invoice from the Contractor.

### **G.2 INVOICE SUBMITTAL**

G.2.1 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the Office of the Chief Financial Officer, Government Services Cluster, Accounts Payable Division, with concurrent copies to the CA specified in Section G.9. The address for the Accounts Payable Division is as follows:

Office of the Chief Financial Officer – Government Services Cluster  
Accounts Payable Division  
2000 14<sup>th</sup> Street N.W., 6<sup>th</sup> Floor  
Washington, DC 20009  
Telephone: (202) 671-2741

G.2.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

- Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);
- Contract number and invoice number;
- Description, price, quantity and the date(s) that the supplies or services were delivered or performed;
- Other supporting documentation or information, as required by the CO;
- Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- Name, title, phone number of person preparing the invoice;

- Name, title, phone number and mailing address of person (if different from the person identified above) to be notified in the event of a defective invoice; and
- Authorized signature.

### **G.3 COST REIMBURSEMENT CEILING**

- G.3.1 Cost reimbursement ceiling for this contract is set forth in Section B.3.
- G.3.2 The Contractor agrees to use its best efforts to perform the work specified in this contract and to meet all obligations under this contract within the cost reimbursement ceiling.
- G.3.3 The Contractor must notify the CO, in writing, whenever it has reason to believe that the total cost for the performance of this contract will be either greater or substantially less than the cost reimbursement ceiling.
- G.3.4 As part of the notification, the Contractor must provide the CO a revised estimate of the total cost of performing this contract.
- G.3.5 The Government is not obligated to reimburse the Contractor for costs incurred in excess of the cost reimbursement ceiling specified in Section B.3, and the Contractor is not obligated to continue performance under this contract (including actions under the Termination clauses of this contract), or otherwise incur costs in excess of the cost reimbursement ceiling specified in Section B.3, until the CO notifies the Contractor, in writing, that the estimated cost has been increased and provides revised cost reimbursement ceiling for performing this contract, and the CO approves the increase.
- G.3.6 No notice, communication, or representation in any form from any person other than the CO shall change the cost reimbursement ceiling. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the costs reimbursement ceiling, whether such costs were incurred during the course of contract performance or as a result of termination.
- G.3.7 If any cost reimbursement ceiling specified in Section B.3 is increased, any costs the Contractor incurs before the increase that are in excess of the previous cost reimbursement ceiling shall be allowable to the same extent as if incurred afterward, unless the CO issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.
- G.3.8 A change order shall not be considered an authorization to exceed the applicable cost reimbursement ceiling specified in Section B.3, unless the change order specifically increases the cost reimbursement ceiling.
- G.3.9 While this contract is not subject to the D.C. Procurement Practices Act of 1985, the costs determined in writing to be reimbursable shall be reimbursed in accordance with the cost principles set forth in rules issued pursuant to Title VI of the D.C. Procurement Practices Act of 1985.

**G.4 INVOICING PROCEDURES**

- G.4.1 The Contractor shall invoice DDOE by the tenth (10<sup>th</sup>) day of each month for services provided during the previous month.
- G.4.2 The Contractor shall support each invoice with a statement of the work that the Contractor performed for that time period and supporting documents for costs incurred during that time period. The Contractor must submit each monthly invoice in a manner and form that is approved by the CA.
- G.4.3 DDOE will make final invoice payment upon the CA’s determination that the Contractor has completed all tasks.

**G.5 ASSIGNMENT OF CONTRACT PAYMENTS**

- G.5.1 In accordance with 27 DCMR §3250, the Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.
- G.5.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.
- G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

“Pursuant to the instrument of assignment dated \_\_\_\_\_make payment of this invoice to \_\_\_\_\_(name and address of assignee).”

**G.6 THE QUICK PAYMENT CLAUSE**

**G.6.1 Interest Penalties to Contractors**

- G.6.1.1 The Government will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of one percent (1%) per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the fifteenth (15<sup>th</sup>) day after the required payment date for any other item.
- G.6.1.2 Any amount of an interest penalty which remains unpaid at the end of any thirty (30)-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

## **G.6.2 Payments to Subcontractors**

G.6.2.1 The Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by DDOE for work performed by any subcontractor under a contract:

- Pay the subcontractor for the proportionate share of the total payment received from DDOE that is attributable to the subcontractor for work performed under the contract; or,
- Notify DDOE and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.6.2.2 The Contractor must pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of one percent (1%) per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the fifteenth (15<sup>th</sup>) day after the required payment date for any other item.

G.6.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any thirty (30)-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.6.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

## **G.7 CONTRACTING OFFICER**

The contract will be entered into and signed on behalf of the Government only by COs. The name, address and telephone number of the CO is:

Jacque McDonald, CPPO, CPPB  
Director of Contracts and Procurement  
Office of the Deputy Mayor for Planning & Economic Development  
2025 M Street N.W., Suite 600  
Washington, DC 20036  
Telephone: (202) 724-6190  
Email: jacque.mcdonald@dc.gov

**G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER**

- G.8.1 The CO is the only person authorized to approve changes in any of the requirements of this contract.
- G.8.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.
- G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change shall be considered to have been made without authority and no adjustment shall be made in the contract price to cover any cost increase incurred as a result thereof.
- G.8.4. The Government reserves the right to change the CO at any time prior to or after the date of the award of this Contract.

**G.9 CONTRACT ADMINISTRATOR**

- G.9.1 The CA is responsible for general administration of the contract and advising the CO as to the Contractor’s compliance or noncompliance with the contract. In addition, the CA is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. The name, address and telephone number for the CA is:

Nina Albert, Chief, Office of Green Economy  
District Department of Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002  
Telephone: (202) 535-2341  
Cell phone: (202) 834-1348  
Email: Nina.Albert@dc.gov

- G.9.2 The CA shall not have authority to make any changes in the specifications or scope of work or terms and conditions of the contract.
- G.9.3 The Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the Government, to take all corrective action necessitated by reason of the unauthorized changes.

**G.10 SUBCONTRACTS**

- G.10.1 Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government.



- G.10.2 The divisions or sections of any requirements related herein are not intended to control the Contractor in dividing the work among the subcontractors or to limit the work performed by any trade.
- G.10.3 [Intentionally Left Blank]
- G.10.4 The Contractor shall coordinate the trades, subcontractor and material persons engaged upon his work.
- G.10.5 The Contractor shall, without additional expense to the Government, utilize the services of specialty subcontractors for those parts of the work which are specified to be performed by specialty subcontractors.
- G.10.6 The Government will not undertake to settle any differences between the Contractor and his subcontractors or between subcontractors.
- G.10.7 The Contractor shall not subcontract any portion of the contract except with the prior written consent of the CO, or his authorized representatives, and such consent, when given, shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract. Request(s) for permission to subcontract any portion of the contract shall be in writing and accompanied by: (a) a showing that the organization which will perform the work is particularly experienced and equipped for such work, and (b) an assurance by the Contractor that the Labor Standards Provisions set forth in this contract shall apply to labor performed on all work encompassed by the request(s). The request(s) also shall provide the following information:
- Subcontractors name, address, telephone number, and Federal Social Security Number used on the Employers Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
  - Estimated dollar amount of the subcontract; and,
  - Estimated starting and completion dates of the subcontract.
- G.10.8 The subcontractor approval request form included herein should be used to request approval of subcontractor on this project. The form should be completed for each subcontractor requested for approval and submitted to the CO. Copies of these forms are available upon request from the CA.
- G.10.9 Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the Government will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the Government, the Contractor shall remain liable to the Government for all Contractor's work and services required hereunder.

**G.11 PATENTS**

The Contractor shall hold and save the Government, its officers, agents, servants and employees, harmless for liability of, any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, article or appliance manufactured or used in the performance of this contract, including their use by the Government.

**G.12 INDEMNIFICATION**

The Contractor shall defend, indemnify, and hold harmless, and shall be responsible for ensuring that its subcontractors and vendors agree to defend, indemnify and hold harmless the District of Columbia, a municipal corporation and its agents, employees and assigns from any and all claims of any kind or character which they may now have or hereafter have or claim to have, whether known or unknown, foreseen or unforeseen, including all damage of any kind, losses or injuries which are in any way connected to or arising out of, or as a consequence of or result of, any act, omission or default of the Contractor, its subcontractors and/or vendors' employees in the performance of projects under the contract.

## **SECTION H: SPECIAL CONTRACT REQUIREMENTS**

### **H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES**

- H.1.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force: At least fifty-one percent (51%) of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.
- H.1.2 The Contractor shall negotiate a First Source Employment Agreement with DOES for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

### **H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS**

The Contractor shall be bound by the Wage Determination No. 2005-2103, Revision No. 8, Dated 05/26/2009, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and incorporated herein as Section H.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP (defined in Section I.1). If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

### **H.3 PUBLICITY**

The Contractor shall at all times obtain the prior written approval from the Government before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract. Project sites funded directly by SEP shall be required to publicize the project in accordance with the applicable ARRA terms and conditions. Project sites funded by the Program shall publicize the project in accordance with the marketing plan the Contractor submits (Section F.3.1, Task 1 C.5.2.8) and Government approves.

### **H.4 FREEDOM OF INFORMATION ACT**

The District of Columbia Freedom of Information Act ("FOIA"), at D.C. Official Code § 2-532 (a-3), requires that the Government to make available for inspection and copying

any record produced or collected pursuant to a Government contract with a private Contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the CA designated in Section G.9 who will provide the request to the FOIA officer with programmatic responsibility in accordance with FOIA. If the Government receives a request for a record maintained by the Contractor pursuant to the contract, the CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. DDOE's FOIA officer will determine the releasability of the records. The Government will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the D.C. Municipal Regulations.

## **H.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT**

H.5.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, § 2-219.01 *et seq.* (“**First Source Act**”).

H.5.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement (Attachment J.12) in which the Contractor shall agree that:

- The first source for finding employees to fill all jobs created in order to perform this contract shall be DOES; and
- The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

H.5.3 The Contractor shall submit to DOES, no later than the tenth (10<sup>th</sup>) day of each month, following execution of the contract, a First Source Employment Agreement contract compliance report (“**Contract Compliance Report**”) verifying its compliance with the First Source Employment Agreement for the preceding month. The Contract Compliance Report for the contract shall include the:

- Number of employees needed;
- Number of current employees transferred;
- Number of new job openings created;
- Number of job openings listed with DOES;
- Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:

- Name;
- Social Security number;
- Job title;
- Hire date;
- Residence; and
- Referral source for all new hires.

H.5.4 If the contract amount is equal to or greater than One Hundred Thousand Dollars (\$100,000), the Contractor agrees that fifty-one (51%) of the new employees hired for the contract shall be District residents.

H.5.5 With the submission of the Contractor's final request for payment from the Government, the Contractor shall:

- Document in a report to the CO its compliance with the Section H.5.4; or,
- Submit a request to the CO for a waiver of compliance with Section H.5.4 and include the following documentation:
  - Material supporting a good faith effort to comply;
  - Referrals provided by DOES and other referral sources;
  - Advertisement of job openings listed with DOES and other referral sources; and,
  - Any documentation supporting the waiver request pursuant to Section H.5.6.

H.5.6 The CO may waive the provisions of Section H.5.4 if the CO finds that:

- A good faith effort to comply is demonstrated by the Contractor;
- The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area which includes the District; the Virginia cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
- The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.5.7 Upon receipt of the Contractor's final payment request and related documentation pursuant to Sections H.5.5 and H.5.6, the CO shall determine whether the Contractor is in compliance with Section H.5.4 or whether a waiver of compliance pursuant to Section H.5.6 is justified. If the CO determines that the Contractor is in compliance, or that a waiver of compliance is justified, the CO shall within two (2) business days of making the determination forward a copy of the determination to the Office of the Chief Financial Officer, Government Services Cluster, Accounts Payable Division and the CA.

H.5.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to Section H.5.5, or deliberate submission of falsified data, may be enforced by the CO through imposition of penalties, including monetary fines of five percent (5%) of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in the contract any decision of the CO pursuant to this Section H.5.8.

H.5.9 The provisions of Sections H.5.4 through H.5.8 do not apply to nonprofit organizations.

## **H.6 AUDITS AND RECORDS**

H.6.1 As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

H.6.2 **Examination of Costs.** If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the CO, or an authorized representative of the CO, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

H.6.3 **Cost or pricing data.** If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the CO, or an authorized representative of the CO, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

- The proposal for the contract, subcontract, or modification;
- The discussions conducted on the proposal(s), including those related to negotiating;
- Pricing of the contract, subcontract, or modification; or
- Performance of the contract, subcontract or modification.

## **H.6.4 Comptroller General**

H.6.4.1 The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

H.6.4.2 This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

**H.6.5 Reports.** If the Contractor is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports, and the data reported.

**H.6.6 Availability.** The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in Sections H.6.1 through H.6.5, for examination, audit, or reproduction, until three (3) years after final payment under this contract or for any shorter period specified in the solicitation, or for any longer period required by statute or by other clauses of this contract. In addition:

- If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
- The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

**H.6.7** The Contractor shall insert a clause containing all the terms of this clause, including this Section H.6.7, in all subcontracts under this contract that exceed the small purchase threshold of One Hundred Thousand Dollars (\$100,000), and:

- That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;
- For which cost or pricing data are required; or
- That requires the subcontractor to furnish reports as discussed in Section H.6.5.

**H.7 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

During the performance of this contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 *et seq.*

**H.8 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded programs and activities. See 29 U.S.C. § 794 *et seq.*

**H.9 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL**

The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

**H.10 WAY TO WORK AMENDMENT ACT OF 2006**

**H.10.1** Except as described in Section H.10.8, the Contractor shall comply with Title I of The Way to Work Amendment Act of 2006, effective June 9, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“**Living Wage Act of 2006**”), for contracts for services in the amount of One Hundred Thousand Dollars (\$100,000) or more in a 12-month period.

**H.10.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the Office of Contracting and Procurement (“**OCP**”) website at [www.ocp.dc.gov](http://www.ocp.dc.gov).

**H.10.3** The Contractor shall include in any subcontract for Fifteen Thousand Dollars (\$15,000) or more a provision requiring the subcontractor to pay its employees who perform services under the one contract no less than the current living wage rate.

**H.10.4** DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at [www.ocp.dc.gov](http://www.ocp.dc.gov).

**H.10.5** The Contractor shall provide a copy of the Fact Sheet attached as Attachment J.4 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as Attachment J.4 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for Fifteen Thousand Dollars



(\$15,000) or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

- H.10.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for Fifteen Thousand Dollars (\$15,000) or more under the contract.
- H.10.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- H.10.8** The requirements of the Living Wage Act of 2006 do not apply to:
- H.10.8.1 Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- H.10.8.2 Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
- H.10.8.3 Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
- H.10.8.4 Contracts for services needed immediately to prevent or respond to a disaster or imminent threat to public health or safety declared by the Mayor;
- H.10.8.5 Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- H.10.8.6 An employee under twenty-two (22) years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than twenty-five (25) hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
- H.10.8.7 Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the Government; provided, that the tenant or retail establishment did not receive direct government assistance from the Government;
- H.10.8.8 Employees of nonprofit organizations that employ not more than fifty (50) individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
- H.10.8.9 Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community

residence facility, or a group home for mentally retarded persons as those terms are defined in Section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and,

H.10.8.10 Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

**H.10.9** The Mayor may exempt a Contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

## **H.11 SUBCONTRACTING REQUIREMENTS**

### **H.11.1 Mandatory Subcontracting Requirements**

H.11.1.1 For contracts in excess of Two Hundred Fifty Thousand Dollars (\$250,000), at least thirty-five percent (35%) of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises.

H.11.1.2 If there are insufficient qualified small business enterprises to completely fulfill the requirement of Section H.11.1.1, then the subcontracting may be satisfied by subcontracting thirty-five percent (35%) of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

H.11.1.3 A prime contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of Sections H.11.1.1 and H.11.1.2.

### **H.11.2 Subcontracting Plan**

If the prime contractor is required by law to subcontract under this contract, it must subcontract at least thirty-five percent (35%) of the dollar volume of this contract in accordance with the provisions of Section H.11.1. The prime contractor responding to this solicitation which is required to subcontract shall be required to submit with its proposal, a notarized statement detailing its subcontracting plan. Proposals responding to this RFP shall be deemed nonresponsive and shall be rejected if the Offeror is required to subcontract, but fails to submit a subcontracting plan with its proposal. Once the plan is approved by the CO, changes to the plan will only occur with the prior written approval of the CO and the Director of DSLBD. Each subcontracting plan shall include the following:

- H.11.2.1 A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.11.2.2 A statement of the dollar value of the bid that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.11.2.3 The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- H.11.2.4 The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;
- H.11.2.5 A description of the efforts the prime contractor will make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises will have an equitable opportunity to compete for subcontracts;
- H.11.2.6 In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- H.11.2.7 Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the Government to determine the extent of compliance by the prime contractor with the subcontracting plan;
- H.11.2.8 A list of the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and assurances that the prime contractor will make such records available for review upon the Government's request; and
- H.11.2.9 A description of the prime contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises, and to award subcontracts to them.

**H.11.3 Subcontracting Plan Compliance Reporting**

If the Contractor has an approved subcontracting plan required by law under this contract, the Contractor shall submit to the CO and the Director of DSLBD, no later than the twenty-first (21<sup>st</sup>) day of each month following execution of the contract, a Subcontracting Plan Compliance Report to verify its compliance with the subcontracting requirements for the preceding month. The monthly subcontracting plan compliance report shall include the following information:

- H.11.3.1 The dollar amount of the contract or procurement;

- H.11.3.2 A brief description of the goods procured or the services contracted for;
- H.11.3.3 The name of the business enterprise from which the goods were procured or services contracted;
- H.11.3.4 Whether the subcontractors to the contract are currently certified business enterprises;
- H.11.3.5 The dollar percentage of the contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- H.11.3.6 A description of the activities the Contractor engaged in, in order to achieve the subcontracting requirements set forth in its plan; and
- H.11.3.7 A description of any changes to the activities the Contractor intends to make by the next month to achieve the requirements set forth in its plan.

**H.11.4 Enforcement and Penalties for Breach of Subcontracting Plan**

- H.11.4.1 If during the performance of this contract, the Contractor fails to comply with its approved subcontracting plan, and the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.
- H.11.4.2 There shall be a rebuttable presumption that a contractor willfully breached its approved subcontracting plan if the contractor (i) fails to submit any required monitoring or compliance report; or (ii) submits a monitoring or compliance report with the intent to defraud.
- H.11.4.3 A contractor that is found to have willfully breached its approved subcontracting plan for utilization of certified business enterprises in the performance of a contract shall be subject to the imposition of penalties, including monetary fines of Fifteen Thousand Dollars (\$15,000) or five percent (5%) of the total amount of the work that the Contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach.

## **SECTION I: CONTRACT CLAUSES**

### **I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS**

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March 2007 (“**SCP**”) are incorporated as part of the contract resulting from this solicitation. To obtain a copy of the SCP go to [www.ocp.dc.gov](http://www.ocp.dc.gov), click on *OCP Policies* under the heading *Information*, then click on *Standard Contract Provisions – Supplies and Services Contracts*.

### **I.2 CONTRACTS THAT CROSS FISCAL YEARS**

If any portion of this contract requires Government funding, such funding shall be subject to future fiscal appropriations.

### **I.3 CONFIDENTIALITY OF INFORMATION**

All information obtained by the Contractor relating to any employee or customer of the District will be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with District and Federal laws governing the confidentiality of records.

### **I.4 TIME**

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

### **I.5 RIGHTS IN DATA**

**I.5.1** “**Data**,” as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract NCEFA, such as financial, administrative, cost or pricing, or management information.

**I.5.2** The term “**Technical Data**”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or

financial, administrative, cost and pricing, and management data or other information incidental to contract NCEFA.

- I.5.3** The term “**Computer Software,**” as used herein means computer programs and computer databases. “**Computer Programs,**” as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer Programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- I.5.4** The term “**Computer Databases,**” as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.5.5** All Data first produced in the performance of this Contract shall be the sole property of the Government. The Contractor hereby acknowledges that all Data, including, without limitation, computer program codes, produced by Contractor for the Government under this Contract, are works made for hire and are the sole property of the Government; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the Government the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the Government all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the Government until such time as the Government may have released such Data to the public.
- I.5.6** The Government will have restricted rights in Data, including Computer Software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- Use the Computer Software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

- Use the Computer Software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- Copy Computer Programs for safekeeping (archives) or backup purposes; and modify the Computer Software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

**I.5.7 RESTRICTED RIGHTS LEGEND**

I.5.7.1 Unless the Contractor marked the Data, the restricted rights set forth in Section I.5.6 are of no effect with the following legend:

“Use, duplication, or disclosure is subject to restrictions stated in Contract No. \_\_\_\_\_ with \_\_\_\_\_  
 \_\_\_\_\_ (Contractor’s Name)”

I.5.7.2 If the Data is Computer Software, the related Computer Software documentation includes a prominent statement of the restrictions applicable to the Computer Software. The Contractor may not place any legend on the computer software indicating restrictions on the Government’s rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such Computer Software shall relieve the Government of liability with respect to such unmarked software.

**I.5.8** In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract. Unless written approval of the CO is obtained, the Contractor shall not include in Technical Data or Computer Software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

**I.5.9** Whenever any Data, including Computer Software, are to be obtained from a subcontractor under this contract, the Contractor shall use this Section I.5 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government’s or the Contractor’s rights in that subcontractor Data or Computer Software which is required for the Government.

**I.5.10** For all Computer Software furnished to the Government with the rights specified in Section I.5.5, the Contractor shall furnish to the Government, a copy of the source code with such rights of the scope specified in Section I.5.5. For all Computer Software furnished to the Government with the restricted rights specified in Section I.5.6, the

Government, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the Government under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

**I.5.11** The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any Data furnished under this contract, or based upon libelous or other unlawful matter contained in such Data.

**I.5.12** Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

**I.5.13** Sections I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work

**I.6 OTHER CONTRACTORS**

The Contractor shall not commit or permit any act that will interfere with the performance of work by another Government contractor or by any Government employee.

**I.7 SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the Government will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the Government, the Contractor shall remain liable to the Government for all Contractor's work and services required hereunder.



## **I.8 INSURANCE**

### **I.8.1 General Requirements**

The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall submit a Certificate of Insurance giving evidence of the required coverage either before or after contract award but before work commences. All insurance shall be written with financially responsible companies authorized to do business in the District or in the jurisdiction where the work is to be performed; have either an A.M. Best Company rating of A-VIII or higher, a Standard & Poor's rating of AA or higher, or a Moody's rating of Aa2 or higher. The Contractor shall require all subcontractors to carry the insurance required herein, or the Contractor may, at its option, provide the coverage for any or all subcontractors, and if so, the evidence of insurance submitted shall so stipulate. All policies (excluding Workers' Compensation and Professional Liability, if applicable) shall name the Government as an additional insured with respect to work or services performed under the Contract. All policies shall provide that the insurance coverage provided hereunder will be primary and noncontributory with any other applicable insurance. All policies shall contain a waiver of subrogation in favor of the Government. In no event shall work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) has been furnished. All policies shall provide that the CO shall be given thirty (30) days prior written notice via certified mail in the event coverage is substantially changed, canceled or not renewed.

- I.8.1.1 Certificate of Insurance Requirement. The policy description on the Certificate of Insurance form shall include the Government as an additional insured and a waiver of subrogation in favor of the Government.
- I.8.1.2 Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the operations performed that it carries One Million Dollars (\$1,000,000) per occurrence limits; One Million Dollars (\$1,000,000) per aggregate limits; and includes coverage for products and completed operations and personal and advertising injury. The policy coverage shall be primary and non-contributory, shall contain the CGL 2503 per project endorsement, and shall include the Government as an additional insured.
- I.8.1.3 Commercial General Liability Insurance. If the Contractor is providing insurance for a subcontractor, the Contractor shall provide evidence satisfactory to the CO with respect to the operations performed that it carries One Million Dollars (\$1,000,000) per occurrence limits; One Million Dollars (\$1,000,000) per aggregate limits; and includes coverage for products and completed operations and personal and advertising injury. The policy coverage shall be primary and non-contributory, shall contain the CGL 2503 per project endorsement, and shall include the Government as an additional insured.
- I.8.1.4 Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction

with the performance of the contract. The policy shall cover the operations performed under the contract with a One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage. The policy coverage shall be primary and non-contributory and shall include the Government as an additional insured.

**I.8.1.5**      Workers' Compensation Insurance

I.8.1.5.1      Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the Government or the jurisdiction in which the contract is performed.

I.8.1.5.2      Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: One Million Dollars (\$1,000,000) per accident for injury; One Million Dollars (\$1,000,000) per employee for disease; and One Million Dollars (\$1,000,000) for policy disease limit.

I.8.1.6      Umbrella or Excess Liability Insurance. The Contractor shall provide umbrella or excess liability insurance as follows: Two Million Dollars (\$2,000,000) per occurrence, with the Government as an additional insured.

I.8.1.7      Professional Liability Insurance (Errors & Omissions). The Contractor (including but not limited to architects, attorneys, engineers, environmental consultants, and healthcare professionals) shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission caused by the performance of professional services under this Contract.

I.8.1.7.1      The policy shall provide limits of One Million Dollars (\$1,000,000) per occurrence for each wrongful act and One Million Dollars (\$1,000,000) per aggregate for each wrongful act.

I.8.1.7.2      The Contractor shall maintain this insurance for five (5) years following the Government's final acceptance of the work. The policy shall cover the Contractor and its subcontractors of every tier, and shall identify the District as the Project Owner on the policy.

**I.8.2**      **Duration**

Except as proved in Section I.5.A.6, the Contractor shall carry all insurance until all contract work is accepted by the Government. Each insurance policy shall contain a binding endorsement that: The insurer agrees that the CO shall be given thirty (30) days prior written notice via certified mail in the event coverage is substantially changed, canceled or not renewed.

### **I.8.3 Contractor's Property**

Contractors and subcontractor are solely responsible for any loss or damage to their personal property, including owned and leased equipment, whether such equipment is located at a project site or "in transit". This includes Contractor tools and equipment, scaffolding and temporary structures, and rented machinery, storage sheds or trailers placed on the project site.

### **I.8.4 Measure of Payment**

The Government shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

### **I.9 EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985 the forms for completion of the Equal Employment Opportunity Information Report shall be completed and incorporated with the bid. The forms can be found at [www.dcbiz.dc.gov](http://www.dcbiz.dc.gov) under *Procurement Opportunities* and under [www.greenenergy.dc.gov](http://www.greenenergy.dc.gov) under *PACE*. An award cannot be made to any bidder who has not satisfied the equal employment requirements as set forth by DSLBD.

### **I.10 ORDER OF PRECEDENCE**

The contract awarded as a result of this RFP will contain the following clause:

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- American Recovery and Reinvestment Act
- Energy Efficiency Financing Act of 2010
- Applicable Court Orders, if any
- Contract document
- Standard Contract Provisions
- Contract attachments other than the Standard Contract Provisions
- RFP, as amended
- BAFOs (in order of most recent to earliest)
- Proposal

**I.11            CONTRACTS IN EXCESS OF ONE MILLION DOLLARS**

Any contract in excess of One Million Dollars (\$1,000,000) shall not be binding or give rise to any claim or demand against the Government until approved by the Council and signed by the CO.

**I.12            GOVERNING LAW**

This contract, and any disputes arising out of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

## SECTION J: LIST OF ATTACHMENTS

The following documents are attached to this RFP and available at either:

- [www.dcbiz.dc.gov](http://www.dcbiz.dc.gov) (under *Procurement Opportunities*), or
- [www.greenenergy.dc.gov](http://www.greenenergy.dc.gov) (under *PACE*)

Those attachments marked with an asterix (\*) are forms shall be completed by the Offeror and incorporated with the Offeror's proposal.

- |       |   |
|-------|---|
| J.1   | Energy Efficiency Financing Act of 2010   |
| J.2   | PJM Manual 18B: Energy Efficiency Measurement & Verification  |
| J.3   | Standard Contract Provisions For Use with Supplies and Services Contract, dated March 2007                                      |
| J.4   | Living Wage Act of 2006 Fact Sheet and Notice   |
| J.5*  | Tax Certification Affidavit   |
| J.6*  | Cost/Price Certification Form   |
| J.7   | OMB Circular A-133  |
| J.8   | ARRA Terms and Conditions   |
| J.9   | Contractor's ARRA Procurement Requirements  |
| J.10  | ARRA Reporting Template   |
| J.11* | E.E.O. Information and Mayor's Order 85-85  |
| J.12* | First Source Employment Agreement   |
| J.13  | "Strategic Opportunities for Accelerating the Development of a Future Sustainable Metropolitan Economy: Energy and Environment" |

**SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS**

**K.1 AUTHORIZED NEGOTIATORS**

The Offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators).

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**K.2 TYPE OF BUSINESS ORGANIZATION**

The Offeror, by checking the applicable box, represents that,

A. It operates as:

- 1) A corporation incorporated under the laws of the State of: \_\_\_\_\_
- 2) An individual,
- 3) A partnership,
- 4) A nonprofit organization, or
- 5) A joint venture.

B. If the Offeror is a foreign entity, it operates as:

- 1) An individual,
- 2) A joint venture, or
- 3) A corporation registered for business in \_\_\_\_\_ (Country)

**K.3 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS**

K.3.1 Mayor's Order 85-85, "Compliance with Equal Opportunity Obligations in Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts", promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to complete the certification may result in rejection of the Offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this contract.

Offeror \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

K.3.2 Offeror  has /  has not participated in a previous contract or subcontract subject to the Mayor's Order 85-85. Offeror  has /  has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subOfferors. (The above representations need not be submitted in connection with contracts or subcontracts, which are exempt from the Mayor's Order.)

**K.4 BUY AMERICAN CERTIFICATION**

The Offeror hereby certifies that each end product, except the end products listed below is a domestic end product (See Clause 23 of the SCP, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

\_\_\_\_\_ EXCLUDED END PRODUCTS  
\_\_\_\_\_ COUNTRY OF ORIGIN

**K.5 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION**

Each Offeror shall check one of the following:

\_\_\_\_\_ No person listed in Clause 13 of the SCP, "District Employees Not To Benefit" will benefit from this contract.

\_\_\_\_\_ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the SCP.

\_\_\_\_\_  
\_\_\_\_\_

**K.6 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

(A) Each signature of the Offeror is considered to be a certification by the signatory that:

- 1) The prices in this contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Offeror or competitor relating to:
  - i. Those prices
  - ii. The intention to submit a contract, or
  - iii. The methods or factors used to calculate the prices in the contract.
- 2) The prices in this contract have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before contract opening unless otherwise required by law; and
- 3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.

- (B) Each signature on the offer is considered to be a certification by the signatory that the signatory;
- 1) Is the person in the Offeror's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (A)(1) through (A)(3) above; or
  - 2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (A)(1) through (A)(3) above:

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*(Insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Offeror's organization);*

- i. As an authorized agent, does certify that the principals named in subdivision (B)(2) have not participated, and will not participate, in any action contrary to subparagraphs (A)(1) through (A)(3) above; and
- ii. As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (A)(1) through (A)(3) above.

- (C) If the Offeror deletes or modifies subparagraph (A)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

## **K.7 TAX CERTIFICATION**

- K.7.1 Each Offeror must submit with its offer, a sworn Tax Certification Affidavit, incorporated herein as Attachment J.5.



## **SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS**

### **L.1 CONTRACT AWARD**

#### **L.1.1 Exemption from the Procurement Practices Act**

Per Sections 205 and 305 of Energy Efficiency Financing Act of 2010 (B18-580), this RFP is exempt from the District of Columbia Procurement Practices Act of 1985.

#### **L.1.2 Most Advantageous to the Government**

The Government intends to award a single contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be most advantageous to the Government, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

#### **L.1.3 Initial Offers**

The Government may award a contract on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Offeror's best terms from a standpoint of cost or price, technical and other factors.

### **L.2 PRE-PROPOSAL CONFERENCE**

L.2.1 A pre-proposal conference will be held on the **PREBID CONFERENCE DATE** provided on the cover page of this RFP at the Washington DC Economic Partnership, located at 1495 F Street N.W., Washington, DC 20004. Interested parties will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the Government to accept questions from Offerors on the solicitation document as well as to clarify the contents of the solicitation. Attending Offerors must complete the pre-proposal conference attendance roster at so that their attendance can be properly recorded.

L.2.2 Impromptu questions will be permitted and spontaneous answers will be provided at the Government discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the Government's final position. All oral questions must be submitted in writing following the close of the pre-proposal conference but no later than five (5) business days after the pre-proposal conference in order to generate an official answer. Official answers will be provided in writing to all prospective Offerors who are listed on the official Offerors' list as having received a copy of the solicitation. Answers will be posted on the DMPED website at [www.dcbiz.gov](http://www.dcbiz.gov) and on the DDOE website at <http://greenenergy.dc.gov>.

### **L.3 PROPOSAL REQUIREMENTS**

- L.3.1 The Offeror's proposal must be submitted by the **PROPOSAL DUE DATE**, which is provided on the cover sheet of this RFP. Provisions regarding submissions, late submissions, proposal modifications, and other are provided in details in Section L.5.
- L.3.2 Eight (8) copies of the written proposals shall be submitted in two parts (i.e. two separate binder/packages/folders), one entitled "**Technical Proposal**," the other "**Price Proposal**". One (1) compact disc or flash drive shall be submitted containing digital copies of both the Technical Proposal and Price Proposal. Both the Technical Proposal and Price Proposal shall be typewritten in 12-point typeface, printed double-sided on 8.5" x 11" paper. The requirements of the Technical Proposal are provided in Section L.3.4. The Technical Proposal shall not exceed sixty (60) pages (includes front and back of pages) total. Appendices to the Technical Proposal will not be count against the page count. The requirements for the Price Proposal are provided in Section L.3.5. The Price Proposal shall not exceed 20 pages (includes front and back of pages). Telephonic, telegraphic, and facsimile proposals will not be accepted. The proposals shall be submitted in a sealed envelope conspicuously marked: "Proposal in Response to Solicitation No. DCKA-2008-R-0173".
- L.3.3 Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation. The Offeror shall respond to each factor in a way that will allow the District to evaluate the Offeror's response. The Offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program supplies and services and delivery thereof. The information requested below for the Technical Proposal shall facilitate evaluation for all proposals. The Technical Proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the Offeror proposes to fully meet the requirements in Section C.
- L.3.4 Technical Proposal should be organized as follows:**
- L.3.4.1 Executive Summary: Provide an overview of your firm and its approach to the Program. Clearly include any assumptions made in responding to the RFP and any exceptions the Contractor proposes to the Government.
- L.3.4.2 Team Organization: Describe how your firm ("firm" may be a single entity or a joint venture among multiple firms) is organized to accomplish the requirements of this RFP. If multiple firms have joined together to deliver the services required herein: (i) identify the managing member for the team, which managing member shall be responsible for coordinating the efforts and subcontracts of all firms within the Contractor team to achieve the goals of the Program, (ii) identify the role and areas of expertise each team member brings to the table, and (iii) identify the project manager from each firm, who will be the point of contact for this Program.

#### L.3.4.3

##### Program Design:

- (i) If your firm has completed PACE program design for other jurisdictions, please provide a list of all completed program design engagements, the size of the PACE program, and the outcomes achieved to date.
- (ii) Describe your firm's approach and work plan for achieving the requirements set forth in Section C.5.2.
- (iii) Review Tables 1 and 2 and provide your preliminary assessment of the metrics provided therein. Are there other metrics you would propose to be incorporated into these Tables?
- (iv) Demonstrate your understanding of PACE by identifying the challenges associated with achieving the goals and targets set forth in the PACE Legislation and this RFP; provide your firm's preliminary solutions for overcoming the identified challenges.
- (v) Identify specific roles or responsibilities for the Government to deliver, and how the Contractor and Government will work together to ensure a seamless Program.
- (vi) Identify additional resources outside of your firm which will be required during the Program Design Phase to achieve the requirements listed in Section C.5.2.
- (vii) Identify your approach or proposal for the Pilot Program: What size of Pilot is recommended and achievable, and how quickly can your firm deliver the Pilot Program? If you have letters of commitment from property owners to participate in a Pilot Program, please provide them in an appendix.
- (viii) Provide your firm's strategy and experience for negotiating with Banks or other financing partners to achieve the \$30 million in private funds during Year 1. If you have letters of commitment from Banks or other financial partners to fund the start-up period of the Program, please provide them in an appendix.

#### L.3.4.4

##### Organization and Administration

- (i) Describe your firm's experience in creating and managing a start-up organization or new office. Have those organizations survived? If they have not, why haven't they? Identify any challenges anticipated with creating the NCEFA and your firm's approach to overcoming those challenges.
- (ii) Describe your firm's approach to achieving the requirements of Section C.5.5. What resources (staff, contingency funds, tracking systems, technology, partners, other) does your firm have to fully staff the NCEFA and implement the systems and processes to manage the Program? What additional resources will your firm have to develop or procure, and what is the plan to secure those resources?

- (iii) In an appendix, provide the names, title, firm, and resumes of all key personnel that will staff this Program, to include:
  - 1. The overall project manager (provide their resume in an appendix entitled “Resumes”);
  - 2. Other key personnel responsible for each task area set forth in Section C (provide their resumes in the appendix entitled “Resumes”); and,
  - 3. Name and description of any proposed subcontracting firms, including key personnel and expertise provided to the project and relevant experience and the tasks and subtasks each subcontractor shall perform.
- (iv) What Government or federal compliance reporting experience does your firm have and for what specific programs have you had to report?
- (v) Provide an overview of your firm’s approach to financing the ramp-up costs of the Program until the project is stabilized. What are your estimates for the NCEFA to reach its break-even point? (This will be addressed in more detail in the Price Proposal).

L.3.4.5 Fund management

- (i) Describe your firm’s experience in managing a portfolio of comparable scale to the Program (i.e. between \$30 million to \$250 million). What types of transactions did your firm manage and how did you leverage and/or optimize that portfolio?
- (ii) Describe in detail the financial program you propose, to include: any unique aspects to assign to the PACE special assessments, the underwriting criteria for approving applications, how applications would be prioritized (assuming strong demand), sources of additional leverage, where and for how long the loans would be warehoused until the bonds are issued, requirements of the Fund that you would impose to ensure viability of the bond issuance, proposals to minimize default risk, approach to creating a debt service reserve, any other.
- (iii) What aspects of the financial responsibilities and fund management set forth in Section C.5.6 will your firm provide in-house, and which will your firm outsource? Does your firm have loan servicing experience or will you outsource this function? If you outsource the loan servicing function, what evaluation criteria will you use for choosing a subcontractor(s)?
- (iv) Describe your approach to setting and optimizing the interest rate on the financing, the bond anticipation note, and the bonds so as to minimize interest rate risk to the Program and the Government. Summarize the fee schedule your firm proposes for each PACE financing, including origination fees, workforce development fees, interest margins (the Price Proposal will contain the detailed analysis). How do you

anticipate the Program to perform if interest rates start escalating and how could you manage inflation risk?

- (v) Propose or recommend any credit enhancement and/or liquidity support, financing covenants or other strategies required to boost lender security, reduce borrower interest costs, and minimize interest rate risk.

L.3.4.6 Marketing

- (i) What is your firm's approach to estimating demand and testing the appropriate pricing structure for the PACE Program?
- (ii) What experience does your firm have in launching a marketing campaign for a new product? How did your firm gage the type and amount of marketing required to generate the target demand volume your firm could successfully handle?

L.3.4.7 Energy Retrofit Service Delivery

- (i) Discuss in detail your firm's service delivery approach, to include: minimum criteria you recommend for energy benchmarking and auditing, how you would ensure the quality of the energy data collected, how you would prioritize among retrofit projects, determination factors in identifying qualified contractors to perform the retrofit work (if any), what methods your firm will utilize to monitor and verify the installation, other.
- (ii) What benchmarking, monitoring, and verification tools does your firm have or will your firm create to consolidate, analyze, and publish the program's energy performance?
- (iii) What additional training of contractors/subcontractors will be required to ensure proper installation of energy retrofits? What role, if any, does your firm anticipate it will play in ramping-up the energy retrofit industry to meet demand for the PACE Program?

L.3.4.8 Workforce Development

- (i) Discuss your firm's approach to meeting the goal of hiring 100% District residents and ensuring that District residents are hired to fill job openings created by the Program. What existing workforce development programs would you leverage and what specific role would your firm play to support working with them?
- (ii) If 640 new and retained jobs is a reasonable estimate of the number of jobs associated with this Program over the next three years, what amount of funding is anticipated to be needed to support the successful training, placement and employment of District residents for those jobs and how would those funds be spent?

L.3.4.9 Experience and Past Performance. In an appendix entitled “Experience”, provide the following:

- (i) If the Offeror is comprised of multiple firms, identify any projects on which the individual firms have previously worked together. If none, state so.
- (ii) By functional category, (i.e. managing member/administrator role, marketing, fund management, service delivery, and workforce development), state the relevant experience of the firm and/or person(s) who will be actively engaged in the NCEFA. For each functional category, provide up to ten (10) examples of projects of comparable scope and scale to the Program, to include the following information:
  - a. Name of the project;
  - b. Name of the client, if any;
  - c. Project description;
  - d. Size (dollar and volume equivalent) of the project;
  - e. Contractor’s internal annual budget to manage the project;
  - f. Measurable project achievements/outcomes;
  - g. A brief description of the relevant technical or task-specific experience, including the project budget and period of performance for the project;
  - h. A brief description of the relevant program management experience; and

L.3.4.10 Other Required Documentation

Offerors must submit with their Technical Proposal a Conflict of Interest statement. The Government will award contracts only to those Offerors whose objectivity is not impaired because of any related task, present, or planned interest, financial or otherwise, in organizations regulated by the Government or in organizations whose interest may substantially be affected by Government activities. Based on this policy:

- (i) Offerors shall describe, in a concise manner, all past, present or planned organization, financial, contractual or other interests with organizations regulated by the Government or with organizations whose interest may be substantially affected by Government activities and which is related to work under this solicitation. The interest described shall include those of the Offeror, proposed consultants, proposed subcontractors and key personnel of any of the above. Past interests will be limited to within one (1) year of the date of the Offeror’s Technical Proposal. Key personnel, for the purpose of this section only, shall include any person owning more than twenty percent (20%) interest in the Offeror, and shall also include the Offeror’s corporate officers, its senior managers, and any employee responsible for making a decision or taking an action on this contract that could have an economic or other impact on the interest of a regulated or affected organization.

- (ii) Offerors shall describe why in light of any interests identified above, performance of the proposed contract can be accomplished in an impartial and objective manner.
- (iii) The Offeror shall certify, and its signature shall be considered certification by the signatory, that the Offeror, or any person associated therewith in the capacity of owner, partner, director, officer, principal, or any position involving the administration of funds:
  - a. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility under any federal, District or state statutes;
  - b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal, District or state agency within the past three (3) years;
  - c. Does not have a proposed debarment pending; and
  - d. Has not been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- (iv) The Offeror shall submit in its proposal a statement as to whether or not they have been subject to any federal or Government debarment proceedings. Also, the Offeror shall identify and provide information regarding any lawsuits, civil or criminal, brought against them or bankruptcy proceedings in the last five (5) years.
- (v) As an appendix or attachment to your proposal, include your firm's most recent annual report. If your firm is comprised of multiple parties, please provide the annual report of the managing members, or provide a justification for not providing such information. This information is not subject to FOIA, unless your firm's annual report is otherwise publicly available.
- (vi) Provide five (5) references for your firm, preferably from municipal finance and energy experts or agencies. Letters of recommendation can be provided in addition to the references and included as an appendix.

**L.3.5 Price Proposal must be organized as follows:**

- L.3.5.1 The Offeror shall submit its Price Proposal according to the requirements of this Section L.3.5. In addition, the Offeror shall include a narrative stating the material assumptions utilized in developing its Price Proposal. The Offeror shall also provide supporting detail on its price submission for each task which includes a breakdown of the Offeror's price by major cost category, including, but not limited to, labor, overhead, travel cost, subcontractor, general and administrative expenses and Fee. Cost escalation assumptions in case that option years are exercised. The Offeror shall sign and date the Cost/Price

Certification Form (Attachment J.6) and submit it with the Price Proposal and use the instructions to prepare its cost or pricing data.

L.3.5.2 Because the work associated with the Program Design Phase may be different than the work conducted after all policies and systems are implemented, Offerors shall submit a Price Proposal that delineates costs associated with the Program Design Phase from the costs for “normal operations”. Costs should reflect most competitive rates (and shall set forth both fixed, fully-loaded hourly rates per labor category and its process for pricing certain work on a firm, fixed-fee basis) for each task for which it submits a Technical Proposal. All Offerors must provide the following details for each task:

L.3.5.2.1 Provide the Offeror’s Fee and budget for NCEFA:

- (i) Provide a detailed Fee proposal for the Contractor’s costs associated with the Program Design Phase and Pilot Program, to include any subcontractor fees, reimbursables (travel, printing, mailings, other), labor, legal and other.
- (ii) Provide a detailed Fee proposal for “normalized operations.” In this Fee proposal, exclude any capital investment costs (such as investments in software, other systems) and dollars expended on workforce development training. Do include the Contractor’s labor, reimburseables and other direct costs and profit to the Contractor for staffing and managing the workforce development program, the reporting, bond document preparations, legal, insurance, regular subcontractor costs, and other costs.
- (iii) Create a complete annual operating budget for the NCEFA for the three year Program period, to include the revenue sources for all aspects of the Program, and expenses for all aspects of the Program, to include the Contractor’s Fee, marketing expenses that are in addition to the Contractor’s Fee, any capital investment costs, the Government’s administration costs, workforce development program costs, other.
- (iv) Provide an explanation as to how your firm will fund its activities while assuming the risk of not being paid until Administrative Fee revenue from issuing PACE loans is available. What are the limitations to your firm’s commitment to work at-risk (i.e. how long is your firm willing to work at risk, or through what stage of the Program is it willing to work at risk, or to what dollar amount will the firm work before it will cease work?) Please identify the source of funds to be used to the Contractor’s costs during the “at risk” period. Documentation proving availability of funds to be used during the “at risk” period is required.

L.3.5.2.2 Provide a cash flow model for the NCEFA:

- (i) Provide a cash flow model for the Fund which spans the three-year period through stabilization. The cash flow model should include:



- a. Revenues to be generated through Administrative Fees, bond proceeds, other revenue sources; factor in, as appropriate, any private sources of leverage or funding to supplement/augment the NCEEF;
  - b. Costs associated with managing the Fund, to include payment of Bank fees, cost of warehousing loans, cost of providing any required security, NCEFA expenses (identified in Section L.3.5.2.1(iii)) that are not covered by other sources of funding, Contractor's Fee, interest to private sources of leverage (if any), other; and,
  - c. Indicate the break-even point of the Fund.
- (ii) Provide a detailed set of assumptions for developing the above analysis. Also identify any sensitivity analyses (i.e. range of variability in the assumptions) that the Government should be particularly aware of.

**L.3.6 Oral Presentation**

Selected Offerors will be scheduled to present an oral presentation of its offer, which date is set for **ORAL PRESENTATION DATE** indicated on the cover sheet of this RFP (times of oral presentations are yet to be determined). Oral presentations will take place at DDOE, located at 1200 First Street N.E, 5<sup>th</sup> Floor, Washington, DC 20002. The presentation and associated question/answer shall not exceed two (2) hours. Information obtained during the presentation will be evaluated by the Government's evaluation panel in accordance with Section M.

**L.4 PROPOSALS WITH OPTION YEARS**

The Offeror shall include option year prices in its price/cost proposal. An offer may be determined to be unacceptable if it fails to include pricing for the option year(s).

**L.5 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS**

**L.5.1 Proposal Submission**

- L.5.1.1 Proposals must be submitted no later than the **PROPOSAL DUE DATE** specified on the first page of this solicitation to the following address:

Office of the Deputy Mayor for Planning & Economic Development  
 Office of Contracts and Procurement  
 2025 M Street N.W., Suite 600  
 Washington, DC 20036

- L.5.1.2 Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are late and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:
- The proposal or modification was sent by registered or certified mail not later than the fifth (5th) day before the date specified for receipt of offers;
  - The proposal or modification was sent by mail and it is determined by the CO that the late receipt at the location specified in the solicitation was caused by mishandling by the Government; or
  - The proposal is the only proposal received.

**L.5.2 Withdrawal or Modification of Proposals.** An Offeror may modify or withdraw its proposal upon written, telegraphic notice, or facsimile transmission if received at the location designated in the solicitation for submission of proposals, but not later than the closing date for receipt of proposals.

**L.5.3 Postmarks.** The only acceptable evidence to establish the date of a late proposal, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. The proposal shall be deemed mailed late, if neither postmark shows a legible date modification or request for withdrawal. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the proposal shall be considered late unless the Offeror can furnish evidence from the postal authorities of timely mailing.

**L.5.4 Late Modifications.** A late modification of a successful proposal, which makes its terms more favorable to the Government, shall be considered at any time it is received and may be accepted.

**L.5.5 Late Proposals.** A late proposal, late modification or late request for withdrawal of an offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers resulting from this solicitation.

## **L.6 EXPLANATION TO PROSPECTIVE OFFERORS**

If a prospective Offeror has any questions relating to this solicitation, the prospective Offeror shall submit the question in writing to the contact person, identified on page one. The prospective Offeror shall submit questions no later than five (5) business days prior to the closing date and time indicated for this solicitation. The Government will not consider any questions received less than five (5) business days before the date set for submission of proposals. The Government will furnish responses promptly to all prospective Offerors. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting offers, or if the lack of it would be prejudicial

to any prospective Offeror. Oral explanations or instructions given by Government officials before the award of the contract will not be binding.

**L.7 RESTRICTION ON DISCLOSURE AND USE OF DATA**

**L.7.1** Offerors who include in their proposal data that they do not want disclosed to the public or used by the Government except for use in the procurement process shall mark the title page with the following legend:

“This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.”

**L.7.2** If, however, a contract is awarded to this Offeror as a result of or in connection with the submission of this data, the Government will have the right to duplicate, use, or disclose the data to the extent consistent with the Government’s needs in the procurement process. This restriction does not limit the Government’s rights to use, without restriction, information contained in this proposal if it is obtained from another source. The data subject to this restriction are contained in sheets (insert page numbers or other identification of sheets).”

**L.7.3** Mark each sheet of data it wishes to restrict with the following legend:

“Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.”

**L.8 SIGNING OF OFFERS**

The Offeror shall sign the offer and print or type its name on the Solicitation, Offer and Award form of this solicitation. Offers signed by an agent shall be accompanied by evidence of that agent’s authority, unless that evidence has been previously furnished to the CO.

**L.9 UNNECESSARILY ELABORATE PROPOSALS**

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the Offeror’s lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

**L.10 RETENTION OF PROPOSALS**

All proposal documents will be the property of the Government and retained by the Government, and therefore will not be returned to the Offerors.

**L.11 PROPOSAL COSTS**

The Government is not liable for any costs incurred by the Offerors in submitting proposals in response to this solicitation.

**L.12 ELECTRONIC COPY OF PROPOSALS FOR FREEDOM OF INFORMATION ACT REQUESTS**

In addition to other proposal submission requirements, the Offeror must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure in D.C. Official Code § 2-534, in order for the Government to comply with Section 2-536(b) that requires the Government to make available electronically copies of records that must be made public. The Government's policy is to release documents relating to Government proposals, subject to applicable FOIA exemption under Section 2-534(a)(1).

**L.13 CERTIFICATES OF INSURANCE**

The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in Section L.8 prior to commencing work. Evidence of insurance shall be submitted within fourteen (14) calendar days of contract award to:

Jacque McDonald, CPPO, CPPB  
Director of Contracts and Procurement  
Office of the Deputy Mayor for Planning & Economic Development  
2025 M Street N.W., Suite 600  
Washington, DC 20036

**L.14 ACKNOWLEDGMENT OF AMENDMENTS**

The Offeror shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided on the Government's standard Solicitation, Offer and Award Form, (which form will be issued with the amendment); or (c) by letter or telegram including mailgrams. The Government must receive the acknowledgment by the date and time specified for receipt of offers. An Offeror's failure to acknowledge an amendment may result in rejection of the offer.

**L.15 BEST AND FINAL OFFERS**

If, subsequent to receiving original proposals, negotiations are conducted, all Offerors within the competitive range will be so notified and will be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation. After receipt of Best and Final Offers, no discussions will be reopened unless the CO determines that it is clearly in the

Government's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Contractor selection and award based on the best and final offers received. If discussions are reopened, the CO shall issue an additional request for Best and Final Offers to all Offerors still within the competitive range.

**L.16 LEGAL STATUS OF OFFEROR**

Each proposal must provide the following information:

- Name, Address, Telephone Number, Federal tax identification number and DUNS Number of Offeror;
- A copy of each District of Columbia license, registration or certification that the Offeror is required by law to obtain. This mandate also requires the Offeror to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862 (2001), if the Offeror is required by law to make such certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and
- If the Offeror is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

**L.17 FAMILIARIZATION WITH CONDITIONS**

Offerors shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties, which may be encountered, and the conditions under which the work is to be accomplished. Contractors will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

**L.18 STANDARDS OF RESPONSIBILITY**

L.18.1 The Offeror must demonstrate to the satisfaction of the Government the capability in all respects to perform fully the contract requirements, therefore, the Offeror must submit the documentation listed below, within five (5) business days of the request by the Government.

L.18.2 Provide evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.

- L.18.3 Provide evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- L.18.4 Provide evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.
- L.18.5 Provide evidence of compliance with the applicable District licensing and tax laws and regulations.
- L.18.6 Provide evidence of a satisfactory performance record of integrity and business ethics.
- L.18.7 Provide evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.18.8 Provide evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.
- L.18.9 If the Offeror fails to supply the information requested, the CO shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the Offeror to be nonresponsible.

**L.19 DETERMINATION OF CONTRACTOR CONFLICTS OF INTEREST**

- L.19.1 The Contractor shall submit with its Technical Proposal a detailed description of the scope of work currently being performed and recently performed by the Contractor for the Government and any of their affiliates.
- L.19.2 The CO will review all statements submitted and may require relevant information from the Offeror. All information provided and any other relevant information known to the Government will be used to determine whether an award to the Offeror may create a conflict of interest. If such a conflict of interest is found to exist, the CO may: 1) disqualify the Offeror, or 2) determine it is otherwise in the best interest of the Government to contract with the Offeror and include appropriate provisions to mitigate or avoid such conflict in the awarded contract.
- L.19.3 An Offeror's refusal to provide disclosure or representation or any additional information required, may result in the disqualification of the Offeror or award. If non-disclosure or misrepresentation is discovered after the award, the CO may terminate the resulting contract. If after award, the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which would not reasonably have been known prior to award, the Contractor shall make an immediate full disclosure in writing to the CO. The Disclosure shall include a full description of the conflict, a description of the action or proposes to take to avoid or mitigate such conflict. The CO may, however,

terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

**SECTION M: EVALUATION FACTORS**

**M.1 EVALUATION FOR AWARD**

The contract will be awarded to the responsible Offeror whose offer is most advantageous to the Government, based upon the evaluation criteria specified below.

**M.2 TECHNICAL RATING**

M.2.1 The technical rating scale is as follows:

<b>Numeric Rating</b>	<b>Adjective</b>	<b>Description</b>
0	Unacceptable	Fails to meet minimum requirements; Offeror did not address the factor. Example: Has no demonstrated capacity; major deficiencies are not correctable.
1	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable.
2	Minimally Acceptable	Marginally meets minimum requirements; minor deficiencies which may be correctable.
3	Acceptable	Meets requirements; no deficiencies.
4	Good	Meets requirements and exceeds some requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

M.2.2 The technical rating is a weighting mechanism that will be applied to the point value for each evaluation factor to determine the Offeror’s score for each factor. The Offeror’s total technical score will be determined by adding the Offeror’s score in each evaluation factor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, using the technical rating scale above, if the Government evaluates the Offeror’s response as “Good,” then the score for that evaluation factor is 4/5 of 40 or 32.

M.2.3 If subfactors are applied, the Offeror’s total technical score will be determined by adding the Offeror’s score for each subfactor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, with two subfactors of twenty (20) points each, using the technical rating scale above, if the Government evaluates the Offeror’s response as “Good” for the first subfactor and “Poor” for the second subfactor, then the total score for that evaluation factor is 4/5 of 20 or 16 for the first subfactor plus 1/5 of 20 or 4 for the second subfactor, for a total of 20 for the entire factor.

**M.3 EVALUATION CRITERIA**

Proposals will be evaluated based on the following evaluation factors in the manner described below:



<b>Number</b>	<b>Evaluation Factors</b>	<b>Points</b>
M.3.1.1	Program approach	25
M.3.1.2	Technical experience	60
M.3.1.3	Oral presentation, if applicable	20
M.3.1.4	Price factors	15
M.3.1.5	CBE preference	10
	<b>Total Points</b>	<b>130</b>

**M.3.1 TECHNICAL CRITERIA (85 Points Maximum)**

**M.3.1.1 Program approach (25 Points)**

Offerors will be evaluated on their level of understanding of and proposed strategies to address the challenges, opportunities and program targets associated with each functional area of the Program.

**M.3.1.2 Technical experience (60 Points)**

The depth of professional expertise of proposed personnel as it relates to the full scope of services and specific tasks. An Offeror’s experience in providing PACE or similar services to government and/or quasi-governmental entities. An Offeror’s experience in working with relevant tasks in the District and neighboring jurisdictions. An Offeror’s capability and ability to perform those tasks outlined in the requirements. Specifically, the Offeror will be evaluated on relevant experience for each task as follows:

- **Organization and administration:** Experience in successfully managing and administering a comparably-sized team to the one proposed, and specifically running an agency, company or organization similar in mission and size to the NCEFA. In addition, the Offeror will be evaluated on past experience complying with federal and/or Government grants, programs, or other awards, and successful audits, reporting, and result verification.
- **NCEEF management:** Expertise in PACE or other special assessments, experience in financial portfolio management, underwriting, and growth. Expertise in structuring public and private real estate financing deals (with the District of Columbia or elsewhere), expertise in energy finance products, and demonstrated experience in negotiating with banks, investors, and the bond market.
- **Marketing:** Experience branding and marketing a start-up program or project, recruiting and negotiating with sponsors, and messaging to multiple types of consumers (specifically, residential, commercial, public, and institutional owners).
- **Energy retrofit service delivery:** Experience in commercial and residential energy efficient retrofits and weatherization. Experience in innovation and leadership in implementing and measuring impact of energy efficient technologies is required.

Understanding of the base of existing service providers, contractors and subcontractors within the District is highly desired.

- **Business and job development:** Experience in economic development principles around business and workforce development, and specifically collaborating with workforce training providers in the District. Experience working with and educating contractors in energy retrofit work is desired.

**M.3.1.3 Oral Presentations (20 Points Maximum)**

In evaluating the oral presentation, the Government may apply the following sub-factors:

- The extent to which the Offeror demonstrates the ability to conduct a clear and concise presentation on their proposed offer;
- Conveys an understanding of the dynamics of PACE, the financing industry, the opportunity for partnerships, and provides a clear and concise approach to how the Government could implement PACE in the District;
- Conveys the ability to manage a large set of relationships with diverse stakeholders, including property owners, service delivery contractors, financial institutions, and government agencies; and,
- Demonstrates a thoroughness to perform high quality work.

**M.3.1.4 Price Criteria (15 Points Maximum)**

The price evaluation will be objective. The Offeror with the lowest price will receive the maximum price points. All other proposals will receive a proportionately lower total score. The following formula will be used to determine each Offeror's evaluated price score:

$$\frac{\text{Lowest price proposal}}{\text{Price of proposal being evaluated}} \times \text{weight} = \text{Evaluated price score}$$

**M.3.1.5 CBE Preference (10 Points Maximum)**

The terms for determining and awarding CBE Preference points are pursuant to Section M.5.

**M.4 EVALUATION OF OPTION YEARS**

The Government will evaluate offers for award purposes by evaluating the total price for all options as well as the base year. Evaluation of options shall not obligate the Government to exercise them. The total Government's requirements may change

during the option years. Quantities to be awarded will be determined at the time each option is exercised.

## **M.5 PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES (CBE)**

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the Government shall apply preferences in evaluating proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, or local with a principal office located in an enterprise zone of the District.

### **M.5.1 Subcontracting Requirements**

If the prime Contractor subcontracts any portion of the work under this contract, the prime Contractor shall meet the following subcontracting requirements:

M.5.1.1 At least thirty-five percent (35%) of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods and supplies shall not be counted towards the thirty-five percent (35%) subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises; or

M.5.1.2 If there are insufficient qualified small business enterprises to completely fulfill the requirement of Section M.5.1.1, then the subcontracting may be satisfied by subcontracting thirty-five percent (35%) of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

### **M.5.2 Application of Preferences**

For evaluation purposes, the allowable preferences under the Act for this procurement shall be applicable to prime contractors as follows:

M.5.2.1 Any prime Contractor that is a small business enterprise (“**SBE**”) certified by DSLBD will receive the addition of three points on a 100-point scale added to the overall score for proposals submitted by the SBE in response to this RFP.

M.5.2.2 Any prime Contractor that is a resident-owned business (“**ROB**”) certified by DSLBD will receive the addition of five (5) points on a 100-point scale added to the overall score for proposals submitted by the ROB in response to this RFP.

M.5.2.3 Any prime Contractor that is a longtime resident business (“**LRB**”) certified by DSLBD will receive the addition of ten (10) points on a 100-point scale added to the overall score for proposals submitted by the LRB in response to this RFP.

M.5.2.4 Any prime Contractor that is a local business enterprise (“**LBE**”) certified by DSLBD will receive the addition of two (2) points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to this RFP.

M.5.2.5 Any prime Contractor that is a local business enterprise with its principal offices located in an enterprise zone (“**DZE**”) certified by DSLBD will receive the addition of two (2) points on a 100-point scale added to the overall score for proposals submitted by the DZE in response to this RFP.

M.5.2.6 Any prime Contractor that is a disadvantaged business enterprise (“**DBE**”) certified by DSLBD will receive the addition of two (2) points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to this RFP.

### **M.5.3 Maximum Preference Awarded**

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act for this procurement is the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to this RFP.

### **M.5.4 Preferences for Certified Joint Ventures**

When DSLBD certifies a joint venture, the certified joint venture will receive preferences as a prime contractor for categories in which the joint venture and the certified joint venture partner are certified, subject to the maximum preference limitation set forth in the preceding paragraph.

### **M.5.5 Verification of Offeror’s Certification as a Certified Business Enterprise**

M.5.5.1 Any vendor seeking to receive preferences on this solicitation must be certified at the time of submission of its proposal. The CO will verify the Offeror’s certification with DSLBD, and the Offeror should not submit with its proposal any documentation regarding its certification as a certified business enterprise.

M.5.5.2 Any vendor seeking certification or provisional certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development  
441 Fourth Street N.W., Suite 970N  
Washington, DC 20001  
ATTN: CBE Certification Program

M.5.5.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

**M.5.6 EVALUATION OF PROMPT PAYMENT DISCOUNT**

M.5.6.1 Prompt payment discounts shall not be considered in the evaluation of offers. However, any discount offered will form a part of the award and will be taken by the Government if payment is made within the discount period specified by the Offeror.

M.5.6.2 In connection with any discount offered, time will be computed from the date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination when delivery, installation and acceptance are at that, or from the date correct invoice or voucher is received in the office specified by the Government, if the latter date is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

## **SECTION N: ARRA COMPLIANCE REQUIREMENTS**

### **N.1 ARRA**

- N.1.1 Pursuant to ARRA, USDOE has made formula funding available to the Government under the SEP, also known as Catalog of Federal Domestic Assistance (“CFDA”) number 81.041. This funding is intended to achieve the following goals: (1) increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government; (2) reduce reliance on imported energy; (3) improve the reliability of electricity and fuel supply and the delivery of energy services; and (4) reduce the impacts of energy production and use on the environment. The ARRA was enacted to preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and to stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.
- N.1.2 The Government’s SEP grant period endures for three (3) years from the date of award, which was April 20, 2009. This mandates that DDOE and the Contractor shall adhere to the ARRA reporting requirements through either (i) the date by which the allocated ARRA funds to support this contract are exhausted, or (ii) September 20, 2012, whichever is sooner.
- N.1.3 Whenever SEP grant funds are utilized to support this contract, the uses of such funds are subject to the reporting and compliance requirements identified in this Section N. For example, if SEP funds are used to pay the Fee for the Program Design Phase, all activities during the Program Design Phase shall be subject to the ARRA grant reporting requirements. The converse is also true; the Contractor’s deliverables that are not funded by SEP funds, shall not be subject to the ARRA grant reporting requirements.

### **N.2 ARRA COMPLIANCE**

- N.2.1 The list below is not exhaustive of the ARRA grant requirements. However, the information below is provided to guide the Offeror in its preparation and proposal development. For all activities under an ensuing contract that the Contractor is paid from SEP funds, the Contractor shall be subject to the ARRA grant requirements included on Attachments J.7 through J.10, and shall be responsible for ensuring that its subcontractors and vendors comply with the requirements included on Attachments J.7 through J.10. This includes compliance with requirements related to the Davis-Bacon Wage Act, the Buy America stipulation, Federal laws for Equal Employment Opportunities, Whistle Blower Protections and related job site notice posting. Any of the Contractor’s subcontractors and vendors identified as being out of compliance with the terms and conditions of this award may be defunded by DDOE.

N.2.2 To satisfy ARRA grant reporting requirements, the Contractor shall participate in ARRA reporting training and shall assemble and provide to the DDOE grant manager the data necessary for DDOE to comply with ARRA reporting requirements, and shall ensure that its subcontractors and vendors do likewise. The Contractor shall report according to the ARRA Monthly Reporting Schedule Chart in Attachment J.7. As such, the Contractor shall submit monthly reports to the DDOE grant manager by the first business day of each month. The Contractor shall manually enter the required subcontractor and vendor data into the Government's ARRA data management system at reporting.dc.gov by the fifth (5th) calendar day of each month, except that such data shall be entered into https://reporting.dc.gov by the third (3rd) calendar day of each month following the end of a federal fiscal quarter (each January, April, July, and October). In instances where the due date for entering data into https://reporting.dc.gov falls on a weekend, the due date will be the Friday prior to such weekend. The monthly and quarterly reports shall include brief information on the following areas:

- Achievement of the outputs and outcomes established in the work plan;
- The reasons for delays if established outputs or outcomes are not met; and,
- Any additional pertinent information or environmental results.

N.2.3 The Contractor, its subcontractors, and vendors shall create and maintain the programmatic and financial records necessary for DDOE to fulfill ARRA and USDOE reporting and audit responsibilities, and shall make such records available to the DDOE grant manager upon request following reasonable notice.

N.2.4 If the Contractor, its subcontractors or vendors expend an aggregate of Five Hundred Thousand Dollars (\$500,000) or more from all federal sources in a calendar year, they each shall obtain an independent audit, at their own expense, of program expenditures in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," which the Contractor, subcontractor, and vendor shall comply with, in addition to other federal regulations. A copy of the audit findings will be submitted to the grant administrator no later than thirty (30) days from the issuance of the audit findings. The Contractor, its subcontractors, and vendors shall make all audit information available and/or their audit reports to DDOE. If the Contractor, its subcontractors and vendors already conduct an independent annual audit, such audit will comply with the OMB requirement.

N.2.5 The Contractor shall establish separate accounts for each retrofit project, if applicable, and each subcontractor and vendor. The Contractor shall maintain a strict, and separate, dollar-for-dollar accounting on how ARRA funds are spent. In no event shall the Contractor commingle ARRA funds with any other funds or use ARRA funds for a purpose other than that of making payments for costs allowable for the ARRA projects authorized by the ensuing contracting.

N.2.6 The Contractor shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, subcontractor, or vendor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil

violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

- N.2.7 To the fullest extent possible, the Contractor will grant access to USDOE and DDOE to visit and inspect the project site(s) and work performed by the Contractors, its subcontractors, and vendors. DDOE will obtain written consent in advance from the Contractor to have DDOE, USDOE, and/or any other entities specified under the terms and conditions incorporated into the contract, access the project site(s), if any, for inspection of work at an interim phase of performance and after completion.
- N.2.8 The Contractor, its subcontractors, and vendors shall comply with such additional conditions not specified herein that DDOE may impose so as to ensure compliance with ARRA.
- N.2.9 The Contractor shall ensure its subcontractors and vendors post job opportunities on the DOES website: [www.dcnetworks.org](http://www.dcnetworks.org).
- N.2.10 Prior to entering into a contract, DDOE and Contractor shall establish project numbers corresponding to tasks identified in this RFP and provide an estimated budget for each task not to exceed the amount of SEP funding available. Changes to each task budget can be amended with prior approval of DDOE. The total budget however is limited to the amount of available SEP funds.
- N.2.11 Any work or service contracted and/or subcontracted by the Contractor, which contract is to be funded by SEP funds, shall be subject to DDOE's right to review and approve prior to its execution by the Contractor. Any such contract and/or subcontract shall specify that the Contractor's subcontractors and vendors shall be subject to every applicable provision in the ARRA grant requirements. DDOE will not undertake to settle any differences between the Contractor, its subcontractors and/or vendors.
- N.2.12 The Contractor shall submit to the DDOE grant administrator a final programmatic report no later than the seven (7) business days prior to the expiration of the deadlines for the tasks funded by SEP funds, which report shall consist of: 1) achievement of the outputs and outcomes established in the work plan; 2) the reasons for delays if established outputs or outcomes are not met; 3) any additional pertinent information or environmental results; 4) a copy of the general ledger highlighting all expenditures made, including those paid to subcontractors, subject to other support materials upon request. Also included in the final programmatic report shall be a summary of evaluation results conducted on the delivery of services under the quality assurance program.
- N.2.13 The Contractor shall submit to the DDOE grant administrator a final financial report within five (5) business days of the termination of the deadline for the task funded by SEP funds, a full accounting of ARRA expenditures. This report shall include: 1) a summary of the cumulative obligation and disbursement of funds to subcontractors; and, 2) a financial statement from each subcontractor identifying funds received and expended for each category of service.



N.2.14

The Contractor, its subcontractors, and vendors shall maintain records and receipts for the expenditure of all funds provided for a period of no less than three years from the date of expiration or termination of the contract and, upon DDOE's request, make these documents available for inspection by duly authorized representatives of the buyer agency and other officials as may be specified by the OCFO and USDOE.