**Request for Qualifications**

 **to Pre-Qualify**

**ESCOs**

Insert user logo

This document is part of a collection of model procurement and contracting documents that represent best practices for state energy offices (SEOs) to launch and administer programs to increase energy efficiency through Energy Savings Performance Contracting. The documents draw from successful programs in various states and are continually updated to incorporate the latest strategies. They can be easily customized to meet the needs of any program. These documents do not constitute legal advice and are provided as samples for adaptation to the laws and regulations of the user.

Your procurement rules will govern the approach. The approach presented here involves an RFQ with qualifications and cost parameters to pre-qualify ESCOs, followed by an RFP by an Owner to request comparable information for a specific project with no project cost estimates.

**DESCRIPTION**

This model RFQ is intended for use by a state Program to pre-qualify Energy Service Companies (ESCOs) to be available for as-needed Energy Savings Performance Contracting (ESPC) services for state and local governments within the state.

This RFQ sets the stage for a streamlined procurement and contracting process for end users and establishes a clear role for the state energy office (or similar entity) to launch and oversee a Program.

To establish a streamlined procurement and contracting process, this RFQ includes:

* Solicitation to establish a pre-qualified list of energy service companies (ESCOs) that can be selected by any government agency in a state to complete a performance contracting project in its facilities.
* Model contracts that can be pre-approved by the state to reduce the time and difficulty for Owners to obtain such services.

To set the stage for a state program, this RFQ includes:

* An agreement with pre-qualified ESCOs to define the processes, establish responsibilities, and outline the role of the state energy office in any follow-through oversight.
* An agreement with an Owner to define the processes and establish the role of the Program in any follow-through oversight.

This is a model document only and does not attempt to identify or address all circumstances or conditions you may encounter or desire. Consult with your legal counsel, applicable legislation and procurement staff to adapt it to meet your needs.

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| --- |
| **AT-A-GLANCE –**  **REQUEST FOR QUALIFICATIONS (RFQ) TO PRE-QUALIFY ESCOs** |
| **Overview****The Big Picture** – What does the RFQ accomplish?* A list of pre-qualified ESCOs
* Minimum standards and requirements for ESCO performance

**How does the RFQ streamline the procurement process for clients?*** Eliminates the need for clients to evaluate ESCO capabilities
* Shortens the timeline for project development by eliminating the need for clients to initiate an RFP process

**How does the RFQ set the stage for the program?*** Describes the program’s role
* Establishes the program’s authority with respect to ESCOs and clients
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A number of elements can be considered for inclusion in a “best practices” RFQ adopted by a state energy office. These RFQ elements are listed below.

| **AT-A-GLANCE –** **REQUEST FOR QUALIFICATIONS (RFQ) TO PRE-QUALIFY ESCOs** |
| --- |
| **Section** | **Title** | **Description & Key Points**  | **Negotiating Items & Recommendations** |
|  | Overview and Background | Program overview, intent, historical background, role of the state, information on how the ESCO will be selected for a project (two-step procurement process with pre-qualification followed by secondary selection process). | Provide the ESCO with a snapshot of the state’s intention, a broader view of the state’s interests, and how to go beyond pre-qualification to final selection for a project.  |
|  | Proposal submittal and selection process | Administrative requirements and processes for ESCSOs (proposal submittal information, selection process with schedule).  | Customize with your specific procurement requirements. |
|  | Overview of Approach | Introduction of the ESCO to the evaluation committee.  | Overviews may be posted on the Program’s website to provide an introduction to pre-qualified ESCOs.  |
| 2.0 | Project History | ESCO’s expertise and experience by market sector. List of projects including project size and date.  | Detailed information on projects which also serve as references.  |
| 3.0 | Qualifications | ESCO’s background, financial capability, industry accreditations, general scope of services. |  |
| 4.0 | Financial Soundness & Stability |  | Invite a financial specialist to review and score this section independently.  |
| 5.0 | Technical Approach | ESCO’s approach to auditing, M&V, commissioning, operations and maintenance, and handling of savings shortfalls. |  |
| 6.0 | Manage-ment Approach | ESCO’s project management and coordination, local staffing, subcontractors, construction management, Owner interaction, long-term servicing, personnel and staffing.  | Request added information specific to your project.  |
| 7.0 | Cost and Pricing | ESCO’s markups, overhead, and profit margins, fees, contingency, and how best value is achieved.  | The ESPC program establishes maximum costs (profit markups and fees) for the ESCO. The maximum costs generally apply to average-sized or worst-case projects that may be negotiated downward for specific projects.  |
| 8.0 | Compli-ance  | Compliance with Performance Contracting Requirements (Best Practices) including use of attached contracts.  | Confirm compliance to use the model documents provided by the Program. |
| **Attachments** |
| A | Base Agreement ESCO Contract | Establishes commitments from ESCOs to abide by Program requirements and guidelines. Defines ESCO responsibilities (use model contracts, report data, etc.), Program responsibilities (advertise the Program), and Iwner (select from the pre-qualified list, provide information and access).  | Customize the contract.  |
| B | Response to this Request for Qualifications | Requirements for ESCO responses include qualifications, experience, project history, financial soundness, technical approach, management approach, cost and pricing.  | Include requests for information for any specific capabilities or expertise desired. |
| C | Final ESCO Selection Process | Establishes means to use the pre-qualified list to select an ESCO for a project. It encourages competition (where pre-qualification is a pass/fail selection).  | Ensure this meets procurement requirements. Avoid requesting detailed audits to help make a selection.  |
| D | Cost and Pricing – Definitions and Spreadsheet | Definitions of all cost categories are provided. A spreadsheet is used to apply the ESCO’s proposed markups and maximum percentages for each category.  | Evaluate on the basis of reasonableness. Negotiate the maximum as needed.  |
| E | State statutes on ESPC  | Specific legislation and executive orders related to performance contracting in the target market sectors. This background information is critical to assure compliance.  |  |
| F | Investment Grade Audit and Project Development Contract | Model or pre-approved contract for preliminary review. Respondents are required to comment on the ability to comply with all contract requirements.  | Customize with relevant statute or administrative requirements. Get contract pre-approved by the legal department if possible.  |
| G | Energy Savings Performance Contract | Model or pre-approved contract for preliminary review. Respondents are required to comment on the ability to comply with all contract requirements.  | Customize with relevant statute or administrative requirements. Get contract pre-approved by the legal department if possible.  |
| H | Financing Solicitation Package | Included in the event the ESCO can provide information on financing approaches and if the client asks the ESCO to manage in RFP process to solicit financing companies on the client’s behalf.  | Note that federal law restricts ESCO’s role in advising on financing. If other financing sources are preferred, provide information for the ESCO and eliminate this requirement.  |
| I | Owner’s MOU | Define responsibilities of the facility owner (use pre-qualified list, apply secondary selection process, provide facility information and access, etc.). | Customize contract. Get approval from the legal department.  |
| J | State Executive Orders |  |  |
| **RFQ Element** | **Description & Key Points** | **Negotiating Items & Recommendations** |
| **Key Elements** |
| Pre-agreed markups and fees | Requests maximum markups and fees. | This step removes the difficult process for facility owners to evaluate cost proposals. It enables downward negotiation on prices for particular projects. |
| Measurement & verification (M&V) plan and process | Clearly establishes how M&V will be carried out, with a plan developed as part of the audit contract and a detailed M&V approach laid out for each measure in the performance contract. (This information is included in the audit contract.)  |  |
| Self-funded program | If the program plans to be self-funded, give ESCOs advance notice that a small percentage of the cost savings stream may be removed to provide technical services to facility owners in return for a pre-agreed percentage of the guaranteed efficiency savings, once savings are achieved. | Consider a self-funded program. Obtain legal and procurement approval. This may also require legislative approval for an agency to collect a fee for service. |
| **Other Elements** |
| Supplemental Funding Capability | Establishes means to augment performance contract with utility rebates, grants, operating funds, future funds, etc. | Gives ESCO advance notice of funds to expand a project.  |
| Measurement & verification oversight; & Commissioning Oversight | Establishes that a third party M&V commissioning oversight contractor will be hired and paid for through a pre-agreed, set-aside portion of guaranteed efficiency savings.  | Give ESCOs advance notice that a small percentage of the savings stream may be removed. |
| Project management oversight | Establishes that a third party project management contractor will be hired and paid for through a pre-agreed set-aside portion of guaranteed efficiency savings.  | Give ESCOs advance notice that a small percentage of the savings stream may be removed |

**REQUEST FOR QUALIFICATIONS TO PRE-QUALIFY ESCOS FOR**

**AS-NEEDED ENERGY SAVINGS PERFORMANCE CONTRACTING SERVICES**

**FOR**

**PROGRAM NAME**

# ISSUER’S NAME

# ADDRESS

#

**DATE**

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**request for QUALIFICATIONS**

**TO PRE-QUALIFY ESCOS FOR**

**as-needed Energy Savings Performance Contracting services**

**Instructions**

*Many elements may need to be customized to meet the needs of your program, such as:*

* *Name of state energy office (SEO) and/or issuing agency*
* *Include a description of your program*
* *RFP or RFQ: your procurement department and procurement codes will determine the type of solicitation. For some states this qualifies as an RFQ because cost information is requested in the pre-qualification process and in the secondary selection process.*
* *ESCO Cost and Pricing – Establishing Maximums: The cost and pricing strategy presented here is just one of several approaches. For state projects, the approach needs to comply with State Purchasing requirements.*
* *Agreement with Owners: This is recommended if you have technical services to offer as it defines and formalizes the roles and expectations of all parties.*
* *ESCO Contract: This is recommended to define and formalize the roles of the ESCO, the State Energy Office Energy Savings Performance Contracting Program (Program, and the Facilities Owners. The terms of the contract also need to be determined, as this example specifies five consecutive annually-renewable terms subject to annual evaluation. In lieu of a contract, the content could be presented in a letter of understanding.*
* *Final ESCO Selection Process: This example presents a specific process to be used by Owners in order to make their final selection of an ESCO. This process should be defined by the procurement departments associated with the Owners and may vary by state or local government.*
* *Establish the role of the ESCO in soliciting projects with Owners.*

*Specific elements to customize are highlighted.*

## Overview and Background

The State Energy Office (SEO), through its Energy Savings Performance Contracting Program (Program), seeks proposals from Energy Services Companies (ESCOs) to be pre-qualified for as-needed Energy Savings Performance Contracting services. ESCOs selected through this RFQ, that may also enter into a subsequent contract with Program, will be eligible to provide services to state and local governments that may choose to participate in the Program. The specific market sectors include: state agencies, higher education institutions including community colleges, school districts, cities, counties, other local governments. ESCOs will deliver projects on an open-book basis.

The primary intent of this selection process is four-fold:

* To increase the number of successful performance contracts state-wide, as a means to implement comprehensive energy-efficiency projects in existing buildings
* To provide Program participants the opportunity to procure services of qualified firms in a timely and cost-effective way
* To ensure minimum qualifications of ESCOs to implement successful Energy Savings Performance Contracting projects
* To offer all qualified firms the opportunity of equal access to work generated by Program.

Program provides a standardized process with clear direction and accountability for all participants in development, implementation, and measurement and verification of Energy Savings Performance Contracting projects by defining roles and responsibilities; formalizing process steps; establishing maximum cost schedules; providing standard contract documents; and establishing measurement and verification guidelines.

Potential Program participants include state and local governments (state departments, higher education institutions, public school districts, municipal and county governments, recreation/library districts, as well as multi-family building operations and other approved entities identified by Program. Energy Savings Performance Contracting enables these participants to accomplish energy projects without using capital budgets, paying for projects through resulting savings. Participants will sign a Owners Agreement with Program to follow program guidelines and will be directed to use the pre-qualified list to select an ESCO for their performance contracting project, using a recommended secondary selection process.

ESCOs under contract with Program will be pre-qualified to provide as-needed Energy Savings Performance Contracting (EPC) services to Program participants. All sizes of firms are encouraged to submit proposals for consideration. Selected ESCOs will commit to Program guidelines via a Base Agreement ESCO contract with Program. It will contain rate schedules as proposed by the responding ESCO or as negotiated. It will be annually renewable for four additional terms, subject to an annual performance review by Program. Compensation for specific work will be detailed in the resulting contracts for specific projects.

## Proposal Submittal and Selection Process

## Policies

* + 1. All submittals shall become the property of the Program and will not be returned.
		2. No specific work is associated with the **Base Agreement ESCO Contract (Attachment A)**, as participation by Owners in Program is voluntary.
		3. The actual extent of services required under any contract as a result of this solicitation is not known.
		4. No individual firm is assured of obtaining any work as a result of selection.
		5. The roles, responsibilities and requirements of the ESCO are outlined in the Base Agreement ESCO Contract.
	1. **Submittal Instructions**
		1. All submittals shall become the property of the Program and will not be returned.
		2. Late submittals shall not be evaluated.
		3. Owner reserves the right to reject any or all proposals on the basis of being unresponsive to these guidelines or for failure to disclose requested information.
		4. Owner shall not be liable for any costs incurred by respondents in the preparation of submittals and proposals nor in costs related to any element of the selection and contract negotiation process.
		5. **Pre-proposal Conference**

See Selection Process below for details.

* + 1. **Communications Regarding This RFQ**

Questions and requests for clarification on this Request for Proposals must be submitted *in writing* following the instructions posted in the Notice. No verbal inquiries will be addressed. Communication with other Owner officials, the Selection Committee, the state program, or others associated with this Request for Proposals is prohibited.

* 1. **Submittal Format**
		1. Present responses to the items in the **ESCO Response to Request for Qualifications (Attachment B)**. Follow the same sequence and state each number and question prior to your response.
		2. Quantity: Submit five copies.
		3. Submittal Media: CD, DVD or thumb drive. No printed submittals.
		4. PDF Files: Present the response in a single searchable PDF file. Exception as directed, present any requested examples (Investment Grade Audit, Measurement and Verification Plan, etc.) in separate, single and searchable PDF files. Security protection may be enabled. Ensure printing is enabled.
		5. Deliver proposals to:

Address

Attn:

No later than:

* 1. **Submittal Schedule**

The following schedule has been established for this Request for Qualifications. Note that this schedule may be subject to change.

|  |  |  |
| --- | --- | --- |
|  | **TASK** | **DATE/TIME** |
| **1.** | RFQ Issued  |  |
| **2.** | Pre-Proposal Conference |  |
| **3.** | Written inquiries |  |
| **4.** | Responses to Inquiries  |  |
| **5.** | Proposal Submission  |  |
| **6.** | Review Period |  |
| **7.** | Interviews (if required) |  |
| **8.** | Notice of Intent to Award  |  |
| **9.** | Agreement or Contract with Pre-Qualified ESCOs  | TBD |

* 1. **Selection Process**
		1. **Pre-Proposal Conference**

A Pre-proposal Conference will be held at:

Location: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

or by Phone Conference: \_\_\_\_\_\_\_\_\_

The purpose of the Pre-proposal Conference is to review the requirements of this RFQ and answer questions from ESCOs. Attendance by ESCO representatives at the Pre-proposal Conference is mandatory/optional for submission of a response to this RFQ.

* + 1. **Pre-Qualification**

A Selection Committee will review and score proposals and make recommendations to Program. The Committee may schedule oral interviews with one or more responding companies to gain clarification as needed. ESCOs that are selected for pre-qualification shall sign a **Base Agreement ESCO Contract (Attachment A)** prior to being listed as a pre-qualified ESCO.

* + 1. **Base Agreement ESCO Contract with Program**

Successful companies will enter into a **Base Agreement ESCO Contract** **(Attachment A)** with Program in order to be listed as a pre-qualified ESCO. The ESCO shall engage in a good faith effort to promote the Program and shall adhere to its guidelines, requirements, and provisions. Program reserves the right to amend the contract upon annual renewal.

An ESCO Contract will be for a one-year period with four annual renewals subject to satisfactory annual performance reviews. Program will monitor and review ESCO performance for compliance with Program guidelines, requirements, process, and documentation. There is no right or expectation of renewal and any renewal will be determined at the discretion of the Program. Fees can be re-negotiated upon request for annual renewal. New submittals will be accepted for consideration (or re-consideration annually.) Changes in ownership or other factors can be submitted at any time for consideration.

Note: Alternatives to a formal contract include a letter of understanding with annual meetings to discuss and reinforce the program’s intent.

* + 1. **Selection for Projects**

A Program participant will use a secondary selection process to select an ESCO to implement a performance contracting project at the participant’s facilities. The **Final ESCO Selection Process (Attachment C)** will vary with the participant’s procurement policies.

## Scope of Work

* 1. **Basic ESCO Services**

**Jk;**

* 1. **Marketing and Preliminary Project Evaluation**

The Program will actively market the Program to potential participants within the State, providing the pre-qualified list of ESCOs along with the Program guidelines.

Pre-qualified ESCOs under contract with Program are encouraged to directly market their services under the Program to potential participants. When a potential project is identified, the ESCO shall work with the Owner to engage the Program for project support. The ESCO may also be required to develop initial feasibility studies for potential projects.

* 1. **Investment Grade Audit and Project Development Phase**

The Investment Grade Audit will identify potential cost-saving measures, determine the cost and savings of each measure, and present a measurement and verification plan to validate future savings of each measure. A project proposal will present a bundle of measures that can be financed through guaranteed savings over the proposed financing term, including a cash-flow table. Develop and negotiate a contract using the template **Investment Grade Audit and Project Development Contract (Attachment F).** Also see **Special Contract Terms and Conditions (Attachment E)**.

Note: Owner must have funds available to pay for the audit in the event that performance contract is not later executed. These funds must be allocated/encumbered at the time of signing of the audit contract and will be unencumbered in full when the performance contract is executed.

* 1. **Energy Savings Performance Contract**

Through the Energy Savings Performance Contract, the ESCO proceeds to final design, construction, and commissioning of the improvement measures. Following satisfactory completion of the Investment Grade Audit, Owner will negotiate and develop an **Energy Savings Performance Contract (Attachment G)** with the ESCO. The contract will define the final agreed upon list of measures, equipment and labor costs and guaranteed cost savings. It will document equipment specifications and warranties. It establishes the schedule and responsibilities of the ESCO and the Owner. It incorporates current state statutes and directives that directly relate to performance contracting: **State Statutes on Energy Savings Performance Contracting (Attachment E)** and **State Government** **Executive Orders (Attachment J)**.

* 1. **Financing**

The ESCO may solicit financing companies on behalf of the Owner using the **Financing Solicitation Package (Attachment H)**, although federal regulations restrict the ESCO’s role in advising on financing. Alternatively, Owner may arrange financing independently. A separate financing agreement will be developed including ESCO payment schedules and lender financing terms and schedules.

* 1. **Post-Construction**

The Energy Savings Performance Contract will include a number of services the ESCO will provide until the end of the contract including the guarantee of savings, measurement and verification of savings, staff training, and possibly any contract maintenance services.

* 1. **Data Collection and Reporting by ESCO – Using eProject Builder (ePB)**

ESCO shall collect and report project data, on behalf of Owner and with approval by Owner, as identified in **Energy Savings Performance Contract (Attachment G), Schedule D: Data Collection and Reporting – Using eProject Builder** and as amended on the LBNL website (<http://eprojectbuilder.lbl.gov>) and at the specified times.

eProject Builder ("ePB") is a web-based tool managed on behalf of the Department of Energy by The University of California/Lawrence Berkeley National Laboratory (LBNL). ePB enables ESCO and their contracting agencies or other entities to:

(1) upload and track project-level information;

(2) generate basic project reporting materials (e.g. task order schedules) that may be mandated by local, state, and/or federal agency requirements; and

(3) benchmark proposed Energy Savings Performance Contract (ESPC) projects against historical project data.

Based on information provided by the ESCO, the parties agree that the data required to be delivered to LBNL under this clause has commercial value whose disclosure would cause competitive harm to the commercial value or use of the data. LBNL intends to withhold such data from disclosure under 10 C.F.R. 1004.3(e)(2). The use of this data is governed by the provisions of this contract. Unless compelled by a court of competent jurisdiction, there may be no release of this data to the public without the written consent of the Recipient and DOE. Aggregate data that does not identify project-specific metric information may be released as set forth in the contract. Other information required to be delivered under this contract, but not covered under this Commercially Valuable ESPC Project Data clause, shall be delivered in accordance with this contract.

* 1. **Responsibilities of all Parties**

The **Base Agreement ESCO Contract (Attachment A)** outlines the responsibilities and services to be provided by the ESCO, by Program and by the Owner.