

Merrimack Valley Planning Commission
Energy Performance Contracting Request for Qualifications (RFQ)
BACKGROUND INFORMATION FOR PARTICIPANTS
May 2010

OVERVIEW OF MVPC PERFORMANCE CONTRACTING INITIATIVE

1) What is “Energy Performance Contracting”?

Energy Performance Contracting is a special procurement tool that allows Massachusetts cities, towns, school districts, and other public agencies to purchase a bundle of energy management services through a one-time offer from qualified energy vendors. These agreements are called “performance contracts” because the selected energy vendor guarantees that implemented projects will result in specified, measurable savings. Examples of energy management services include engineering, design, construction, commissioning, and savings measurement and verification for energy and water related capital investment projects. Energy performance contracting is often used for “big ticket” asset modernization projects with long paybacks, but will typically also address a range of end uses, building systems, and equipment. Qualified energy vendors are secured through competitive solicitations.

2) How does this work?

Energy performance contract engagements are phased, beginning with preliminary assessments that determine the range of opportunities with costs and savings and followed by detailed investment grade engineering and ultimately project construction. Contracts are also phased, with the contracting parties working through the details of potential projects and come to agreement about a final scope or potentially disengage under terms specified in the initial energy audit contract if a construction agreement is not executed.

3) What is MVPC proposing to do?

As part of its ongoing commitment to providing regional services that offer economies to members, MVPC is proposing to issue a regional solicitation for energy management services on behalf of municipalities, school districts, and other qualified government entities within the 15 community MVPC territory. Participating parties will then be able to enter into contracts with the selected vendor if they choose to do so and be assured that they have met the Commonwealth’s competitive bidding requirements.

Similar initiatives have been successfully undertaken on a regional basis in the Pioneer Valley and Franklin County, Massachusetts. This solicitation is an outgrowth of MVPC’s ongoing Regional Energy Coordinator services, supported by Peregrine Energy Group, Inc.

4) Who can participate in the RFQ and why would we want to participate?

Participation is open to all MVPC member cities and towns, regional school districts, and other government entities such as state and federal-funded housing authorities within the MVPC service area.

Performance contracting simplifies the process for securing a range of services and equipment and avoids the time consuming requirements mandated by M.G.L. c. 149 for competitive purchasing of such equipment and services, developing multiple solicitations and selecting multiple contractors. In addition, it guarantees energy and maintenance cost savings.

MVPC's group solicitation of a qualified energy vendor allows MVPC's RFQ participants to share the costs and knowledge necessary to secure the services of a qualified contractor, consistent with State purchasing requirements. This proven approach to energy project development is supervised by the Massachusetts Department of Energy Resources. Standard contracts reviewed by the state provide protection to participating cities and towns. The best use for energy performance contract services is for major infrastructure upgrades, such as boilers, chillers, air handlers, and building controls, can be installed under long term contracts. Energy savings are guaranteed by the vendor, consistent with negotiated measurement and verification protocols. Commissioning is provided, and ongoing service agreements are usually available.

LEGAL QUESTIONS

5) Is there any obligation incurred if a municipality or agency is listed as a participant in the MVPC solicitation?

No. Being listed in the RFQ reserves participating parties a seat at the table, but does not require that they proceed with a contract. That said, we suggest that participating parties treat their involvement seriously from the earliest stages and seek guidance from decision makers for their respective organizations as to whether such an approach is viable and attractive.

6) How is this approach to contracting for Energy Management Services supported by state law?

Under M.G.L. c. 25A, sec 11C and 11I, public agencies are permitted to solicit competitive bids from energy service companies for bundled energy audit, design, construction, maintenance, and monitoring and verification services. Otherwise, under normal Massachusetts bidding laws, these services must be procured unbundled with separate bids for each phase of construction. This special exception for energy projects under M.G.L. c. 25A procurement guidelines acknowledges the unique challenge that energy projects present – that they require a holistic approach to initial energy analysis, measure selection, installation, and long term monitoring and verification. Under section 11C, vendors respond to a specific set of pre-identified measures and provide a fixed price for the measures and guaranteed energy savings.

Since the passage of the Green Communities Act in 2008¹, there has been an explosive growth in the use of this mechanism by Massachusetts communities.

7) Who can respond to Chapter 25A procurement RFPs or RFQs?

Only Energy Service Companies (ESCOs) certified by the MA Department of Capital and Asset Management can submit a response to Chapter 25A procurement RFPs or RFQs. Energy Service Companies are firms that coordinate all of the activities of a performance contracting project, including: technical audits, design engineering, equipment installation, construction management, project financing, staff training, equipment maintenance and project monitoring. There are many qualified ESCOs pursuing Energy Management Services Contracting projects in New England. Follow the link at [www.mass.gov/doer/Energy Management Services](http://www.mass.gov/doer/Energy%20Management%20Services) for a complete list of companies certified in Energy Management Services in Massachusetts².

8) Is there a process proscribed by Chapter 25A that MVPC must follow?

Cities and Towns need to follow five steps to procure Energy Management Services:

- a. Develop ESCO Request for Qualifications
- b. Publish RFQ and Select Vendor
- c. Negotiate and Sign Energy Audit Agreements
- d. Negotiate and Sign Energy Management Service Agreements
- e. Maintain Equipment and Monitor and Report Energy Performance

The Merrimack Valley Planning Commission will take the lead with steps **a.** and **b.** and sign a collective agreement for all communities who elect to participate in the collective RFQ bidding process with assistance from each community and Regional Agency. Each community and Regional Agency will take the lead with steps **c., d.** and **e.** and sign individual Energy Agreements.

Additional optional Owner's Agent assistance will be available from MVPC to participants on an hourly basis through Peregrine Energy Group, MVPC's Regional Energy Coordinator, to support review of vendor proposals, etc.

FINANCIAL MATTERS

9) What is the contract duration and dollar investment that participating parties should expect from an eventual Energy Management Services contract with the successful energy services company?

These are expensive, long-term agreements that should be considered carefully and entered into with all due diligence. Contracts for the most recent 15 energy performance contracts recorded by MA DOER ranged from \$.1 million to \$39.0 million with a median cost of about \$10.0 million. The guaranteed savings contracts ranged from 5 years to 20 years, with a median duration of about 15 years.

¹ The Green Communities Act included significant changes to the M.G.L. c. 25A RFQ procurement regulations and extended the Energy Management Service Agreement up to 20 years.

² MA DOER, "XI: FREQUENTLY ASKED QUESTIONS"

10) Do the ESCOs finance these projects or do participants need to supply their own financing?

Access to low-interest financing is a critical component of municipal energy performance contracts. Most if not all ESCOs understand the financial options available to public agencies and have pre-established relationships with financing firms that specialize in energy performance contracts. Public agencies can choose whether they would like the ESCO to facilitate the energy project financing or perform this in house. The funding sources and options will be similar regardless of which option the participant chooses. Public agencies may use a combination of funds including utility rebates, lease arrangements, municipal bonds, capital funds, operating funds, grants, and renewable energy grant funds³.

ANTICIPATED SCHEDULE

11) What is MVPC’s proposed schedule for releasing the RFQ? When will a vendor be selected? When can we expect that they will initiate projects?

Step 1. Develop ESCO Request for Qualifications

Task	Responsibility	Start Date	Target Date	Days
Organize utility accounts and building information	Cities and Towns, supported by Peregrine	14-May-10	28-May-10	14
Analyze and select best candidates for ESO RFQ solicitation	Participants supported by Peregrine	14-May-10	28-May-10	14
Finalize RFQ content and supporting materials	Peregrine, supported by Participants	28-May-10	11-Jun-10	14
DOER final review and authorize to publish RFQ	MVPC supported by Peregrine	11-Jun-10	18-Jun-10	7

³ MA DOER, “XI: FREQUENTLY ASKED QUESTIONS”

Step 2. Publish ESCO Request for Qualifications and Select Vendor

Task	Responsibility	Start Date	Target Date	Days
Publish RFQ in Central Register	MVPC	18-Jun-10	25-Jun-10	7
Pre-Response Meeting and Tours [OPTIONAL]	MVPC, supported by Peregrine, Cities, and Towns	Optional	Optional	
ESCOs review and respond to RFQ	ESCOs	25-Jun-10	6-Aug-10	42
Review proposals and issue written questions for clarification	MVPC, supported by Peregrine, Participants	6-Aug-10	20-Aug-10	14
Select and Interview 3 ESCOs	MVPC, supported by Peregrine, Participants	20-Aug-10	3-Sep-10	14
Perform reference checks	MVPC, supported by Peregrine, Participants	3-Sep-10	10-Sep-10	7
Select winning ESCO	MVPC, supported by Peregrine, Participants	10-Sep-10	17-Sep-10	7
Notify DOER of selection	MVPC	17-Sep-10	17-Sep-10	0

PARTICIPATING PARTIES ROLE IN RFQ DEVELOPMENT AND VENDOR SELECTION

12) What information do the RFQ partners need to provide?

The more accurate the information each participant can provide for inclusion in the Request for Qualifications, the more likely the RFQ response and vendor solicitation process will reflect the actual needs of the partners. Energy consumption associated with building floor area and energy cost information drives the deal that each participant will sign if the participant elects to move forward with a project. An energy baseline that describes preconstruction energy use will be the foundation for savings calculations.

- Each participant should prepare a list of all utility accounts and provide one year of monthly consumption and cost information, if possible. MA DOER has sponsored a free online utility monitoring tool called MassEnergyInsight for cities, towns, and regional agencies that is pre-populated with electricity and gas account information for all municipalities. MVPC strongly recommends using this tool to identify and collect the utility information that will be included as an attachment to the RFQ.

- Minimum facility information each participant should provide for the RFQ include the building name, department, type of building (school, office, warehouse, library, other), square feet, and year built. In addition, each utility account should be assigned to each building.
- RFQ participants should mention any previous energy audits or energy upgrades that have been performed in the facilities, whether or not detailed building plans or capital needs assessments or reports are available.
- Energy Management Service Contracts are as much about Asset Modernization as they are about Energy Savings. RFQ participants should identify their wish lists of energy and water-related capital improvements such as boiler replacements, steam to hot water conversions, new switchgear, insulation, high performance windows, renewable or alternative energy equipment, or energy management system upgrades, and that it would like to include in the RFQ solicitation.

13) How can participants assist with Vendor selection?

A Selection Committee is being established by MVPC to support the RFQ process.

We strongly recommend that parties participating in the RFQ have a representative on the committee to help review proposals received and interview candidates. Technical and financial perspectives are both very useful in this process, as well as sensitivity to the issues that will govern whether a community or organization decides to enter into a contract.

Your input into the selection process will help ensure that the company we choose will meet your needs and requirements.