



Marlboro Central School District
21 Milton Turnpike
Suite 100
Milton, New York 12547

REQUEST FOR PROPOSALS FOR:

**ENERGY PROJECT FOR MARLBORO
CENTRAL SCHOOL DISTRICT**

PROPOSAL NUMBER:

RFP-MCSD-05-2019

PROPOSALS DUE:

Thursday, February 7th, 2019, 2:00 p.m.

Marlboro Central School District
21 Milton Tpke – Suite 100
Milton, NY 12547

**NOTICE TO ENERGY SERVICES COMPANIES
GENERAL INFORMATION AND REQUEST FOR PROPOSALS
FOR AN ENERGY PROJECT**

RFP-MCSD-05-2019 – Energy Project for Marlboro Central School District

The Marlboro Central School District (“District”) is issuing this Request for Proposals (RFP) for the selection of an Energy Service Company (“ESCO”). You are invited to submit a proposal in accordance with this RFP.

Proposals must be received no later than 2:00 pm on Thursday, February 7, 2019.

Late proposals will be returned unopened.

A mandatory pre-proposal review of the proposal requirements and walk-through inspection tour of the facilities will be held on **Tuesday January 22, 2019 at 9:00 am.**

To reserve a place at the pre-proposal conference, please contact Jackie Kitson at Marlboro Central School District, telephone 845-236-5800, or via email Jackie.kitson@marlboroschools.org.

To prevent opening by unauthorized individuals, your proposal should be identified on the envelope or other wrapper as follows:

RFP-MCSD-05-2019 – Energy Project for Marlboro Central School District

Proposals should be addressed to: Mr. Patrick Witherow, Marlboro Central School District, 21 Milton Tpke – Suite 100, Milton, NY 12547 **Proposals may be mailed or hand-delivered.**

The District reserves the right to amend the RFP based on questions and issues raised prior to and at the pre-proposal conference. ESCOs represented at the pre-proposal conference will receive any such amendments in writing.

If you have any questions concerning this RFP please contact Patrick Witherow at patrick.witherow@marlboroschools.org or 845-236-5800.

Enclosures: PROPOSAL INSTRUCTIONS AND CONDITIONS

- I. Introduction and Background
- II. General Information
- III. The Selection Process
- IV. RFP Procedures
- V. Proposal Format and Contents

APPENDIX A: Pre-proposal Conference and Site Visits

APPENDIX B: Facility Profile

APPENDIX C: Minimum Standard Contract Clauses

APPENDIX D: New York State Energy Law

APPENDIX E: Chapter 436 of the Laws of 1997

APPENDIX F: Regulations for the Development and Approval of Energy Performance Contracts

Marlboro Central School District
21 Milton Tpke – Suite 100
Milton, NY 12547

PROPOSAL INSTRUCTIONS AND CONDITIONS

REQUEST FOR PROPOSALS FOR AN ENERGY PROJECT
AT THE MARLBORO CENTRAL SCHOOL DISTRICT

I. INTRODUCTION AND BACKGROUND

The objective of this RFP is to solicit proposals for an energy project to assist the District to become as energy efficient as possible through installation of energy conservation measures and implementation of optimal operation and maintenance procedures. The District wishes to implement the proposed comprehensive energy project on an energy performance contract basis. (See State Energy Law, Article 9, attached as Appendix D).

Under this solicitation, it is expected that only one energy performance contractor will be selected to perform all of the work for the District. The District will consider energy performance contract proposals based on either a guaranteed savings agreement or a shared savings agreement. For either form of agreement, Section 9-103(2) of the Energy Law requires an executory clause under which payments are subject to annual appropriations.

This RFP requires adherence to Chapter 436 of the Laws of 1997 and Section 155.16 of the Regulations of the Commissioner of Education. Proposals must be consistent with the following requirements for energy performance contracts by School Districts and Boards of Cooperative Educational Services:

- the amortization period shall not exceed the term of the energy performance contract;
- building aid attributable to the project is excluded in determining the cost savings under the energy performance contract;
- the performance contractor must guarantee the recovery of contract costs from energy savings realized by the School District over the term of the contract which shall not exceed 18 years; and
- subdivision 8 to section 9-103 of the Energy Law requires School Districts and BOCES to comply with State Education Department regulations for the development and approval of energy performance contracts.

The regulations, published in the New York State Register on May 6, 1998, and effective July 1, 1998, are attached as Appendix F.

It is currently planned that the District will purchase, finance, and own any new equipment installed as a result of this project. Proposals are expected to include the proposer's services in connection with such arrangements. Proposers may wish to propose alternative arrangements (as long as they are permitted under New York State laws and regulations) for acquisition, financing and ownership of such equipment.

Proposals should include financing provided directly by the ESCO or through a third party. If financing is proposed through a third party, the proposal should clearly explain how it is connected to other elements of the energy performance contract.

II. GENERAL INFORMATION

Proposals are requested for the provision of services for the reduction of energy consumption and for maintenance and operational services on an energy performance contracting basis at school buildings and facilities owned by the District. Specifically, the ESCO selected as a result of this RFP will be expected to:

- A. Provide comprehensive energy services for buildings and facilities serving the District, including but not limited to:
1. Performance of a Comprehensive Energy Audit.
 2. Services in connection with the design and specification of equipment and systems to be used in providing energy efficiency services.
 3. Procurement and installation of new equipment and refurbishing existing equipment.
 4. Commissioning of the equipment.
 5. Preventive and emergency maintenance and servicing of the equipment installed and no reduction in staffing.
 6. Staff training.
 7. Services in connection with arrangement of financing of the equipment.
 8. Energy savings performance guarantees. First party guarantee, no third part savings guarantees are accepted
 9. Identification of available financial incentives or rate reductions.
 10. All paperwork necessary for obtaining a State Education Department building permit and assistance in obtaining State Building Aid and any other form of energy aid available.
 11. Operating and Maintenance (O&M) cost savings shall not be included in cash flow or ECM proposals.
 12. Interest or Discount Rates shall be assumed to be 4.0%.
 13. Financing Term shall be assumed to be 15 years and will coincide with state aid payments if possible. Note: State Aid is payable for a 15-year period only. State Aid- in determining state aid, subtract any non-aidable project costs – i.e. ineligible lighting measures, vending machine controls, computer power management, software, recaulking, measures performance in non-educational spaces, etc. List total value of non-aidable costs.
 14. Energy Management System shall be assumed 75% NY State Aidable.
 15. Heating season should be generally assumed to be: September 15th to May 31st.
 16. Cooling season, as applicable should be generally assumed to be: June 1 to September 30.
 17. Operating hours may be generally assumed to be 1,800 hours for school buildings and 3,000 hours for administrative facilities. Actual baseline operation hours must be determined for each building and area and refined during the audit process by the Energy Performance Contractor.
 18. Please assume one year of interest accrual for the construction period in your financial Pro-Forma.
 19. Please use the district's most recent provided fiscal year as the baseline for your energy usage in the EPC project response. The yearly energy use shall be based on 12 months beginning on July 1st and ending on June 30th.
 20. The "State-Wide Average Interest Rate" applies to EPC projects with regard to State Aid payments on borrowing costs. Please calculate the state aid payments on the loan interest assuming a financed interest rate of 2.25% (NOT 4.0% as is to be used for Pro-Forma cash-flow purposes).
 21. Please include Measurement and Verification (M&V) costs for 3 years as part of your proposal. M&V methods must be in accordance with the North American

Energy Measurement and Verification Protocol (NAEMVP) as appropriate. Indicate in your RFP response the M&V Option being employed for each measure. Options B or C should be employed for all major fuel-side (thermal) saving measures. Option A may be employed for electrical savings as appropriate. At no time may measures be simply noted as “stipulated savings.”

22. Please break out all proposed Energy Conservation Measures, ECM's (electric or thermal) separately, noting savings and costs for each individually.

- B. Identify the most effective measures that can be taken to reduce consumption and costs for heating, cooling, ventilation, lighting, water heating and other energy uses in each facility. The proposal should address consumption of all energy sources including oil, gas and electricity. Measures may involve controlling, modifying, adding or replacing equipment and systems.

The technical strategies addressed by the proposal must include, but are not limited to the following items:

1. Lighting and lighting control, including fixture replacement and occupancy sensors.
2. All major heating and cooling equipment, including HVAC air-handling.
3. Installation of computerized energy management systems.
4. Envelope components such as doors, windows and insulation.
5. Demand limiting strategies, including cogeneration, if appropriate.
6. Assistance with the procurement of electric, gas, oil and other utilities.

All applicable codes and standards must be adhered to.

- C. Structure the terms of the District's obligation to pay for the services provided on an energy performance contracting basis and submit a suggested energy performance contract and if necessary, ancillary agreements that specifically meet the needs of the District. Proposers may substitute an example of an executed energy performance contract with any ancillary agreements that would be the basis for negotiation of a contract with this District. Payments from the District to the Contractor selected under the RFP must be contingent and based in some fashion on the level of energy savings achieved.

Proposer's attention is directed to Article 9 of the New York State Energy Law governing energy performance contracting in connection with public buildings and facilities. All proposed energy performance contracts and other financing arrangements proposed must be capable of being implemented under the laws and regulations of the State of New York.

Appendix A includes information about the mandatory pre-proposal conference and walk-through inspection tour of the facilities.

Each building identified in Appendix B of this solicitation must be evaluated for any potential savings. Appendix B also includes the square footage and energy consumption and costs by fuel type for each building.

Upon review of proposals received in response to this RFP, the District expects to select a single ESCO to conduct a Comprehensive Energy Audit of the facilities to verify that the estimates in the proposal are valid. If a viable project is identified, the District expects to negotiate an energy performance contract with the ESCO to provide for the implementation of the proposed project. A two-stage contract is required to allow provision for approval of the plans and specifications by the State Education Department prior to commencement of the equipment procurement and installation phase of the project.

D. Energy Conditions to be Maintained:

The following energy end use conditions must be maintained at the facility. Any efficiency measures proposed must allow for the maintenance of these conditions:

Minimum Temperature: Temperatures in occupied areas during the hours of 7:00 am – 3:00 pm must be maintained at no less than 68 degrees F during the heating season (September 15th through May 31st or during scheduled activities

Maximum Temperature: Temperatures in occupied areas during the hours of 7:00 am – 4:00 pm must be maintained at no more than 74 degrees F during the cooling season. (where provided)

Water Heating: Hot water for kitchen use must be supplied at a temperature between 180 and 190 degrees F. Domestic hot water must be delivered at a temperature between 105 and 110 degrees F.

Indoor and Outdoor Lighting: State Education Department lighting level standards must be maintained.

Air Changes/Ventilation Requirements: Within code at all times.

E. Requirements for the Energy Audit

The proposal must include provisions for the performance and presentation of results of a Comprehensive Energy Audit for the school facilities identified in Appendix B. The selected ESCO will gather and analyze information and data and propose a project to the District in a Comprehensive Energy Audit report that would reduce the District's expenses for energy. As part of the audit, the ESCO will conduct an on-site survey of the facilities and will interview appropriate personnel to learn the operating characteristics of the facility and the existing equipment and systems therein.

The Comprehensive Energy Audit report will present an analysis and discussion of the ESCO's proposed energy efficiency measures for each building. The report will detail the ESCO's proposed methodology for the calculation of baseline energy use and, at a minimum, a description of physical conditions, equipment counts, nameplate data, and control strategies prior to project implementation. The energy use allocation must be based on generally accepted engineering practices and must be reconciled with historic usage. In addition to presenting how the proposed baseline is derived, the proposal must define under what conditions it will be adjusted; for example, changes in weather, occupancy and equipment usage.

For each measure recommended, the Comprehensive Energy Audit report will provide a detailed description to include: total implementation costs for each measure, equipment counts, performance characteristics and efficiency levels of the equipment comprising the proposed measure, installation and maintenance costs, its useful life, and projected annual energy, demand and cost savings. Projected energy savings calculations must specifically account for energy savings on and off-peak, demand savings, and the interaction between recommended measures.

The report will include an Executive Summary, which lists all proposed Energy Efficiency Measures with the implementation cost, estimated energy savings, energy cost savings, useful life of the equipment and the simple payback (individual and interactive). Payback of each measure should be reported without the inclusion of State Building Aid, which may be available to the project.

III. THE SELECTION PROCESS

A. Timetable

The District expects to undertake the selection process according to the following schedule:

| | |
|--|------------------|
| Pre-proposal Conference: | 1/22/19 |
| Closing Date for Written Questions | 1/28/19 |
| Deadline for Submission of Proposals: | 2/7/19 |
| Interviews with Finalists: | To Be Determined |
| Select ESCO: | 2/21/19 |
| Execute Project Development Agreement: | March 2019 |
| Execute Energy Performance Contract: | April 2019 |
| SED Submission of Construction Documents | July 2019 |

B. Proposal Evaluation Criteria

Minimum Qualifications:

The following are minimum qualifications, and if not met, the District reserves the right to reject an Energy Performance Contractor:

- Energy Performance Contractor shall have a minimum net asset value in excess of \$2,000,000.
- Energy Performance Contractor shall have a branch office within one hundred (100) miles of the District.
- Energy Performance Contractor shall have been in business in excess of ten (10) years and shall demonstrate a history of performance contracting for a minimum of 10 years.
- The Energy Performance Contractor must be eligible to do business in the State of New York.
- The Energy Performance Contractor must guarantee answering emergency calls within two (2) hours of the original call and next day service for a routine service call.
- The Energy Performance Contractor must have manufacturer-trained mechanics for the products being provided as in the response to the RFP. In the event the
- Energy Performance Contractor finds it necessary to utilize a subcontractor, they must comply with all terms and conditions contained herein as well as Attachments 1 and 2.
- Energy Performance Contractor must supply the Names & Contact Information of at least five (5) Clients that have completed a contract of similar scope within the past seven (7) years. Preference will be given to school districts.
- Energy Performance Contractor must submit a copy of their maintenance contract with the RFP.
- Energy Performance Contractor shall demonstrate the financial ability to provide guarantees of energy savings (no third party insurance will be permitted) and a history of at least five (5) others guarantees and the dollar amount.

Proposals will be evaluated and scored on the basis of the following criteria:

1. Experience and Qualifications of the Proposer (maximum 25 points)

Consideration will be given to proposers demonstrating strong capabilities, experience and reputation in undertakings similar to those described in this RFP, and providing authoritative documentation of their financial soundness and stability. Similar experience will be understood to include development of performance contracts to furnish energy efficiency and cogeneration improvements in public schools or commercial and institutional facilities of similar size and use.

2. Technical Approach (maximum 25 points)

Proposals will be evaluated on the soundness and detail of presentation of technical strategies proposed for meeting the Districts' energy efficiency objectives. The proposal should include descriptions of improvements both to the physical facility and to the integration of other relevant services such as training, operation and maintenance practices, utilities procurement, and measurement and verification of savings.

3. Financial Terms (maximum 20 points)

Consideration will be given to proposals that responsibly maximize the net economic benefit to the District over the term of the proposed energy services agreement and that responsibly minimize the risk to the District in connection with the proposed transaction.

Factors that will be considered include: the proposed term (length) of the energy services agreement, the projected net dollar benefit to the District from entering into the transaction, the methods that will be used to determine the amount of the proposer's compensation, purchase option terms (both during the term of and the end of the energy services agreement, if alternative financing is proposed), the proposer's source(s) of financing, and the degree to which the proposer has minimized risk to the District in connection with the project. Such risks may include performance risks, as well as potential interruptions to building operations and financial risks.

4. Ability to Implement Project Promptly (maximum 15 points)

Preference will be given to proposals demonstrating an ability to carry out the tasks and responsibilities outlined in the proposal, including the procurement of any necessary financing, and the performance of all contract obligations throughout the contract term in a prompt and efficient manner.

5. Curriculum Enhancement/Behavior Modification Program (maximum 15 points)

Preference will be given to proposals that contain an organized and sustainable program that will educate the staff and students in the fields of energy conservation and environmental issues. Details of the program contents complete with deliverables and target audience should be included as well as the methodology for delivery. The intent is to maximize the effectiveness of the performance contracting initiative while at the same time educate and provide incentives for the staff and students in these endeavors.

C. Oral Interviews

At the option of the District oral interviews might be held with the top ranked ESCOs to obtain clarification on issues raised by earlier stages of the evaluation process and to assess the qualifications of the ESCO project team. Selection of the winning ESCO will be based on information supplied for the Request for Qualifications, this RFP, and if elected, the oral interview

IV. RFP PROCEDURES

A. Point of Contact

Larry Cavazza
Director of Facilities
50 Cross Road
Marlboro, NY 12542
845-236-1397

B. Submission of Proposals

Proposals must be received by February 7, 2019 at 2 pm. Late proposals will be returned unopened.

An original and five (5) copies of the proposal are required. To prevent opening by unauthorized individuals, your proposal should be identified on the envelope or other wrapper as follows:

RFP-MCSD-05-2019 – Energy Project for the Marlboro Central School District

Proposals should be addressed to:

Patrick Witherow
Director of Business & Finance
21 Milton Tpke – Suite 100
Milton, NY 12547

C. Proprietary Information

The New York State Freedom of Information Law, Public Officers Law, Article 6, provides for public access to information. Public Officers Law, Section 87(d)(2) provides for exceptions to disclosure for records or portions thereof that are "trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information that the proposer wishes to have treated as proprietary and confidential trade information should be identified and labeled "Confidential" or "Proprietary" on each page at the time of submittal. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted.

D. Modification or Withdrawal of Proposals

Any proposal may be withdrawn or modified by written request of the proposer, provided such request is received by the District at the above address prior to the date and time set for receipt of proposals.

D. Right to Reject Proposals

This RFP does not commit the District to award a contract, pay any cost incurred in the preparation of a proposal in response to this RFP or to procure or contract for services. The District intends to award a contract on the basis of the best interest and advantage to the District, and reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with all qualified proposers or to cancel this RFP in part or in its entirety, if it is in the best interest of the District to do so. The New York State Energy Research and Development Authority (NYSERDA) may be providing technical assistance, but will not be awarding any contract and has no liability or responsibility for the project or for any activities in connection with the project or any contractual arrangements that may result from this RFP.

V. PROPOSAL FORMAT AND CONTENTS

Proposals must be submitted in the format outlined in this section. Each of the described parts and sections must be completed in full (except those sections described as optional). Each proposal will be reviewed to determine if it is complete prior to actual evaluation. The District reserves the right to eliminate from further consideration any proposal deemed to be substantially or materially non-responsive to the requests for information contained herein.

Each of the parts and sections described below should begin on a separate page, and each page should clearly state the name of the proposer.

A. Contractor Background and Qualifications

Section A-1 of the proposal must contain a project management summary including the makeup of the project team and the proposed assignment of responsibility for the major tasks involved in the total project. Include resumes for each of the individuals listed as lead personnel in Section A-1 as an appendix.

If the proposer will have single source responsibility for all portions of the project, they need only respond to Part I. If the proposal anticipates additional prime contractors with individual responsibility to the District, describe the selection process for selection of these prime contractors in Part II.

PART I: Part I should describe the overall makeup of the project team and each member's areas of responsibility with address, telephone numbers, names of contact persons and of lead personnel. Include a chart depicting the management structure envisioned for the project. Describe the process to be followed in selecting and managing subcontractors, if any.

PART II: Part II should provide information about the areas of responsibility for additional prime contractors and the process to be followed in their selection.

In a Section to be labeled **Section A-2**, include the most recent annual reports, financial statements or other financial information sufficient to permit the District to evaluate the financial strength of the proposer. If the proposer is a joint venture or other entity with no prior financial history, submit information with respect to constituent or parent entities, as appropriate.

In a Section to be labeled **Section A-3**, describe the prior relevant experience of the proposer or of the partners or parent thereof. For each organization include the information listed below. (If more than ten projects are relevant to this RFP, remaining examples of experience may be briefly summarized):

- (a) Customer's name.
- (b) Total project capital cost at proposal stage and at final contract.
- (c) Type of contract (e.g., guaranteed saving, shared savings, sale, etc.).
- (d) Name and telephone number of reference for the project.
- (e) Brief description of the project's scope of services and status. (Include type of facility at which project was implemented, whether the project was timely completed and whether significant problems occurred that affected project performance. As appropriate, identify all prime contractors or subcontractors and their role in each project.)
- (f) Level of energy cost savings projected in CEA and the level actually achieved subject to M&V.

The right to call the references provided by the proposer will be presumed by the District.

B. Technical Aspects of the Proposal

Your proposal must explain the approach your organization will take in delivering the comprehensive technical services required to design, install and maintain the proposed energy efficiency improvements. Actual designs/specifications are not required at this time.

In a Section to be labeled **Section B-1**, describe the Comprehensive Energy Audit that will be conducted for this project after selection of an ESCO on the basis of this RFP. Your proposal must include information on the systems to be covered, the personnel to be involved, the general method to be used, the timeframe, and the fee, if any, to be charged in the event the District decides not to proceed with project implementation. Attach a sample energy audit performed by your firm for a similar facility.

In a Section to be labeled **Section B-2**, describe in detail the method you will use to compute the energy baseline. Attach a sample computation from a previous project done by your firm, with full documentation of methods, assumptions and input data.

In a Section to be labeled **Section B-3**, provide a preliminary assessment of the energy efficiency opportunities available at the schools, based on the information provided in this RFP and a tour of the facilities. List the energy efficiency measures to be implemented under your proposal with the estimated implementation cost and the energy cost savings. Are there any potential improvements your company will not consider? If so, list these improvements.

In a Section to be labeled **Section B-4**, describe the ongoing project monitoring and maintenance services your company will provide. Specifically, describe the personnel, schedules, conditions, equipment covered, and extra costs (if any) of the following services:

- (a) Scheduled preventative maintenance
- (b) Emergency service
- (c) Training of on-site staff
- (d) Monitoring of energy use

Identify who will have supervisory responsibility for your firm's maintenance and monitoring operations in this project. Indicate how this work will be coordinated with the daily operations of the facility.

C. Financial Aspects of the Proposal

The District seeks to enter into a project arrangement under which the District will assume ownership of the energy efficiency improvements upon their installation and acceptance. The District also seeks to structure compensation to the contractor such that payments to finance equipment and public works services plus payments for ongoing project management services will be paid in full or in part by the value of measured energy savings resulting from the project.

The proposer may propose any underlying project financing mechanism so long as it meets the objectives above and complies with New York State laws, rules and regulations.

Detailed Financial Information Required: In a Section to be labeled **Section C-1**, based on the information provided in this RFP and your inspection of the facilities, estimate the following costs:

1. Initial Project Costs:

- (a) Comprehensive Energy Audit
- (b) Design and Specifications for Energy Efficiency Measures
- (c) Implementation Costs for Energy Efficiency Measures
- (d) Total Initial Project Costs

2. Annual Costs:

- (a) Maintenance Costs
- (b) Training Costs
- (c) Measurement and Verification
- (d) Other Service Fees (specify)

In a Section to be labeled **Section C-2**, outline the proposed terms of the contract with the District covering:

- (a) Duration of the contract.
- (b) Methods by which the level of payments to the contractor will be determined including: level of guarantees, methods by which energy savings will be evaluated (i.e. values to be used for unit prices of fuels and electricity).
- (c) The nature and operation of any guarantee provisions, including conditions under which the guarantee can be invoked and the methods for adjusting payments to the contractor.
- (d) Ownership of the equipment (specify if alternative financing and ownership is proposed and provide explanation in Section F).
- (e) Conditions for the early termination of the contract, or parts thereof, by the District and the contractor.

In a Section to be labeled **Section C-3**, complete the annual financial projections indicated below for the length of the proposed contract. Use a discount rate of 4 percent. Assume no inflation in current energy prices. However, any anticipated escalation in annual costs should be identified and reflected in the cash flow. Assume an interest rate of 4 percent and that payments will be made annually at the end of the period. You may present a second pro-forma with alternative assumptions. If you choose to present a second pro-forma, you should describe why the alternative assumptions are reasonable.

| | YEAR | 1 | 2 | 3 | 4 | 5 ... |
|-----|--|---|---|---|---|-------|
| 1. | Annual energy costs without improvements | | | | | |
| 2. | Annual energy costs with improvements | | | | | |
| 3. | Annual energy cost savings (1-2) | | | | | |
| 4. | Payments for financing equipment | | | | | |
| 5. | Payments for ongoing services | | | | | |
| 6. | Net annual benefits (3-(4+5) without State financial assistance | | | | | |
| 7. | Net annual benefits (3-(4+5) with State financial assistance | | | | | |
| 8. | Cumulative cash flow with State financial assistance | | | | | |
| 9. | Net Present Value of cash flow with State financial assistance | | | | | |
| 10. | Interest rate | | | | | |

D. Schedule for Construction and Completion

In a Section to be labeled **Section D**, the proposer must provide a complete schedule for achievement of all major project milestones including:

- (a) Commencement and completion of comprehensive energy audits.
- (b) Preparation of list of proposed improvements, baseline calculations and final contract proposal.
- (c) Execution of energy performance contract.
- (d) Obtaining all required permits and government approvals.
- (e) Procurement of all major equipment.
- (f) Commencement and completion of construction.
- (g) Training of school personnel.
- (h) Commissioning and commencement of normal operation.

E. Official Statement of Proposer

In a Section to be labeled **Section E**, the proposer must provide statements to the following effect signed by an individual authorized to bind the proposer:

1. The proposer shall include a statement to the effect that the proposal is a firm offer for a minimum 120-day period. The proposal shall also provide the following information: Name, title, address and telephone number of individual(s) with authority to negotiate and contractually bind the company and also who may be contacted during the period of proposal evaluation.
2. The proposer shall specifically state acceptance of the minimum standard clauses intended to be used by the District. The standard clauses are included here as Appendix C. If unable or willing to indicate such acceptance, the proposal shall identify and explain any exceptions or deviations.
3. The proposer shall specifically guarantee:
 - (a) total energy savings projected in the Comprehensive Energy Audit will be at least 95% of the energy savings projected in the proposal; and
 - (b) total project cost projected in the Comprehensive Energy Audit will be no more than 105% of the cost projected in the proposal.

If these conditions are not met, the District may: terminate the agreement to conduct a Comprehensive Energy Audit without cost or penalty; renegotiate with the ESCO; or begin negotiations with another ESCO.

F. Curriculum Enhancement/Behavior Modification Program

A detailed description of how the respondent intends to provide a behavior modification program for the staff and students should be included. Specific programs by grade, complete with deliverables and instrumental materials, should be detailed and explained in this section. Incentives and “real life” experiences will be given additional considerations.

G. Addendum Relating to Alternative Financing (Optional)

In a section to be labeled **Section F**, the ESCO may propose an alternative to the District purchasing, financing and owning the new equipment to be installed as a result of this project. The proposal should clearly identify the advantages to the District of this alternative.

H. Outline of Proposal Contents

The following is an outline of the required proposal contents as detailed above:

Section A – Contractor Background and Qualifications

- Section A-1
 - Part I: Project Team Information
 - Part II: Prime Contractor Information
- Section A-2 Annual Reports or Financial Statements
- Section A-3 Work Experience

Section B – Technical Aspects of the Proposal

- Section B-1 Energy Audit: Attach Sample
- Section B-2 Baseline and Energy Savings: Attach Sample
- Section B-3 Proposed Energy Efficiency Measures
- Section B-4 Description of Ongoing Services

Section C – Financial Aspects of the Proposal

- Section C-1 Total Initial and Annual Project Costs
- Section C-2 Financial Contract Terms
- Section C-3 Financial Projections

Section D – Schedule for Construction and Completion of the Project

Section E – Official Statement of Proposer: Attach a suggested energy performance contract with proposed terms and conditions.

Section F – Curriculum Enhancement and Behavior Modification Program

Section G. – Addendum Relating to Alternative Financing (Optional)

- Appendices:
 - Resumes of Key Personnel
 - Other Relevant Documentation

Appendix A

PRE-PROPOSAL CONFERENCE AND SITE VISITS

The District will conduct a pre-proposal conference and walk-through inspection tour of the facilities included in this RFP on **January 22, 2019**. The pre-proposal conference will be held first at **9:00 am**, with the walk-through to begin immediately thereafter. District officials and project consultants will be present to answer questions regarding the RFP and the project. Contractors interested in attending the conference must contact **Jackie Kitson at 845-236-5800 or Jackie.kitson@marlboroschools.org** no later than **Friday January 18, 2019**.

Proposals will be accepted only from contractors represented at the pre-proposal conference.

Following the conference, arrangements can be made by contacting the person named above to make an additional site visit(s) for the purpose of gathering additional information.

Appendix B
FACILITIES PROFILE

Marlboro Central School District

Marlboro High School – 131,500 sq. ft., High School (grades 9-12), 575 Students

Marlboro Middle School – 75,000 sq. ft., Middle School (grades 6-8), 487 Students

Marlboro Elementary School – 112,000 sq. ft., Elementary School (Grades K-5), 837 Students

Milton Elementary School – 25,202 sq. ft., School District and Town of Marlborough Administrative Offices (including Marlborough Police Department)

Middlehope Elementary School – 22,883 sq. ft., Currently a vacant building, previously leased to a private school, anticipation for future use in a school capacity

Operations & Maintenance Building – 4,760 sq. ft.

Global Building Use Summary

Building Type : All Building Types

Utility Type : All Utility Types

Buildings : All Buildings

Years : 2018

Year 2018

Building Description : High School

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---------------------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------|-----------|
| Electric (KWH) | 88451.93 | 172637.97 | 174501.85 | 189990.23 | 157658.06 | 121683.11 | 130550.00 | 120526.20 | 106044.00 | 113566.69 | 189413.00 | 88277.26 | 1653300.3 |
| Natural Gas (CCF) | 818.00 | 1008.00 | 1778.00 | 4320.00 | 8650.00 | 16010.00 | 11170.00 | 8568.00 | 8090.00 | 4010.00 | 0.00 | 798.00 | 65220.00 |
| Natural Gas (MMBTU) | 0.00 | 104.65 | 183.94 | 447.67 | 895.44 | 1662.02 | 1159.80 | 889.92 | 837.79 | 0.00 | 109.94 | 82.98 | 6374.15 |

Building Description : Marlboro Elementary School

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---------------------|-----------|----------|-----------|----------|----------|----------|-----------|----------|----------|----------|--------|-----------|-----------|
| Electric (KWH) | 112640.00 | 99165.60 | 115563.60 | 99838.00 | 83971.50 | 87304.40 | 101385.00 | 77094.70 | 74075.99 | 72294.09 | 563.47 | 160118.33 | 1084014.6 |
| Natural Gas (CCF) | 48.00 | 78.00 | 380.00 | 2310.00 | 7920.00 | 15760.00 | 13160.00 | 8650.00 | 7898.00 | 3570.00 | 0.00 | 110.00 | 59884.00 |
| Natural Gas (MMBTU) | 0.00 | 8.29 | 39.27 | 239.37 | 819.87 | 1636.07 | 1366.42 | 898.23 | 818.12 | 0.00 | 29.04 | 11.41 | 5866.09 |

Building Description : Middle Hope Elementary

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---------------------|----------|--------|--------|--------|---------|---------|---------|---------|---------|---------|-------|--------|----------|
| Electric (KWH) | 31680.00 | 134.40 | 148.80 | 163.20 | 72.00 | 81.60 | 48.00 | 72.00 | 40.80 | 129.60 | 0.00 | 182.40 | 32752.80 |
| Natural Gas (CCF) | 4.00 | 3.00 | 8.00 | 535.00 | 1888.00 | 3377.00 | 2671.00 | 2709.00 | 2025.00 | 1706.00 | 0.00 | 6.00 | 14932.00 |
| Natural Gas (MMBTU) | 0.00 | 0.30 | 0.82 | 55.29 | 195.44 | 350.57 | 277.33 | 281.31 | 209.71 | 0.00 | 12.14 | 0.62 | 1383.53 |

Building Description : Middle School

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---------------------|----------|--------|--------|---------|---------|---------|---------|---------|---------|---------|--------|--------|----------|
| Electric (KWH) | 45920.00 | 460.80 | 505.60 | 537.60 | 281.60 | 140.80 | 136.00 | 268.80 | 136.00 | 441.60 | 0.00 | 499.20 | 49328.00 |
| Natural Gas (CCF) | 1.00 | 18.00 | 240.00 | 1000.00 | 2750.00 | 6050.00 | 3930.00 | 3180.00 | 3030.00 | 1280.00 | 170.00 | 0.00 | 21649.00 |
| Natural Gas (MMBTU) | 0.00 | 2.07 | 24.80 | 103.63 | 284.67 | 628.06 | 408.06 | 330.22 | 313.78 | 0.00 | 17.63 | 0.00 | 2112.92 |

Year 2018

Building Description : Milton Elementary

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---------------------|------|----------|----------|--------|----------|----------|----------|----------|----------|--------|-------|------|-----------|
| Electric (KWH) | 0.00 | 25920.00 | 23856.00 | 96.00 | 18770.40 | 23520.00 | 20697.60 | 21120.00 | 17760.00 | 0.00 | 0.00 | 0.00 | 151740.00 |
| Natural Gas (CCF) | 0.00 | 90.00 | 103.00 | 455.00 | 2082.00 | 4202.00 | 563.00 | 2410.00 | 2433.00 | 0.00 | 93.00 | 0.00 | 12431.00 |
| Natural Gas (MMBTU) | 0.00 | 0.00 | 10.64 | 47.15 | 215.53 | 436.22 | 58.45 | 250.26 | 251.96 | 104.86 | 9.86 | 0.00 | 1384.93 |

Building Description : Operations & Maintenance

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---------------------|---------|-------|-------|--------|--------|---------|--------|--------|--------|--------|------|-------|---------|
| Electric (KWH) | 1512.60 | 17.20 | 16.40 | 38.60 | 41.80 | 44.00 | 13.40 | 45.00 | 28.50 | 49.20 | 0.00 | 17.60 | 1824.30 |
| Natural Gas (CCF) | 1.00 | 0.00 | 8.00 | 199.00 | 569.00 | 1176.00 | 902.00 | 662.00 | 667.00 | 353.00 | 0.00 | 0.00 | 4537.00 |
| Natural Gas (MMBTU) | 0.00 | 0.00 | 0.83 | 20.62 | 58.90 | 122.09 | 93.66 | 79.13 | 69.07 | 0.00 | 0.00 | 0.00 | 444.30 |

Global Building Cost Summary

Building Type: All Building Types

Utility Type: All Utility Types

Buildings: All Buildings

Years: 2018

Year 2018

Building Description: High School

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|--------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|-------------------|--------------------|---------------------|
| Electric (KWH) | \$10,807.34 | \$21,577.16 | \$21,712.93 | \$23,558.25 | \$20,214.95 | \$15,358.18 | \$4,944.71 | \$16,265.74 | \$4,308.05 | \$14,262.54 | \$7,841.26 | \$19,573.06 | \$180,424.17 |
| Natural Gas (CCF) | \$279.24 | \$316.98 | \$496.55 | \$1,330.84 | \$2,179.78 | \$3,499.32 | \$3,290.62 | \$2,881.18 | \$1,901.66 | \$1,041.26 | \$0.00 | \$275.14 | \$17,492.57 |
| Natural Gas (MMBTU) | \$0.00 | \$562.53 | \$988.58 | \$2,384.94 | \$4,688.65 | \$8,948.61 | \$6,234.62 | \$4,947.26 | \$4,245.69 | \$0.00 | \$576.62 | \$362.52 | \$33,940.02 |
| High School Total | \$11,086.58 | \$22,456.67 | \$23,198.06 | \$27,274.03 | \$27,083.38 | \$27,806.11 | \$14,469.95 | \$24,094.18 | \$10,455.40 | \$15,303.80 | \$8,417.88 | \$20,210.72 | \$231,856.76 |

Building Description: Marlboro Elementary School

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|
| Electric (KWH) | \$15,466.47 | \$13,466.10 | \$15,561.96 | \$13,353.74 | \$10,459.39 | \$12,185.92 | \$3,481.93 | \$9,673.57 | \$9,332.89 | \$9,799.11 | \$11,033.92 | \$21,757.51 | \$145,572.51 |
| Natural Gas (CCF) | \$53.17 | \$60.54 | \$135.45 | \$730.22 | \$1,999.07 | \$3,445.28 | \$3,898.56 | \$2,877.34 | \$1,857.89 | \$931.24 | \$0.00 | \$71.00 | \$16,059.76 |
| Natural Gas (MMBTU) | \$0.00 | \$44.56 | \$211.04 | \$1,275.69 | \$4,292.95 | \$8,808.89 | \$7,320.19 | \$5,002.97 | \$4,146.00 | \$0.00 | \$152.31 | \$49.84 | \$31,304.44 |
| Marlboro Elementary School Total | \$15,519.64 | \$13,571.20 | \$15,908.45 | \$15,359.65 | \$16,751.41 | \$24,440.09 | \$14,700.68 | \$17,553.88 | \$15,336.78 | \$10,730.35 | \$11,186.23 | \$21,878.35 | \$192,936.71 |

Building Description: Middle Hope Elementary

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|-------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|----------------|-------------------|--------------------|
| Electric (KWH) | \$2,264.58 | \$1,979.31 | \$2,127.73 | \$2,070.66 | \$1,799.76 | \$2,468.95 | \$692.22 | \$2,028.98 | \$604.47 | \$1,933.33 | \$0.00 | \$2,448.13 | \$20,418.12 |
| Natural Gas (CCF) | \$40.22 | \$39.64 | \$42.14 | \$241.58 | \$650.46 | \$1,024.32 | \$963.00 | \$1,109.95 | \$680.71 | \$540.75 | \$0.00 | \$41.39 | \$5,374.16 |
| Natural Gas (MMBTU) | \$0.00 | \$1.66 | \$4.40 | \$297.22 | \$1,010.76 | \$1,911.46 | \$1,434.70 | \$1,612.39 | \$1,060.18 | \$0.00 | \$63.57 | \$2.99 | \$7,399.33 |
| Middle Hope Elementary Total | \$2,304.80 | \$2,020.61 | \$2,174.27 | \$2,609.46 | \$3,460.98 | \$5,404.73 | \$3,089.92 | \$4,751.32 | \$2,345.36 | \$2,474.08 | \$63.57 | \$2,492.51 | \$33,191.61 |

Building Description: Middle School

| UtilityType Desc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|----------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|-------------------|-------------------|-------------------|-------------------|-----------------|-------------------|--------------------|
| Electric (KWH) | \$3,887.63 | \$6,752.42 | \$7,621.71 | \$7,177.21 | \$5,325.96 | \$6,466.09 | \$1,749.38 | \$5,455.51 | \$1,818.87 | \$6,522.89 | \$0.00 | \$7,795.82 | \$60,573.49 |
| Natural Gas (CCF) | \$39.01 | \$49.11 | \$136.04 | \$420.32 | \$907.71 | \$1,671.17 | \$1,451.23 | \$1,305.88 | \$941.74 | \$457.93 | \$145.21 | \$0.00 | \$7,525.35 |
| Natural Gas (MMBTU) | \$0.00 | \$11.13 | \$133.28 | \$552.28 | \$1,490.57 | \$3,381.58 | \$2,186.07 | \$1,839.26 | \$1,590.15 | \$0.00 | \$92.69 | \$0.00 | \$11,277.01 |
| Middle School Total | \$3,926.64 | \$6,812.66 | \$7,891.03 | \$8,149.81 | \$7,724.24 | \$11,518.84 | \$5,386.68 | \$8,600.65 | \$4,350.76 | \$6,980.82 | \$237.90 | \$7,795.82 | \$79,375.85 |

Year 2018

Building Description: Milton Elementary

| UtilityTypeDesc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|--------------------------------|---------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-----------------|-----------------|---------------|--------------------|
| Electric (KWH) | \$0.00 | \$1,256.51 | \$3,122.20 | \$1,376.61 | \$2,328.74 | \$851.96 | \$3,189.15 | \$855.72 | \$809.94 | \$0.00 | \$0.00 | \$0.00 | \$13,790.83 |
| Natural Gas (CCF) | \$0.00 | \$89.71 | \$92.67 | \$224.38 | \$701.49 | \$1,214.70 | \$260.09 | \$997.78 | \$775.69 | \$0.00 | \$93.33 | \$0.00 | \$4,449.84 |
| Natural Gas (MMBTU) | \$0.00 | \$0.00 | \$57.17 | \$251.57 | \$1,126.23 | \$2,356.27 | \$310.05 | \$1,402.73 | \$1,276.41 | \$539.01 | \$51.70 | \$0.00 | \$7,371.14 |
| Milton Elementary Total | \$0.00 | \$1,346.22 | \$3,272.04 | \$1,852.56 | \$4,156.46 | \$4,422.93 | \$3,759.29 | \$3,256.23 | \$2,862.04 | \$539.01 | \$145.03 | \$0.00 | \$25,611.81 |

Building Description: Milton ES

| UtilityTypeDesc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|-----------------------|-------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|-------------------|
| Electric (KWH) | \$2,740.22 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$2,740.22 |
| Milton ESTotal | \$2,740.22 | \$0.00 | \$2,740.22 |

Building Description: Operations & Maintenance

| UtilityTypeDesc | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|
| Electric (KWH) | \$338.23 | \$300.10 | \$289.45 | \$327.82 | \$441.51 | \$724.66 | \$237.70 | \$466.87 | \$267.18 | \$382.63 | \$0.00 | \$334.20 | \$4,110.35 |
| Natural Gas (CCF) | \$39.01 | \$39.01 | \$42.25 | \$131.83 | \$235.60 | \$385.75 | \$377.54 | \$359.19 | \$254.28 | \$169.92 | \$0.00 | \$39.01 | \$2,073.39 |
| Natural Gas (MMBTU) | \$0.00 | \$0.00 | \$4.46 | \$109.85 | \$308.41 | \$657.35 | \$503.48 | \$439.89 | \$350.03 | \$0.00 | \$0.00 | \$0.00 | \$2,373.47 |
| Operations & Maintenance Total | \$377.24 | \$339.11 | \$336.16 | \$569.50 | \$985.52 | \$1,767.76 | \$1,118.72 | \$1,265.95 | \$871.49 | \$552.55 | \$0.00 | \$373.21 | \$8,557.21 |
| 2018 Total | \$35,955.12 | \$46,546.47 | \$52,780.01 | \$55,815.01 | \$60,161.99 | \$75,360.46 | \$42,525.24 | \$59,522.21 | \$36,221.83 | \$36,580.61 | \$20,050.61 | \$52,750.61 | \$574,270.17 |
| Grand Total | \$35,955.12 | \$46,546.47 | \$52,780.01 | \$55,815.01 | \$60,161.99 | \$75,360.46 | \$42,525.24 | \$59,522.21 | \$36,221.83 | \$36,580.61 | \$20,050.61 | \$52,750.61 | \$574,270.17 |

Appendix C

MINIMUM STANDARD CONTRACT CLAUSES

IMPORTANT NOTICE TO POTENTIAL PROPOSERS

It is important to review the terms and conditions of this and any Request for Proposals, as the format of our RFP documents as well as some terms and conditions may have changed. Specifically, the following changes should be noted with respect to the packaging and delivery of your proposal documents:

1. **All proposals MUST be submitted in with 6 copies total.** You should enclose one original document that contains original signatures **in blue ink**, as well as 5 copies of the original document.
2. Proposals must be mailed and/or hand delivered to the address indicated on this RFP no later than the date and time as listed in the proposal documents and/or any amendments that may be issued accordingly. Late proposals may not be accepted.
3. Proposals must be presented in a sealed envelope clearly marked with the title of the proposal, proposal number, date and time. This includes marking the outside of any express envelope that may be used. Faxed or email submissions are not acceptable and will be disposed of upon arrival.
4. The Certification of Compliance with the Iranian Divestment Act, beginning on page 3, must be notarized.

By submitting this Request for Proposals, you are asking the **Marlboro Central School District (herein referred to as "MCSD")** to accept your offer for the sale of goods or services. It is important that you READ and UNDERSTAND all terms and conditions contained herein, as well as understand the laws that govern Municipal Purchasing in the State of New York. Once the MCSD has opened proposals, there can be no changes to price or terms, unless clearly specified in this document.

In addition, there are no provisions to cancel after an award is made, except by the MCSD, which maintains a unilateral right to cancel or offer extension in accordance with the terms of this RFP.

Quantities are not a guarantee, they are listed based on past or anticipated usage, and are as accurate as we can ascertain. Most proposals contain provisions to either award on an item-by-item basis, lump sum or by group. It is rare that the MCSD awards an entire proposal to one vendor (depending on the type of RFP). You must understand that you may only receive a part of the award from this RFP, as the MCSD reserves the right to award in any manner at its discretion.

If you do not agree with these terms you should not submit a proposal.

Penalties for non-performance under this RFP are contained on page 7.

In addition to these penalties, you may:

1. Be listed as non-responsible, and be ineligible for future proposal awards if you fail to perform.

NOTICE TO PROPOSERS

The Marlboro Central School District, also referred to herein as MCSD (in accordance with Section 103 of Article 5-A of the General Municipal Law), hereby invite the submission of sealed proposals for:

Energy Project for Marlboro Central School District

Proposal No. RFP-MCSD-05-2019

for the Marlboro Central School District. The Proposals will be received until **2:00 p.m. on Thursday, the 7th of February 2019**, at the Office of the Director of Business & Finance, 21 Milton Turnpike – Suite 100, Milton, NY 12547.

Specifications and proposal forms for the above may be obtained at the office of Mr. Patrick M. Witherow, Director of Business & Finance, 21 Milton Turnpike – Suite 100, Milton, NY 12547; Telephone (845) 236-8000 x1403, email patrick.witherow@marlboroschools.org or on-line at www.marlboroschools.org.

MARLBORO CENTRAL SCHOOL DISTRICT.

By: Patrick M. Witherow, Director of Business & Finance

PROPOSAL DISTRIBUTION

The only sources of “official” distribution of proposal documents are through the **Business Office of the Marlboro Central School District or Marlboro Central School District’s website**. If you’ve obtained this proposal from a source other than those listed, you are encouraged to contact the Marlboro Central School District to receive an “official” copy. You are not guaranteed to receive important addenda or information regarding this proposal if you are not registered with the Marlboro Central School District or have not obtained copies of this RFP officially. Failure to respond to a proposal on “official” proposal copies may result in disqualification.

RFP Receipt Form

Please complete and return this information to the Marlboro Central School District by email or fax (845-795-5903) no later than **January 22, 2019**:

Date: _____

To: Patrick M. Witherow
Marlboro Central School District
patrick.witherow@marlboroschools.org
Fax – 845-795-5903

We have received your Request for Proposal for **Energy Project for Marlboro Central School District RFP-MCSD-05-2019**.

- () We hope to be able to offer a proposal. Please send us copies of any addenda that may be issued.
- () We regret that we will not be able to offer a proposal at this time. You need not send us copies of any addenda.

Signed: _____
(Signature)

Name: _____
(Please print)

Firm: _____

Address: _____

Fax: _____

Phone: _____

Email: _____

CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a proposal in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Proposer/Contractor, any person signing on behalf of any Proposer/Contractor and any assignee or subcontractor and, in the case of a joint proposal, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Proposer/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Proposer/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Proposer/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the School District receive information that a Proposer/Contractor is in violation of the above-referenced certification, the School District will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the School District shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Proposer/Contractor in default. The School District reserves the right to reject any proposal or request for assignment for a Proposer/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Proposer/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, _____, being duly sworn, deposes and says that he/she is the _____ of the _____ Corporation and that neither the Proposer/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

SIGNED

SWORN to before me this _____ day of _____ 201____

Notary Public: _____

OR

DECLARATION OF PROPOSER'S INABILITY TO PROVIDE CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

Proposers shall complete this form if they cannot certify that the proposer/contractor or any proposed subcontractor is not identified on the Prohibited Entities List. The District reserves the right to undertake any investigation into the information provided herein or to request additional information from the proposer.

Name of the Proposer: _____

Address of Proposer _____

Has proposer been involved in investment activities in Iran? _____

Describe the type of activities including but not limited to the amounts and the nature of the investments (e.g. banking, energy, real estate):

If so, when did the first investment activity occur? _____

Have the investment activities ended? _____

If so, what was the date of the last investment activity? _____

If not, have the investment activities increased or expanded since April 12, 2012?

Has the proposer adopted, publicized, or implemented a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran?

If so, provide the date of the adoption of the plan by the proposer and proof of the adopted resolution, if any and a copy of the formal plan. _____

In detail, state the reasons why the proposer cannot provide the Certification of Compliance with the Iran Divestment Act below (additional pages may be attached):

I, _____ being duly sworn, deposes and says that he/she is the _____ of the _____ Corporation and the foregoing is true and accurate.

SIGNED

SWORN to before me this _____ day of _____ 201_____

Notary Public: _____

REQUEST FOR MATERIAL SAFETY DATA SHEETS

In accordance with amendments to the New York State Labor Law and the OSHA Hazard Communication Standard, we hereby request that you provide us with the following information on any and all substances that you will supply to us as a result of this proposal. Further, if in the future you should supply us with any substances, either as a part of this proposal or as an individual order, we also request that you provide us with the same following information at the same time you provide such substances.

The information we request that you provide us with dated Material Safety Data Sheets, which include at a minimum the following:

1. The name of any hazardous ingredients, including the generic or chemical name.
2. The CASE Registry Number of the chemical ingredients and physical and chemical characteristics of the mixture in total.
3. The level at which exposure to the substance is determined to be hazardous, by OSHA, ACGIH, NFPA, NIOSH, IARC, NTP.
4. The acute and chronic health effects of exposure and primary routes of entry into the body.
5. The potential for flammability, explosion, reactivity, and other hazards of such substances.
6. Appropriate emergency/first aid procedures.
7. Proper precautions for safe handling and recommended engineering control.
8. Procedures for clean-up of leaks and spills.

With respect to any substance for which you do provide us the foregoing information, we request that you also provide us with all updated information as it becomes available. We will hold you liable for any failure on your part to comply with this request.

We look forward to your anticipated cooperation and we thank you for helping us keep our employees informed about the toxic substances they come into contact with at work.

I. GENERAL INFORMATION

All invitations to proposal issued by the Marlboro Central School District will bind proposers and successful proposers to the conditions and requirements set forth in these general conditions and such conditions shall form an integral part of each purchase contract awarded by the Marlboro Central School District.

1. Sealed proposals for the furnishing and delivery, and installing, where called for, of the services, materials, equipment and/or supplies, as required by the Marlboro Central School District, and as set forth in the following specifications prepared under the direction of said Marlboro Central School District, will be opened in the Office of the Director of Business & Finance of the Marlboro Central School District, on the day and hour stated on "Notice to Proposers" page.
2. The person, firm or corporation making such proposal shall submit it in a sealed envelope to the Director of Business & Finance, or his duly designated representative at the place herein mentioned on or before the hour and day stated on "Notice to proposers" page, and the envelope shall be endorsed on the face thereof, with the name of the person, firm or corporation making such proposal, the date of the proposal opening, the proposal identification number and the title of the services, materials, equipment and/or supplies for which such proposal is made.
3. All proposals received after the time stated in the "Notice to Proposers" may not be considered and will be returned to the proposer. The proposer assumes the risk of any delay in the mail or in the handling of the mail by employees of the Marlboro Central School District. Whether sent by mail or by means of personal delivery, the proposer assumes responsibility for having his proposal deposited on time at the place specified.
4. Proposals must not be attached to or enclosed in packages containing proposal samples. Telephoned quotations or amendments will not be accepted at any time.
5. The submission of a proposal will be construed to mean that the proposer is fully informed as to the extent and character of the supplies, materials, or equipment required and a representation that the proposer can furnish the supplies, materials, or equipment satisfactorily in complete compliance with the specifications.
6. No alteration, erasure or addition is to be made in the typewritten or printed matter. Deviations from the specifications must be set forth in a "substitute proposal list" submitted by the proposer.
7. Prices and information required, except signature of proposer, should be type-written for legibility. Illegible or vague proposals may be rejected. All signatures must be written **in blue ink**. Facsimile, printed or typewritten signatures are not acceptable.
8. The proposer shall insert the price per stated unit and the extension against each item in the schedules hereto annexed, which he proposes to furnish, deliver and install, where called for. In the event of a discrepancy between the unit price and the extension, the unit price will govern.
9. The price proposal for each item must be net and must include all delivery charges fully prepaid by the successful proposer to the destination indicated in the proposal, installation, preparation, clean up or other charges. Title shall not pass until items have been delivered and accepted.

10. All specifications are minimum standards and accepted proposal samples do not supersede specifications for quality unless proposal sample is superior, in which case deliveries must be the same identity and quality as accepted proposal sample.
11. No interpretation of the meaning of the specifications or other contract document will be made to any proposer orally. Every request for such interpretation should be in writing using Page 19 in accordance with the instructions contained on that page. Notice of any and all such interpretations and any supplemental instructions will be sent to all proposers of record by the Marlboro Central School District in the form of addenda to the specifications. All addenda so issued shall become a part of the contract documents.
12. No charge will be allowed for federal, state, or municipal sales and excise taxes, in that the Marlboro Central School District is exempt there from. The price proposal shall be net and shall not include the amount of any such tax. Exemption Certificate, if required, will be furnished on forms provided by the proposer.
13. No charge will be allowed for cases, boxes, carboys, bottles, etc. nor for freight expenses, expressage, or cartage. No empty packages cases, boxes, carboys, bottles, etc., will be returned to the proposer or contractor and none will be paid for by the Marlboro Central School District. Such empty cases, boxes, etc., must be removed by the proposer or contractor at his own expense.
14. Proposers are requested to notify immediately the Marlboro Central School District Business Office of any discrepancies found in these specifications. Phone (845) 236-8000 x1400.
15. Each proposer must state that their proposal, proposal, and/or quotation is made without any connection with any other person of firm making any proposal, proposal and/or quotation for the materials and/or installation listed. Each proposer must also state that no officer or member of the Marlboro Central School District is directly or indirectly interested therein or in the supplies to which it relates, or to any portion of the profits thereof.
16. The Marlboro Central School District reserves the right to accept this proposal by item or as a whole or, in its discretion, reject all proposals and re-advertise in the manner provided by Section 103 of the General Municipal Law. Also reserved is the right to reject, for cause any proposal in whole or in part; to waive technical defects, qualifications, irregularities, and omissions if, in its judgment, the best interests of the Marlboro Central School District will be served. Also reserved is the right to reject proposals and to purchase items on New York State Contract, if such items can be obtained on the same terms, conditions, specifications, and at a lower price.
17. All proposers must agree that, pursuant to Section 103A and 103B of the General Municipal Law, this proposal and any subsequent proposal award will be terminated and canceled on failure of the contractor or its principals to sign a waiver of immunity or answer any relevant questions, before a Grand Jury, concerning any proposal award, contract, or purchase order, as the case may be and which may be a result of this proposal.
18. These instructions and general requirements are to be considered an integral part of all proposals.
19. Sixty (60) days after the date of the proposal opening, in the event that no awards have been made, all proposals shall become null and void.

20. Awards will be made to the lowest responsible proposer, as will best promote the public interest, taking into consideration the reliability of the proposer, the quality of the materials, equipment or supplies to be furnished, their conformity with the specifications, purpose for which required and the terms of delivery.
21. Each proposal will be received with the understanding that the acceptance thereof in writing by the Marlboro Central School District, to furnish any of all items described therein shall constitute a contract between the successful proposer and the Marlboro Central School District, approved by the Marlboro Central School District Board of Education, to furnish any of all items described therein shall constitute a contract between the successful proposer and the Marlboro Central School District. The contract shall bind the successful proposer on his part to furnish and deliver at the prices and in accordance with the conditions of this proposal. The contract shall bind the Marlboro Central School District on its part to order from such successful proposer (except in the case of emergency) and to pay for at the contract prices all items ordered and delivered.

II. COMPLETION OF PROPOSAL FORM

22. Where items or articles of equipment or supplies are designated as manufactured by a specific manufacturer, it is to be understood that the article as specified represents an accepted standard. Where certain brands of materials, apparatus, or equipment are specified, such goods have been selected in order to establish a standard for the particular service required; but it is not the intention to limit competition thereby.
23. All proposals must be submitted on and in accordance with the forms provided by the Marlboro Central School District.

- A. If the proposer proposes to furnish the article which is specified, he is to fill in the amount on the line indicated.
- B. If the proposer desires to proposal on an "or equal" for the article specified, which is claimed to be equivalent to the standard specified, the proposer must enter the price on the "or equal" line and indicate the Item Number, Brand Name, The Quantity, and give a complete description of the item, the unit price and the extension price.
- C. If the proposer proposes to furnish a substitute item the proposer must furnish a complete description of the item, which shall include, but not be limited to: make, model, size, color, dimensions, gage, etc. In addition the proposer must indicate how the substitute item differs from the specified item.

SUBSTITUTE ITEMS MUST BE ON A SEPARATE PROPOSAL FORM. THE ITEM MUST ALSO BE CLEARLY IDENTIFIED AS A SUBSTITUTE ITEM.

- D. Where "or equal" is quoted on the vendor for items stated in the specifications as "or equal" it shall mean the approval by the Marlboro Central School District. In cases where the proposal is based upon an "or equal" item, the proposer may be asked to submit a sample; and a complete catalog description of the item should accompany the proposal. Samples will be returned, if so desired, as soon as award is made.
- E. Where substitute proposals are submitted by the vendor the decision to accept the substitute shall be the sole decision of the Marlboro Central School District. The proposer may be asked to submit a sample; and a complete catalog description of the item should accompany the proposal. Samples will be returned, if so desired, as soon as award is made.

- F. All items not clearly labeled as “or equal” or a substitute will be deemed to be as specified and must be exactly as specified in the description.
24. Unless the schedule contains a complete specification, items listed in the schedule must be equal to the sample on exhibition at the office of the Business Administrator or the same as the sample provided by the vendor. Items delivered by successful proposer must be equal in all respects to the sample or to those referred to by catalog number on the proposal specifications.
 25. All prices quoted must be “per unit” as specified (e.g. do not quote “per case” when “per dozen” is requested; otherwise the proposal may be rejected).
 26. The vendor must complete ALL information required on the proposal form. Failure to fully complete all parts of any line item may cause the proposal to be rejected (e.g. if the proposal calls for a “per quart” item and also requires that “per ounce” cost be indicated you should show BOTH costs).
- III. SUBSTITUTE OR “OR EQUAL” ITEMS**
27. It is the proposer’s responsibility to demonstrate that the items they are proposing are equal to the proposal specifications. Therefore when a proposer is proposing an “or equal” item or a substitute item the proposer must provide sufficient documentation and/or samples to allow the Marlboro Central School District to make a determination.
 - A. The documentation or samples must be clearly labeled as to the line item number and proposal.
 - B. Documentation must include size, weight, chemical composition or other such information so that it may be compared to our proposal specification.
 - C. Failure to provide sufficient documentation may result in the substitute or “or equal” item not being considered.
- IV. QUANTITIES**
28. All quantities listed are approximate and may be increased or decreased by the Marlboro Central School District at the time of purchase. The quantity indicated represents only our estimate and is not intended to be an exact quantity. The Marlboro Central School District reserves the right to increase or decrease their portion of the total estimated quantities, as is in the best interest of the Marlboro Central School District.
- V. SAMPLES**
29. When samples are required they must be clearly labeled with proposal number, and line item number. Samples must be provided at the proposer’s expense.
 30. If a sample is for more than one line item the samples must clearly identify each line item. If the sample is not exactly as will be provided any difference must be clearly identified.
 31. Samples must be provided for all “or equal” or substitute items.
 32. Samples will be returned to all proposers upon request at the proposer’s expense. Samples may be used as part of the evaluation process and may not be returned in original or usable condition.

33. It is the proposer's responsibility to provide all samples by the specified time and date to the proper location otherwise the proposal may not be considered.
34. Samples, when required, must be submitted strictly in accordance with instructions; otherwise, the proposal may not be considered. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating if the proposer desires their return and specifying the address to which they are to be returned, provided they have not been used or made useless by tests. Award samples may be held for comparison with deliveries. The Marlboro Central School District will not be responsible for any samples destroyed or mutilated by examination or testing. Samples shall be removed by the proposer at his expense. Samples not removed within fifteen (15) days after written notice to the proposer will be regarded as abandoned and the Marlboro Central School District shall have the right to dispose of them as its own property.

VI. INSURANCE

35. In contract and/or purchase order, involving delivery and installation or any material and equipment, the successful proposer shall take out and maintain, until the accepted completion of the work. Workman's Compensation Insurance for all of its employees employed on the site of the project, and in case any work is sublet, the successful proposer shall require the sub-contractor similarly to provide Workman's Compensation Insurance for all of the latter's employees so as to keep the Marlboro Central School District free from blame in any one and/or series of occurrences involving sickness and/or personal injury.
36. In contracts and/or purchase orders involving the providing of services, the installation of any materials and/or equipment, the successful proposer shall take out and maintain, until the accepted completion of the work, Public Liability and Property Damage Insurance as shall protect him, any sub-contractor performing work covered by these specifications and the Marlboro Central School District, from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from any operation in connection with these specifications, whether such operation be by himself, any sub-contractor or by anyone directly or indirectly employed by them. Public Liability Insurance shall be in an amount of not less than \$1,000,000.00 for injuries, including wrongful death, to any one person and subject to the same limit for each person in an amount of not less than \$1,000,000.00 on account of one (1) accident. Property Damage Insurance in an amount not less than \$500,000.00 for damages on account of all accidents. Certificates of Insurance on the foregoing may be required from the successful proposer (See sample certificate on the following page).

| ACORD - CERTIFICATE OF LIABILITY INSURANCE | | DATE (01/01/04) | | | |
|--|--|--|----------------------------------|--|---|
| PRODUCER CONTRACTORS AGENT NAME & ADDRESS | | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY BEL | | | |
| INSURED CONTRACTOR NAME & ADDRESS | | INSURERS AFFORDING COVERAGE | | | |
| | | INSURER A: | INSURANCE CARRIER "A" | | |
| | | INSURER B: | INSURANCE CARRIER "B" | | |
| | | INSURER C: | INSURANCE CARRIER "C" | | |
| | | INSURER D: | INSURANCE CARRIER "D" | | |
| | | INSURER E: | | | |
| COVERAGES | | | | | |
| THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. | | | | | |
| | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
| A | GENERAL LIABILITY | POLICY NUMBER | DATE | DATE | GENERAL AGGREGATE \$ 2,000,000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| | <input type="checkbox"/> CLAIMS MADE OWNERS & CONTRACTOR'S PROT | | | | PERSONAL & ADV INJURY \$ 1,000,000 |
| | <input type="checkbox"/> OCCUR | | | | EACH OCCURRENCE \$ 1,000,000 |
| | <input type="checkbox"/> | | | | FIRE DAMAGE (Any one fire) \$ 50,000 |
| | <input type="checkbox"/> | | | | MED EXP (Any one person) \$ 5,000 |
| | <input type="checkbox"/> | | | | |
| B | AUTOMOBILE LIABILITY | POLICY NUMBER | DATE | DATE | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 |
| | <input checked="" type="checkbox"/> ANY AUTO | | | | BODILY INJURY (Per person) \$ |
| | <input type="checkbox"/> ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | <input type="checkbox"/> SCHEDULED AUTOS | | | | PROPERTY DAMAGE (Per accident) \$ |
| | <input type="checkbox"/> HIRED AUTOS | | | | |
| <input type="checkbox"/> NON-OWNED AUTOS | | | | | |
| | GARAGE LIABILITY | | | | AUTO ONLY - EA ACCIDENT \$ |
| | <input type="checkbox"/> ANY AUTO | | | | OTHER THEN EA ACC \$ |
| | | | | | AUTO ONLY: AGG \$ |
| C | EXCESS LIABILITY | POLICY NUMBER | DATE | DATE | EACH OCCURRENCE \$ 1,000,000 |
| | <input checked="" type="checkbox"/> UMBRELLA FORM | | | | AGGREGATE \$ 1,000,000 |
| | <input type="checkbox"/> OTHER THEN UMBRELLA FORM | | | | \$ |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | POLICY NUMBER | DATE | DATE | WC STATUTORY LIMITS |
| | <input type="checkbox"/> | | | | OTH - ER |
| | <input checked="" type="checkbox"/> INC | | | | E.L. EACH ACCIDENT \$ STATUTORY |
| | <input type="checkbox"/> EXC L | | | | E.L. DISEASE - POLICY LIMIT \$ STATUTORY |
| | <input type="checkbox"/> | | | | E.L. DISEASE - EA EMPLOYEE \$ STATUTORY |
| | OTHER | | | | |
| DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS/ ADDED BY ENDORSEMENT/SPECIAL PROVISIONS ORANGE-ULSTER BOCES IS HEREBY NAMED AS A COMMERCIAL GENERAL LIABILITY, AUTOMOBILE LIABILITY AND UMBRELLA LIABILITY ADDITIONAL INSURED ON A PRIMARY AND NON-CONTRIBUTORY BASIS AS RESPECTS WORK PERFORMED FOR THE INSURED. | | | | | |
| CERTIFICATE HOLDER | | ADDITIONAL INSURED : INSURER LETTER | | CANCELLATION | |
| ORANGE-ULSTER BOCES 53 GIBSON ROAD GOSHEN, NY 10924 | | | | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>15</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. | |
| | | AUTHORIZED REPRESENTATIVE | | <i>John Doe</i> | |

VII. INSPECTION OF SITE

37. At the time of the opening of the proposals, each proposer will be presumed to have inspected the site and to have examined and to be thoroughly familiar with the drawings, general requirements and specifications (including all addenda thereto). The failure and/or omission of any proposer to receive or examine any drawings, forms, instructions, or documents shall in no way relieve such proposer from any obligation in respect to his proposal.

VIII. ADDENDUM

38. Any addenda sent to the contractors shall be as binding and take precedence over the original part of the specifications to which they refer. Interpretations and clarifications of all parts of the specifications may be had at the Office of the Director of Business & Finance on or before the date of the opening of the proposals. After the opening of the proposals, all interpretations and meanings of the specifications will be made by the Marlboro Central School District.

IX. INSTALLATION

39. The contractor shall furnish, deliver, and install completely, unless otherwise noted, material and equipment described in the specifications, with all appurtenances, parts or accessories not specifically mentioned in the articles described but necessary to render the equipment complete and ready for operation. All these parts and/or accessories shall be included in the proposal price.
40. All of the furnishings and/or equipment furnished and installed under this contract shall be guaranteed by the contractor, in writing, for one (1) year after completion against any and all defects which are the result of improper design, materials, construction or installation, if called for. Immediately upon notice by the owner (at any time during the guarantee period), the contractor shall fully make good such defects by replacing same with new work, without cost to the owner.

Prior to installation it is the responsibility of the vendor to be familiar with the site.

The vendor must propose a fixed price for installation.

The time and date of installation must be approved by the School District prior to starting any installation.

X. TERM OF CONTRACT

41. TBD

XI. NOTICE OF AWARD

- 42. The placing in the mail of a notice of award or purchase order to a successful proposer to the address given in his proposal will be considered sufficient notice of acceptance of contract.
- 43. Each vendor shall receive a notice of items recommended to be awarded to their firm. However, quantities are only estimated. The Marlboro Central School District is responsible for placing their own order. The successful vendor shall only ship items upon the receipt of a properly executed purchase order from the Marlboro Central School District.

XII. FAILURE TO PERFORM OR DELIVER

- 44. If the successful proposer fails to deliver within the time specified in the proposal specifications or on the purchase order or within reasonable time as interpreted by the Marlboro Central School District (normally 30 days from receipt of purchase order) or fails to make replacement of rejected articles when so requested immediately or as directed by the Marlboro Central School District, the Marlboro Central School District may purchase from other sources to take the place of the item rejected or not delivered. The Marlboro Central School District reserves the right to authorize immediate purchase from other sources against rejections on any contract when necessary. On all such purchases the successful proposer agrees to reimburse the Marlboro Central School District promptly for excess costs occasioned by such purchases. Should the cost be less, the successful proposer shall have no claim to the difference. Such purchases will be deducted from contract quantity.
- 45. If the successful proposer fails to deliver as ordered, the Marlboro Central School District reserves the right to cancel the contract and purchase the balance from other sources at the successful proposer's expense.

XII. CANCELLATION

- 46. A contract may be canceled at the successful proposer's expense upon non-performance of contract.
- 47. Cancellation of contract for any reason may result in the Marlboro Central School District classifying your firm as non-responsible following an appropriate responsibility hearing.
- 48. The right is reserved by the Marlboro Central School District to cancel any purchase order or part thereof if said order is not filled within the contract time or stated in the proposal document, or on the purchase order issued by the Marlboro Central School District.
- 49. Sixty (60) working days after the date of the opening, in the event that no awards have been made, all proposals shall become null and void.

XIV. ASSIGNMENT OR TRANSFER OF PROPOSAL AWARD

50. It is mutually understood and agreed that the successful proposer shall not assign, transfer, convey, sublet or otherwise dispose of the contract or his right, title, or interest therein, or his power to execute such contract, to any person, company or corporation without the previous written consent of the Marlboro Central School District.

XV. PERIOD OF THE PROPOSAL

51. Proposal prices must be honored by the vendor for the period indicated in these specifications. The proposal award may be extended beyond the proposal period by mutual consent of the successful proposer and the Marlboro Central School District. The length of the extension will be determined by mutual consent of the participating parties for up to one year.

XVI. DELIVERY

52. Delivery will be required to be made to the Marlboro Central School District as follows unless otherwise noted. All equipment and material shall be delivered and placed where directed inside the building, unless the schedules or purchase order issued to the successful proposer thereon indicated otherwise. The contractor will be required to furnish proof of delivery in every instance. No help for unloading will be provided. Suppliers should notify their truckers accordingly. Deliveries shall be made between the hours of 9:00 a.m. to 3:00 p.m., Monday through Friday unless otherwise noted by the Marlboro Central School District. Notice of delivery shall be made twenty-four (24) hours in advance. All materials and supplies must be securely packed in uniform containers, adequately marked as to contents and delivered without damage or breakage in such units specified in schedules.
53. Each purchase order shall constitute an order. Items contained therein should be shipped by the vendor within thirty (30) days of the receipt of each purchase order. Items not delivered on a timely basis shall be dealt with in accordance with the provisions outlined in the failure to perform section.
54. The Marlboro Central School District reserves the right to order additional quantities of equipment including installation for other locations.
55. The Marlboro Central School District will not schedule any deliveries for Saturdays, Sundays, or legal holidays.
56. Items shall be securely and properly packed for shipment, storage and stocking in new shipping containers and according to accepted commercial practice, without extra charge for packing cases, baling or sacks.
57. The successful proposer shall be responsible for delivery of items in good condition at point of destination. He shall file with the carrier all claims for breakage, imperfections, and other losses, which will be deducted from invoices. The Marlboro Central School District will note for the benefit of successful proposer when packages are not received in good condition.

58. All deliveries shall be accompanied by delivery tickets or packing slips. Ticket shall contain the following information for each item delivered:

- Purchase Order Number
- Names of Articles
- Item Number
- Quantity
- Name of Successful proposer

59. Cartons shall be labeled with purchase order number, successful proposer's name and general statement of contents. Failure to comply with this condition shall be considered reason for refusal to accept the goods.

60. Successful proposers will be notified by receipt of a purchase order. The purchase order number MUST appear on the outside of all packages, on invoices, packing slips, claims, and correspondence.

61. The right is reserved by the Marlboro Central School District to cancel any purchase order or part thereof, if said order is not filled within the time stated in the proposal document or on the purchase order or within a reasonable time if not stated in the proposal document or on the purchase order.

XVII. PAYMENT

62. Payment will be made only upon successful completion of the purchase order issued by the Marlboro Central School District.

63. Payment will be made only after the proper presentation of invoices or claim forms as required by the Marlboro Central School District.

64. Payment for the used portion of an inferior delivery will be made by the Marlboro Central School District on an adjusted price basis.

65. Payments of any claim shall not preclude the Marlboro Central School District from making claim for adjustments on any item found not to have been in accordance with general conditions and specifications.

66. No payment shall be made until all equipment is installed and operating to the satisfaction of the School District.

XVIII. OWNERSHIP

67. Ownership of equipment shall not transfer until all equipment is completely installed and operating to the satisfaction of the School District.

XIX. SAVINGS CLAUSE

68. The successful proposer shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God or for any other acts not within the control of the successful proposer and which by the exercise of reasonable diligence he is unable to prevent.

SIGNATURE OF AUTHORIZED OFFICER

TYPED NAME AND TITLE

FIRM

ADDRESS

STATE, CITY, ZIP CODE

FEDERAL IDENTIFICATIOIN NUMBER (FEIN)

TELEPHONE NUMBER

_____ DATE

PROPOSAL CERTIFICATIONS

FIRM NAME: _____

BUSINESS ADDRESS: _____

PHONE NUMBER: _____ DATE OF PROPOSAL: _____

I. General Proposal Certification

The proposer certifies that he will furnish, at the prices herein quoted, the materials, equipment and/or services as proposed on this proposal.

II. Iran Divestment Act

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law.

III. Non-Collusive Bidder Certification

By submission of this proposal, the proposer certifies that he is complying with Section 103-d of the General Municipal Law as follows:

1. State of non-collusion in proposals and proposals to political subdivision of the State. Every proposal or proposal hereafter made to a political subdivision of the State or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation, or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the proposer and affirmed by such proposer as true under the penalties of perjury: non-collusive bidding certification.

a. "By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

1. The prices in this proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;

2. Unless otherwise required by law, the prices which have been quoted in this proposal have been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and

3. No attempt has been made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition."

b. A proposal shall not be considered for award nor shall any award be made where (a) (1) (2) and (3) above have not been complied with provided, however, that if in any case the proposer cannot make the

foregoing certification, the proposer shall so state and shall furnish with the proposal a signed statement which sets forth in detail the reasons therefore. Where (a) (1) (2) and (3) above have not been complied with, the proposal shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency of official thereof to which the proposal is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a proposer (a) has published price lists, rates or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being proposal, does not constitute, without more, a disclosure within the meaning sub-paragraph one (a).

2. Any proposal hereafter made to any political subdivision of the State or any public department, agency or official thereof by a corporate proposer for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such proposal contains the certification referred to in subdivision one of the section, shall be deemed to have been authorized by the Board of Directors or the proposer, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

Signature (Authorized)

Title

REQUIRED BONDING

There are no Bonds required for this contract

Bid Bond - An approved bid bond, bank check, certified check, letter of credit or other form of security acceptable to the Marlboro Central School District to the extent of 10% not to exceed \$20,000.00 of the proposal price will be required with all vendor responses at the time of Submission of the proposal. The BOCES will hold the bond until the contract has been signed.

Bid Bond – An approved bid bond, bank check, certified check, letter of credit or other form of security acceptable to the Marlboro Central School District in the amount of _____ will be required with all vendor responses at the time of submission of the proposal. The MCSD will hold the bond until the contract has been signed.

Performance and Payment Bond - The contractor shall, at the time of execution of the contract, obtain and maintain in full force and effect for sixty days after contract expiration:

- an irrevocable documentary Letter of Credit with a sound and reputable bank authorized to do business in the State of New York, OR
- a Performance Bond signed by a surety company authorized to do business in the State of New York, and/or
- a Payment Bond signed by a surety company authorized to do business in the State of New York, in the amount of 100%, for the faithful performance of the contract. The Letter of Credit, Performance Bond, Payment Bond, etc., shall name as beneficiary the Marlboro Central School District and may be invoked to the benefit of the MCSD upon delivery of a certified statement to the issuing bank or surety company that the contractor has failed to perform pursuant to the terms and conditions of its contract with the Marlboro Central School District.

With its proposal submission, the contractor shall include a letter from its bank or surety company stating that the letter of credit or bond will be provided if being considered for a contract or in the event of a contract. The Letter of Credit or Bond shall be provided on a yearly basis for each year, or portion, of the contract.

PREVAILING WAGE

Prevailing wage rates apply to this contract *(if box is checked)*

The successful proposer is required to pay the prevailing hourly wage rates and the prevailing hourly supplements pursuant to section 220-d of the New York State Labor Law.

- Contractors are responsible for paying all applicable prevailing rates throughout the term of the contract.
- A verified statement of payment of prevailing rates by the Contractor (Article 8 only) MUST be submitted to the Marlboro Central School District in order for payment to be made.
- Prevailing Wage Rates are incorporated into this document in accordance with the New York State Labor Law.

QUALIFICATIONS OR LIMITATIONS TO PROPOSAL SPECIFICATIONS AND CONDITIONS

This page must be completed and signed by the vendor in order for your proposal to be considered by the Marlboro Central School District.

- A. If any qualification or limitations to the proposal conditions and specifications are part of your proposal, you must check box 1 (below) and indicate the limitation on this page.
- B. If no limitations or qualifications are part of your proposal, you must check box 2 (below).

- 1. The following limitations or qualifications are included in this proposal:
 - a. DELIVERY:

 - b. FREIGHT CHARGES:

 - c. PRICES:

 - d. OTHER:

- 2. NO LIMITATIONS OR QUALIFICATIONS APPLY.

Signature of Vendor

Company Name

Appendix D

NEW YORK STATE ENERGY LAW ARTICLE 9 - ENERGY PERFORMANCE CONTRACTS IN CONNECTION WITH PUBLIC BUILDINGS AND FACILITIES

Section

9-101. Purpose.

9-102. Definitions.

9-103. Energy performance contracts.

§ 9-101. Purpose

The purpose of this article is to obtain long-term energy and cost savings for agencies and municipalities by facilitating prompt incorporation of energy conservation improvements or energy production equipment, or both, in connection with buildings or facilities owned, operated or under the supervision and control of agencies or municipalities, in cooperation with providers of such services and associated materials from the private sector. Such arrangements will improve and protect the health, safety, security, and welfare of the people of the state by promoting energy conservation and independence, developing alternate sources of energy, and fostering business activity.

§ 9-102. Definitions

For the purposes of this article, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context.

1. "Agency" means any state department, agency, board, commission, office, or division.
2. "Municipality" means a municipal corporation, as defined in section two of the general municipal law, school district, board of cooperative educational services, fire district, district corporation or special improvement district governed by a separate board of commissioners.
3. "Public authority" means any public authority, public benefit corporation, or the port authority of New York and New Jersey, to the extent its facilities are located within the state of New York.
4. "Energy performance contract" means an agreement for the provision of energy services, including but not limited to electricity, heating, ventilation, cooling, steam or hot water, in which a person agrees to install, maintain or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues.

§ 9-103. Energy performance contracts

1. Notwithstanding any other provision of law, any agency, municipality, or public authority, in addition to existing powers, is authorized to enter into energy performance contracts of up to thirty-five years duration, provided, that the duration of any such contract shall not exceed the reasonably expected useful life of the energy facilities or equipment subject to such contract.
2. Any energy performance contract entered into by any agency or municipality shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract."

3. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be an ordinary contingent expense, and shall in no event be construed as or deemed a lease or lease-purchase of a building or facility, for purposes of the education law.
4. Agencies, municipalities, and public authorities are encouraged to consult with and seek advice and assistance from the state energy office and the New York state energy research and development authority concerning energy performance contracts.
5. Notwithstanding any other provision of law, in order to convey an interest in real property necessary for the construction of facilities or the operation of equipment provided for in an energy performance contract, any agency, municipality or public authority may enter into a lease of such real property to which it holds title or which is under its administrative jurisdiction as is necessary for such construction or operation, with an energy performance contractor, for the same length of time as the term of such energy performance contract, and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real property may remain useful to such agency, municipality or public authority for the purpose for which such real property was originally acquired or devoted or for which such real property is being used.
6. In lieu of any other competitive procurement or acquisition process that may apply pursuant to any other provision of law, an agency, municipality, or public authority may procure an energy performance contractor by issuing and advertising a written request for proposals in accordance with procurement or internal control policies, procedures, or guidelines that the agency, municipality, or public authority has adopted pursuant to applicable provisions of the state finance law, the executive law, the general municipal law, or the public authorities law, as the case may be.
7. Sections one hundred three and one hundred nine-b of the general municipal law shall not apply to an energy performance contract for which a written request for proposals is issued pursuant to subdivision six of this section.
8. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be developed and approved pursuant to the requirements of this section and pursuant to regulations promulgated by the commissioner of education in consultation with the New York state energy research and development authority. Such regulations shall include, but shall not be limited to: a list of the appropriate type of projects that qualify as energy performance contracts; an approval process that includes review of the type and nature of the proposed project, the scope and nature of the work to be performed, and a detailed breakdown of the energy savings to be derived each year and for the duration of the energy performance contract; and a process for ensuring that districts have obtained financing at the lowest cost possible. Such regulations shall require that all energy performance contracts which contain maintenance and monitoring charges as part of the energy performance contract price state such maintenance and monitoring charges separately in the contract in a clear and conspicuous manner. Such regulations shall not apply to energy performance contracts entered into prior to the effective date of such regulations, nor shall they apply to energy performance contracts for which a request for proposals was issued prior to such effective date.

Added L. 1985, c. 733, § 2; amended L. 1989, c. 638, §§ 1,2; amended L. 1994, c. 368, §§ 1,2; amended L. 1995, c.83, §47; amended L. 1997, c. 436, §78.

Appendix E

CHAPTER 436 OF THE LAWS OF 1997
Sections Relevant to School Districts and BOCES
Energy Performance Contracts
from 1997 Senate bill 5788
signed by Governor Pataki on August 20, 1997

AN ACT to amend the education law, in relation to the calculation and payment of state aid to school districts and boards of cooperative educational services * * * , to amend the energy law, in relation to energy performance contracts * * *

PART A

Section 1. Section 305 of the education law is amended by adding a new subdivision 27 to read as follows:

27. The commissioner shall promulgate regulations in consultation with the New York state energy research and development authority concerning the development and approval of energy performance contracts for school districts and boards of cooperative educational services in accordance with subdivision eight of section 9-103 of the energy law.

* * *

§40. Paragraph i of subdivision 6 of section 3602 of the education law, as added by chapter 474 of the laws of 1996, is amended to read as follows:

i. Approved expenditures for debt service.

* * *

(5) Notwithstanding any inconsistent provisions of this paragraph, for the purpose of calculating an apportionment pursuant to this subdivision:

(i) current approved expenditures for debt service for energy performance contracts authorized pursuant to section 9-102 of the energy law shall mean approved debt service incurred by a school district under such contract during the current school year related to the financing of such construction, acquisition, reconstruction, rehabilitation or improvement of any school building, provided that as a condition of eligibility for aid:

A. The amortization period shall not exceed the term of the energy performance contract.

* * *

§ 41. Clause (i) of subparagraph 5 of paragraph i of subdivision 6 of section 3602 of the education law, as added by section forty of this act, is amended by adding two new subclauses B and C to read as follows:

B. Any state building aid attributable to such project shall be excluded in determining the cost savings under the energy performance contract.

C. The energy performance contractor shall guarantee recovery of contract costs from energy savings realized by the school district during the term of the energy performance contract, which shall not exceed eighteen years.

* * *

§ 78. Section 9-103 of the energy law is amended by adding a new subdivision 8 to read as follows:

8. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be developed and approved pursuant to the requirements of this section and pursuant to regulations promulgated by the commissioner of education in consultation with the New York

state energy research and development authority. Such regulations shall include, but shall not be limited to: a list of the appropriate type of projects that qualify as energy performance contracts; an approval process that includes review of the type and nature of the proposed project, the scope and nature of the work to be performed, and a detailed breakdown of the energy savings to be derived each year and for the duration of the energy performance contract; and a process for ensuring that districts have obtained financing at the lowest cost possible. Such regulations shall require that all energy performance contracts which contain maintenance and monitoring charges as part of the energy performance contract price state such maintenance and monitoring charges separately in the contract in a clear and conspicuous manner. Such regulations shall not apply to energy performance contracts entered into prior to the effective date of such regulations, nor shall they apply to energy performance contracts for which a request for proposals was issued prior to such effective date.

* * *

§ 119. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 1997, except that:

(1) sections one and seventy-eight of this act shall take effect immediately, and the commissioner of education is authorized and directed to promulgate the regulations necessary to implement the provisions of such sections within 180 days of such effective date;

* * *

(5) section forty of this act shall take effect immediately and shall be deemed to have been in full force and effect on and after the effective date of section 41 of chapter 474 of the laws of 1996;

(6) section forty-one of this act shall take effect immediately;

* * *

Appendix F

REGULATIONS OF THE COMMISSIONER OF EDUCATION

(8 NYCRR §155.16)

Pursuant to sections 101, 207 and 305 of the Education Law, section 9-103(8) of the Energy Law and Chapter 436 of the Laws of 1997, Section 155.16 of the Regulations of the Commissioner of Education is added, effective July 1, 1998, to read as follows:

155.16 Energy Performance contracts. (a) The following procedures consistent with Energy Law section 9-103(8), and Education Law sections 305(27), and 3062 (6)(i)(5)(i)(b) and (c) shall apply to energy performance contracts entered into by a school district or a board of cooperative educational services (BOCES) on or after July 1, 1998, provided that this section shall not apply to energy performance contracts for which a request for proposals was entered into prior to July 1, 1998.

(b) Definitions: For the purposes of this section:

(1) Energy Performance Contract shall mean an agreement for the provision of energy services, including but not limited to electricity, heating, ventilation, cooling, steam or hot water, in which a person agrees to install, maintain or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues.

(2) Simple payback period shall mean a measure of the length of time required for the cumulative cost savings, net of cumulative future costs, from an investment in an energy conservation project to pay back the investment cost, without taking into account the time value of money, or the Differential Energy Price Escalation Rate, or the State building aid payable for the project.

(3) Energy Savings shall mean the positive difference between the energy and associated cost before the retrofit and its estimated cost after the retrofit of a proposed alternative building system, taking into account all types of energy effected.

(4) Cost savings shall mean the positive difference between the operation and maintenance cost before the retrofit and its established operation and maintenance cost after the retrofit.

(5) Co-generation shall mean the simultaneous production of electricity and thermal energy. Typical systems utilize natural gas engines to turn electric generators thereby producing electricity, which reduces utility costs. Waste heat captured from the natural gas combustion process can be used to produce domestic hot water, provide space heat in winter or air conditioning in summer when used in conjunction with absorption chillers.

(c) The appropriate type of projects that qualify to be completed under an energy performance contract may include, but are not limited to:

(1) replacement of lighting fixtures;

(2) installation of energy efficient boiler/furnace, heating, ventilating, air conditioning (HVAC) equipment;

(3) installation of vestibules;

(4) installation of automatic setback thermostat;

(5) energy management system;

(6) upgrade domestic hot water system;

(7) roof insulation;

(8) installation of energy efficient window/doors;

(9) co-generation; or

(10) the installation, maintenance or management of other energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility.

(d) Every energy performance contract entered into by a school district or BOCES to which this section applies and every amendment to an energy performance contract entered into on or after July 1, 1998 by a board of education or a BOCES shall be subject to approval by the Commissioner of Education and shall contain a provision that such contract shall not be executory until approval of the Commissioner is obtained. In order to obtain approval by the Commissioner of Education to enter into an energy performance contract, the school district or BOCES shall:

(1) demonstrate that the project complies with all applicable provisions of section 155.2 of this Part;

(2) describe the scope and nature of the work to be performed;

(3) demonstrate that the types of projects included in the energy performance contract are appropriate in accordance with subdivision (c) of this section.;

(4) provide a detailed breakdown of the energy performance savings to be derived each year and for the duration of the energy performance contract in the project summary form, which shall include:

- (i) a description of each energy conservation measure included in the energy performance contract;
- (ii) the cost of each energy conservation measure;
- (iii) the project energy savings and cost savings;
- (iv) the useful life of each energy conservation measure; and
- (v) the simple payback period;

(5) state any maintenance and monitoring charges that are part of the energy performance contract in a clear and conspicuous manner separately in the contract;

(6) provide the interest rate applicable to the energy performance contract and length of borrowing. The interest rate will be compared to the U.S. Treasury rate for like terms as published in the Wall Street Journal and must be comparable;

(7) provide the following certifications:

(i) he sole trustee, the president of the board of trustees or board of education, or the president of the BOCES shall certify that in lieu of competitive bidding, the energy performance contract was procured pursuant to a request for proposal (RFP) process in accordance with the school district's or BOCES' procurement policies and procedures adopted pursuant to applicable provisions of General Municipal Law section 104-b;

(ii) The energy performance contractor shall certify that such energy performance contractor has guaranteed recovery of contract costs from energy savings realized by the school district during the term of the energy performance contract, which shall not exceed 18 years, or the useful life of the equipment being installed, whichever is less. This certification shall be based on an analysis of energy costs and savings, which shall not include any cost savings attributable to state building aid. If a simple payback calculation is used to demonstrate compliance with the 18 year payback limitation, it shall be calculated

by dividing the initial contract cost by the first year cost savings. If another analysis is used to support the certification, it should be submitted with the certification;

(iii) The energy performance contractor shall certify that measurement and verification techniques for determining cost savings will be performed in accordance with the North American Energy Measurement and Verification Protocol, March 1996, (U.S. Department of Energy, Washington, D.C. 20585: available at the Office of Facilities Planning, Room 1060 State Education Building Annex, Albany, NY 12234);

(iv) The energy performance contractor shall certify that any state building aid attributable to such project has been excluded in determining the cost savings and payback period under the energy performance contract; and

(v) The architect and/or engineer of record shall certify that he or she is free from financial interest in the energy performance contractor which conflicts with the proper completion of the audit and any design work associated with the energy performance contract and that full disclosure has been made to the school district and/or BOCES detailing all financial compensation received from the energy performance contractor.

(e) The administrative and technical review by the State Education Department shall include:

(1) review of project scope and its appropriateness to be done under an energy performance contract and its eligibility for building aid;

(2) review of the project's compliance with applicable provisions of section 155.2 of this Part;

(3) review of detailed breakdown of the energy savings to ensure compliance with Education Law section 3602 (6)(i)(5)(1);

(4) review of certifications by the president of the board of education, energy performance contractor and architect/engineer as specified in regulations;

(5) review of interest rate and comparison to the U.S. Treasury Rate for like terms;

(6) review of technical specifications for compliance with the Uniform Fire Prevention and Building Code, State Education Department standards and other applicable standards,

(f) Capital construction costs and associated incidental costs such as architect/engineer fees, administrative costs and feasibility costs may be eligible for building aid. Costs associated with operation and maintenance, repairs extended warranties and service agreements are not eligible for building aid and should be separated in a clear and conspicuous manner from those eligible expenses.