

ENERGY POLICY ACT OF 2005 (EPACT) CONSULTANT SERVICES

Background

Regulatory and Economic Resources Department – Office of Sustainability

The Regulatory and Economic Resource Department (RER), Office of Sustainability (OOS) collaborates with County agencies, business groups, and nonprofit organizations, as well as other partners and stakeholders to effectively integrate sustainability core concepts and values into programs, operations, and policies. OOS has developed a community-wide GreenPrint Sustainability Plan. As part GreenPrint, OOS has identified Water and Energy Efficiency as a sustainability goal area. To achieve the goal of using less water and energy, OOS works to assist with incorporating energy efficiency into various County construction projects as well as identified opportunities for retrofitting existing County facilities to be more energy efficient and environmentally conscience. OOS is soliciting proposals from qualified firms to provide Energy Policy Act of 2005, as amended, (EPACT) Consulting Services to that will enable the County to identify and take advantage of deductions allowable under Section 1331 of EPACT that are available as a result of energy efficiency building or retrofitting.

Energy Policy Act of 2005

Section 1331 of the Federal Energy Policy Act of 2005, as amended, enacted and later extended §179D of the Internal Revenue Service Code, which provides a tax deduction with respect to energy efficient buildings. (See *Attachment No. 1- 2 U.S.C. §179D and Attachment 2- IRB: 2008-14, Notice 2008-40*). §179D allows a deduction to a taxpayer for: 1) part or all of the cost of energy efficient commercial building property that the taxpayer places in service after December 31, 2005, and before January 1, 2015, unless otherwise extended, and 2) part or all of the cost of certain partially qualifying commercial building property that the taxpayer places in service after December 31, 2005, and before January 1, 2015, unless otherwise extended.

In the case of energy efficient commercial building property (or partially qualified commercial building property for which a deduction is allowed under §179D) that is installed on or in property owned by a Federal, State or local governmental or political subdivision thereof, the owner of the property may assign the §179D deduction to the Designer. If the assignment of a §179D to a Designer satisfies the requirements of this section, the deduction will be allowed only to that Designer. The deduction will be allowed to the Designer for the taxable year that includes the date on which the property is placed in service. The selected Proposer shall not act as a representative or otherwise contract with a Designer for any County project for which services are provided under any contract awarded as a result of this solicitation.

Potential Projects

The table below contains potential projects that have been identified to date by the County that may qualify for tax deductions under §179D. The selected Proposer will assist the County in identifying other potential projects. The square footage listed is an estimate that represents the approximate square footage of each project and has not been validated or certified for compliance with §179D.

	Project Name	Estimated Square Footage (Sq. Ft.)
1	Children's Courthouse	378,000
2	Miami-Dade Aviation Department Central Plant	8,000,000
3	PortMiami Terminal D	27,200
4	Internal Services Department West Lot	320,127
5	Internal Services Department Trade Shops	100,000

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Services to be Provided

Services Related to Determining Eligibility of Projects

The selected Proposer shall provide services that will enable the County to take advantage of deductions allowable under Section 1331 of EPACT in accordance with the services outlined in this solicitation. These services are expected to include, but are not limited to:

1. Determine the retroactive extent of tax deductions available under EPACT to the Designers of constructions or renovation/modernizations of applicable County buildings and projects completed from 2011 through the allowable time period under §179D and prioritize such projects.
2. Determine the prospective extent of the tax deduction available under EPACT to the Designers of construction or renovation/modernization of applicable County buildings and projects.
3. Provide an appropriate level of expertise required in each area (e.g. Professional Engineer, Tax Consultant, etc.) needed to comply with the provisions of EPACT.
4. Contact and inform the Designers of the possible tax deduction and obtain commitment letters.
5. Negotiate agreements with the project Designers to maximize payment to the County in return for its assignment of the tax deductions to the Designer, as directed by the County.
6. Alternatively, negotiate agreements, as directed by the County, to maximize the benefit to the County by reducing respective project costs to the extent allowed under the EPACT in return for the County's assignment of the tax deduction to the Designer.
7. Provide a recovery strategy and probability assessment for the County to monetize prior deductions deemed "technically" closed due to inadvertent waiver, express or implied or that fell below a threshold of recovery. In collaboration with County, pursue prior opportunities and provide the County a list of those projects that fall below recovery thresholds. Assist County staff to understand the threshold determinations and the efforts required to pursue such claims.

Services Related to Achieving Tax Deductibility

The selected Proposer shall assist the County in assigning and supplying all supporting documentation as required by EPACT, and the guidance and implementing rules and regulations of the Internal Revenue Service, to achieve tax deductibility. These services are expected to include, but are not limited to:

1. Assist the County in identifying all documentation required by EPACT, and implementing the rules and regulations prescribed by the IRS to achieve tax deductibility.
2. Assist the Designer in identifying the documentation necessary to achieve allocation of tax deductibility under EPACT, when requested by the County.
3. Produce and provide the appropriate governmental agencies all supporting documentation required to achieve Certification as required under Section 4 of IRS Notice 2006-52 and/or Section 5 of the IRS Notice 2008-14, as amended or updated.
4. Provide or contract for the appropriate level of expertise required in each area (e.g. Engineer, Tax Consultant) needed to comply with the provisions of EPACT.
5. Obtain engineering modeling, conduct sites visits, and/or complete certification required to meet §179D guidelines.
6. Provide modeling and calculation services to render maximum valuation of tax benefits.

Services Related to Future Projects

The selected Proposer shall assist the County in preparing for future projects to be completed that may be eligible for tax deductions under EPACT. These services are expected to include, but are not limited to:

1. Assist the County in drafting standard contract language to insert into applicable contracting documents for future projects to compel Designers to provide the allowable benefits for the County, either in the form of reduced project costs or rebate.

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2. Assist the County to establish a process and contract language to preserve the rights of the County to maximize benefit and to avoid loss of opportunity or inadvertent waiver of benefits under EPACT.
3. In the event EPACT is further extended, assist the County in creating policies and procedures to maximize benefit while maintaining full compliance under EPACT

Contractor Responsibilities

In providing the Services hereunder, the successful Proposer shall furnish its own personnel, equipment, software, supplies, transportation and all other means and methods necessary to successfully provide these Services outlined herein.

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