



El Paso Electric Company
2020 - 2022 Texas
Residential Rebate Pilot Program

Request for Proposals – RFP# EPE-68371721-MM

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1 Introduction

1.1 Purpose

El Paso Electric Company (“EPE” or the “Company”) requests proposals from qualified Bidders for the design, development, and implementation of its Texas Residential Rebate Pilot Program (“Rebate Program”) in its Texas service territory for a three-year program period beginning January 1, 2020.

EPE is seeking a Program Administrator (“PA”) to provide a user-friendly online rebate center or marketplace for residential customers to find products that qualify for EPE’s rebates and access the rebate application. The PA will also manage rebate submission, verification, processing, payment, and reporting of information back to the utility. EPE does not currently offer a rebate program in Texas and is considering, but not limited to the following energy efficient products/services: lighting, appliances, window air conditioners, heat pump water heaters, smart power strips, and pool pumps.

This Request for Proposal (“RFP”) requires Bidders to describe their proposed Rebate Program in detail, including its design and functionality, hardware requirements, software solution capabilities, reliability features, evidence of energy savings in kilowatts (“kW”) and kilowatt hours (“kWh”) under the Texas Technical Reference Manual (<http://www.texasefficiency.com/index.php/emv>), as well as associated references. Bidders shall describe participating customers access to web-portal, mobile applications (“apps”), or other interactive tools.

EPE implements a wide range of Public Utility Commission of Texas (“PUC”) approved programs that result in reduced demand and reduced annual energy consumption. EPE’s portfolio of programs is in compliance with the [PUC Substantive Rule §25.181](#) (“Energy Efficiency Rule”). The objective of this Rule is to evaluate and implement cost-effective energy efficiency programs that reduce energy demand and energy consumption.

1.2 Company Background

For over 100 years, EPE has been serving West Texas and Southern New Mexico with safe, clean, affordable, and reliable electric energy through superior production, acquisition, and delivery. Today, EPE is a regional electric utility providing generation, transmission, and distribution service to approximately 422,000 retail and wholesale customers in a 10,000 square mile service area, extending from Hatch, New Mexico, to Van Horn, Texas (See Figure 1).

There were approximately 325,494 customers in EPE’s Texas service territory in 2018: 289,024 residential customers, 31,755 commercial customers, and 4,715 public authority customers. The total 2020 program budget is \$4,884,014, the anticipated 2020 annual energy savings are 16,441 kilowatts (“kW”) and 22,055,693 kilowatt hours (“kWh”) at the customer meter as shown in the following table.

2020 TEXAS PROGRAMS			
Customer Class and Program	Projected Savings (at meter)		Total Budget
	kW	kWh	
Commercial	10,241	16,635,216	\$2,436,511
Small Commercial Solutions MTP	730	3,197,400	\$461,115
Large C&I Solutions MTP	2,011	10,569,816	\$1,005,396
Texas SCORE MTP	500	2,847,000	\$510,000
Load Management SOP	7,000	21,000	\$460,000
Residential	1,440	4,179,197	\$1,216,346
Residential Solutions MTP	545	954,840	\$315,000
LivingWise® MTP	200	727,600	\$346,346
Texas Appliance Recycling MTP	195	1,579,200	\$255,000
Residential Rebate Pilot Program	500	917,557	\$300,000
Hard-to-Reach	800	1,051,200	\$600,000
Hard-to-Reach Solutions MTP	800	1,051,200	\$600,000
Residential/Commercial	3,960	190,080	\$310,000
Demand Response Program	3,960	190,080	\$310,000
Administration	-	-	\$87,793
Research and Development	-	-	\$25,000
Subtotal Budgets	-	-	\$4,675,650
EM&V	-	-	\$58,364
EECRF Proceeding Expenses	-	-	\$150,000
Total	16,441	22,055,693	\$4,884,014

Bidders can learn more about the Company by visiting EPE's website at www.epelectric.com.

1.3 Communications

All communications from Bidders to EPE, including questions regarding this RFP, must be submitted via e-mail. Based upon the nature and frequency of the questions EPE receives, EPE will choose to respond to individual Bidders either directly or will post a response to the question on EPE's website.

All submittals, inquiries, and communications related to this RFP should be directed to the Contract Negotiator who shall serve as the Bidder's sole point of contact with EPE:

Melissa Muñoz
Contract Negotiator
Phone: (915) 351-4220
E-mail: bids@epelectric.com

The Rebate Program RFP Solicitation webpage can be found at <https://www.epelectric.com/doing-business-with-epe>.

All communications between Bidders and EPE shall be conducted via e-mail. Oral communications are discouraged and shall not be binding upon EPE.

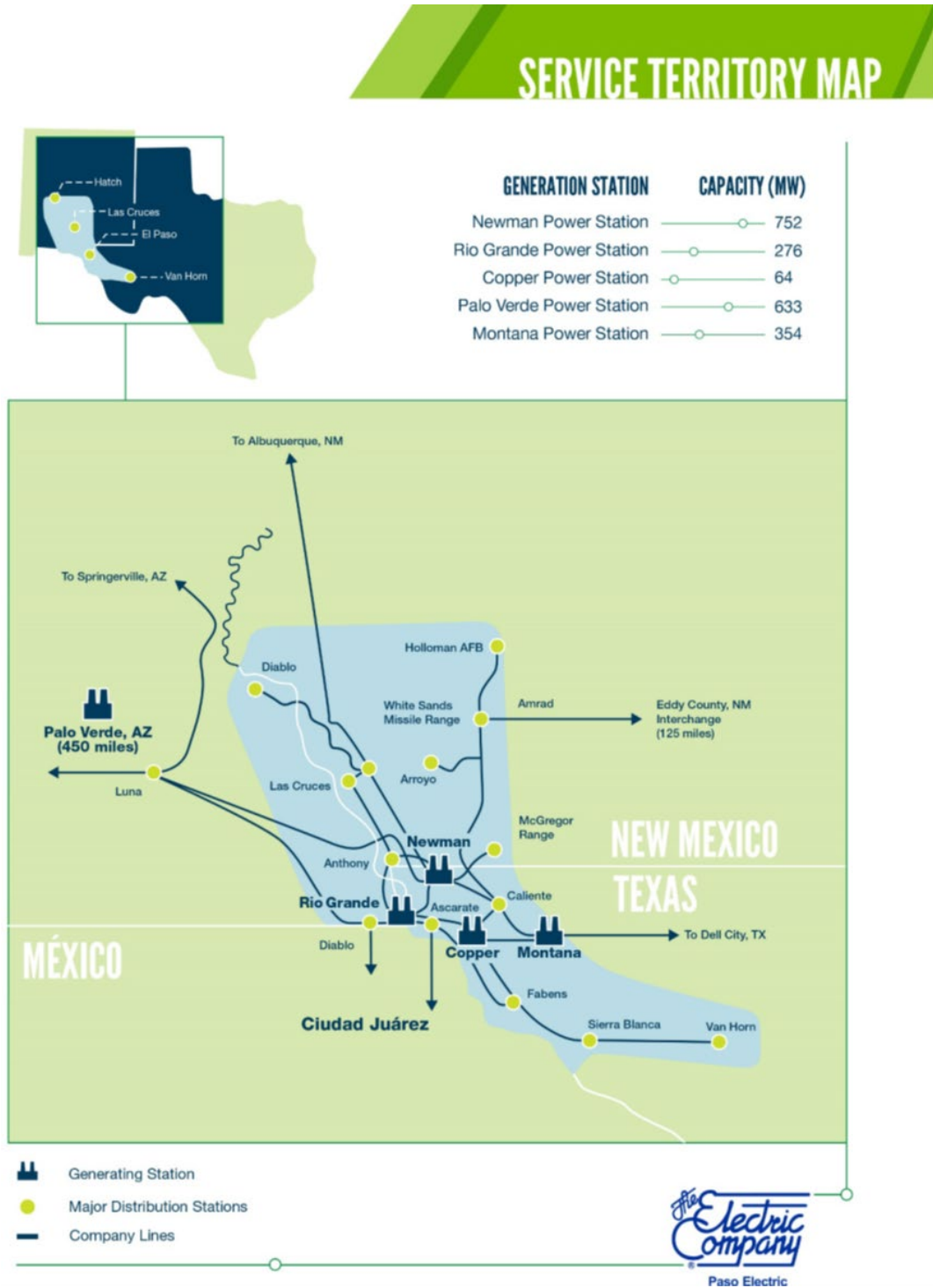
1.4 Confidentiality of Responses

EPE will consider proposals and associated information submitted by Bidders to be confidential only if each page of such materials is clearly designated as "Confidential." Participating and nonparticipating Bidder(s) should be aware that information received in response to this RFP will be subject to the review of applicable local, state and/or federal regulatory agencies, including, but

not limited to, the Public Utility Commission of Texas (“PUCT”), and the Federal Energy Regulatory Commission. Information submitted in response to this RFP may become subject to federal or state laws pertaining to public access to information as a result of any reviews conducted by government agencies. EPE shall not be liable for the release of any information subject to disclosure under any laws pertaining to public access to information. Except as required by regulatory reviews, EPE will use reasonable efforts to avoid disclosure of information designated as confidential to persons other than those involved with the evaluation and selection of the vendor and any subsequent negotiations. EPE will propose that any information and material designated as confidential be provided under a protective order. If a Bidder’s proposal is selected by EPE, the Bidder shall cooperate with EPE in making technical descriptions, pricing, and other contract terms available for review as part of any regulatory approval process as EPE deems necessary or appropriate. EPE will follow applicable orders and rules of the PUCT, and/or other applicable agency, including any protective orders issued, such as disclosure of price, terms, or other information as required.

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1.5 EPE Service Territory and Electric System



2 EPE Texas Residential Rebate Pilot Program

Bidders should provide a Turn-Key Program for the multiple program years running from January 1, 2020, through December 31, 2022.

In addition to reducing demand and energy consumption, energy efficiency programs are strategic efforts which include rebates/incentives, training, public awareness, and educational programs designed to lower market barriers and increase the adoption rate for energy-efficient technologies and practices. EPE must ensure that its portfolio of energy efficiency programs provides every affected customer class with the opportunity to participate and benefit economically.

Avoided costs for 2019, as established by the PUCT, were set at \$80 per kW per year and \$0.05084 per kWh. EPE uses a 7.025% post-tax discount rate to calculate the present value of the avoided cost associated with a project and assumes a 2% escalation rate. EPE will limit the utility's administrative costs to a maximum of 15% of the total program costs.

The following are minimum requirements but EPE would like to see Bidders propose a program that goes above and beyond, allowing customers to participate as easily as possible utilizing Apps, coupons, Quick Response codes, etc.

1. Provide full-scale rebate application processing services, including but not limited to the following:
 - a. Review all rebate applications to ensure completeness and program eligibility. Track and enforce application due dates and milestones. EPE will provide eligibility criteria and rebate amounts per product.
 - b. Perform all customer service-related functions by serving as the interface with utility customers to answer questions and assist with rebate application completion. Customers should be able to ask questions via email and telephone in both English and Spanish. Online chat functionality is also appropriate, but not necessary.
 - c. Provide rebate applications in English and Spanish for online and print applications. Customers should be able to complete the application without having access to a printer.
 - d. Provide a mailed hard copy application to those customers that request it via phone, web request, or email and provide the same level of service as an online customer. EPE will have applications available in its Service Center for customers that operate solely via in-person interactions.
 - e. Rebates are available only to EPE customers.
 - f. Provisions available for landlord/tenant situations so rebate itself may be sent to another location.
 - g. Monitor and track utility program-specific funding to contain spending within utility-specified amounts.

2. Provide rebate distribution services:
 - a. Disburse and deliver all rebates to customers.
 - b. Ensure that customers receive their rebate via paper check, pre-paid credit/debit card or by other means within 4-6 weeks of completing and submitting their application. Check or card is branded with EPE's logo when available.
 - c. Provide with the rebate an EPE-branded (may be co-designed or designed by EPE) document to show appreciation for the customer's participation and increase association of the rebate with EPE.
3. Website functionality:
 - a. Create a platform that will allow customers to search for products that qualify for EPE rebates.
 - b. Provide filters to search by common product features and price.
 - c. Ensure that the platform directs customers to online and brick-and-mortar, local when possible, retailers where they can purchase qualifying products.
4. Provide monthly updates to the utility:
 - a. Provide all program performance metrics including: program participant mailing and service addresses, EPE account number (if part of verification process), phone, email, products rebated, rebate amount provided, energy and demand saved.
 - b. Provide electronic copies of all supporting documents for rebate applications including: rebate application, receipt/proof of purchase, and photos.
 - c. Provide web analytics, including user time spent on website and number of web visits.
5. Additional features:
 - a. Bidder should be able to limit rebates based on frequency (example – notify EPE if a customer requests a refrigerator rebate within five years of their previous refrigerator rebate) or number of products (example – 40 LEDs).
 - b. EPE may have LEDs available through an upstream lighting program and EPE will provide this list of local retailers and products to the bidder. These LEDs may not be rebated a second time through this rebate program.
 - c. PA to train EPE staff how to use the online tool, particularly the Customer Service Representatives.
 - d. Since EPE is an electric-only utility, EPE will allow rebates for products or services that provide electric energy savings.
 - e. PA's service will provide customers with an automatic status update during various stages of the rebate process or allow customers to log-in to check the status of their rebate.
 - f. PA should be able to estimate the date of full implementation based on the start of the contract.

3 RFP Schedule and Process

3.1 RFP Schedule

The following tentative schedule and deadlines apply to this solicitation:

RFP Issuance Date	August 1, 2019
Submission of Bidder Questions by Program	August 15, 2019
Responses to Bidders' Questions by Program	August 23, 2019
Intent to Bid on Specific Program	August 30, 2019
Proposal Due Date	September 16, 2019
Bidder Interviews at EPE's discretion	October 7-18, 2019
EPE Selection of Program(s) Tentative Date	November 1, 2019
Contract Negotiations and execution of agreements Tentative Date	December 2, 2019
Program Implementation Date	February 1, 2020

EPE reserves the right to modify, cancel or withdraw this RFP and to revise the schedule specified above if, at the sole discretion of EPE, such changes are necessary.

3.2 RFP Issuance

EPE will extend an electronic invitation to companies and entities, that EPE identified while conducting research on energy service providers, on August 1, 2019. In addition EPE will post the RFP on its website at <https://www.epelectric.com/doing-business-with-epe> to allow other entities to participate in the RFP process.

Receipt of the RFP invitation must be confirmed via e-mail response from Bidders with the Contract Negotiator.

3.3 Submission of Bidder Questions

The deadline for submission of written RFP related questions will be August 15, 2019, at 5:00 p.m. Mountain Daylight Time to EPE's Contractor Negotiator. Any questions submitted after that deadline will NOT be addressed.

EPE will prepare written responses to questions received and distribute the questions and responses to Bidders. Responses will be distributed to such Bidders with the question included but will not identify who originally submitted the question.

3.4 Responses to Bidder Questions

All questions related to this RFP will be answered by August 23, 2019. The responses will be e-mailed to all recipients of the RFP by the Contract Negotiator.

Submission of questions is not mandatory and will not positively or negatively impact the overall review of any Bidder's submissions. Bidders should refrain from asking questions that would reveal confidential and/or proprietary information specific to their proposal.

3.5 Intent to Bid

All letters of intent to bid must be received by the Contract Negotiator by 5:00 p.m. Mountain Daylight Time on August 30, 2019. **Bidders should submit a separate letter of intent to bid for each program that they intend to bid on.** Failure to submit a letter of intent to bid for a program may disqualify a bidder's proposal for further consideration.

3.6 Collusion

By submitting a proposal to EPE in response to this RFP, the Bidder certifies that the Bidder has not divulged, discussed or compared its Proposal with any other Bidder and has not colluded whatsoever with any other Bidder or third parties with respect to this or other Proposals.

3.7 Proposal Due Date and Submission Requirements

All proposals must be received at EPE's offices to the attention of the Contract Negotiator by 5:00 p.m. Mountain Daylight Time on September 16, 2019. Any proposal submitted after the due date will be excluded from consideration.

Three hard copies of the proposal must be submitted. In addition, a soft copy of the proposal must be submitted on a USB flash drive. E-mail or other electronic submissions not sent in accordance with the requirements of this RFP shall be excluded from consideration. Facsimile submittals not sent in accordance with the requirements of this RFP shall be excluded from consideration.

Bidders are solely responsible for ensuring the proposals are received by EPE in accordance with the RFP instructions prior to the date and time specified and at the place specified. EPE shall not be responsible for any delays in mail or by common carriers or by transmitting errors, delays, misdelivery, or mislabeling.

3.8 Tentative Date for Selection of Programs

Following a review of technical and financial information, Bidders' experience and feedback obtained from references, EPE will determine which, if any, of the Rebate Program proposals best meet EPE's objectives and may initiate negotiations with applicable Bidders. EPE will notify the selected Bidders on or before November 1, 2019.

3.9 Tentative Date for Contract Discussions

Should EPE choose to initiate negotiations with any Bidder, the tentative date for contract execution with the selected Bidder is December 2, 2019. EPE, at its sole discretion, reserves the right to reject any proposed contract that results from this RFP for any reason including if subsequently issued regulatory approvals or authorizations are subject to conditions, including ratemaking treatments, which are unacceptable to EPE.

3.10 Proposal Validity

All proposal terms, conditions, and pricing are binding through the final selection notification and subsequent negotiations.

4 Proposal Content and Form

Bidders must demonstrate that its proposed Rebate Program is cost-effective and meets the Utility Cost Test.

4.1 Adherence to Format

Unless EPE in its sole discretion elects otherwise, proposals that do not include the information requested in this section will be ineligible for further evaluation, unless the information requested is not applicable or relevant to a given proposal. EPE reserves the right to conduct any further due diligence as it considers necessary as outlined in Section 5.1(C).

4.2 Proposal Format

A complete separate proposal is required for each Rebate Program assembled in the following format. Each page within the sections denoted below shall be limited to the number of pages listed in parentheses next to the title. Additionally, the pages within the tabs, unless stated otherwise in this RFP, shall be formatted to fit on 8.5 x 11 paper, have one-inch margins, utilize Times New Roman 12-point font, and have 1.5 spacing. The page size, margins, and spacing do not apply to Excel schedules. Margins and font sizes may be increased, but in no case may they be decreased. For sections that do not require a page limit, Bidders should limit their responses to relevant information and utilize reasonable formatting. The relevance of information and reasonableness of the formatting shall be determined in EPE's sole discretion.

The sections of the proposal and their page limits are as follows:

- Title Page
- Table of Contents
- Tab 1 – Executive Summary (2 Page Limit)
- Tab 2 – Program Description and Requirements (No Page Limit)
- Tab 3 – High-Level Program Implementation Schedule (3 Page Limit)
- Tab 4 – Marketing Capabilities and Customer Engagement Requirements (5 Page Limit)
- Tab 5 – Technical Capabilities, Data Collection, and Reporting (No Page Limit)
- Tab 6 – Program Costs and Estimated Cost-Effectiveness (6 Page Limit)
- Tab 7 – Experience, Qualifications, Resumes, and References (No Page Limit)
- Tab 8 – Financial Information (No Page Limit)
- Tab 9 – Insurance and Risk Management (No Page Limit)
- Tab10 – Additional Information (No Page Limit)

Additionally, each page of the proposal shall have the following information in the top right corner.

- TX Residential Rebate Pilot Program RFP
- RFP Number: EPE-68371721-MM
- Bidder Name
- [Tab Number] Page [x] of [x]

(A) Tab 1 – Executive Summary

The Executive Summary should provide an overall description of the program proposal. The description should include details about the program being proposed as well as key quantitative

and qualitative benefits to EPE and its customers. The summary should specify how the program will engage EPE customers to participate in the Rebate Program and, based on similar program results, should describe estimated savings in kW and kWh.

(B) Tab 2 – Program Description and Requirements

Each proposal must provide a comprehensive description of the proposed Rebate Program that includes program design, management and administration, marketing, customer enrollment, program milestones, sample reports, and other pertinent information. Each proposal also shall provide evidence of similar programs' energy savings in kW and kWh. Each proposal shall provide an estimated level of cost-effectiveness for the program.

The following information should be discussed in this section, as applicable to the proposed Rebate Program:

- Describe proposed energy efficiency customer rebate structure, (e.g., equipment rebate, annual participation incentive, seasonal incentive, etc.);
- Discuss target market for this program and how it will be reached;
- Describe the frequency and type of data that will be shared with EPE;
- Describe the division of responsibility between Bidder and EPE;
- Identify the program's implementation team by entity, person, or job function as appropriate; and
- Discuss the structure of communication and the implementation process between EPE and the program's implementation team, including details about physical location of the implementation team.

(C) Tab 3 – High-Level Program Implementation Schedule

Each proposal must provide a high-level schedule of program development activities, target completion dates for program implementation, as well as any training and/or program rollout necessary for each program year. Each proposal must describe the overall program development strategy and work breakdown structure that will ensure that the Rebate Program can be implemented in time to meet the proposed start of program date of February 1, 2020.

(D) Tab 4 – Marketing Capabilities and Customer Engagement Requirements

Each proposal must describe marketing capabilities, program marketing plan, and customer enrollment strategy. Each proposal must also describe EPE's expected role in program marketing.

(E) Tab 5 – Technical Capabilities, Data Collection, and Reporting

Each proposal must describe engineering support in areas of evaluation, measurement, and verification ("EM&V") analysis; pre- and post-inspections; quality assurance; and quality control. Each proposal must describe data collection, data retention, EPE access to data, and reporting to EPE.

(F) Tab 6 – Program Costs and Estimated Cost-Effectiveness

Proposals must clearly state all components of the proposed Rebate Program. Bidders must provide an itemization of the program costs including program implementation costs, customer incentives, administrative costs, marketing costs, taxes (e.g., Gross Receipts Tax), etc.

Bidder shall invoice EPE for and EPE agrees to pay, state sales, use, or similar taxes, if applicable, to the Services or Materials or, in lieu thereof, EPE shall provide to the Bidder a valid tax exemption certificate exempting EPE from the payment of such taxes or a valid direct pay certificate allowing EPE to pay such taxes directly to the state taxing authority.

(G) Tab 7 – Experience, Qualifications, Resumes, and References

The capability and experience of any Bidder must be demonstrated to provide assurance that the Bidder, and any other party involved in the proposal, has adequate competence, resources, and skills. Each proposal must include the following information, as a minimum:

- Description of technical and project management experience, specifically with respect to the implementation of an energy efficiency program similar to the proposal, and previous collaboration efforts with electric utilities and statewide independent evaluator(s) if any;
- Identify other utility programs Bidder has implemented;
- Description of experience with programs similar to the proposed Rebate Program;
- Description of marketing experience with programs similar to the proposal;
- Description of documented program results for programs similar to the proposal;
- Resumes;
- Licenses and certifications; and
- List of utility and energy efficiency industry references.

(H) Tab 8 – Financial Information

The financial viability of any proposal must be demonstrated to provide assurance that the Bidder, and any other party involved in the proposal, has adequate financial capability. Each proposal must include the following information, at a minimum:

- Dun & Bradstreet (DUNs) number, if applicable;
- Most recent financial reports for the Bidder and any other parties involved, or most recent copy of certified public accountant audited or reviewed income statements, balance sheets, and cash flow statements for the past three years;
- Investment rating of the Bidder or its parent company by Moody's and/or Standard & Poor's as applicable;
- Description of any current credit issues raised by rating agencies, banks, or accounting firms; and
- A list all lawsuits, regulatory proceedings, or arbitration in which the Bidder or its affiliates or predecessors have been, or are engaged in, that could affect the Bidder's performance of its bid. Bidders should identify the parties involved in such lawsuits, proceedings, or arbitration as well as the final resolution or present status of such matters.

(I) Tab 9 – Insurance and Risk Management

A list of existing insurance contracts, listing policies by coverage, expiration date, insurer and limits per policy should be included. Also, on a per coverage basis, provide current experience modifier and prior loss history for the last three (3) years. Bidders shall also describe their risk management program if insurance coverage will derive from a parent company.

(J) Tab 10 – Additional Information

Any additional documentation necessary to provide relevant details on a particular section that causes that section to exceed page limits or that cannot conform to that section's formatting requirements shall be included here. Documents included in Tab 10 may not necessarily be reviewed by EPE, and thus, may not necessarily factor into EPE's selection of a Bidder.

5 Evaluation Process and Selection Criteria

EPE will assess the proposals to determine which, if any, will provide the best value for EPE's customers and the Company.

5.1 Proposal Review

EPE will first determine if each proposal meets the bid eligibility requirements. Only those proposals that satisfy the bid eligibility requirements will be further evaluated through EPE's screening and due diligence processes. If at any time during the evaluation process EPE determines that a proposal does not meet its requirements, including timely submission of all documents pursuant to this RFP, EPE reserves the right to disqualify the Bidder's proposal, and EPE will notify the Bidder accordingly during its notification process.

(A) Bid Eligibility Determination

Each proposal will be reviewed to determine if it meets the requirements outlined in this RFP and will be preliminarily reviewed for completeness in accordance with the RFP requirements. The Company reserves the right to reject any, all, or portions of any proposal received for failure to meet any criteria set forth in this RFP. The proposal must be submitted on time and comply with the proposal format found in Section 4 and the submission requirements in Section 3.7. Proposals rejected at this stage will not be subjected to further evaluation by the Company.

(B) Initial Bid Screening Process and Selection Criteria

The Company will evaluate if the proposal meets EPE's energy efficiency program objectives. EPE will utilize the following Selection Criteria in its evaluation of the proposals:

- **Completeness and Responsiveness** – Proposals must meet all criteria set forth in the RFP. A thorough explanation of all aspects of the proposal should be included. As well as a detailed program implementation plan should be provided;
- **Cost-Effectiveness** – An energy efficiency program is deemed to be cost-effective if the cost of the program to the utility is less than or equal to the benefits of the program as defined in the [Energy Efficiency Rule](#). EPE uses the Utility Cost Test (“UCT”) to measure cost-effectiveness. A benefit-cost ratio greater than 1.0 indicates the program is cost-effective;
- **Evidence of energy saved** – Program proposals must provide a detailed description of the energy saved or the load reduction resulted from similar type programs;
- **Experience** – Proposals must demonstrate that the Bidder has direct experience designing, developing, and implementing energy efficiency programs and possess

extensive technical and marketing experience with successful projects of a similar nature;

- Financial Viability and Creditworthiness – Proposals should demonstrate that the Bidder has a proven financial track record and be able to provide documentation that demonstrates access to financial resources required to complete the project;
- Project Schedule – Proposals must demonstrate that the program will be ready for initial implementation by February 1, 2020, and be viable through program years 2021 through 2022;
- Technical Capabilities – Proposals must demonstrate the technical capability of the Bidder, directly or through the use of subcontractors, to successfully implement the programs herein. Proposals should include solutions that enable the creation of reports from the program and the ability to provide those reports or data in a usable format to the Company.

Those proposals that adequately address all applicable Selection Criteria shall be subjected to due diligence screening.

(C) Due Diligence Screening

The Company will conduct due diligence screening to validate information presented in the proposals and ensure that the Selection Criteria is met. EPE may request additional information from Bidders, and Bidders agree to make available to the Company any financial, technical, or other such information associated with the Bidder and its proposal.

EPE may also conduct interviews with some or all of the Bidders as part of its due diligence efforts. Interviews shall be conducted at EPE's sole discretion, and invitations for interviews are not necessarily indicative of a Bidder's overall ranking.

5.2 EPE's Selection of Bids and Discussions with Bidder

After conclusion of the proposal reviews, EPE may make a final selection of one proposal for negotiation for the Rebate Program agreement. An EPE Master Consulting Services Agreement is attached to this RFP as Appendix A. EPE will notify Bidders whose proposals are eliminated from further consideration.

If EPE cannot reach acceptable agreement terms with the final selected Bidder, EPE reserves the right to terminate negotiations with that Bidder and begin discussions with other Bidders, begin a new solicitation, or cancel this RFP. Furthermore, EPE, in its sole discretion, reserves the right to not select any proposals for negotiation of any agreement if warranted by its evaluation.

6 Technical and Cyber Security Standards

If the proposed RPP solution is a “hosted solution”, it will be subject to the following requirements:

6.1 Hosting Services

Host shall provide EPE with access to any online Hosting System and will provide for the storage and retrieval of EPE data in connection with use of the hosting system.

6.2 Access

EPE users may include EPE employees, customers and contractors. EPE is responsible for the confidentiality and use of account names and passwords. Host shall deem any communication, data transfer, or use of the Hosting System received under EPE account names and passwords to be for EPE users benefit and use. EPE agrees to notify Host if account names or passwords are lost, stolen, or being used in an unauthorized manner. EPE represents and warrants that it has the rights to all EPE Data, including the right to upload EPE Data to the Host Server in connection with its authorized use of the Hosting System. EPE agrees that the customer data and its use do not infringe the rights of any third party and agrees to indemnify and hold Host harmless from any third-party claims of infringement as provided herein.

6.3 Data Security

When required, EPE agrees to access the Hosting System and to store and retrieve data using third party programs, including specifically Internet "browser" programs that support data security protocols compatible with those specified by Host. Host shall (i) back-up and maintain the security of EPE data using industry-standard back-up tools and data security protocols, and other methods reasonably deemed to be adequate for secure business data, (ii) notify EPE in the event of a breach of security involving EPE user Data, and (iii) have in place a formal written security program that includes industry-standard policies and procedures for safeguarding EPE users data from loss, theft, and disclosure to unauthorized persons.

If EPE entrusts the Host with personally identifiable information or information deemed by EPE to be sensitive personal information, Host would agree to use reasonable measures to prevent the unauthorized processing, capture, transmission and use of the information that may be disclosed to Host during the course of the business relationship. Host would use reasonable measures to prevent unauthorized persons from gaining access to the data processing equipment or media where information is stored or processed. Host would agree to provide its employees and agent's access to information on a need-to-know or need-to-access basis only and agrees that any persons having authorized access to such information will be bound by obligations of confidentiality, nonuse and non-disclosure.

6.4 Data Breach Notification

HOST shall notify EPE in writing of any breach involving Unsecured EPE users' data immediately upon becoming aware of such breach. All reports of breaches of Unsecured EPE users' data shall be made in compliance with applicable laws, unless otherwise directed by law enforcement officials due to any criminal investigation that may arise from such breach.

In addition, Bidders proposing a “hosted solution” must provide the following information, if applicable:

- Use of Accounts; username passwords for access;
- Backup and maintain the security of EPE users' data;
- Notify EPE in the event of a breach;
- Have in place a formal written security program (provide a copy of written security program);
- EPE users shall retain ownership of the data stored or retrieved in connection with use of hosting system.

7 Notice of Disclaimer

EPE has prepared the information provided in this RFP to assist interested persons and entities in making a decision whether to respond with a proposal. EPE reserves the right to modify, change, supplement, or withdraw the RFP at its sole discretion. No part of this document or any other correspondence from EPE, its employees, officers, or consultants shall be taken as legal, financial or other advice, nor as establishing a contract or any contractual obligations. All communication between Bidders and EPE, except where indicated otherwise in this RFP, shall be conducted in writing.

EPE makes no representations or warranties regarding the completeness of the information contained within the RFP and does not purport that this RFP contains all of the information needed for Bidders to determine whether to submit a proposal. Neither EPE nor its employees, officers, or consultants will make, or will be deemed to have made, any current or future representation, promise, or warranty, expressed or implied, as to the accuracy, reliability, or completeness of the information contained within the RFP or any other information provided to Bidders.

Bidders who submit proposals do so without legal recourse against EPE, or EPE's directors, management, employees, agents, or contractors, due to EPE's rejection, in whole or in part, or their proposal or for failure to execute any agreement with EPE. EPE shall not be liable to any Bidder or to any other party, in law or equity, for any reason whatsoever related to EPE's acts or omissions arising out of, or in connection with, the RFP process.

EPE reserves the right to reject, for any reason, any and/or all proposals. EPE further reserves the right to waive any irregularity or technicality in proposals received, or to consider alternatives outside of this solicitation, at its sole discretion, to satisfy its load savings goals and customer needs. In addition, EPE reserves the right, in its sole discretion, to modify or waive any of the criteria contained herein and/or the process described herein.

No Bidder will have any claim whatsoever against EPE, its employees, officers, or consultants arising from, in connection with, or in any way relating to this RFP. Without limiting the generality of the foregoing, each Bidder agrees, by and through its submission of a proposal, that rejection of a proposal will be without liability on the part of EPE, its employees, officers, or consultants, nor shall a Bidder seek recourse of any kind against any of the foregoing on account of such rejection. The filing of a proposal shall constitute an agreement of the Bidder to each and all of these conditions. Each Bidder and recipient of this RFP is responsible for all costs incurred in evaluating, preparing, and responding to this RFP. Any other costs incurred by any Bidder during negotiations are also the responsibility of the Bidder.

Appendix A: EPE Master Consulting Services Agreement

See Attached