



Energy Improvement Corporation
2051 Baldwin Road – Suite 107,
Yorktown Heights, NY 10598
(914) 302-7300 (tel) (914) 302-7304 (fax)

REQUEST FOR PROPOSALS

For

EIC BOND/TRANSACTION COUNSEL

In Regard To

**THE ENERGIZE NY BENEFIT FINANCE PROGRAM LIMITED
OBLIGATION IMPROVEMENT BONDS**

And

EIC TRANSACTIONS AND FINANCE PRODUCTS

And

OTHER LEGAL MATTERS

October 2018



ADVERTISEMENT FOR REQUEST FOR PROPOSALS

NOTICE IS HEREBY GIVEN that the Energy Improvement Corporation (“EIC”) will be accepting proposals for Bond Transaction Counsel. Proposals will be received by the Secretary of EIC at 2051 Baldwin Road, Suite 107, Yorktown Heights, NY 10598 beginning on October 1, 2018 until **4pm** local prevailing time on **November 7, 2018**. No Proposal will be accepted later than that time and date. One electronic copy, one original and four copies of the Proposal are required.

Copies of information for those persons submitting proposals including Information for Respondents, General Conditions, Specifications, and other documents included as part of this request for proposal (RFP) may be obtained at the EIC at 2051 Baldwin Road, Suite 107, Yorktown Heights, NY 10598. This information will also be posted on the Energy Improvement Corporation website at <http://energizeny.org/eic/archives/category/request-for-proposal>

EIC reserves the right to reject any or all proposals and to waive any formality or technicality in any request for proposal in the interest of the EIC.

STATEMENT OF EQUALITY

EIC hereby notifies all persons submitting proposals that it will affirmatively insure that in regard to any Contract entered into pursuant to this advertisement, qualified respondents will be afforded full opportunity to submit proposals in response to this Request for Proposal and will not be discriminated against on the grounds of race, creed, color, national origin, sex, age, disability or marital status in consideration for an award.

BY ORDER OF THE ENERGY IMPROVEMENT CORPORATION

Kim Kowalski, Secretary
Energy Improvement Corporation
2051 Baldwin Road, Suite 107
Yorktown Heights, NY 10598



Introduction:

This Request for Proposals (this “RFP”) provides information about Energy Improvement Corporation’s (EIC’s) PACE Finance Program and describes the need for legal services that are the subject of this RFP, and sets forth the terms and conditions under which EIC will conduct this RFP, including the criteria to be used in the selection of any successful respondent(s). Persons or entities responding to this RFP shall be referred to herein as “Respondents”.

A Public Notice regarding this RFP has been published in the NYS Contract Reporter. Copies of this RFP are being made available upon request in response to the aforementioned published Public Notice.

Proposals for EIC Bond Transaction Counsel services are sought for the three-year period, commencing December 1, 2018 and ending December 31, 2021, subject to review and renewal annually and subject to the terms of any retainer agreement as hereafter described. The **closing date for receipt of Proposal is 4:00 p.m., Wednesday, November 7, 2018.** No Proposal will be accepted later than that time and date. One original, four copies and one digital copy of the Proposal are required. Questions should be directed to Mark Thielking, EIC ED at mark@energizeny.org

RFP SCHEDULE:

RFP Release: October 1, 2018

Proposals Due: November 7, 2018

I. BACKGROUND

EIC, a New York not-for-profit corporation and a local development corporation duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law and established to further the purposes of Article 5-L of the New York General Municipal Law (referred to herein as “Article 5L” or “New York State’s PACE Law”), works with New York Counties, Towns and Cities and the New York State Energy Research and Development Authority (“NYSERDA”) to provide “property assessed clean energy” (PACE) financing (“PACE financing”) to property owners wishing to improve their property with energy efficiency and renewable energy upgrades. PACE in New York is governed by local governments (Cities, Counties and, in Westchester County only, Cities and Towns) that have tax lien authority and have joined EIC as a participating member (“Member”). Additional information about EIC may be found here: <http://energizeny.org/eic>.

Through the provisions outlined in Article 5-L and laws passed by each EIC Member, (the Local Law), the policy of both the State of New York and each EIC Member is to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. Members can fulfill this policy by providing PACE financing (the “Energize NY PACE Finance Program” or the “Program”) to property owners to fund the installation of renewable energy systems and energy efficiency measures. The Member is authorized to implement the Program pursuant to the Municipal Home Rule Law and Article 5-L.

EIC acts on behalf of its Members pursuant to a municipal agreement (the Municipal Agreement) entered into between the Member and EIC pursuant to Article 5-G of the New York General Municipal Law, that authorizes EIC to offer the Energize NY PACE Program to qualified property owners located within the Member. EIC makes Program funds available to qualified property owners to finance qualifying energy efficiency and renewable energy improvements (referred to herein as “Clean Energy Improvements”), and the Member requires such funds be repaid through charges on the real property taxes for such properties. EIC also works with its Members to provide services to assist local property owners and contractors to complete Clean Energy Improvements.



As of the date of this RFP, 50 municipalities across NY State¹, representing over 50% of New York State's non-New York City population, have enacted the Local Law, and 46 have become EIC Members. An additional 23 municipalities representing an additional 30% of the state's non-NYC population are in active discussions with EIC to join as Members. Please visit [EIC's website](#) to see EIC membership activity across NY State.

As a constituted authority regulated by the NY Authorities Budget Office (ABO), EIC leverages Article 5-L, EIC's Municipal Agreements and Member Local Laws to issue bonds or other obligations to permanently fund its PACE financings. Consistent with EIC's mandate from its Municipal Members, EIC has developed a revised product called PACE 2.0 stemming from the changes recently implemented at the state level to Article 5-L which increases accessibility to PACE.

EIC's bonds are analogous to municipal revenue bonds that finance water, sewer, lighting and other services where EIC's Municipal Member collects and enforces the energy improvement tax charge payments and remits the owed amounts regardless of payment from the benefitted property. EIC has existing agreements with Banc of America ("BofA") Rosemawr Capital Management and Key Bank to deploy capital in individual PACE project financings through the Energize NY PACE 2.0 product. BofA has agreed to purchase up to \$75 million of EIC's bonds for its own portfolio from EIC Municipal Members with credit ratings of "A" or higher and Rosemawr Capital Management has agreed to purchase up to \$10 million of EIC's Bonds in EIC Municipal Members that have no credit ratings or have ratings lower than "A". Key Bank has agreed to provide a \$5 million warehouse line of credit. EIC typically funds eligible projects either by using its \$5 million warehouse facility and then issues bonds to replenish the warehouse line. Alternatively, EIC may issue a bond which funds a project account controlled by EIC's trustee whereby disbursements are made to fund construction and/or the satisfactory completion of the project. All payments relating to PACE financings and bond issuances are handled by EIC's trustee bank U.S. Bank.

EIC completed its first financing through the original PACE 1.0 product in Spring 2015 and since then, EIC has completed a total of 21 financings. EIC's average size financing is \$135,000. To date, EIC has issued and sold to BofA bonds totaling \$2.847 million in 25 subseries with a range of sizes from \$25,000 to \$1mm including three that received Qualified Energy Conservation Bond designation. EIC anticipates issuing a minimum of 20 subseries under its revised and restated Master Indenture with gradually increasing sizes to accommodate growing interest in PACE 2.0.

Consistent with EIC's mandate from its Municipal Members, EIC is developing a new product called "Pay When Received PACE" ("PWR"). PWR PACE offers a wider set of options to building owners and will attract capital from out of state that is targeted at larger redevelopment and large rehabilitation projects. It will not supplant the existing Energize NY PACE 2.0 product as PACE 2.0 allows for smaller projects to be accommodated.

Significant elements of PWR PACE that differ from PACE 2.0 are:

- 1) Relieves the EIC Member of the obligation to make payments if there is a tax delinquency.
- 2) Requires the EIC Member to complete the In-Rem and foreclosure process when a PWR PACE project has not remitted the tax owed to the County.

EIC has worked with over 500 commercial, industrial, manufacturing, agricultural, multifamily, educational and institutional property owners through a network of NYSERDA and utility affiliated clean energy developers. EIC's current active pipeline of project financings totals \$7.6 million. Additional information on current Energize NY PACE and EIC's services may be found here: <http://commercial.energizeny.org/energize-ny-finance>

Applicants for Energize NY PACE financing and prospective project developers apply for Energize NY PACE

¹ EIC Municipal Members and pending Members are listed on [EIC's website](#).



financing by filling out EIC's Pre-Application form, standard application forms and by submitting the required documents. Since the financing conferred by EIC creates a public benefit in the Member community, EIC ensures the achievement of its energy efficient and renewable energy goals by evaluating and reviewing proposed projects in the following ways:

- EIC staff reviews the proposed project to determine if it is in compliance with New York State Energy and Research Development Authority (NYSERDA) guidelines as well as EIC and Member policies.
- EIC staff reviews the required feasibility study and/or energy audit analysis of the project performed by a qualified outside consultant to determine cost effectiveness and applicability.
- Applications that satisfy these criteria and EIC's underwriting standards are presented to the EIC's Board of Directors for consideration and final approval.

Available for your use are a number of documents related to the Program, including EIC's Finance Application process, the Local Law, the Municipal Agreement, EIC Finance Agreement, EIC Finance Disclosure, EIC Current Underwriting Standards (PACE 2.0 Product) and Article 5-L. Also available for review upon request is EIC's Master Indenture, Supplemental Indenture and Bond Purchase Agreement with Bank of America, Rosemawr and agreements documenting EIC's warehouse line with Key Bank, the Restated and Amended Intercreditor Agreement by and between EIC, Bank of America and Key Bank, and the Custody Agreement between EIC and U. S. Bank. Much of this information is available on EIC's website at <http://energizeny.org/eic> or upon request.

II. SCOPE OF SERVICES

It is EIC'S intention to build a relationship with the selected law firm or firms that would serve as EIC's Bond Transaction Counsel on matters involving negotiation, documentation and all aspects of closing and servicing EIC's bond issuances and other finance transactions, the development of new EIC finance products including PWR and any other related legal matters that may arise from time to time. This RFP is intended to assist the EIC to identify qualified law firms who would be capable of fulfilling any or all of these roles, and in selecting the law firm or firms to serve in such role or roles.

This RFP is not seeking general legal services. The specific services that the selected firms would be expected to provide are listed in a Scope of Services attached hereto as **Exhibit A**.

In performing these services, the successful firm or firms will work under the supervision of EIC's Administrative Staff.

III. RETAINER AGREEMENT/SPECIFIC LEGAL REQUIREMENTS

If an award is made pursuant to this RFP, the award will be conditioned upon the successful law firm or firms entering into a written retainer agreement with EIC for the services to be performed.

The retainer agreement will also include the following required provisions:

- (a) The selected law firm or firms, while acting as EIC Bond Transaction Counsel, will not represent any other person, or act in any other capacity in connection with any matter before EIC unless disclosed to and approved in advance by EIC at its sole discretion.



- (b) Remuneration for services as EIC Bond Transaction Counsel shall be paid for by debt issuance proceeds, EIC capital providers, project developers, EIC or any combination of these parties unless otherwise agreed to by EIC in its sole discretion. EIC may amend or cancel the retainer agreement at any time upon written notice to the firm in question.
- (c) The selected law firm or firms shall make a general statement that its/their hiring and other employee practices are non-discriminatory and otherwise in accordance with applicable law.
- (d) The selected law firm or firms shall agree to adhere to all cybersecurity, data security and information privacy policies of EIC and any of its funders.

Unless a specific exception is noted, submission of a Proposal in response to this RFP will constitute agreement on the part of the Respondent that the above items will be incorporated into any resulting retainer agreement with that firm.

IV. CONTENTS OF THE PROPOSALS

To be responsive to this RFP, one (1) original and four copies and one (1) digital copy must be submitted. Use the section headings described below to facilitate a fair and consistent review of your Proposal. Your pages should be numbered consecutively.

All copies of the Proposal must be clear and legible. Your Proposal will be judged on content and not length. Concise and clear responses that cover all requested information are recommended.

(a) Name, Address, etc.

The Proposal should set forth the full name, address and telephone number of the Respondent together with the name(s), title(s) of the individual(s) primarily responsible in serving EIC along with the name, title, address, telephone number, e-mail address and firm web site (if available) of an individual with authority to contractually bind the Respondent, and who may be contacted during the period of the Proposal evaluation.

(b) Description of Organization

The Proposal should contain a description of the Respondent's organization, including a history of the organization (when, where and how formed); a listing of all relevant partners; a description of how the Respondent is organized (e.g., by department, by practice group, etc.); a listing and biographical sketch of all lawyers who are expected to provide services to EIC under a retainer agreement, together with an indication of their responsibilities (e.g., billing partner, senior partner, senior associate, etc.); a description of their qualifications and past relevant experience as more fully set out in Part IV(c) below.

(c) Qualifications

The Proposal should demonstrate that the Respondent possesses the following minimum qualifications, which will be required of any firm to whom an award is made:

Those submitting proposals must have the following qualifications:

- (1) Five (5) or more years' experience working with entities comparable to EIC performing all of the normal duties associated with providing bond counsel services related to the issuance of municipal debt (e.g., preparing or reviewing resolutions, ordinances, indentures, agreements related to bonds and notes, providing legal opinions approving the validity the bonds and opining on the federal income tax status on the interest to be paid on



the bonds);

- (2) Extensive transactional experience in municipal, government and LDC issues; proficiency with State laws related thereto; and related federal tax laws, rules and regulations.
- (3) Listing of the Respondent through its representatives or individuals as Approved Bond Counsel in the most recent Bond Buyers *Municipal Marketplace Directory* (the "Red Book");
- (4) Experience in attending and participating in local government public meetings, and/or conference calls with LDC and municipal officials, financial advisors, bond counsel, bond insurers, rating agencies, and others involved in the issuance of municipal debt;
- (5) Extensive transaction experience in taxable and tax-exempt LDC transactions including lease transactions, loan agreements, notes and bonds;
- (6) Experience in public offerings, letter of credit facilities and private placements, as well as securities laws generally;
- (7) Experience with general liability law;
- (8) Experience in secured lending (real estate and non-real estate) as well as renewable energy (especially solar Power Purchase Agreements) and energy efficiency project financing;
- (9) Experience in workout agreements and loan restructuring;
- (10) Experience in general real estate transactions, leasing, and taxes (including Payment in Lieu of Taxes agreements) related thereto;
- (11) Experience in general municipal environmental law and State Environmental Quality Review Acts;
- (12) Experience with the New York Lien Law, including mechanics' liens;
- (13) Experience in monitoring legislative and regulatory developments in Albany and Washington which are pertinent to industrial development agencies, local development corporations, tax-exempt financing (e.g., Public Accountability Authorities Act; Internal Revenue Code) and PACE financing.
- (14) Familiarity with the Federal Bankruptcy Code and Bankruptcy Court procedures;
- (15) Familiarity with the needs and limitations of public or quasi-public authorities and organizations;
- (16) Experience with municipal law and New York State property tax law;
- (17) Experience with Open Meetings law;
- (18) Experience with Freedom of Information Law; and



(19) Understanding of governmentally-induced economic development, generally.

The possession of complementary legal specializations or expertise (e.g., LEED-Accredited) will be viewed favorably.

As a means of demonstrating these qualifications, the Proposal should include, as a minimum, the following information:

- A description of similar services performed for other clients particularly in New York State; please include (if appropriate) the name of the client, a contact name and telephone number, and a detailed description of services rendered, including the nature and frequency of (A) recent bond issues and/or (B) taxable and tax-exempt LDC transactions handled for such clients. Please note that EIC may in its discretion choose to speak to any or all of the persons whose names and numbers have been provided.
- A description of any services recently performed for municipalities and state or local governmental agencies (including, without limitation, LDCs), and, in particular, for other New York state municipalities and local agencies
- A complete listing of all attorneys and other staff who would be involved in rendering the services being requested by EIC, including a description of their qualifications and past relevant experience, particularly experience with (A) bond issues and lease transactions, and/or (B) taxable and tax-exempt LDC transactions. The Proposal should include a biographical sketch and/or resume on each such person, including a statement of educational and professional background.
- A minimum of three (3) New York State local government references with full name, title, address, e-mail address, telephone number and fax number.

(d) Initiatives Statement.

The Proposal should set forth the Respondent's recommendations and costs to develop and/or advise for the following:

- (1) Recommendations for making EIC's bonding activities and financing approval/application process speedier, less costly and more efficient including methods to streamline documentation;
- (2) Recommendation for an alternative to bonding EIC's debt obligations to fund projects;
- (3) Programs which EIC could undertake to widen and improve its effectiveness as an agent for its Members.

(e) Fees and Charges.

The fees and disbursements to be paid to the selected law firm or firms will be only those fees and disbursements which are incurred in connection with a specific EIC initiative, debt issuance, financing transaction (e.g., letter of credit, loan agreement, establishment of a capital line) or other LDC transaction, or in connection with any redemption, termination, refinancing, modification, or amendment of any such issue or transaction, unless otherwise agreed to by the EIC in its sole discretion.

All fees and disbursements for EIC's PACE 2.0 product will be borne by EIC and the responder should propose a fee schedule that corresponds to the issuance of a specific sub-series to fund a specific project of varying size with a minimum transaction of \$25,000. There is no maximum.

All fees and disbursements for debt issuances for PWR PACE projects and/or other financing transactions shall be paid by the persons on whose behalf EIC issues an obligation and by the persons with whom EIC enters into the



transaction. The obligation to pay such fees and disbursements shall entirely be the responsibility of such persons and not of EIC unless otherwise agreed to by the EIC in its sole discretion. Respondent should propose an alternative fee structure for such transactions.

In summary, respondents should include a proposed fee schedule in their response, which indicates the estimated range of fees that will be charged for bond and related financing transactions.

The retainer agreement to be entered into between EIC and the selected Respondent(s) shall set forth Respondent's proposed fee schedule and, to the extent that work performed is not related to a fixed price, the Respondent will be required to provide monthly billing statements based on logs kept by any individual for which payment is sought, which clearly indicate personnel and work performed, with dates and hours, categorized for each item on the list of services as well as a detailed explanation of any expenses to be charged to EIC. EIC shall not be liable for any expenses in excess of \$500 without the advance written consent of EIC.

V. SUBMISSION OF PROPOSALS: THE EVALUATION AND SELECTION PROCESS

(a) Submission of the Proposals.

All the Proposals are to be submitted in accordance with the following procedure:

- (1) The proposal should not exceed twenty-five (25) pages:
- (2) Four (4) copies: one (1) original and one (1) digital copy of the Proposal must be received, either by hand delivery or by certified mail, in a sealed envelope, on or before the same time and date and at the place specified below:

Date Due: November 7, 2018

Time Due: 4:00 P.M.

Place Due: Energy Improvement Corporation (Energize NY)
2051 Baldwin Rd, Suite 107
Yorktown Heights, NY 10598
Attention: Kim Kowalski, Board Secretary

- (3) The Proposal must be signed by a partner or other principal of the Respondent.

(b) Evaluation of Proposals.

The proposals will be evaluated by staff of the EIC and the Finance Committee of the EIC Board. The following criteria will be used in evaluating the Proposals received:

- (1) prior experience in performing legal services of the type contemplated by this RFP;
- (2) qualifications of attorney(s) who are would be assigned to work on EIC matters
- (3) Respondent's overall expertise and organizational strength;
- (4) quality of reference checks;
- (5) cost of services;
- (6) prior experience in performing legal services for EIC and an understanding of the EIC its practices and activities;
- (7) evaluation of such other information concerning the Respondent as may be disclosed in its Proposal or as otherwise disclosed in conjunction with this RFP.



LATE PROPOSALS MAY NOT BE CONSIDERED BY THE EIC.

For award purposes, each of the above factors will be given substantially equal weight. It is to be expected that EIC may, in its sole discretion wish to interview selected Respondents, in addition to reviewing the Proposals submitted by them. EIC, may, in its sole discretion, limit interviews to any number of Respondents it selects and reserves the right to negotiate fees with the selected Respondent(s).

(c) Selection of Successful Respondents.

Upon the conclusion of its evaluation process, EIC intends to invite certain Respondents to interview, after which successful candidates (if any) will be notified of a decision. It is expected that decision and notification will occur by the end of November 2018.

VI. MISCELLANEOUS CONDITIONS

INSURANCE REQUIREMENTS: The selected bond counsel shall maintain insurance that is sufficient to protect EIC's business against all applicable risks, as set forth in Exhibit B. Standard requirements may be negotiated if it is in the best interest of the EIC.

NON-ENDORSEMENT: The selected Respondent(s) agrees to make no reference to EIC in any literature, promotional material, brochures, sales presentation or the like without the express written consent of EIC.

COMPLIANCE WITH LAWS AND REGULATIONS: In addition to nondiscrimination and affirmative action compliance requirements previously listed, the Respondent(s) ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances applicable to the provision of services set forth in this RFP.

PUBLIC RECORDS: Under New York State Freedom of Information Law (FOIL), the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings or reproductions thereof) submitted in response to this RFP (the "Documents") become a public record upon submission to EIC, subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law. If EIC receives a request for inspection or copying of any such Documents, it will comply with the provisions of Freedom of Information Law.

WORK PRODUCT AND INTELLECTUAL PROPERTY: EIC shall own all rights, title and interest, including all copyrights and intellectual property rights in all work product of the selected Respondent created during the provision of legal services to EIC, including without limitation all legal opinions, reports, analyses, correspondence, and any other documents produced in connection with the provision of legal services to EIC, in printed form as well as in electronic form.

GENERAL: Any retainer agreement awarded pursuant to this RFP must be satisfactory in form and substance to EIC and any legal counsel advising EIC in connection with this process. Without limiting the foregoing, it is expressly understood and agreed that the issuance of this RFP, and/or the submission of a Proposal in response thereto, and/or acceptance of a Proposal pending finalization and execution of a retainer agreement shall not be deemed to create any liability on the part of EIC.



EIC reserves the right to amend, modify, supplement or withdraw this RFP; to waive any requirements of this RFP; to require supplemental statements and information from any of the Respondents; to select one or more Respondents, or no Respondents; to select one or more Respondents and procure services from same without awarding a retainer agreement or agreements; to award a retainer agreement to as many or as few Respondents as it may select, or to no Respondents at all; to select and/or award a retainer agreement to firms that have not responded to this RFP; to accept or reject any or all Proposals; to negotiate or hold discussions with any Respondent or with entities who have not responded to this RFP; to correct deficient Proposals which do not completely conform with this RFP; and to cancel this RFP, in whole or in part, if EIC deems it, in its sole discretion, in its best interests to do so. EIC may exercise any of these rights at any time, without notice and without liability to any Respondent or other parties, including, but not limited to, liability for the fees and/or expenses incurred by any Respondent in the preparation of a Proposal or otherwise. EIC expressly reserves the right to alter or extend any of the dates and deadlines provided in this RFP, and will incur no liability if it elects to do so. The proposals will be prepared at the sole cost and expense of the Respondents, and EIC shall have no liability therefor.

This RFP does not commit EIC to procure the services described herein. In the event EIC does procure services from one or more firms selected pursuant to this RFP, and, regardless of whether or not a retainer agreement or agreements was entered into with such selected firm or firms, EIC may thereafter engage other firms for particular transactions if EIC in its sole discretion determines that such transactions would best serve the interests of EIC if handled by a firm other than the firm or firms selected pursuant to this RFP.

WE APPRECIATE YOUR INTEREST IN EIC AND LOOK FORWARD TO RECEIVING YOUR PROPOSAL.

Mark Thielking
Co - Executive Director



EXHIBITS

Exhibit A: SCOPE OF SERVICES

Exhibit B: INSURANCE REQUIREMENTS

Exhibit C: PRICE PROPOSAL

DOCUMENTS:

[EIC Certificate of Incorporation](#)

[EIC By-Laws](#)

[EIC Local Law](#)

[EIC Municipal Agreement](#)

[EIC Municipal Agreement Addendum – Pay When Received PACE](#)

[Pay When Received PACE Product Description](#)

[EIC Finance Agreement \(available upon request\)](#)

[EIC Finance Disclosure \(available upon request\)](#)

[EIC Underwriting Standards \(PACE 2.0 Product\)](#)

[EIC Second Master Trust Indenture \(available upon request\)](#)

[Article 5-L of the General Municipal Law](#)

[EIC Amended and Restated Intercreditor Agreement \(available upon request\)](#)

[Supplemental Trust Indenture \(available upon request\)](#)

[Master Purchase Agreement \(available upon request\)](#)

[Key Bank Loan Documents \(available upon request\)](#)



EXHIBIT A

SCOPE OF SERVICES

The successful Respondents will perform the following services for the EIC as and when requested:

- A. The successful Respondents will serve as Bond Transaction Counsel to the EIC in connection with the negotiation, documentation and closing of debt issuances, letters of credit, credit lines and other sources of capital, and/or taxable and tax-exempt EIC transactions, including the drafting, modification and/or review of appropriate indentures, agreements, resolutions (inducement, authorizing and miscellaneous), financing documents, leases, loan agreements, mortgages, guaranties, and other legal instruments; the undertaking of any necessary related legal research; and the representation of EIC at closing.
- B. Bond Transaction Counsel will be expected to provide appropriate opinions at closing.
- C. Bond Transaction Counsel will be expected to provide all necessary tax analysis for the issue of taxable, tax-exempt debt including advice on the preparation and filing of all necessary tax returns or other tax filings.
- D. Bond Transaction Counsel will advise in the selection of other debt-related services such as escrow or paying agent, underwriter, trustee, etc. as needed and the preparation of any necessary agreements to the provision of such services.
- E. The successful Respondent(s) will serve as Counsel to EIC in connection with modifications of bonds, including taxable or tax exempt; letters of credit; notes; and other financial transactions, including refinancings and refundings. This representation may include drafting and/or review of appropriate amendments, modifications, and other legal instruments, and the undertaking of necessary related legal research to support new EIC products including PWR PACE.
- F. The successful Respondent(s) will consult with and provide assistance to EIC staff, EIC's financial advisor, underwriters, and others regarding EIC's debt issuance structure, timing of sale, the preparation of all documents and other matters in connection with the sale of EIC debt as well as provide material as requested for bond rating agency review hearings, and attend any meetings as needed with bond rating agencies.
- G. The successful Respondent(s) will serve as Bond Transaction Counsel to EIC in connection with the redemption/termination of bond financings, and termination of related transactions.
- H. The successful Respondent(s) will be expected to assist EIC with implementing EIC's financing products and other services in existing and future EIC Members, including advising on how to respond to questions and issues that arise with existing and potential EIC Members.
- I. The successful Respondent(s) will advise the EIC with respect to case law, statutes, regulations and general practices pertinent to EIC and its operations as a constituted authority of its Members and its operations as a local development corporation regardless of whether or not such advice is required in connection with a specific issue, transaction or LDC transaction.
- J. The successful Respondent(s) will advise EIC in developing and implementing financing initiatives and new products.



- K. The successful Respondent(s) will advise EIC on compliance issues and applicable regulatory issues, including those arising under the New York State Comptroller's Office, Authorities Budget Office, NY State Department of State, Office of Real Property Services, NYSERDA, NY State Legislature, the US Securities and Exchange Commission, US Internal Revenue Service and other NY State or Federal government agencies.
- L. The successful Respondent(s) will be responsible for preparing transcripts for all bond and other transactions that have closed, in hard and digital copy and on CD-ROMs.
- M. The successful Respondent(s) shall maintain complete legal records and files on any matter in which they have rendered services to EIC. All such records compiled by the Respondent pursuant to any contract in furtherance of this RFP shall revert to EIC upon termination of the engagement, including but not limited to opinions, legal memorandum, pleadings, transcripts, written reports, studies, computer printouts, graphs, charts, plans and all similar recorded data.
- N. Any other business as requested by EIC.



Exhibit B
RFP: EIC/BOND/TRANSACTION COUNSEL
INSURANCE REQUIREMENTS

Selected Respondent(s) shall procure and maintain insurance for the duration of the contract, which will protect the bond counsel and EIC from and against injury and/or damage that may arise from the performance of work under this contract in the following minimum amounts:

Professional Liability Insurance: One million (\$1,000,000) dollars per occurrence New York State
Workers' Compensation: Statutory Limits
New York State Disability: Statutory Limits

Insurance shall be placed with insurers licensed in New York State with an A.M. Best's rating of no less than A-. The EIC shall be endorsed as an additional insured on the professional liability insurance policy but that coverage may be limited to the vicarious liability of the EIC. Prior to the commencement of the work hereunder, bond counsel shall provide certificates of insurance to the EIC evidencing the above coverage. Said certificates shall provide for thirty (30) days prior written notice to the EIC of any cancellation, suspension, or change of coverage. The form and contents of the policies of insurance shall be subject to approval by the EIC's Counsel and Executive Director.



Exhibit C
RFP: EIC/BOND/TRANSACTION COUNSEL
PRICE PROPOSAL

Proposers must submit a price proposal that describes the basis for compensation for the services enumerated in this RFP. EIC's preference is for a pricing proposal per debt issuance or other transaction, and in the case of specific issuances, to be a flat fee. The flat fee may be based on the size and type of the issue and include minimum and maximum amounts, including as a percentage of the bond issuances. To the extent that all or a portion of the pricing proposal is based on hourly rates, such proposal shall list hourly rates per lawyer, "blended" hourly rates of the several lawyers to be involved (if applicable), and/or a set maximum hourly or total fee. In addition, proposers have the option of including a discussion of any methods of compensation or budgeting they have employed in the past with other similar issuers.

Prior to the award of a contract, EIC reserves the right to enter into negotiations concerning a fee structure that provides the best overall value to the EIC.