



**STATE ENERGY PROGRAM  
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**



**ENERGY EFFICIENT BUILDINGS –  
PERFORMANCE CONTRACTING  
FUNDING OPPORTUNITY ANNOUNCEMENT**

<b>Publish Date:</b>	<b>May 13, 2010</b>
<b>Last Modified:</b>	<b>May 25, 2010</b>
<b>Application Due Date:</b>	<b>June 24, 2010</b>

**Mississippi Development Authority  
501 North West Street  
Jackson, Mississippi 39201**

## **I. INTRODUCTION**

The Mississippi Development Authority-Energy Division (MDA-ED) received approximately \$40 million in American Recovery and Reinvestment Act 2009 (hereinafter, referred to as ARRA) funds for the State Energy Program (SEP). The U.S. Department of Energy (DOE) has made a formula distribution of these funds to each State to expand the State Energy Program for the purpose of:

- Stimulating the creation or increased retention of jobs;
- Saving energy (kwh/therms/gallons/BTUs/etc.);
- Increasing energy generation from renewable sources; and
- Reducing greenhouse gas (GHG) emission.

The MDA-ED will make available \$6.9 million under this Funding Opportunity Announcement (FOA) for Energy Savings Performance Contracting (ESPC) under the Energy Efficient Buildings section of SEP.

Performance Contracting provides public entities with a financing mechanism to achieve energy savings in their facilities through capital expenditures on energy efficient equipment and upgrades. Moreover, Performance Contracting instills the rigor of long-term measurement and verification making clear to public entities that the jobs created and energy savings achieved using ARRA funding is lasting and well documented.

The program will offer grants to public entities to “Buy-Down” the terms of the Energy Savings Performance Contract by defraying the costs of the total project and limiting or eliminating the required upfront capital outlay of the public entity.

Written applications for providing the activities as described below for MDA-ED, subject to the conditions herein and attached hereto, will be received at 501 North West Street, Woolfolk State Building, Suite 1500, Jackson, MS 39201 until June 24, 2010 at 3:00 P.M. Central Standard Time.

**NOTE: This is a competitive grant and not all Applicants will receive funding. MDA reserves the right to set available funding under this FOA, to accept or reject applicants, and to set the amount of the grant award. All costs associated with completing the project are the responsibility of the Applicant.**

### **Background**

An Energy Savings Performance Contract (ESPC) is a contracting vehicle that allows public entities to accomplish energy projects for their facilities without upfront capital costs and without special appropriations to pay for the improvements. An ESPC project is a partnership between the customer (the public entity) and an Energy Services Company (ESCO). The ESCO conducts

a comprehensive energy audit and identifies improvements that will save energy at the facility. In consultation with the customer, the ESCO designs and constructs a project that meets the agency's needs and arranges financing to pay for it. The ESCO guarantees that the improvements will generate savings sufficient to pay for the project over the term of the contract. The customer and ESCO negotiate a contract whereby the ESCO is paid for its activities with the energy savings produced from the project for some number of years. After that term, those annual savings accrue to the customer.

The Energy Savings Performance Contracting (ESPC) program was developed to provide a means to install energy conservation measures (ECMs) in publicly-owned facilities without capital outlay. Performance contracting is a common way for public sector organizations to implement energy efficiency improvements, and it frequently addresses financing for the needed equipment.

### **Applicable State Law**

Mississippi State Law (Section 31-7-14 of Mississippi Code of 1972) governs the use of ESPC for public entities. In order for a public entity to enter into an ESPC, the entity must ensure that the following processes are followed:

1. Public entity identifies need / selects site
2. Notify MDA-ED of intent to issue Request for Quotes (RFQ) for ESCO services
3. MDA-ED responds in writing to entity's request to issue RFQ
4. Entity prepares RFQ
5. Entity selects ESCO according to state procurement law
6. Audit contract negotiated
7. Audit contract executed; ESCO conducts Technical Energy Audit (TEA)
8. TEA results reviewed and approved by MDA-ED
9. Energy Savings Performance Contract negotiated; then reviewed and approved by MDA-ED
10. Construction begins; ESCO performs construction management
11. Construction completed; equipment/systems commissioning; agency accepts/approves project
12. Guaranteed savings timeframe begins
13. Project maintenance, measurement & verification, and facility personnel training
14. Ongoing performance monitoring

### **Eligible Applicants**

Eligible Applicants are restricted to the following public entities, per categories allowed for under MS State Law: public school districts, Institutions of Higher Learning; Community/Junior Colleges; publicly-owned hospitals; state agencies; local units of government (cities and counties); and private non-profit hospitals.

### **Project Readiness Requirement**

In order to receive a grant, Applicants must enter into a contract with an ESCO and fully adhere to the requirements of state law listed on Page 3 pertaining to Performance Contracting. To ensure that these funds are expended as quickly as possible on “shovel-ready” projects, MDA will favor those Applicants currently under contract with an ESCO or who can enter into a contract soon.

As part of an Energy Saving Performance Contract, the ESCO will perform a Technical Energy Audit (TEA) that will serve as the basis for recommended energy conservation measures on the proposed sites. Applicants who have supplied MDA-ED with a ESPC and TEA for approval should fill out the application and return it with all required attachments prior to the deadline.

If an Applicant is in initial discussions with an ESCO regarding Performance Contracting at the time that applications are due but has not formalized a ESPC and/or has not submitted a TEA to MDA-ED, the Applicant must include in their application a timeline for when a ESPC and TEA will be completed.

The ESPC and TEA must be submitted to MDA-ED within sixty (60) days of the application deadline in order to be considered. A ESPC and TEA must be submitted prior to August 24, 2010 in order for the Applicant to be eligible for funding.

**NOTE: MDA will begin immediately making awards to those Applicants that already have approved TEA’s and contracts on file with MDA-ED if they score highly enough on the evaluation criteria to warrant funding. Awards will be made on a rolling basis until funds are expended. MDA makes no guarantee that funds will be available for entities that begin discussions with an ESCO and submit a TEA and contract after the application deadline.**

### **Maximum Grant Amount**

The maximum grant amount allowed under this program is **25%** of the total ESPC cost, up to a maximum of \$750,000. The minimum grant amount is \$30,000.

This program is structured as a “Buy-Down.” MDA will pay no more than 25% of the total cost of the projects contained within the ESPC. Payments for the remaining costs of the projects must be clearly defined as guaranteed savings in the contract between the Applicant and the ESCO.

Applicants should structure their application in such a way that ARRA funds pay for the purchase and installation of equipment with the lowest Payback Period, as defined in this document, preferably those measures with a Payback Period of less than 10 years.

**NOTE: Successful Applicants will receive written notice from program staff if the grant application has been approved by the Energy Division. Grants will not be awarded or paid for projects that began or were completed prior to the grant award date. The applicant must not begin work on the proposed project unless in receipt of a fully executed grant agreement.**

## Eligible Projects

Performance Contracts that improve the energy efficiency of and reduce the use of fossil fuels on, in, or adjacent to structures owned and operated by Eligible Applicants will be considered for Buy-Down funds. Buy-Down funds will be used for the purchase and installation of equipment only and should have a Payback Period of less than 10 years. Eligible energy efficient and renewable technologies must be commercially-available. Categories of projects eligible for grant funds include, but are not limited to:

- Building and mechanical system commissioning and optimization
- Energy management systems and equipment control automation
- High efficiency heating, ventilation and air conditioning systems, boilers, heat pumps and other heating and air conditioning projects
- High efficiency lighting fixtures and lamps
- Building Shell Improvements (insulation, adding reflective window film, and radiant barriers)
- Load Management Projects, e.g. applying pinch technology for system designs that maximize energy utilization
- Energy Recovery Systems, e.g. heat exchangers and pinch technology assisted work
- Low flow plumbing fixtures, high efficiency pumps
- **Renewable Energy Technologies:** Purchase, replace, or install small scale renewable energy power systems as part of an overall energy efficient project. These small systems must be located on, in, or adjacent to existing facilities and are restricted to the following sizes:
  - Photovoltaic: appropriately sized units on existing rooftops or parking shade structures; or a **60 kW** system or smaller unit installed on the ground within the boundaries of an existing facility;
  - Wind Turbines: **20 kW** or smaller;
  - Solar Thermal Hot Water: appropriately sized units for small commercial buildings;
  - Solar Thermal: system must be **20KW** or smaller;
  - Geothermal/Ground Source Heat Pumps: **5.5 ton** of capacity or smaller, horizontal/vertical, ground, closed-loop system;
  - Combined Heat and Power Systems: boilers sized appropriately for the buildings in which they are located;
  - Biomass Thermal: **3 MMBTUs** per hour or smaller with appropriate Best Available Control Technologies (BACT) installed and operational.

## Ineligible Projects

Funds may not be used for repairing roofs, design/extensions to a building, or other construction activities. Funds will not be used to purchase or for the replacement of Water Meters and infrastructure. Funds will not be used for improvements to processes that do not reduce the total energy consumption of a facility, as measured by quantifiable BTU savings. Funds will not be used on projects that have begun prior to award.

## Prohibited Expenditures

State Energy Program Regulation 10 CFR Part 420 and ARRA regulations do not allow expenditures for the following:

- Construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction or repair of buildings or structures;
- Use of funds for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool;
- Purchase of land, a building or structure or any interest therein;
- Research, development or demonstration of renewable energy techniques or advanced vehicle technologies not commercially available; and
- Supplanting of state or local funds already committed to projects.

**Structural Eligibility**

All buildings must be currently occupied and used on a regular basis. Buildings may **not** be:

- Classified as condemned or scheduled for demolition;
- Encumbered by a real estate transaction or purchase option;
- Encumbered by any type of lien; or
- Leased or rented from another party unless the landlord has given the tenant written permission to proceed with the installation.

**Cost-Effectiveness**

For Performance Contracting, “**Cost-effective**” means that the present value of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

This means that projects are considered cost-effective if they result in a net positive present value over their economic lifetime. For purposes of determining economic lifetime, ESCOs rely on generally accepted engineering practices as promulgated by entities such as the American Society of Heating Refrigerating and Air-Conditioning Engineers (ASHRAE), or other national or international standard setting bodies.

Proposed activities under this program will be evaluated based on this cost-effective principle. Those activities that are not cost-effective, as defined above, will be less competitive and less likely to receive funding under this program.

**Payback Period**

The Payback Period is the time it takes for the cost savings resulting from the energy conservation measure to cover the total cost of that measure. MDA-ED will likely use grant funds for those activities that can demonstrate a Payback Period of less than 10 years.

$$Payback\ Period = \frac{Total\ Project\ Cost}{Estimated\ Annual\ Energy\ Cost\ Savings\ (\$)}$$

### **Special Consideration**

Special consideration will be given to applications that benefit facilities within **Economically Distressed Areas** of the state as well as **small public school districts** and **small units of government**.

The term “Economically Distressed Areas” refers to areas within counties with unemployment rates higher than the national average of 9.7% (as reported by the U.S. Department of Labor’s Bureau of Labor Statistics in March 2010) at the time of the application deadline. Mississippi unemployment rates may be found at the Mississippi Department of Employment Security.

Small public school districts are defined as those school districts with fewer than 2,000 students. Small units of governments are those municipalities with fewer than 2,000 inhabitants.

### **Period of Performance**

In keeping with the intent of ARRA, funded projects must be initiated and completed expeditiously. The Period of Performance will begin upon execution of a Grant Agreement and will end on or before January 31, 2012.

**NOTE: Successful Applicants will receive written notice from program staff if the grant application has been approved by the Energy Division. Grants will not be awarded or paid for projects that began or were completed prior to the grant award date. The applicant must not begin work on the proposed project unless in receipt of a fully executed grant agreement.**

### **Method of Payment**

Payments shall be made on a cost-reimbursement basis over the course of the grant. Only the cost of actual charges incurred and paid will be reimbursed by MDA-ED. Payments under this program will only be paid to the entity awarded funds (see Page 3 Eligible Applicants) and not to an ESCO.

### **Jobs Created/Retained**

The Applicant must furnish the estimated number of jobs created and jobs retained due to ARRA funding, along with verifiable supporting documentation, to MDA-ED. Indirect and induced jobs cannot be counted.

- A **job created** is a new position created and filled, or an existing unfilled position that is filled, that is funded by the Recovery Act.
- A **job retained** is an existing position that is now funded, in whole or in part, by the Recovery Act.

### **Federal Registration Requirements**

All Applicants under this FOA must have a DUNS (Data Universal Numbering System) number. To obtain a DUNS number, please visit: <http://fedgov.dnb.com/webform>.

In addition, all Applicants must have a **current updated registration** in the federal Central Contractor Registration (CCR) database. To register, please visit: <http://www.ccr.gov>.

MDA-ED will be unable to issue an award to any Applicant that does not have a current DUNS number or CCR registration.

### **Energy Management Software Requirement**

All Applicants awarded funds for projects under this program will be required to maintain energy usage data in an energy management software system designated by MDA-ED throughout the project period of performance and for one year following the close of the project.

### **National Environmental Policy Act**

All projects funded under ARRA are subject to review under the National Environmental Policy Act (NEPA). It is the responsibility of MDA-ED to ensure that projects funded with ARRA funds do not conflict with NEPA regulations.

It is likely that MDA-ED will fund only projects under this FOA that have been categorically excluded from further NEPA review. Please review Pages 5 of this FOA for Eligible Activities and size limitations. Projects that adhere to these guidelines will likely be deemed categorically excluded from further NEPA review.

NOTE: DOE will view the entire project under the ESPC, not just those activities funded by the ARRA grant, as subject to NEPA review. Please take this into account when developing the project.

### **Historical Preservation Requirements**

As required by Mississippi law, Applicants must complete a Request for Cultural Resources Assessment (Attachment E) and return it with their application to ensure that no sites or buildings of historical significance are harmed by work performed under this program.

### **Buy American Act**

ARRA requires the use of American-made steel, iron, and manufactured goods for the construction, alteration, maintenance, or repair of public buildings or public works. Awardees will be required to comply with this provision.

NOTE: DOE will view the entire project under the ESPC, not just those activities funded by the ARRA grant, as subject to Buy American provisions. Please take this into account when developing budgets and scopes.

### **Wage Requirements**

ARRA requires that all laborers and mechanics working on projects funded in whole or in part by the Recovery Act be paid the prevailing wage determined by the U. S. Department of Labor. Awardees will be required to comply with the Davis-Bacon Act, Copeland “Anti-Kickback” Act, and the Contract Work Hours and Safety Standards Act.

NOTE: DOE will view the entire project under the ESPC, not just those activities funded by the ARRA grant, as subject to Davis Bacon Act and related labor provisions. Please take this into account when developing budgets.

### **Additional ARRA Requirements**

The expenditure and receipt of ARRA funds are subject to unprecedented transparency and reporting requirements. Awardees shall be required to report, on a monthly basis, a detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including, but not limited to:

- Project Name and description;
- Building retrofitted & square footage;
- Amount of energy saved;
- Amount of greenhouse gases reduced;
- An estimate of the number of jobs created and retained;
- Annual reduction in electricity and natural gas consumption;
- Number, size, and type of renewable energy system installed, if applicable;
- Amount of renewable energy generated;
- Amount of electricity generated from the renewable energy system installed;
- An evaluation of the completion status of the project or activity funded by ARRA; and
- Other key metrics applicable to the project per DOE guidance.

While the Applicant will be the grant recipient and ultimately responsible for reporting and accountability, both the Applicant and ESCO must identify the individuals who will serve as primary points of contact throughout the project period.

### **Standards and Regulations**

All proposed activities must meet DOE and MDA-ED standards and regulations (including, at a minimum, National Environmental Policy Act (NEPA) requirements, other requirements listed in this FOA, and requirements listed in the ARRA compliance attachments accompanying this FOA), as well as applicable state and local requirements. MDA-ED will review all applications to ensure that they are in compliance. If selected, MDA-ED will then negotiate a grant agreement with the Applicant to execute the activity.

### **Generally Accepted Accounting Principles (GAAP)**

Recipients of federal funds must use administrative and financial policies and procedures that follow Generally Accepted Accounting Principles (GAAP). Applicants that receive funding will be required to demonstrate effective control over and accountability for all grants, property, and assets under this award. This includes financial policies and procedures that ensure that receipts and disbursements can be tracked in a way that serves as an effective control in preventing mistakes and safeguarding against unauthorized uses. In addition, Applicants that receive funding will be required to have in place administrative and management policies that ensure that all reporting and accountability requirements associated with these funds can be followed.

## II. APPLICATION CONTENTS

### Application Information

The application package should, at a minimum, include the following forms and exhibits prepared by the Applicant and must follow the format below:

**1. Transmittal letter**

The transmittal letter should highlight any special features of the application, and include the name, address, phone number, and email for the point of contact within the Applicant's organization. Please indicate if the Applicant's organization is minority-, women-, or veteran-owned. The transmittal letter should be signed by a representative of the Applicant's company or organization who has the authority to bind the Applicant.

**2. Application (5 Copies)**

**3. Technical Energy Audit and ESPC**

For Applicants that have a completed TEA and Energy Saving Performance Contract (ESPC) but have not already been submitted these documents to MDA-ED, submit one copy of the TEA and ESPC with the application.

For Applicants that have not yet received a completed TEA or formalized a ESPC, provide a timeline that demonstrates that the ESPC will be completed within the 60 day requirement (prior to August 24, 2010) stated on Page 4 of the FOA.

This requirement does not apply to Applicants that have already submitted a TEA and ESPC to MDA-ED for approval.

**4. American Recovery and Reinvestment Act (ARRA) Submission Form (*see Attachment A*)**

**5. SEP Certification Form (*see Attachment B*)**

**6. Application Certification Form (*see Attachment C*)**

**7. Historical Preservation Requirements**

Provide information related to possible impacts of proposed projects on sites or land of historical significance (see Attachment D – Request for Cultural Resources Assessment of the application).

**8. National Environmental Policy Act Regulations and Requirements, *if applicable***

If the Applicant is proposing small-scale renewable systems as part of the overall project, fill out and submit a NEPA ES-1 form with the application. This form can be found at our website [www.stimulus.mississippi.org](http://www.stimulus.mississippi.org) in the Funding Opportunities and

Announcements section. Projects focused solely on energy efficiency retrofits need not fill out this form.

**9. Funding Commitment Letters**

Provide funding commitment letters from all other project funding sources, if applicable, that demonstrate that the entire project will be funded and completed. Letters should include the term, rate, and collateral conditions, and must be signed and dated.

### III. APPLICATION REVIEW AND SELECTION PROCESS

#### Evaluation Procedure and Considerations

Qualifications of Applicants: Before receiving a notice of intent to award, the Applicant will be required to show that it has the necessary ability and financial resources to complete the proposed activity and that the partner ESCO has the qualifications to implement the proposed projects. MDA-ED may make reasonable investigations deemed necessary and proper to determine the ability of the Applicant and ESCO to perform the activity, and the Applicant shall furnish to MDA-ED all information for this purpose that may be requested. MDA-ED reserves the right to reject any offer if the evidence submitted by, or investigation of, the Applicant fails to satisfy MDA-ED that the proposed projects can be completed. Evaluation of the Applicant's and partner ESCO's qualifications shall include:

- The ability, capacity, skill, financial, and other necessary resources supplied by the Applicant and ESCO to perform the proposed activity;
- The ability of the ESCO to perform the work or provide the activity promptly or within the time specified, without delay or interference;
- The reasonableness of the project, the expected cost-effectiveness of the project, and the benefit to the Applicant;
- The impact to the local community;
- The ability of the Applicant to administer the grant in keeping with the requirements of the program; and
- The character, integrity, reputation, judgment, experience, and efficiency of the Applicant.

**Step I:** Following the deadline for application submission, a selection committee appointed by MDA-ED shall review and evaluate all applications to assure compliance with the minimum required information published in this FOA. Applications that do not comply with the minimum specifications will be rejected immediately, receiving no further considerations. The selection committee will not evaluate applications submitted until the deadline for submission has passed and will utilize only the applications submitted under this FOA to review for selection of awardees.

**Step II:** The selection committee will begin reviewing those Applicants that already have submitted a TEA and ESPC to MDA-ED for approval (per state law). Due to the requirement to quickly obligate and expend funds, MDA will award funds to those applications that score highly enough to fulfill the requirements of the program on a rolling basis until funds are exhausted. As stated in the Project Readiness section of this FOA, when Applicants' TEA's and ESPC's are submitted and approved by MDA-ED, those applications will be reviewed. MDA-ED will use the following factors in reviewing and scoring applications:

#### Project Readiness

#### Up to 20 Points

- Applicant has an MDA-approved ESPC and TEA on file – 20 Points
- Applicant has submitted a ESPC and TEA for review by MDA-ED by the application deadline, but it has not been formally approved – 15 Points

- Applicant can have a Performance Contract submitted to MDA-ED within 60 days of the application deadline and work can begin within 120 days of award – 5 Points
- Applicant intends to enter into discussions with an ESCO but has not entered into a contractual relationship with an ESCO at the time of the application deadline – 0 Points

**Economic Impact**

**20 Points**

- The likelihood of jobs created or retained, as defined under ARRA, due to funding;
- The degree to which the proposed contract would have a positive benefit on the local community through improved services; and
- The degree to which the project contributes to market penetration of energy conservation measures and long term sustainability.

**Budget Reasonableness**

**20 Points**

- The submission of a feasible, justified, and reasonable project budget; and
- The demonstration of sufficient financial support and capacity to complete the entire project as laid out in the Performance Contract;
- Proposed projects are **cost-effective**, as defined in this FOA;
- Proposed projects paid for by this grant have an acceptable Payback Period; and
- Proposed projects will benefit the Applicant by substantially reducing operating, maintenance, and energy costs at its facilities.

**Environmental Benefit and Visibility**

**20 Points**

- The amount of energy saved or produced by the total Performance Contract achieve an annual savings of 10 MMBTUs per \$1,000 spent;
- The anticipated energy (kwh/therms/gallon/BTUs/etc.) savings;
- The anticipated benefits in terms of energy cost savings;
- The anticipated benefits in terms of increased energy efficiency;
- The degree to which the project will reduce greenhouse gas (GHG) emissions, measured in CO<sub>2</sub> equivalents;
- The reduction of other environmental pollutants as measured in pounds or tons; and
- The anticipated benefits in terms of reducing the impacts of energy production and use on the environment.

**Project Methodology and Team Experience**

**10 Points**

- The degree to which the project concept demonstrates a sound methodology and approach and includes definitive goals, specific tasks to achieve goals, and a schedule to complete the work proposed; and
- The composition, qualifications and experience of the project team, including previous execution of similar projects.

**ARRA Compliance**

**10 Points**

- The ability of the Applicant to comply and adhere to all reporting requirements and regulations mandated under ARRA.

**Bonus Points****Up to 10 Points**

- Proposed contract would benefit an economically distressed area as defined in this FOA – 5 Points
- Proposed contract would benefit a small public school district or small unit of government as defined in this FOA – 5 Points

**Step III:** MDA-ED will contact those Applicants whose applications best meet evaluation criteria on a rolling basis. MDA-ED may require Applicants to meet with the selection team. A site visit to the proposed location may be conducted.

**Step IV:** MDA-ED will contract with the Applicant to execute the activity. MDA-ED will fund the application through a grant under the American Recovery and Reinvestment Act. Only after a grant agreement is fully executed may work begin on the proposed project.

**ALL APPLICATIONS SUBMITTED IN RESPONSE TO THIS FOA SHALL BE IN WRITING. APPLICANTS MAY DESIGNATE THOSE PORTIONS OF THE APPLICATIONS WHICH MAY CONTAIN TRADE SECRETS OR OTHER PROPRIETARY DATA WHICH MAY REMAIN CONFIDENTIAL IN ACCORDANCE WITH SECTION 25-61-9 AND 79-23-1 OF THE MISSISSIPPI CODE.**

**MINIMUM EFFECTIVE PERIOD OF APPLICATION**

All applications are required to remain in effect for at least 6 months from the date submitted to MDA-ED.

**REJECTION OF APPLICATIONS**

Applications that do not conform to the requirements set forth in this FOA will be rejected by MDA. Applications may be rejected for reasons that include, but are not limited to, the following:

- The application contains unauthorized amendments to the requirement of the FOA;
- The application is conditional;
- The application is incomplete or contains irregularities which make the application indefinite or ambiguous;
- The application is not received by the deadline;
- The application does not adequately meet the stated goals or evaluation criteria of the program;
- The application is not signed by an authorized representative of the party; or
- The application contains false or misleading statements or references.

**DISPOSITION OF APPLICATIONS**

All submitted applications become the property of MDA-ED.

## **FOA DOES NOT CONSTITUTE ACCEPTANCE OF APPLICATION**

The release of this FOA does not constitute an acceptance of any application, nor does such release in any way obligate MDA-ED to award funds. Additionally, the submission of a application does not constitute an award. MDA-ED reserves the rights to accept, reject, or negotiate any or all applications on the basis of the evaluation criteria contained within this document. The final decision to award funds to any party rests solely with MDA-ED.

## **EXCEPTIONS AND DEVIATIONS**

Applicants taking exceptions to any part or section of the solicitation shall indicate such exceptions on the application and shall fully describe the exception. Failure to indicate any exception will be interpreted as the Applicant's intent to comply fully with the requirements as written. Conditional applications, unless specifically allowed, shall be subject to rejection in whole or in part.

## **NON-CONFORMING TERMS AND CONDITIONS**

An application that includes terms and conditions that do not conform to the terms and conditions in the FOA is subject to rejection as non-responsive. MDA-ED reserves the right to permit the Applicant to withdraw nonconforming terms and conditions from its application prior to a determination by MDA-ED of non-responsiveness based on the submission of non-conforming terms and conditions.

## **EXPENSES INCURRED IN PREPARING OFFERS**

MDA-ED accepts no responsibility for any expense incurred by the Applicant in the preparation and presentation of an application. Such expenses shall be borne exclusively by the Applicant.

## **ADDITIONAL INFORMATION**

Questions concerning this FOA must be submitted in writing to: Mississippi Development Authority, Attn: Mike McCollough or Lynn Johnson Burris, ARRA Performance Contracting FOA # EN06242010, 501 North West Street, Woolfolk Building, Suite 1500, Jackson, MS 39201, via fax at (601) 359-5042 (Attn: Mike McCollough/Lynn Johnson Burris) or via e-mail at [pc.foa@mississippi.org](mailto:pc.foa@mississippi.org). **Applicants using email for questions must enter the following verbiage into the Subject line of the email: "Question re: ARRA Performance Contracting FOA #EN06242010"**

Questions will be received through June 10, 2010 at 12:00 P.M. Central Time. No questions received after this deadline will be answered. Applicants are cautioned that any statements made by the contact person that materially change any portion of this FOA shall not be relied upon unless subsequently ratified by a formal written amendment to this FOA.

## **ACKNOWLEDGEMENT OF AMENDMENTS**

MDA will provide written notice of all changes to this FOA in the form of an amendment to this FOA prior to response deadlines. Amendments will be provided to all known applicant parties and posted on MDA's stimulus website, <http://stimulus.mississippi.org>, in the "Funding Opportunities and Announcements" section.

Applicants shall acknowledge receipt of any amendment to this FOA by signing and returning the amendment with the application, by identifying the amendment number and date in the space provided for this purpose on the application form, or by letter. The acknowledgement must be received by MDA by the time and at the place specified for receipt of applications.

#### **DEBARMENT**

By submitting an application, the Applicant certifies that it is not a person or entity currently debarred from submitting applications for contracts issued by any political subdivision or agency of the State of Mississippi or the Federal government.

#### **APPLICATION SUBMISSION INSTRUCTIONS**

The original and five (5) copies of the application and all applicable attachments shall be signed and submitted in a sealed envelope or package to: Mississippi Development Authority, Attn: Mike McCollough/Lynn Johnson Burris, ARRA Performance Contracting FOA # EN06242010, 501 North West Street, Woolfolk Building, Suite 1500, Jackson, MS 39201. The envelope or package shall be marked "Sealed Application ARRA Performance Contracting FOA" in the lower left hand corner. Each page of the application and all attachments shall be identified with the name of the Applicant.

#### **APPLICATION ACCEPTANCE PERIOD**

**Applications must be received no later than 3:00 P.M. Central Standard Time on June 24, 2010. Timely submission of the application is the responsibility of the Applicant.**

Applications received after the specified time shall be rejected and returned to the Applicant unopened.

<b>Milestone</b>	<b>Date</b>
Release of FOA	May 13, 2010
Deadline for Applicants to submit written questions to MDA-ED	12:00 p.m. Central, June 10, 2010
Deadline for MDA-ED to respond to questions submitted by Applicants	June 15, 2010
Applications Due Date	3:00 p.m. Central, June 24, 2010

#### **CONTACT INFORMATION**

**Questions regarding this Funding Opportunity Announcement must be submitted to:**

**Mississippi Development Authority  
Attn: Mike McCollough/Lynn Johnson Burris  
ARRA Performance Contracting FOA # EN06242010  
P.O. Box 849  
Jackson, MS 39205-0849**

**Or**

**501 North West Street  
Woolfolk Building, Suite 1500  
Jackson, MS 39201**

**Questions may also be submitted via fax or email:**

**Fax: (601) 359-5042 Attn: Mike McCollough/Lynn Johnson Burris**

**Email: [pc.foa@mississippi.org](mailto:pc.foa@mississippi.org)**

**Applicants using email for questions must enter the following verbiage into the Subject line of the email: “Question re: ARRA Performance Contracting FOA #EN06242010”**

**Applications and attachments must be submitted to:**

**Mississippi Development Authority  
Attn: Mike McCollough/Lynn Johnson Burris  
ARRA Performance Contracting FOA #EN06242010  
P.O. Box 849  
Jackson, MS 39205-0849**

**Or**

**501 North West Street  
Woolfolk Building, Suite 1500  
Jackson, MS 39201**