

NORTH BRANCH AREA SCHOOLS

**REQUEST FOR PROPOSAL
FOR ENERGY CONSERVATION SERVICES PROGRAM AT
NORTH BRANCH HIGH SCHOOL**

10/07/2021

SUBMMITTAL DEADLINE

**October 22, 2021
2:00 p.m.**

at

**North Branch Area
Schools
6655 Jefferson St.
North Branch, MI 48461**

**Attn: Jeff Drayton
Email:
jdrayton@nbbronzos.net**

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I. PURPOSE OF SOLICITATION

The intent of this Request for Proposal (RFP) is to solicit proposals from Energy Services Companies (ESCOs). For the purpose of this RFP, "ESCO" refers to any company that is qualified to provide a turnkey energy conservation program that includes all services listed in this RFP. In accordance with the Michigan Revised School Code, including MCL 380.1274a, any responding ESCO must be and satisfy the definition of a "Qualified Provider" under MCL 380.1274a(10)(b).

Responses to this RFP shall describe the ESCO's capability to identify the need for, design, install, maintain, monitor, and arrange the financing of a large-scale, comprehensive energy-conservation program that includes the services listed herein. North Branch Area Schools (The District) intends to select an ESCO and award contract(s) to perform cost-effective energy conservation retrofits.

Please note that responses to this RFP must be received on **October 22nd, at 2pm** at the address below. One (1) paper copy of the response must be sealed and delivered to:

North Branch Area Schools
6655 Jefferson St. North Branch, MI 48461
Re: Proposal for a Comprehensive Energy Conservation Services Program
ATTN: Jeff Drayton

North Branch Area Schools reserves the right to reject any and all responses to this RFP. Late responses will not be accepted. **Those submitting responses to this RFP are solely responsible for all costs of preparation and submission. The District is not liable for any cost incurred by any person or firm responding to this RFP.**

North Branch Area Schools reserves the right to reject as non-responsive any proposals that do not contain all information requested by this RFP. Additionally, North Branch Area Schools reserves the right to reject as non-responsive any proposals which are not organized and formatted as described in this RFP.

Any and all questions regarding this RFP and the program it represents must be submitted in writing to:

North Branch Area Schools
Contact: Jeff Drayton
Email: jdrayton@nbbrncos.net

Prospective respondents must limit their contact regarding this RFP to the North Branch Area Schools contact listed above. All questions will be answered by email to all bidders. The District may schedule site visits upon ESCO's request. Communications by an ESCO, its agents, employees, and/or representatives with any employee, agent, or representative of North Branch Area Schools, other than the North Branch Area Schools contact listed above, regarding its proposal or intention to submit a proposal in response to this RFP will be considered inappropriate communications and may disqualify that ESCO's proposal.

Environmental Impact

Your actions do make a difference! By submitting only one paper copy of your proposal response, you make the following contributions to the environment:



Waste

5.7 pounds of solid waste not generated



Tree

6% of a tree preserved



Water Conservation

46.78 gallons of waste water avoided



Lighting

97036.73 BTUs of energy not consumed



Greenhouse Gas

14.23 pounds of greenhouse gas prevented

Healthy forests filter water, remove air pollution, sequester carbon and provide homes for wildlife. To plant a tree in return for your paper usage, go to <http://www.americanforest.org/>.

**Calculations are for one 500 page proposal response printed on regular paper. It does not include binders and dividers.*

II. BACKGROUND

North Branch Area Schools intends to implement this project at North Branch High School. Other North Branch Area Schools are not included in this RFP. The location of the project is:

6598 Brush St,
North Branch, MI 48461

North Branch Area Schools proposes to address all gas and electric utility uses in the high school for this conservation program. Additionally, North Branch Area Schools intends to upgrade outdated and obsolete building equipment and perform property improvements through the program.

North Branch Area Schools anticipates a major reduction in annual utility costs through the implementation of this energy conservation program. The ESCO will provide a written guarantee of all utility reduction and provide all financing for the project. The contract life of the program is expected not to exceed 20 years. North Branch Area Schools intends to structure the program's implementation schedule in a manner to minimize the program's financed capital needs.

Respondents to this Request for Qualifications (RFP) shall identify their experience and qualification to design, install and manage a major energy conservation project that involve energy conservation measure (ECM) retrofits which address the following building components and applications: lighting, space heating, ventilation, air-conditioning, envelope, heat recovery, energy management systems, environmental system controls, motors, domestic water heating, fuel switching, air distribution systems and water consumption systems. North Branch Area Schools is also interested in the respondents' qualifications and experience related to programs designed to train building occupants and maintenance workers in energy conservation awareness.

The ESCO shall ensure compliance with 1937 PA 306, as amended, and 1980 PA 299 (including, specifically, MCL 339.2011), as amended. Further, the ESCO shall satisfy all requirements relative to filing plans with and obtaining approval of the State of Michigan for the Project. The ESCO shall be responsible for obtaining all necessary permits and inspections by local and or state authorities as applicable.

III. SERVICES REQUESTED

For this RFP, North Branch Area Schools is interested in an ESCO providing services to identify, engineer, design, install, and maintain approved ECMs for all of its facilities together with providing applicable staff training. North Branch Area Schools may contract all or some of the services listed above.

If the District decides to finance any measures, said financing shall be structured so that annual payments never exceed annual savings. The District may consider an ESCO-provided financing program that ensures all costs are paid for from only the utility savings associated with the energy conservation program. The ESCO must guarantee the energy savings, regardless of whether the energy conservation project is financed. The ESCO's demonstrated ability to provide this guarantee will be an evaluation criterion.

It is expected that, as a minimum, the following energy conservation techniques will be investigated on an individual basis or in combination with other techniques and implemented, if deemed cost effective by North Branch Area Schools and the ESCO:

- Energy management control system
- Motion sensor control
- Air conditioning unit replacement
- Economizer control
- Hydronic pumping
- Environmental system control replacement
- Heating, ventilating and air conditioning system modifications
- Heating and cooling plant equipment
- Variable speed/frequency drives
- Air compressor replacement/upgrade
- Fuel conversion
- Domestic hot and cold water systems
- Air management systems
- High efficiency motors
- Motor down-sizing
- Energy conservation awareness training

Any other ECMs proposed by the ESCO will also be considered. All ECMs considered shall be proven, commercially available and result in verifiable energy savings.

All equipment provided by the ESCO for this program shall have a history of successful operating experience in similar installations and shall be in new and unused condition. This equipment shall be state-of-the-art with readily available replacement parts. All equipment used for this program shall be approved by North Branch Area Schools prior to installation.

IV. SELECTION PROCESS

Proposal Evaluation

Interested ESCOs responding to this RFP with a proposal must provide the information required to complete the forms included in Appendix A. North Branch Area Schools will evaluate submittals and choose the most highly qualified ESCO. The District reserves the right, in its sole and absolute discretion, to accept or reject, in whole or in part, any or all proposals with or without cause. The District further reserves the right to waive any irregularity or informality in the RFP process or any proposal, and the right to award the contract to and to accept the proposal of the lowest responsible bidder, as determined by the Board of Education. The District reserves the right to request additional information from any respondents. The District reserves the right to select one or more respondents to perform the project on behalf of the District. The selection of a respondent shall not be binding upon the District until the final, written contractor agreement is approved by the District's Board of Education in accordance with Michigan law. In the event the District and the selected respondent are unable to agree to acceptable terms and conditions, the District, in its sole discretion, may elect to terminate the award, reject the selected respondent's proposal, and select another respondent.

Negotiating and Signing of Contract

Upon completion of the proposal evaluation, North Branch Area Schools and the ESCO will negotiate and execute a contract "Energy Services Agreement" (ESA) for the turnkey design, development, and construction of the scope selected by North Branch Area Schools in this RFP. As such, pricing provided in this RFP is expected to be firm and final. Construction is anticipated to begin in 2022 and the ESCO is responsible for providing costs in this RFP for a Summer 2022 construction implementation.

It is anticipated that the ESA will be presented to the School Board on or before 11/30/21.

Funding Requirements

The District, at its sole discretion, shall determine the method and term of financing any costs of the project and may select a financing option not provided by the ESCO. However, currently The North Branch Area Schools intends to use ESSER Grant funds which are subject to the Davis Bacon Act prevailing wage rules. The selected ESCO will be responsible for all compliance with Davis Bacon Act prevailing wage requirements and will indemnify and defend the District for and against all violations of the Davis Bacon Act.

Reporting Requirements

The ESCO will be responsible for all reporting requirements under MCL 380.1274a, including, but not limited to, those identified in MCL 380.1274a(7) and (8).

Governing Law

This RFP, and any contract arising from this RFP, shall be governed by the laws of the State of Michigan. The parties shall proceed to resolve any disputes by non-binding mediation as a condition precedent to litigation. The format of such mediation is to be selected and agreed upon by the parties at the time of dispute; however, if the parties are unable to reach agreement on the format for mediation, the parties agree that the construction mediation process of the American Arbitration Association shall be the mediation process used. If the dispute is not resolved by mediation and either party declares impasse after at least one full business day of mediation, venue for any litigated disputes shall be the Lapeer County Circuit Court. The selected ESCO shall comply with all applicable sound engineering and safety practices and any and all District policies, practices, procedures and rules. The selected ESCO shall be responsible for obtaining all governmental permits, consents, and authorizations, as may be required, to perform its obligations.

ESCO acknowledges and agrees that this project is subject to the requirements of the Revised School Code, the School Building Construction Act, the Occupational Code, and other laws related to the

construction of school buildings, and further agrees that it will comply and ensure compliance with all applicable laws including the foregoing. Without limiting the breadth of the foregoing, ESCO shall ensure that District satisfies all filing requirements under MCL 380.1274a, either by filing the documents and information itself or by assisting the District in properly and timely filing such documents and information. ESCO shall work closely with the District with respect to the foregoing and shall keep the District fully informed of obligations and time frames.

Payment and Performance Bonds.

In compliance with Act 213, Public Acts of Michigan, 1963, as amended, the ESCO shall execute performance and payment bonds acceptable to the District. One bond will be for the faithful performance and fulfillment of the contract and to include protection of the District from all liens and damages arising out of the work. The other bond will be conditioned for the payment of labor and materials used in the work and for the protection of the District from all liens and damages arising therefrom. Each of the bonds will be in the amount of one hundred percent (100%) of the total amount of the contract price, through satisfactory completion of installation.

Bid Bond

A bid bond by a recognized surety company (or bank money order/certified check) must accompany the proposal for not less than five percent (5%) of the amount of the BASE BID proposal submitted and made payable to the District as required by MCL 380.1267. All sureties must be listed in the federal Department of Treasury's Circular 570. The Bid Security is a guarantee the ESCO will, in case its proposal is accepted, enter into a contract with the District within sixty (60) days, unless extended by the District, to construct the project proposed and to give satisfactory performance and payment bonds in the amount of the contract as specified.

The provided bid security or bid bond shall not be considered a limitation on the bidder's liability for withdrawing a submitted bid or refusing to enter into a contract after bid acceptance. Rather, the bidder shall be responsible for all damages suffered by the District, including but not necessarily limited to the difference between its bid and the next lowest responsible bidder, which the bidder hereby explicitly acknowledges and agrees may exceed the amount of the bid security or bid bond provided. Further, nothing herein shall be deemed to alter applicable law with respect to the creation of an enforceable contract by action of the District's Board of Education.

V. SCHEDULE OF EVENTS

The following time frame is expected to be followed during the procurement period of this RFP:

Oct 7, 2021	Release of RFP
Oct 22, 2021	Proposal received – 2:00 PM
Oct 22, 2021	Bids Open at public meeting
Nov 8, 2021	Vendor selected
Nov 22, 2021	ESA contract approved by School Board

This is a tentative schedule, and dates are subject to change.

Please note that responses to this RFP must be received on October 22, 2021, by 2:00 PM at the address below. One (1) paper copy of the response must be sealed and delivered to:

North Branch Area Schools
6655 Jefferson St, North Branch, Michigan, 48461
Re: Proposal for a Comprehensive Energy Conservation Services Program
ATTN: Jeff Drayton

North Branch Area Schools reserves the right to reject any and all responses resulting from this RFP. Bids will be open in a public meeting located at **6655 Jefferson St, North Branch MI at 2pm on Oct 22, 2021**. Late responses will not be accepted and will be returned to the submitting company unopened. North Branch Area Schools is not liable for any cost incurred by any person or firm responding to this RFP.

North Branch Area Schools reserves the right to reject, as non-responsive, any proposal that does not contain the information requested in this RFP and/or on the forms contained in Appendix A. Additionally, North Branch Area Schools reserves the right to reject, as non-responsive, any proposals which are not organized and formatted as described in this RFP.

VI. MANDATORY CONTRACT TERMS AND CONDITIONS

The following terms and conditions shall be incorporated into the final contract negotiated between the parties. **All objections/exceptions to these terms and conditions must be identified in a bidder's proposal.** The failure to identify objections/exceptions in the proposal shall be deemed to be an irrevocable acceptance of all terms and conditions stated below. References to the "Contractor" or "Selected Contractor" means the ESCO to whom the District awards a contract under this RFP.

1. The proposal must be signed with the Bidder's name and by a responsible officer or employee of the Bidder. Obligations assumed by such signature are binding upon the Bidder.
2. Proposals must be received by the Due Date specified in this RFP. Late proposals will not be considered or accepted.
3. In the execution of the contract, it may be necessary for the Selected Contractor to subcontract part of the Project to others. The Selected Contractor shall inform the District as to which subcontractors will be used. Subcontractors used shall be subject to the approval of the District. The Selected Contractor shall be fully responsible to the District for the acts and omissions of its employees, its contractors, subcontractors, consultants, architects, etc., and of persons, whether directly or indirectly employed by the Selected Contractor. Nothing in this RFP or the resulting contract shall create any contractual relationship between any subcontractor and the District. The Selected Contractor shall not assign, transfer, convey, or otherwise dispose of the contract between Selected Contractor and the District, or any part thereof, or the District's right title, or interest in the same, or any part thereof, without previous written consent of the District. The Selected Contractor shall not assign any power of attorney, or otherwise any monies due or to become due and payable under the agreement without previous written consent of the District.
4. Prices for supplies, materials, and equipment are to be F.O.B. job site delivered and/or installed and are to be firm for 90 days from the Due Date for proposals. No charges for shipping, packing, drayage, or for any other purpose will be allowed over the price quoted herein.
5. Each proposal submitted shall include and the successful Selected Contractor will be required to pay all taxes which are levied by Federal, State or municipal governments upon labor, and for material incorporated into the Project. The District reserves the right to require evidence of payment of such taxes prior to final payment.
6. The Bidder must provide a detailed Project Schedule. The Project shall be completed without interference with the District's educational, extra-curricular or athletic programs. The Selected Contractor shall maintain a rate of work progress to ensure completion of the Project within the timeframes set forth in the agreed upon Project Schedule.
7. A bank money order, certified check or bid bond must accompany all Proposals by a recognized surety company for not less than five percent (5%) of the amount of the Proposal submitted and made payable to the District as required by MCL 380.1267 ("Bid Security"). The Bid Security is a guarantee the Selected Contractor will, in case its Proposal is accepted, enter into a contract with the District within sixty (60) days, unless extended by the District, to construct the Project proposed and to give satisfactory performance and payment bonds in the amount of the contract as specified. The bank money order, certified check or bid bond of the Selected Contractor will be forfeited to the District upon failure to enter into such contract and to give such bonds. The bank money order, certified check or bid bond of the Selected Contractor will be returned as soon as the contract is signed by the Selected Contractor and returned to the District.
8. Prior to commencement of the Project, the Selected Contractor shall furnish performance bonds and labor and material payment bonds as required by MCL 129.201, et seq. in such form as the District may require, securing the faithful performance of such contracts and payment of all obligations arising thereunder. Such bonds must be for the full amount of the contract with a surety company in good standing and licensed to do business in the State of Michigan. The Selected Contractor shall include in the Base Proposal the cost of furnishing such bonds/securities.
9. The most current Michigan laws and regulations regarding sales and use tax shall apply and the cost of same shall be included in the Proposals.
10. The District will continue to occupy the buildings and site during the normal school year. Any installation work not completed during the summer recess shall be performed around instructional periods including after regular school hours, on weekends, on scheduled holidays, or as arranged and approved by the District during regular school hours.
11. The Selected Contractor will, at all times, keep the job clean of all debris and rubbish resulting from its operations and, upon completion of its work, will promptly remove all tools,

equipment, excess material, and any rubbish caused by its work and personnel. Selected Contractor will protect all of its material and work from hazards and be fully responsible for their condition until accepted by the District, and shall also be responsible for any damage attributable to the work or property of others, including but not limited to, the property of the District. Selected Contractor will reimburse District for any expenses incurred to keep the job clean and clear of all debris and rubbish resulting from Selected Contractor's failure to comply with this paragraph.

12. The Selected Contractor shall not use or permit any of its employees, contractors, subcontractors or consultants to use any equipment, hoists, staging, scaffolds, or any other material belonging to the District without prior written consent.

13. Each proposal shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the Bidder and any member of the District's Board of Education or Superintendent. Proposals not accompanied by a sworn and notarized statement will not be accepted by the board.

14. Each proposal must be accompanied by a sworn and notarized statement certifying that the Bidder is not an "Iran Linked Business" within the meaning of the Iran Economic Sanctions Act.

15. The Selected Contractor shall procure and maintain during the life of the contract the following insurance coverages from a company or companies licensed to sell insurance in Michigan with an A+ A.M. Best rating, or equivalent: Workers Compensation in compliance with Michigan law; Comprehensive General Liability Insurance in the amount of \$2,000,000 each occurrence for Bodily Injury Liability and Property Damage Liability, professional liability insurance in an amount of \$2,000,000. In addition, the Selected Contractor will procure and maintain an Umbrella Liability policy in the amount of \$5,000,000. Such insurance will protect the Selected Contractor and shall name the District and the Project site as additional or co-insured's.

The insurance required shall be written for the greater of limits not less than the limits of liability specified or required by the law OR primary coverage of \$2,000,000 per occurrence on an occurrence basis coverage shall be maintained without interruption from date of commencement of operations under the contract and throughout the term of the contract. Professional liability insurance may be on a "claims made" basis.

Required insurance policies shall not be changed or canceled without ninety (90) days prior written notice to the District.

16. The Selected Contractor shall indemnify, reimburse, hold harmless, and defend the District, its Board Members (in their official and individual capacities), officers, employees, students, volunteers, and agents for and against all suits, actions, legal proceedings, claims of any nature and kind, demands, and all damages, loss, costs, expense, taxes, penalties, fines, liens, and actual attorney's fees and expert witness fees incurred, caused by or arising from or attributable, whether in whole or in part, directly or indirectly, to:

- a. any negligent or willful or intentional or criminal acts or omissions of, or a breach of contract by, the Selected Contractor or its principals, shareholders, employees, agents, attorneys, accountants, contractors or subcontractors;
- b. any claims by any employees or former employees of the Selected Contractor or its agents or subcontractors, regarding any matter relating to their employment;
- c. any matter for which the District may be held strictly liable, but which is the result of, in whole or in part, the negligent or willful or sole acts or omissions of the Selected Contractor or its principals, shareholders, employees, agents, attorneys, accountants, and/or subcontractors;
- d. any tax or levy imposed upon or charged to the District as a result of compensation or any other amount paid to the Selected Contractor under or pursuant to the contract; and
- e. any breach by the Selected Contractor or its subcontractors, agents, or consultants of the resulting contract with the District.

17. The Selected Contractor shall provide the District constant access to any computer system hardware and software used to develop and/or store Project data, no matter where or by whom produced or operated and Selected Contractor shall facilitate placing the District online with same by modem, station, or other method of connection, if such connection is possible. The drawings, specifications, and all other documents, electronic or otherwise, prepared by the Selected Contractor and/or its employees, contractors, subcontractors or consultants for this Project (collectively referred to as the "Instruments of Service") are instruments of the Selected Contractor's service and, unless otherwise provided, the Selected Contractor shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Selected Contractor shall be permitted to retain copies, including reproducible copies,

of the Documents for information and reference in connection with the District's use and occupancy of the Project. The District shall have a nonexclusive, irrevocable license, and right to access, use, and reproduce the Instruments of Service for purposes of constructing, using, maintaining, altering, and adding to the Project or completing the Project. On behalf of, and for the benefit of, the District, the Selected Contractor shall obtain similar rights from the Selected Contractor's consultants consistent with this provision. Such rights shall, without limitation, authorize the District and other Contractors, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the District's consultants, and separate contractors and other design professionals, to utilize and to reproduce applicable portions of the Instruments of Service for use in performing services or construction for the Project. Any termination of the contract with the Selected Contractor for any reason or under any condition shall in no way terminate or otherwise diminish the licenses and rights described herein. The Selected Contractor also shall secure on behalf of the District an irrevocable license to use any and all software necessary to operate the improvements provided through the Project as designed and intended.

18. All Selected Contractor overhead necessary for its performance of the Project is included in the Proposal price, unless otherwise specified herein.

19. The Selected Contractor will not discriminate against any employee or applicant for employment, to be employed in the performance of the contract, with respect to hire, tenure, conditions or privilege of employment, or any matter directly or indirectly related to employment, because of race, age, sex, color, religion, national origin, ancestry or physical disability. Breach of this covenant may be regarded as a material breach of the contract.

20. If the Selected Contractor shall neglect to execute the work properly, or should refuse to remedy any defects in the work due to inferior quality of workmanship or material, or should in any manner fail to perform any provision of the contract, the District, after seventy-two (72) hours written notice to the Selected Contractor, may terminate the contract, and/or may correct such deficiencies and deduct the cost thereof from payment due the Selected Contractor. Additionally, the contract may be terminated for any reason by the District upon not less than thirty (30) calendar days' written notice to the Selected Contractor. In the event of termination not the fault of the Selected Contractor, the Selected Contractor shall be compensated for services performed up to the date of termination.

21. The Selected Contractor shall perform its obligations hereunder in compliance with each and every Federal, State and Local law, statute, act, rule, regulation and ordinances, orders and codes, including applicable licensing requirements. The Selected Contractor shall comply with sound engineering and safety practices and any and all District and/or District Board of Education policies, practices, procedures and rules, past, present and future. The Selected Contractor shall be responsible for obtaining all governmental permits, consents and authorizations as may be required to perform its obligations.

22. The Selected Contractor shall perform its work, particularly its professional design work, consistent with the highest professional standard applicable to the profession and/or trade associated with the portion of the work of Selected Contractor at issue in a given circumstance.

23. The Selected Contractor shall provide a composite floor plan of each building reflecting each and every change resulting from the Project. The final composite plan shall show the District's room number and/or text label for all rooms and spaces. The Selected Contractor shall prepare and provide a set of "As-Built" drawings showing changes in the work made during the Project. The Selected Contractor shall certify these drawings as accurate; provided the Selected Contractor's certification shall be made to the best of the Selected Contractor's knowledge. These drawings shall be provided in the form of reproducible drawings and digital documents as specified by the District. Digital format shall include all the following:

- a. Copies of all drawing files in AutoCAD.
- b. A "TIFF File" version of each printed sheet in the reproducible drawing set.
- c. All digital files shall be presented on compact disk media.

24. Assignment and Subcontracting. The Selected Contractor may not, without the District's prior written consent, modify or change subcontractors or otherwise assign the contract, or part thereof, or any obligations thereunder, or arising from or relating to this RFP.

25. Independent Contractor. The Selected Contractor shall at all times be deemed a third party, independent contractor. Subject to the parties' independent contractor relationship, the District shall have the right to reasonably approve the identity of representatives and employees of the Contractor, or any related contractor or subcontractors. The District shall retain the right to request

that any employee of the Contractor or subcontractor removed from, or transferred within, the Project.

26. **Governing Law.** This RFP, and any contract arising from this RFP, shall be governed by the laws of the State of Michigan. The applicable law for any legal disputes arising out of this RFP or any contract shall be the law of (and all actions hereunder shall be brought in) the State of Michigan, and the venue for such disputes shall be the Lapeer County Circuit Court. The Contractor shall comply with all applicable sound engineering and safety practices and any and all District policies, practices, procedures and rules. The Contractor shall be responsible for obtaining all governmental permits, consents, and authorizations, as may be required, to perform its obligations.

Contractor acknowledges and agrees that this Project is subject to the requirements of the Revised School Code, the School Building Construction Act, the Occupational Code, and other laws related to the construction of school buildings, and further agrees that it will comply and ensure compliance with all applicable laws including the foregoing. Without limiting the breadth of the foregoing, Contractor shall ensure that District satisfies all filing requirements under MCL 380.1274a, either by filing the documents and information itself or by assisting the District in properly and timely filing such documents and information. Contractor shall work closely with the District with respect to the foregoing and shall keep the District fully informed of obligations and time frames.

27. **Form of Contract.** Any forms and contracts a Bidder proposes to include as part of any contract resulting from this RFP between the Selected Contractor and the District must be submitted as part of its proposal. Any forms and contracts not submitted as part of the proposal and subsequently presented for inclusion may be rejected. While a Bidder may submit a suggested form of contract with its proposal, the award of the proposal is subject to the negotiation of a contract to the reasonable satisfaction of a representative of the School and/or the Board, incorporating the terms and conditions of this RFP, and subject to the review and approval by the District's legal counsel.

28. **Incorporation by Reference.** The District considers this RFP legally binding and will require that this RFP and the Bidder's Proposal to be incorporated by reference into any subsequent contract between the Selected Contractor and the District. It should be understood by the Contractor that this means that the District expects the Selected Contractor to satisfy substantially all requirements listed herein. Exceptions should be explicitly noted in the Contractor's proposal. Lack of exceptions listed in the Proposal will be considered acceptance of all of the requirements and specifications presented in this RFP.

29. **Payment and Performance Bonds.** In compliance with Act 213, Public Acts of Michigan, 1963, as amended, the Selected Contractor shall execute performance and payment bonds acceptable to the District. One bond will be for the faithful performance and fulfillment of the contract and to include protection of the District from all liens and damages arising out of the work. The other bond will be conditioned for the payment of labor and materials used in the work and for the protection of the District from all liens and damages arising there from. Each of the bonds will be in the amount of one hundred percent (100%) of the total amount of the contract price, through satisfactory completion of installation.

30. **Limitation of Liability.** The District shall in no event be liable or responsible for damage or injury to any person or property related to the actions or inactions of the Contractor or the Contractor's employees and agents. The District shall not be required or permitted to indemnify the Contractor, its employees, agents or any other third party. Contractor shall not require District to waive claims prior to their accrual, including, for example, by way of limitation of liability provisions or waivers of certain types of damages.

31. **Taxes.** Contractor is required to pay all taxes applicable to this project, including all sales, use, employment and any other taxes levied by Federal, State or local units of governments related to the work and/or the installation thereof. The District reserves the right to require evidence of payment of such taxes prior to final payment. All applicable taxes are deemed included in the Contractor's price.

32. **Price and Payment Terms.** The Contract price shall be as bid within the Proposal and shall be inclusive of all design services, labor, materials, fees, expenses, overhead and profit. No charges for shipping, packing, drayage, or for any other purpose will be allowed over the price quoted herein. Payments shall be no more than monthly and shall be based upon percentage completion only. Contractor shall be required to provide supporting documentation with each invoice or request for payment sufficient to permit the District to verify completion. No payment shall be due for materials not delivered to the worksite prior to payment requests. Prior to any payment,

Contractor shall prepare and present to the District a schedule of values that provides a detailed breakdown of the associated cost of the Project. The schedule of values, unless objected to by the District, shall be considered when reviewing the Contractor's request for payment.

District shall make payment to Contractor within thirty (30) days' of receiving Contractor's invoice and supporting documentation, unless and to the extent the District reasonably disputes the invoice in good faith. District shall be entitled to withhold retainage of ten percent (10%) on all payments to Contractor until the project is finally completed. The Project will be considered finally completed when all work and punch list items have been verified complete and all project documentation has been submitted and accepted as complete, including but not limited to maintenance manuals, operation procedures, as-built drawings, and any other record documents of the project. Final payment by the District shall not constitute a waiver of claims against the Contractor; however, the Contractor's acceptance of final payment shall constitute a waiver of claims against the District.

33. Construction Administration Generally. Contractor shall provide daily on-site administration and supervision of all work, including work of subcontractors, at least in compliance with the requirements of 1937 PA 306 and 1980 PA 299. Contractor shall provide and update cost estimates, including estimates of variable costs and potential change orders, on a periodic basis and at least to the extent necessary to comply with 1980 PA 299. It is expressly acknowledged and understood, however, that, for purposes of the preceding sentence and otherwise, the Contractor's cost for performing the scope of work shall be fixed and shall not be increased under any circumstances other than a formally-approved change order increasing the Contractor's scope of work. Contractor shall comply with any and all other requirements of 1937 PA 306 and 1980 PA 299 in the performance of work hereunder. Contractor shall promptly notify the District of any discovered error or omission in the Instruments of Service or another contract document, and any means, methods, techniques or safety procedures of any subcontractor that fails to comply with industry standards.

34. Warranties. Contractor warrants that materials and equipment will be of good quality and new; that the Work will be free from defects not inherent in the quality required or permitted; that all equipment will be fit for the purpose for which it is intended; and that the Work and Services will conform to the requirements of the Instruments of Service and all other contract documents. Contractor warrants that the Work, and the materials and workmanship related thereto, shall be free from defects for a period of one year from final completion/installation. If Contractor fails to correct faulty, defective or nonconforming Work as provided in this section within twenty-four (24) hours after notice in the case of emergency conditions, or within five (5) business days after notice in other cases, the District may correct such work at Contractor's expense, including costs incurred due to the removal of faulty, defective, or nonconforming work and removal and storage of equipment or materials left at the site. Nothing herein shall be construed to establish a period of limitation with respect to other obligations of the Selected Contractor. Establishment of the one-year period for correction of work described in this paragraph relates only to the specific obligation of the Selected Contractor to correct the work, and has no relationship to the time within which the Selected Contractor's obligation to comply with the contract may sought to be enforced, nor to the time within which proceedings may be commenced to establish the Selected Contractor's liability with respect to its obligations (including for defective work) other than specifically to correct the work. Contractor warrants that it will assign any and all applicable warranties of third party manufacturers and suppliers to the District. Upon written notice from the District, Contractor shall, at its option, repair, or replace the defective Work with new parts or equipment (not reconditioned materials) or re-perform defective services. During the applicable warranty periods, Contractor shall pursue rights and remedies against manufacturers under the manufacturer warranties as necessary. Contractor shall notify the District of any claims under manufacturer warranties exercised by Contractor.

35. No Damages for Delay. Should the Selected Contractor be obstructed or delayed in the prosecution or completion of the Project by the act, negligence, delay, or default of the District or by any other damage, act or cause beyond the reasonable control of the Selected Contractor, then the time fixed for the completion of the Work shall be extended for a period equivalent to the time lost by reason of such event. Unless otherwise agreed by the District and the Selected Contractor via a mutually executed amendment or change order, such an extension shall be the sole remedy for the Selected Contractor for delays, and no monetary remedy of any nature shall be available to the Selected Contractor for such delays. Under no circumstance shall the Selected Contractor be liable to the District for costs associated with a delay in the prosecution or completion of the Project resulting directly from any act, negligence, delay, or default of the District, or for costs associated

with delays resulting from any other damage, act or cause beyond the reasonable control of the Selected Contractor or any subcontractor for whom it is responsible.

VII. RESPONSE FORMAT AND COMMENTS

The responses to this Request for Proposal on Qualifications will consist of nine (9) specific information subject areas which must be completed and returned in the order indicated below with each section divided and tabbed with the appropriate section title. Additional forms (as detailed below) are provided in Appendix A. For areas that do not require a form, the ESCO shall provide specific information directly addressing the information requested in that section. North Branch Area Schools may, during the evaluation process, request additional information to supplement and/or clarify the information provided by any ESCO. Any additional information not specifically requested in this RFP must be put in a separate Appendix at the end of the response. Additionally, all supplemental materials (brochures, product information sheets, etc.) not specifically tailored to this response must be placed in the Appendix. Responses must be paginated and must include a table of contents.

Section 1: Cover Letter

The ESCO's proposal will include a cover letter at the beginning of the proposal. The cover letter shall provide a summary of the information presented in the proposal, names and telephone and fax numbers of persons authorized to provide any clarification required, and a statement accepting the terms of this solicitation or noting specific exceptions taken to any of the terms and conditions specified in this document. This cover letter shall also include the name of the person(s) authorized to conduct final contract negotiations on behalf of the ESCO.

Section 2: Introduction

Table of Contents

The ESCO's proposal should include a Table of Contents referencing each information section of this RFP. The Table of Contents should be further subdivided to describe information included within each section of the proposal.

Executive Summary

The ESCO will provide an Executive Summary highlighting the ESCO's unique qualifications and capabilities for this project.

Statement of Responsibility

The respondent must be the Prime Contractor. The Prime Contractor will be responsible for all work and subcontractors involved in the project. The Prime Contractor will submit a list of all participants in the project prior to the actual contract negotiations. If some or all of the participants are not known at this stage, a selection strategy shall be identified noting which participants have not been selected. A statement of responsibility must be provided, using **FORM B** in the Appendix.

Section 3: Personnel

- Provide a graphical representation (organizational chart) of the participants listed in the ESCO's proposal and their responsibilities in the program. The chart is to be used to show the company and personnel responsible for each phase of the project, lines of authority, and relationships between prime contractor and subcontractors. Attach resumes of all individuals who will have a role in the project.
- A list of key personnel and their responsibilities for the duration of the project contract terms should be listed. Include in this list the number of years each individual has been in the industry. Attach resumes of individuals who will have a role in the project.

Section 4: Project Management

- Describe respondent's approach to project management, including: coordination with subcontractors, division of responsibility among project staff, and interaction with North Branch Area Schools representatives. Include a sample of any contracts and/or agreements between the respondent and subcontractor(s) that would be used in this project in an appendix.
- Provide a project timeline that illustrates project schedule and completion timeline. Assume that a Confirm construction will be performed so as not to disrupt normal class schedules, including after hours as needed.

Section 5: Scope of Services and Energy Savings

1. Provide a summary table listing all proposed energy conservation measures/projects. Refer to "Potential Scope" above for some categories of energy conservation measures and guidelines to incorporate in your response.
 - a. The cost of each measure, including all design, labor and material, and install costs
 - b. Annual net energy savings
 - c. Annual net operational savings
 - d. Any applicable utility rebates

(See example table below)

ECM/Building Improvement	Total Cost	Energy Savings	Operational Savings	Rebate potential
ECM 1 – Example HVAC Replacement				
ECM 2- Example Building Controls				
ECM 3 – Example WSHP Replacement				
ECM 4 – Example Galvanized Piping Replacement				
TOTAL BASE PROJECT COSTS				
Alternate Project Add Option 1 – Example Boiler Replacement				

- e. Provide a summary or break out of any cost(s) not included in the Total Costs above

NOTE: ALL COSTS ABOVE SHOULD EQUAL THE GUARANTEED MAXIMUM PRICE FOR THE CONTRACT

2. Identify and describe all proposed energy conservation measures/projects listed in the table above. Provide a detailed description of scope of the work to be performed for each measure, including quantities, sizes, capacities, etc., as applicable. Also, clearly indicate any related items or existing equipment that is to remain.
3. ESCO Services – Complete the table below indicating the performance contracting services that will be provided by your firm and who is providing them. Refer to Attachment A for those categories of energy conservation measures and guidelines that may be incorporated in your response.

Performance Contracting Services	Direct Provider	Third Party	Not Provided
Project Energy Study			
Construction Management			
General Contractor			
Engineering Design			
Project Financing			
Systems (HVAC/BAS) Training			
Warranty and After Construction Support			
Performance Guarantee			

4. In accordance with MCL 380.1274a, all energy savings for the project must be guaranteed according to the International Performance Measurements and Verification (M&V) Protocol (IPMVP) a/k/a Efficiency Valuation Organization (EVO) guidelines current at the time of the RFP.
- ☐ Describe the method used to establish projected savings.
 - ☐ Describe how long you are willing to guarantee the savings
 - ☐ Describe the method used to calculate cost savings.
 - ☐ Describe your proposed measurement and verification (M&V) of project savings.
 - ☐ Describe monitoring and support methods used after installation to guarantee ongoing savings.

Include a sample guarantee contract in the Appendix to this response. Failure to include a sample contract will be viewed as unresponsive.

Section 6: References

Provide information on at least 5 performance contracts, similar in size and scope to the project proposed for North Branch Area Schools that the respondent has successfully implemented within the last ten years.

References shall include:

- Customer Name
- Name and Telephone Number of Contact
- Brief Description of the Project
- Project Beginning and Ending Dates
- Specific ECMs installed
- Project Cost and Savings
- Percent of Project Savings Resulting from Deemed or Stipulated Savings

Section 7: Equipment, Maintenance and Training

- Describe any relationships with manufacturers of energy equipment, including those manufactured by the respondent or listed subcontractors. Respondent should also demonstrate willingness to propose and ability to work with different makes of equipment should such equipment prove to be the optimal choice for North Branch Area Schools.
- Outline any training proposed as part of the project, including the subject, duration, and location of training. Respondent should also describe the relationship with the organization providing training, if not provided by the prime contractor.

Section 8: Project Non-Performance

Provide a complete list of all projects that in the last 5 years:

Have past or pending mediations, arbitration, lawsuits, or litigation regarding a project or a performance contracting guarantee (list reasons); or

Have been reimbursed for non-performance on guaranteed savings.

Section 9: Financial Information

- Describe the financial soundness and stability of the ESCO and its ability to support the performance guarantee.
- Provide financial statements for the two most recently completed fiscal years in an appendix. The District may, during the course of the evaluation process, request additional financial information to supplement and clarify the information provided.
- Describe your firm's capacity to issue payment and performance bonds. Provide a letter from surety company demonstrating your firm's bonding capacity.
- Describe what resources your firm has available to assist the North Branch Area Schools with financing and funding solutions. Provide information on how the ESCO will maintain compliance with Federal grant funding, specifically Elementary and Secondary School Emergency Relief funding.
- Provide a letter of recommendation from a financial institution.

APPENDIX A: PROPOSAL FORMS

FORM A: PROPOSAL CHECKLIST AND OUTLINE

Section 1: Cover Letter

Section 2: Introduction

- ☐ Proposal Table of Contents
- ☐ Executive Summary
- ☐ Statement of Responsibility

Section 3: Personnel

- ☐ Project Personnel Resumes
- ☐ Project Team Organizational Chart

Section 4: Project Management

Section 5: Scope of Services and Energy Savings

- ☐ Sample Guarantee Contract
- ☐ Table Breakout of Costs

Section 6: References

Section 7: Equipment, Maintenance and Training

Section 8: Project Non-Performance

Section 9: Financial Information

- ☐ Appendix
- ☐ Familial Disclosure Affidavit
- ☐ Iran Affidavit
- ☐ Sample Guarantee

FORM B: STATEMENT OF RESPONSIBILITY

Prime Contractor (ESCO or Contractor);

Name: _____

Address _____

Bidder Acknowledgement/Statement of Responsibility of Program Management

Provide the below attached to this form:

A) a statement of program management responsibility, which includes the supervision required for the project under MCL 388.851et seq. and MCL 339.2011

B) a statement of responsibility for all code compliance

Affidavit of Bidder

The undersigned, the owner or authorized officer of [Bidder Company Name] (the "Bidder"), pursuant to the familial disclosure requirement provided in the Request for Proposals for Energy Conservation Services Program, hereby represent and warrant, except as provided below, that no familial relationships exist between the owner(s) or any employee of [Bidder Company Name] and any member of the Board of Education of the District or the Superintendent of the District.

List any Familial Relationships:

- 1.
- 2.
- 3.

STATE OF)
)ss.
COUNTY OF)

This instrument was acknowledged before me on the _____ day of _____, 2021, by _____.

_____, Notary Public

County,
My Commission Expires: _____
Acting in the County of: _____

Iran Business Relationship Affidavit

Effective April 1, 2018 all bids, proposals, and/or qualification statements received in the State of Michigan must comply with the "Iran Economic Sanctions Acts". The following certification is to be signed and included at the time of submittal.

Certifications

Pursuant to the Michigan Iran Economic Sanctions Act, 2012 P.A. 517, by submitting a bid, proposal or response, Respondent certifies, under civil penalty for false certification, that it is fully eligible to do so under law and that it is not an "Iran linked business" as the term is defined in the Act.

Signature: _____

Title: _____

Date: _____

Firm/ Respondent: _____