**RFP for Facility Owners**

Insert user logo

**to Select an ESCO**

# REQUEST FOR PROPOSALS

# FOR ENERGY SAVINGS PERFORMANCE CONTRACTING SERVICES

# For Government Projects

This document is part of a collection of model procurement and contracting documents that represent Best Practices for state energy offices (SEOs) to launch and administer programs to increase energy efficiency through Energy Savings Performance Contracting. The documents draw from successful programs in various states and are continually updated to incorporate the latest strategies. They can be easily customized to meet the needs of any project. These documents do not constitute legal advice and are provided as samples for adaptation to the laws and regulations of the user.

Your procurement rules will govern the approach. The approach presented here involves an RFP by an Owner to request qualifications and cost parameters, with no project cost estimates required.

**DESCRIPTION - RFP for Government Projects**

This model RFP is provided for Owners to issue an RFP for a performance contracting project in its own facilities, where no pre-qualified list of providers is available for this purpose.

Some states pre-qualify Energy Service Companies (ESCOs) to simplify the solicitation process for end users. Ask your state energy office if there is a current list of pre-qualified ESCOs.

This is a model document only and does not attempt to identify or address all circumstances or conditions you may encounter or desire. Consult with your legal counsel and procurement staff to adapt it to meet your needs.

|  |  |  |
| --- | --- | --- |
| **AT-A-GLANCE –**  **RFP for ESCO SELECTION** | | |
| **Overview**  **The Big Picture** – What happens during the ESCO selection?   * Owner competitively selects an ESCO from a list of pre-qualified ESCOs (check with your state energy office to inquire about a pre-qualified list of ESCOs) * Find an ESCO best suited for your facilities   **Selection Criteria**   * ESCOs are evaluated on qualifications including project history, financial capability, technical approach and management approach * ESCOs are also evaluated on cost markups and fees (information that can be supplied prior to any detailed analysis of the project scope and costing) | | |
| **Section** | **Title** | **Description & Key Points** | **Negotiating Items & Recommendations** |
| Attach-ment | Technical Facility Profile | Provide information to the three ESCOs about the facilities – include a building list with square footage, utility costs from the past three years, future plans, and other information as available. | Provide information as available. If available, it will help the selected ESCO in the later audit stage. If the information is not available, proceed with the selection process. |
| 1.0 | Overview of Approach | Introduction of the ESCO to the evaluation committee. | This provides an introduction to the evaluation committee. |
| 2.0 | Project History | ESCO’s expertise and experience by market sector. List of projects including project size and date. | Detailed information on projects can also serve as references. |
| 3.0 | Qualifications | ESCO’s background, financial capability, industry accreditations, general scope of services. |  |
| 4.0 | Financial Soundness & Stability |  | Invite a financial specialist to review and score this section independently. |
| 5.0 | Technical Approach | ESCO’s approach to auditing, M&V, commissioning, operations and maintenance, and handling of savings shortfalls. |  |
| 6.0 | Management Approach | ESCO’s project management and coordination, local staffing, subcontractors, construction management, Owner interaction, long-term servicing, personnel and staffing. | Request added information specific to your project. |
| 7.0 | Cost and Pricing | ESCO’s profit markup, fees, contingency, and how best value is achieved. | Consider the markups for reasonableness. |
| 8.0 | Compliance | ESCO compliance with Performance Contracting Requirements (Best Practices) including use of attached contracts. | Confirm compliance to use the model documents provided by the Program. |

**HOW-TO CUSTOMIZE THIS RFP FOR YOUR PROJECT**

**Using this Model RFP**

* This model RFP is easy to customize for your use. All the key areas to customize are highlighted. Below is a list of items to consider for customization.
* The attachments include the two model contracts that will be used for the Investment Grade Audit and for the Performance Contract. The contracts can remain in the RFP as-is and do not need to be customized for use in this RFP.
* Recommendations, explanations and negotiating tips are included.
* The RFP is a sample document only and does not attempt to identify or address all circumstances or conditions you may encounter or desire. Consult your legal counsel and procurement staff to adapt it to meet your needs.

**Overview of Owner’s Role**

* RFP
  + Gain concept approval from administrators to potentially sign a performance contract
  + Be aware of the need to temporarily encumber funds from the time the audit contract is signed until the time the performance contract is signed. Allow 15-20 cents/square foot of audited space. Once the performance contract is signed, the project savings can pay for the audit costs.
  + Issue RFP
  + Possibly hold a pre-proposal meeting and site visit for interested ESCOs (see below for discussion items).
  + Review written proposals and select top candidates
  + Interview top candidates (usually no more than 3)
  + Select the top-ranked ESCO
* Investment Grade Audit Contract:
  + Contract with ESCO to conduct an Investment Grade Audit Contract; use model contract.
  + Conduct a technical review of the audit (review energy savings estimates, cost estimates, individual projects, monitoring and verification plan, cash flow analysis projection for financing term)
* Performance Contract: Contract with ESCO to implement projects through a performance contract; use model contract.
* Funding and Financing: Determine how project is to be financed and if ESCO is needed to issue the RFP for financing bids. Recognize that ESCOs are restricted in advising on financing, per federal regulations.

**RFP vs. RFQ**

This functions as an RFP (Request for Proposals) under many government procurement codes (rather than an RFQ – Request for Qualification), because it requests cost markups and cost of the audit and includes evaluation of these costs in the selection process. Any greater level of cost information is inappropriate since the first contract step is for the ESCO to conduct an audit to identify the project scope and conduct a detailed cost analysis.

**Temporary Allocation of Funds**

Prior to issuing this RFP, it is important to have funds identified for temporary obligation during the Investment Grade Audit Contract stage. The Investment Grade Audit and Project Development Contract is a stand-alone contract to be followed by the Performance Contract. The latter contract guarantees savings to pay for all project costs, including the cost of the audit. However, because the Audit Contract is initially a stand-alone contract, it will require funds in the amount of the audit cost (usually 15-20 cents per square foot) to be set-aside in order to pay for the cost of the audit unless and until the subsequent Performance Contract is executed, in which case it can incorporate and pay for the audit costs.

**Scope of Work Identified in the Subsequent Contract Stage**

It is tempting to develop a prescribed scope of work, detailing exactly what projects the ESCO should undertake in your facilities. This is not recommended, however, because it is very valuable to use the ESCO’s technical expertise to help identify and assess the opportunities that are most cost-effective or most valuable for your facilities instead of pre-determining the scope. This is the purpose of the Investment Grade Audit which involves an engineering analysis of cost savings and project implementation costs.

**RFP Preparation and Customization**

Providing the following information goes a long way toward customizing the model RFP for a specific project.

**Contact Information:**

Name of contracting entity (legal name, Board of \_\_\_\_\_\_\_)

Abbreviated name to use throughout the RFP: \_\_\_\_\_\_\_\_

Facilities Contact person: name, title, address (physical & mailing address), e-mail address, phone,

**Proposal Submission:**

Where to submit proposals (physical address for FedEx or drop-off, mailing address)

Purchasing specialist or person who handles proposals – name, title, phone

**Pre-Proposal Meeting and Site Visit:**

* Some procurement officials discourage pre-proposal meetings to avoid inconsistencies. If a pre-proposal meeting is held, plan for a 45-minute meeting to describe the process, timeline and expectations.
* Consider holding a pre-proposal meeting by phone conference in order to attract more ESCOs.
* Site visit – omitted, required or optional? A site visit (facility tour) may be omitted or limited to discourage ESCOs from presenting mini-audits, because a thorough Investment Grade Audit is necessary to analyze opportunities in a credible way. If a tour is offered, limit the tour to a few key facilities for an hour following the pre-proposal meeting.
* Date?
* Duration? (usually 1 ½ to 2 hours including 30-minute orientation meeting, similar to a pre-bid meeting so interested respondents can ask questions)
* Contact person name/phone/e-mail/address who will be arranging site visit (same as facilities contact person above?)
* Physical address and directions

**Technical Facility Profile:**

* See Attachment C for details
* Desired projects
* Any special projects or specific needs
* List of ALL facilities to allow for a continuing phased approach
* Note that the scope of work does not need to be clearly defined, because you will be contracting for an ESCO to do further analysis to more fully develop the scope of work.

**Allowable Savings:**

* Utility savings (energy & water)
* Maintenance savings (eliminated service contracts, etc.)
* Materials savings (lamp replacements, etc.)
* Labor cost savings (note that labor savings does not necessarily translate to dollar savings).
* Other, unless restricted by statute

**Project Schedule:**

* Issue RFP
* Site visit (usually 2-3 weeks after RFP issued)
* Proposals due (usually 2 weeks after site visit)
* Proposal Review (if you schedule your committee in advance, this can be done in a day or two)
* Interviews (usually 1-2 weeks after proposal review)
* ESCO Selection & Award (usually within 1 week of interview, but allow time for Board approval if needed)
* Construction: Any special time for construction? (Note that work in the rooms is usually scheduled for evenings & weekends to avoid conflicts.)

**Evaluation Team:**

* Number of people on evaluation committee? (number of proposals needed -- one for each reviewer and for any consultants)
* Media type (CD, DVD, thumb drive, print); Number of copies for each media type. (Recommendation: Only 1 printed copy, excluding the requested examples, with the remainder in electronic format)

**Controls Standardization:**

 If this will involve an upgrade or modification to your controls system, do you want to pre-specify a desired controls manufacturer? Name of manufacturer? Do you have sole-source approval to specify this manufacturer?

**Funding**

* Funding assistance provided (cash buy-down, in-house funding, bonds, grants, etc.)
* Financing interests
* Financing term (if limited by state statute)

**REQUEST FOR PROPOSALS**

for Energy Savings Performance Contracting Services

for **Owner**

**TABLE OF CONTENTS**

**RFP: Instructions and Administrative Information**

**ATTACHMENTS**

**Attachment A**: ESCO Response

**Attachment B:** Evaluation Criteria

**Attachment C:** Technical Facility Profile

**Attachment D**: Cost and Pricing

D1: Cost and Pricing Definitions

D2: Cost and Pricing Spreadsheet

**Attachment E:**  Special Contract Terms and Conditions

**Attachment F:** Investment Grade Audit and Project Development Contract

**Attachment G:** Energy Savings Performance Contract

**Attachment H:** Financing Solicitation Package

**Attachment I:** State Statutes on Performance Contracting

**Attachment J:**  Other

This could include an executive order related to energy efficiency, policy on energy reduction goals, etc.

**Attachment K**: Proposed Project Schedule

1. **Overview and Background**

Owner (Note: include complete name, and Board name if applicable) (hereinafter referred to as **Owner**) seeks proposals from Energy Services Companies (ESCO) to conduct an investment grade audit of facilities and implement an Energy Performance Contract. The ESCO will identify and implement building improvements to reduce energy and related costs in facilities, such that annual cost savings are applied to annual payments for improvements.

The contracting process has three phases:

* Investment Grade Audit and Project Proposal Phase: A contract for the Investment Grade Audit will be developed with the selected ESCO. This investment grade audit will identify and evaluate cost-saving measures and define the proposed project scope, cost, savings and cash-flow over the proposed financing term. A project proposal will present aggregated measures that can be financed through guaranteed savings.
* Construction/Implementation/Commissioning and Financing Phase: An Energy Savings Performance Contract will be negotiated following the audit. This establishes the project scope and costs, and provides for construction and follow-up services to be provided during the financing term. A separate financing agreement will be developed.
* Post-Construction Guarantee/Monitoring Phase: After construction, the ESCO will offer a variety of services to ensure savings are met, such as a savings guarantee, staff training, follow-up monitoring, and contract maintenance services.

1. **Proposal Submittal and Selection Process** 
   1. **Policies**
      1. All submittals shall become the property of the Owner and will not be returned.
   2. **Submittal Instructions** 
      1. All submittals shall become the property of the Owner and will not be returned.
      2. Late submittals shall not be evaluated.
      3. Owner reserves the right to reject any or all proposals on the basis of being unresponsive to these guidelines or for failure to disclose requested information.
      4. Owner shall not be liable for any costs incurred by respondents in the preparation of submittals and proposals nor in costs related to any element of the selection and contract negotiation process.
      5. **Pre-proposal Conference**

See Selection Process below for details.

* + 1. **Communications Regarding this RFP**

Questions and requests for clarification on this Request for Proposals must be submitted in writing following the instructions posted in the Notice. No verbal inquiries will be addressed. Communication with Owner officials, the Selection Committee, the state program, or others associated with this Request for Proposals is prohibited.

* 1. **Submittal Format**
     1. Prepare responses to items in the **ESCO Response to Request for Proposals (Attachment A)**. Follow the same sequence and state each number and question prior to your response.
     2. Quantity: Submit five copies.
     3. Submittal Media: CD, DVD or thumb drive. No printed submittals.
     4. PDF Files: Present the response in a single searchable PDF file, with the exception of any requested examples (Investment Grade Audit, Measurement and Verification Plan, etc.) which each shall be presented in separate, single and searchable PDF files. Security protection may be enabled. Ensure printing is enabled.
     5. Deliver proposals to:

Address

Attn:

No later than:

* 1. **Submittal Schedule**

The following schedule has been established for this Request for Proposals. Note that this schedule may be subject to change.

|  |  |  |
| --- | --- | --- |
|  | **TASK** | **DATE/TIME** |
| **1.** | RFP Issued |  |
| **2.** | Pre-Proposal Conference |  |
| **3.** | Written inquiries |  |
| **4.** | Responses to Inquiries |  |
| **5.** | Proposal Submission |  |
| **6.** | Proposal Review Period |  |
| **7.** | Interviews (if required) |  |
| **8.** | Notice of Intent to Award |  |
| **9.** | Investment Grade Audit Contract | **TBD** |
| **10.** | Energy Savings Performance Contract | **TBD** |

* 1. **Selection Process** 
     1. **Pre-Proposal Meeting and Site Visit**

A Pre-proposal Meeting will/will not be held. The purpose of the Pre-proposal Meeting is to review the requirements of this RFP and answer questions from ESCOs.

Note: Some procurement officials discourage pre-proposal meetings to avoid inconsistencies. If a pre-proposal meeting is held, plan for a 45-minute meeting to describe the process, timeline and expectations.

The pre-proposal meeting will be held on-site/by phone conference.

A facility tour will/will not be held following the pre-proposal meeting. No subsequent tours or additional access to buildings will be offered.

Note: A facility tour may be omitted or limited to discourage ESCOs from presenting mini-audits, because a thorough Investment Grade Audit is necessary to analyze opportunities in a credible way. If a tour is offered, limit the tour to a few key facilities for an hour following the pre-proposal meeting.

**DATE:** Date

**TIME:** Start timeto End time (2 hours or less)

**LOCATION:**

Physical address, directions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Conference:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* + 1. **Review of Written Proposals**

Proposals must be prepared as described in **ESCO Response (Attachment A)**. Proposers within the competitive range will be invited to participate in the interviews.

* + 1. **Interviews**

Interviews will provide an opportunity for clarification of the written proposal. ESCO representatives at the interview should include individuals who will be key points of contact and have major responsibility for contract negotiation, engineering and design, construction management and follow-up monitoring. Each interview may be tape-recorded. Scores from the written proposal will be modified based on clarifications and the top-ranking ESCO will be considered for award.

* + 1. **Final Selection**

Final reference checks will be conducted with the apparent awardee (top-ranked ESCO) prior to making the final selection. An award will be made to the selected ESCO.

1. **Scope of Work**
   1. **Investment Grade Audit and Project Development**

The Investment Grade Audit will identify potential cost-saving measures, determine the cost and savings of each measure, and present a measurement and verification plan to validate future savings of each measure. A project proposal will present a bundle of measures that can be financed through guaranteed savings over the proposed financing term, including a cash-flow table. Develop and negotiate a contract using the **Investment Grade Audit and Project Development Contract (Attachment F).** Also see **Special Contract Terms and Conditions (Attachment E)**.

Note: Owner must have funds available to pay for the audit in the event that performance contract is not later executed. These funds must be allocated/encumbered at the time of signing of the audit contract and will be unencumbered in full when the performance contract is executed.

* 1. **Energy Savings Performance Contract**

Through the Energy Savings Performance Contract, the ESCO proceeds to final design, construction, and commissioning of the improvement measures. Following satisfactory completion of the Investment Grade Audit, Owner will negotiate and develop an **Energy Savings Performance Contract (Attachment G: Energy Savings Performance Contract)** with the ESCO. The contract will define the final agreed upon list of measures, equipment and labor costs and guaranteed cost savings. It will document equipment specifications and warranties. It establishes the schedule and responsibilities of the ESCO and the Owner. It incorporates current state statutes and directives that directly relate to performance contracting: **State Statutes on Energy Savings Performance Contracting (Attachment E)** and **State Government** **Executive Orders (Attachment J)**.

* 1. **Financing Agreement**

The ESCO may solicit financing companies on behalf of the Owner using the Financing Solicitation Package (Attachment H: Financing Solicitation Package), although federal regulations restrict the ESCO’s role in advising on financing. Alternatively, Owner may arrange financing independently. A separate financing agreement will be developed including ESCO payment schedules and lender financing terms and schedules.

* 1. **Measurement and Verification**

In order to provide the performance guarantee, the ESCO is under contract to provide annual M&V services. The guarantee is required to cover the cost of this service. This may or may not be financed.

* 1. **ESCO Services**

Note: It is tempting to develop a prescribed scope of work, detailing exactly what projects the ESCO should undertake in your facilities. This is not recommended, however, because it is very valuable to use the ESCO’s technical expertise to help identify and assess the opportunities that are most cost-effective or most valuable for your facilities instead of pre-determining the scope.

ESCO must have the demonstrated capability in engineering and management to provide a broad range of services. Services may include but are not limited to the following:

Investment Grade Audit and Project Proposal Phase

* technical audit to evaluate costs and savings of a variety of energy and water-saving measures
* project proposal including financial analysis
* benchmarking using Energy Star tools
* measurement and verification plan
* commissioning plan
* utility bill data services to capture credits from utility bill errors

Construction/Implementation/Commissioning and Financing Phase

* engineering design
* equipment procurement and purchasing
* construction management
* hazardous waste disposal or recycling
* educate about financing
* commissioning

Guarantee/Monitoring Phase

* continuing operations and maintenance for all improvements
* staff training on routine maintenance and operation of systems
* training of occupants
* guarantee of performance and cost savings for the entire term of the contract
* monitoring and verification for measurement and reporting of the performance and savings
* provide for independent review of monitoring & verification (guaranteed savings pay for independent contractor)
* analysis and application for Energy Star Label and/or LEED-EB (Leadership in Energy and Environmental Design for Existing Buildings, by the US Green Building Council)
* monitoring and reporting of emissions reductions
* maintaining long-term, high-efficiency performance of buildings

ESCO must have the technical capability to address a broad range of systems including, but not limited to:

* Mechanical Systems. Heating, ventilating and air conditioning (HVAC) systems, energy management and control systems, domestic hot water systems, distribution systems, etc.
* Plants. Distribution systems, cogeneration systems, etc.
* Lighting systems. Indoor and outdoor lighting systems, lighting controls, daylighting strategies.
* Renewable Energy Systems: Solar electric (PV), solar thermal, small wind
* Building envelope systems. Windows, insulation, weatherization, etc.
* Specialty Systems: laundry equipment, kitchen equipment, pool systems, renewable energy systems.
* LEED-EB: LEED-EB strategies to improve operations and maintenance practices
* Water and Sewage Systems. automatic controls, low-flow faucet aerators, low-flow toilets, cooling tower modifications, pool covers, and irrigation system controls or modifications.
* Desired projects. Note: Identify any specific needs or desires that you think must be included in a performance contracting project, or projects that are of particular interest to you. Keep in mind that the ESCO should be given the flexibility to use its own expertise to determine a broad scope of work, so avoid using this section to pre-define the scope of work.

Note: Delete items above that do not exist in the facilities.

* 1. **Buildings, Facilities and Approach**

All facilities owned, managed or operated by Owner at any time during the term of the performance contract will be considered for this work. Specific facilities now operated by Owner are listed in the **Technical Facility Profile (Attachment C)**. Additional facilities not yet identified that are under the jurisdiction of the Owner at any time during the term of the performance contract can be included in the scope of work in a contract amendment.

Work may be conducted in phases where the detailed scope of work can be developed at any time during the term of the performance contract.

The performance contract can be amended at any time during the initial performance contract term to address other buildings or new projects.

Owner reserves the right to reduce the scope of work, to conduct the work in phases or to segment work in facilities based on technological improvements.

Note: List all buildings in Attachment E even if delayed for future work..

**ATTACHMENT A: ESCO RESPONSE**

See separate file.

**ATTACHMENT B : EVALUATION**

**WRITTEN PROPOSALS**

The Evaluation Team will identify scoring weights for each section, with the “Cost and Pricing” section equaling a minimum of 30% of the total score of the written response to this RFP. The weights of criteria will be determined by the Evaluation Team.

The Evaluation Team recognizes it is premature to place a major emphasis on projected financial benefits prior to the completion of the Investment Grade Audit, because the Audit will define the potential scope and cost benefit. Therefore, the most emphasis will be on qualifications and less emphasis will be placed on the cost information.

**INTERVIEWS**

ESCOs in the competitive range will be invited for an oral interview. The proposal scores will be modified based on clarifications to responses provided in the interview.

**SELECTION**

The Evaluation Team will identify the apparent awardee and then contact references to complete the evaluation.

With quality references, the apparent awardee will be notified of selection; otherwise, the same process will be used with the second-ranked ESCO.

**ATTACHMENT C: TECHNICAL FACILITY PROFILE**

See separate file.

**ATTACHMENT D: COST AND PRICING**

Attachment D1: Cost and Pricing Definitions

Attachment D2: Cost and Pricing Spreadsheet

**ATTACHMENT E: SPECIAL CONTRACT TERMS AND CONDITIONS**

OVERVIEW:

This section includes some key contract clauses and is provided here to reinforce their importance. Ensure that these clauses match the language in the contracts.

**Contract Documents**. The **Investment Grade Audit & Project Development Contract (Attachment F)** and the **Model Energy Savings Performance Contract (Attachment G)** will be used.

**Payment for Audit**. As given in the **Investment Grade Audit & Project Development Contract (Attachment F)**:

**Basis and Maximum Amount.** Except as provided for in Subsections below, within Number of Days: 120 days recommended days after Owner’s acceptance of the final **Investment Grade Audit and Project Development Contract**, Owner shall pay to ESCO a sum not to exceed Dollar Amount in Words ($ dollar amount) based on a maximum of square footage to be auditedgross square feet at cost per square foot per square foot of audited square-footage, as per **Exhibit B: Cost and Pricing**. Owner shall only pay for square-footage actually audited. Areas deemed by ESCO not to be audited will not be charged to Owner.

**Payment through Performance Contract.** Owner shall have no payment obligations under this contract provided that ESCO and Owner execute an Energy Performance Contract within Number of Days – 120 days suggested, allowing sufficient time for contract negotiation, attorney review, and Owner processing days, after issuance of the **Notice of Acceptance (Exhibit B)** of the final **Investment Grade Audit and Project Development Contract**, but the fee indicated above shall be incorporated into ESCO’s project costs in the Energy Performance Contract and paid through the Energy Performance Contract funding mechanisms.

**Project With Insufficient Savings.** Owner shall have no payment obligations under this Contract in the event that ESCO's final **Investment Grade Audit and Project Development Contract** does not contain a package of energy and water saving measures which, if implemented and as meeting terms of **Exhibit A: Scope of Work, (b) Guidelines and Requirements**, will provide the Owner with cash savings sufficient to fund Owner’s payments of all costs and fees associated with the Energy Performance Contract, including 1) the fee associated with the Investment Grade Audit, 2) all monthly payments on a lease purchase agreement to finance the measures, 3) any annual fees for monitoring and maintenance incurred by the ESCO. Should the ESCO determine at any time during the Investment Grade Audit that savings cannot be attained to meet these terms, the Investment Grade Audit will be terminated by written notice by the ESCO to Owner. In this event this Contract shall be cancelled and Owner shall have no obligation to pay, in whole or in part, the amount specified in this **Section 2(a)**.

**Funding sources to support annual payment.**:

The following payment sources will be considered in the audit:

* Annual energy cost savings
* Annual water and other utility cost savings
* Material/commodity savings, only in years when savings are achieved, including avoided costs such as lamp and ballast replacements, scheduled replacement of parts, etc. Note: This category is often recommended to help increase the scope of work through added source of funds; thorough documentation and review is critical to ensure these anticipated savings are verifiable.

During negotiations, Owner may consider savings to include the following:

* Maintenance cost savings such as terminated service contracts on equipment.
* Labor cost savings, in-house. Note: This category is generally not advised unless staff are cut to achieve budget savings.

Equity cash outlay:

* At option of Owner, an equity cash outlay, pending funding approval, may be used to supplement savings

Note: Move items above into desired categories.

Maintenance and operation cost savings: Savings will be limited to those that can be thoroughly documented and approved. Such savings must only be attributed to the cash flow in years when savings will actually occur.

**Contract Term.** The contract term is up to 25 years provided the average lifetime of the equipment exceeds the contract term, however a lesser term of 12-15 years is typically desired. The ASHRAE Book of Standards will be used in determining the average useful life of the equipment.

**Annual Savings Exceed Annual Costs.** Annual savings shall exceed annual payments each and every year while the performance guarantee is in effect. This means that excess savings in other years and interim savings during the construction period will not be allocated to meet shortfalls in any year. Annual payments include debt service, ESCO fees, maintenance services, monitoring services, and other services.

**Annual Guaranteed Cost Savings.** An annual contractual guarantee will be provided for the first three years of the contract, however, the guarantee shall be made available as a continued option for each subsequent year of the contract term. The Owner can cancel the guarantee at any time after the required period. The guarantee must provide for the sum of identified cost savings to equal or exceed the amount of the annual payment, where annual payment equals lease plus monitoring & verification fee plus required service, each and every year while the guarantee is in effect.

**Interim Savings during Construction Period.** Savings accrued during the construction period will not be allocated to the annual savings of any year. See “Annual Savings Exceed Annual Costs” above.

**Excess Savings (beyond the guaranteed amount).** Excess savings will be retained by Owner and will not be allocated to shortfalls in savings in other years. See “Annual Savings Exceed Annual Costs” above.

**Use of Stated Cost Markups.** The individual cost markups disclosed in the proposal will be used in both the Investment Grade Audit and the Energy Performance Contract, provided the size and scope of the project remain similar. Cost markups presented in the proposal can be negotiated downward.

**Open Book Pricing.** Open book pricing will be required, such that the ESCO will fully disclose all costs, including all costs of subcontractors and vendors. ESCO will maintain cost accounting records on authorized work performed under actual costs for labor and material, or other basis requiring accounting records. ESCO will provide access to records and preserve them for a period of three (3) years after final payment. Costs will be evaluated through price analysis to compare costs with reasonable criteria such as established catalog and market prices or historical prices. Stated cost markups will be clearly applied.

**Contingency.** Any unused contingency cost will not be retained by the ESCO and will be applied to the project.

**Equipment Compatibility or Standardization.** All equipment installed that is comparable to similar equipment at the facilities, shall offer compatibility with existing systems, and/or be of the same manufacturer for standardization of equipment Owner-wide, unless excepted by Owner. Note: Could include name of existing controls system, or a requirement for open systems or devices, if new controls systems will have to be compatible with an existing brand of controls.

**Annual Appropriations.** Annual payment is subject to annual appropriations.

**Inflation and Escalation Rates.** Any inflation rates will be pre-approved by Owner.

**Energy Escalation Rates.**  Where the annual lease-purchase payments are set-up to escalate each year in anticipation of annually escalating energy cost savings, a calculator will be used to determine the maximum value as developed by the US Department of Energy for energy saving performance contracts in its Federal Energy Management Program. The tool is on-line at:

<http://www.eere.energy.gov/femp/techassist/softwaretools/softwaretools.html> (EERC).

**Monitoring and Verification Plan.** A monitoring and verification plan will be developed per guidelines in the energy performance contract. Note that this should be rigorously reviewed by a third party.

**Independent Review of Monitoring & Verification.** The energy performance contract must provide for a portion of the guaranteed savings for Owner to contract with an independent monitoring & verification specialist to provide an independent review of the ESCO’s monitoring & verification plans and reporting. This is estimated to be 10 percent of the ESCO’s monitoring & verification costs.

**Data Collection and Reporting by ESCO – Using eProject Builder (ePB)**

ESCO shall collect and report project data, on behalf of Owner and with approval by Owner, as identified in **Energy Savings Performance Contract -** **Schedule D: Data Collection and Reporting – Using eProject Builder** and as amended on the LBNL website (<http://eprojectbuilder.lbl.gov>) and at the specified times.

eProject Builder ("ePB") is a web-based tool managed on behalf of the Department of Energy by The University of California/Lawrence Berkeley National Laboratory (LBNL). ePB enables ESCO and their contracting agencies or other entities to:

(1) upload and track project-level information;

(2) generate basic project reporting materials (e.g. task order schedules) that may be mandated by local, state, and/or federal agency requirements; and

(3) benchmark proposed Energy Savings Performance Contract (ESPC) projects against historical project data.

Based on information provided by the ESCO, the parties agree that the data required to be delivered to LBNL under this clause has commercial value whose disclosure would cause competitive harm to the commercial value or use of the data. LBNL intends to withhold such data from disclosure under 10 C.F.R. 1004.3(e)(2). The use of this data is governed by the provisions of this contract. Unless compelled by a court of competent jurisdiction, there may be no release of this data to the public without the written consent of the Recipient and DOE. Aggregate data that does not identify project-specific metric information may be released as set forth in the contract. Other information required to be delivered under this contract, but not covered under this Commercially Valuable ESPC Project Data clause, shall be delivered in accordance with this contract.

**ATTACHMENT F: INVESTMENT GRADE AUDIT AND PROJECT PROPOSAL**

OVERVIEW:

This Technical Energy Audit & Project Proposal Contract is the first of two contracts with the selected ESCO. The ESCO will complete an investment grade technical energy audit that will include an analysis of each proposed project with projected energy and cost savings and itemized project cost. The ESCO will also propose terms for the performance contract and present a proposal that includes recommended projects, financing term and projected annual cash-flow analysis. The results of the audit will form the basis for a subsequent Energy Performance Contract.

The complete contract is under a separate electronic file for easier use.

Note: provide this attachment under separate file for easier use. Retain this page with overview as a “placeholder.”

**ATTACHMENT G: MODEL ENERGY PERFORMANCE CONTRACT**

OVERVIEW:

This Energy Performance Contract is for design, construction, guarantee, and follow-up monitoring of energy-saving projects. An energy audit was previously completed that identified the costs and savings of each project. The audit provides the basis to develop and negotiate this Energy Performance Contract.

The complete contract is under a separate electronic file for easier use.

**ATTACHMENT H: FINANCING SOLICITATION**

The financing solicitaiton package is under a separate electronic file for easier use.

OVERVIEW

The ESCO is expected to conduct a competitive bid process to select a financing firm to satisfaction of Owner.

**ATTACHMENT I: State Statutes on Performance Contracting**

**ATTACHMENT J: Other**

This could include an executive order related to energy efficiency, policy on energy reduction goals, etc.

**ATTACHMENT K: PROPOSED PROJECT SCHEDULE**

The following schedule is the proposed schedule, and may change during the project.

Note: Change week numbers as needed. Consider holiday or seasonal schedules if they are the best times for construction..

**ACTIVITY DATE**

**RFP Phase**

**ESCO Selection and Award Week 8**

Note: Refer to Submittal Schedule.

Consider time needed for Board approval, if necessary, or official announcement.

**Investment Grade Audit Phase**

**Contract Negotiation Weeks 9-11**

Note: Allow two weeks for negotiations. Reserve time to negotiate cost markups as maximum markups were given in the proposal response. Also negotiate the scope and level of the audit. Otherwise, this contract is simple and straightforward.

**Board approval and signatures to execute contract Week 12**

Note: Allow sufficient time based on past experience with contracts in your department.

**Audit, Final Report and Presentation Weeks 11-22**

Note: Allow time for several meetings during this process, so that there is sufficient discussion for agreement.

**Energy Performance Contract Phase**

**Negotiation and Documentation Weeks 23-30**

Note: It is very important to allow sufficient time to review the contract and meet several times with the ESCO to ensure thorough understanding of contract elements, to discuss and negotiate project scope and costs, and to fully document the contract to incorporate project schedules, maintenance agreements, and other project-specific documents. Its time well-spent, as a thorough understanding and documentation of expectations could avoid future conflicts.

**Board approval and signatures to execute contract Weeks 31-34**

Note: Allow sufficient time based on past experience with contracts in your department. To save time, request legal review and approval during the RFP stage.

**Installation To be negotiated**

**Commissioning/Monitoring Phase**

**Commissioning To be negotiated**

**Monitoring To be negotiated**

**Staff Training To be negotiated**

**Other To be negotiated**

**Proposed Contract Term To be negotiated**

**Note: This schedule is subject to change.**