
ATTACHMENT I

FACILITY OWNER'S MEMORANDUM OF UNDERSTANDING

**FOR THE _____ PROGRAM MANAGED BY
_____ (SEO Name & address)**

***DESCRIPTION:** The contract is between the Facility Owner and the State Energy Office (or other entity managing a performance contracting program). It establishes requirements of a facility owner participating in the program, where the facility owner benefits from using the pre-qualified list of ESCOs and accessing technical assistance from the SEO. The contract also establishes the State Energy Office (or other government entity) as the program manager with authority to oversee the involvement of ESCOs serving the facility owners. (See the parallel contract between the SEO and the ESCOs.) This example includes elements from both Colorado and Wyoming as developed in 2005-2007.*

FACILITY OWNER MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made this ____ day of _____ in the year ____ between the _____, hereinafter called SEO, and _____, hereinafter called the Facility Owner.

WHEREAS, SEO, through its Energy Performance Contracting Program (EPCP), used a state-approved RFP process to select ESCOs to provide as-needed energy performance contracting services;

WHEREAS, SEO will maintain a list of pre-qualified ESCOs that are eligible for final selection by the state's state and local governments to provide performance contracting services.

NOW, THEREFORE, it is agreed that:

1. Purpose of Contract. The purpose of this Contract is to provide Facility Owner access to the services and support provided under the Energy Performance Contracting Program (EPCP) for development and implementation of Energy Performance Contracting (EPC) projects and to obligate the Facility Owner to follow and adhere to the guidelines of the program.

2. Term of Contract and Required Approvals. This Base Agreement shall become effective on the date approval is given and shall terminate on _____.

3. Consideration. In consideration for the services rendered by the SEO under this contract, the Facility Owner shall engage in a good faith effort to reduce its energy consumption through participation in the EPCP and follow and adhere to its guidelines, rules, and provisions.

4. Responsibilities of Facility Owner. The responsibilities of the Facility Owner include, but are not necessarily limited to:

- a. Agree to program participation by executing a Facility Owner Memorandum of Understanding and engage the SEO/EPCP for assistance in project development
- b. Select an ESCO from the current pre-qualified list, using a secondary selection process
- c. Assign members to the facility project team including operations, maintenance, financial and upper management personnel
- d. Ensure appropriate personnel attend project development meetings dependent upon the subject matter to be discussed
- e. Provide access and escort to buildings
- f. Provide information as needed for the feasibility study, the Investment Grade Audit, and other project development activities
- g. Work with ESCO to develop/refine project parameters
- h. Review/approve ESCO proposals, designs, and reports
- i. Ensure recommendations of the SEO/EPCP during reviews are addressed

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- j. Execute SEO/EPCP approved contracts with the ESCO
 - k. Make payments for ESCO services per contract terms
 - l. Make arrangements for project financing
 - m. Provide project management
 - n. Provide information as needed for measurement and verification activities

5. Responsibilities of SEO/EPCP. The responsibilities of the SEO/EPCP include, but are not necessarily limited to:

- a. Actively promote the program and educate potential participants about the benefits and implementation of energy performance contracts.
- b. Work with Facility Owners to become program participants and to commit to a Facility Owner Agreement
- c. Help Facility Owner procure services of an ESCO from the pre-qualified list.
- d. Provide information on the website for currently pre-qualified ESCOs, as provided and updated by the ESCO, providing a link to the ESCO's website for more detailed information.
- e. Help Facility Owner develop and initiate a performance contracting project.
- f. Facilitate the performance contracting process, to help ensure commitments are met by both the Facility Owner and the ESCO
- g. Provide technical guidance to the Facility Owner, attending on-site meetings between the Facility Owner and ESCO as needed
- h. Help develop the SEO/EPCP Standard Technical Energy Audit and Energy Performance Contracts for each project
- i. Review audits, proposals, calculations, contracts, and measurement and verification reports
- j. Monitor project implementation
- k. Identify solutions to mediate any conflicts between Facility Owner and ESCO.

4. Responsibilities of Contractor. The responsibilities of the Contractor shall include, but are not necessarily limited to:

Marketing and Preliminary Project Evaluation

- a) Promote the SEO/EPCP when marketing directly to Facility Owners (within market sectors defined by SEO/EPCP)
- b) Engage the SEO/EPCP immediately upon identifying a potential energy performance contract project
- c) Perform an initial evaluation of project potential and discuss with the Facility Owner
- d) Provide a dedicated webpage for SEO/EPCP participants (e.g., www.ESCONAME/STATENAME-SEO), where Facility Owners that seek ESCO services can gain access to the full proposal and any updated information. The SEO/EPCP website will provide a link to the ESCO website for this purpose.

Technical Energy Audit and Project Development

- a) Develop a SEO/EPCP Technical Energy Audit and Project Development Contract with the Facility Owner

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- b) Comply with all requirements of the Technical Energy Audit and Project Development Contract (Attachment F to RFP), including but not limited to: conduct a Technical energy audit, prepare a detailed technical and financial proposal for the project, help arrange for or procure financing, and develop a monitoring and verification plan.
 - c) Assign individuals to the project team representing project development, engineering, project management, monitoring and verification, and upper management support
 - d) Ensure appropriate personnel attend project development meetings depending upon the subject matter to be discussed
 - e) Address issues, recommendations and requests from SEO/EPCP in support of the SEO/EPCP independent technical review and facilitation process
- Energy Performance Contract Project Implementation**
- f) Develop a SEO/EPCP Energy Performance Contract with the Facility Owner based upon results of the Technical Energy Audit
 - g) Comply with all requirements of the SEO/EPCP Energy Performance Contract (Attachment G to RFP), including but not limited to: design services, equipment procurement and purchasing, construction and construction management services, hazardous material abatement or disposal, commissioning services on installed measures and monitoring and verification services.
 - h) Ensure appropriate personnel attend project development meetings depending upon the subject matter to be discussed
 - i) Address issues, recommendations and requests from SEO/EPCP in support of the SEO/EPCP independent technical review and facilitation process
 - j) Provide SEO/EPCP with an electronic copy of the final contract.
 - k) Provide a post-implementation report to Facility Owner and SEO/EPCP
- Performance Period:**
- l) Comply with all requirements of the SEO/EPCP Energy Performance Contract, including but not limited to: measurement and verification reporting and services, guarantee of performance and cost savings, maintenance and/or repair of equipment, training for facility personnel on maintenance and operation of systems, and training for occupants.
 - m) Provide the Facility Owner and SEO/EPCP with annual reports on project cost, status, savings achieved, and square footage impacted by the project as given in Attachment 3.
 - n) Ensure appropriate personnel attend project development meetings depending upon the subject matter to be discussed
 - o) Address issues, recommendations and requests from SEO/EPCP in support of the SEO/EPCP independent technical review and facilitation process

8. Signatures. In witness thereof, the parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The effective date of this Agreement is the date of the signature last affixed to this page.

SEO NAME

Director

Date

Program Manager

Date

FACILITY OWNER

Date