

FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

November 5-6, 2014
Cape Canaveral, Florida

Selecting Your Subcontractors (for the Utility)

Hosted by:



Selecting Your Subcontractors

- **Energy Service Companies** – Act as your general contractor
 - Experienced with alternatively financed projects (UESCs and Energy Savings Performance Contracts)
 - Select through competitive bid process or RFQ
 - For individual project or set number of years
 - One or more than one winner
 - Criteria for selection: Go for best value not necessary low bidder
 - Overheads and margins have to be competitive – utility/energy service company sharing
 - Check with fed customer on method of selecting & small/disadvantaged business requirements
- 10 USC 2913 – FOR DOD: Allows direct negotiation with energy savings contractors on project details



Selecting Your Subcontractors

- **You** act as general contractor

- Select specialty subcontractors for different aspects of the project or hire a design/build contractor
- Select through competitive bid process
 - For individual project or set number of years
 - More than one or one winner
 - Criteria for selection? Best value.
 - Check with fed customer on method of selecting & small/disadvantaged business requirements

NOTE:

- FAR Part 45, Clause Number 52-244-5 requires “Competition in Subcontracting”
 - Your federal site customer will want to have a say in **how** you select your subs, but they cannot tell you **which** subs to select.
- The small business reporting requirement found in the GSA areawide contract language is applicable here. Requires an annual small business subcontracting plan.



Whichever Path You Choose . . .

- Utility still responsible for the work contractually
 - Through the end of the performance provisions
- Utility handling of the project during the entire process will affect relationship and reputation regardless of subcontracting process
- Customers repeatedly express desire for Utility to be an active participant
- Don't just sit on the sidelines!



ESCO and Utility Agreement

Found in:

UESC Enabling Documents
Book

ENERGY CONSERVATION MEASURE UTILITY/ENERGY SERVICE COMPANY PROJECT DEVELOPMENT/DESIGN AGREEMENT

This Agreement is effective as of the date of the latest signature of the two parties, by and between utility (the "Company"), an name of State corporation, having its principal office at address of utility company and _____ (the "Contractor"), _____ with offices located at _____. Company and Contractor are hereinafter individually referred to as "Party" and collectively referred to as "Parties".

1. Purpose:

The purpose of this Agreement is to establish a "pre-contract" relationship between the Parties and to establish an advance agreement on certain terms, principles risk relationships, treatment of costs and sharing of project margin associated with developing energy conservation measures for the Company's customer(s). "Pre-contract" refers to Phase I and II project development activities that lead to and include proposal completion in accordance with the agreement in Exhibit A and utility Arcawide Agreement. Once a Delivery/Task Order is issued by the Government, the terms and conditions of the subcontract between Company and Contractor will apply to the Parties.

2. Acknowledgement:

The Company is a state-regulated public utility whose service territory includes federal government facilities intended to be addressed in contracts and subcontracts resulting from this Agreement, and the Contractor is experienced in the business of providing products and services designed to reduce consumers' energy costs.

The Company is the named recipient of that certain Energy Conservation Measure ("ECM") Agreement referenced in Exhibit A, issued by the United States of America between the Company and the United States Government, relating to refurbishing and upgrading United States Government facilities located within the service territory of the Company.

3. Relationship of the Parties:

The Parties agree that the relationships between the Parties is non-exclusive and relates only to those projects listed in Exhibit A and any further projects resulting therefrom. The Parties agree that in addition to providing project development and design services, the Contractor will serve as general contractor for project execution to assist the Company in fulfilling its obligations under the agreement at Exhibit A and any resulting Delivery/Task Orders for energy conservation projects. The Parties agree that the Contractor may directly communicate with the Government for routine project development and design coordination in conjunction with the Company. The Contractor will not be allowed to provide written correspondence to the Government unless expressly permitted by the Company. All substantive agreements and commitments with the Government entered by the Contractor will only be permitted by express written permission of the Company. Activities and communication allowed by the Contractor with permission of Company include, but is not limited to developing projects, developing energy conservation proposals, making arrangements for, and negotiation of, the resulting Delivery/Task Orders, execution of any necessary agreements according to the terms set forth by applicable regulation and policy which are in the Contractor's judgment reasonable and necessary conditions, and managing projects on behalf of the Company. The Parties further agree that the Contractor will provide management and communication processes, to the satisfaction of the Company, to provide adequate project management controls for the Company.

Each party shall act as an independent contractor and not as an agent for, partner of, or joint venture with the other Party. No other relationship outside of that contemplated by the terms of this Agreement shall be created. Neither Party may obligate the other to any extent except as **explicitly set forth here-**

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<http://energy.gov/eere/femp/downloads/utility-energy-services-contracts-enabling-documents-may-2009>

HELP IS AVAILABLE

Utility-issued Request for Qualifications (to ESCOs)

Also Available by
request

Insert Company Logo

Utility Energy Services Contracting in

Request for Qualifications
(RFQ) No. _____

Federally Owned Facilities

(Insert Utility Company Name) requests Statements of Qualifications and Experience from energy service companies (ESCOs) interested in providing comprehensive energy services on a utility energy services contracting basis at Federal facilities located within our franchised service territory. Work will be performed under a GSA Areawide Agreement, Number _____ between The United States of America and (Utility Company Name), dated _____. You are invited to submit a Statement of Qualifications and Experience in accordance with this RFQ.

Responses are due by (date) _____. (Utility Company Name) will make every effort to complete its review of each Statement of Qualifications and Experience within four (4) weeks of its receipt.

Responses must be labeled clearly and submitted to:

(Contact Name), RFQ No. ____
Address _____
Technical questions may be directed to _____

For Assistance Contact:

Julia Kelley

Oak Ridge National Laboratory

FEMP Utility Team

(865) 574-1013 office

(865) 228-0554 cell

kellyjs@ornl.gov



Help is available

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