FACILITIES MANAGEMENT DIVISION
STANDARD OPERATING PROCEDURE

TITLE: UTILIZING PRICE AGREEMENTS FOR ENERGY SERVICES COMPANIES

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FMD-420.004 Utilizing Price Agreements for Energy Services Companies
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TITLE: UTILIZING PRICE AGREEMENTS FOR ENERGY SERVICES COMPANIES (FMD-420.004)

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1.0 INTRODUCTION
This Standard Operating Procedure (SOP) applies to the General Services Department (GSD) and its Tenant-Agencies; for other Agencies who are not tenants of GSD, contact the Energy, Minerals and Natural Resources Department (EMNRD) for technical assistance. Energy services companies (ESCOs) are available to government agencies by statewide price agreements (SPA) maintained by the GSD State Purchasing Division (SPD) (see 3.0, References). Other ESCOs may be selected outside of the price agreements by separate processes that comply with the New Mexico procurement code.

1.1 Purpose
The purpose of this procedure is to provide a documented method for the use of an ESCO by a GSD Tenant-Agency.

1.2 Scope
This Standard Operating Procedure provides requirements and guidance for selection of an ESCO for evaluation, design, financing, implementation, monitoring, and reporting on energy efficiency projects for GSD and GSD Tenant-Agencies. These projects may include measures for conservation-related cost savings, renewable energy systems, water conservation, and alternative fuel options for vehicles.

1.3 Requirements
Projects must comply with the Public Facilities Energy Efficiency & Water Conservation Act (“Act”) [NMSA 1978, 6-23]. The Act identifies eligible Agencies, Qualified Provider, accuracy and reasonableness of Energy Conservation Measure (ECM) calculations. An energy efficiency project must comply with the Act if one or both of the following conditions exists: 1) a guarantee of utility cost savings is provided by a private party and 2) a contract term of greater than eight years is planned (or the Tenant-Agency should know what other statute allows for longer contract terms). The ESCOs with price agreements have met the Qualified Provider requirement (if they remain in good standing with GSD State Purchasing Division. The GSD Secretary has approval authority for all GSD-owned facilities. Agencies must report annually on utility cost savings resulting from an energy performance contracting project.
A statute that may be used in tandem with the Act is the Energy Efficiency & Renewable Energy Bonding Act (“Clean Energy Revenue Bond”) [NMSA 1978, 6-21D]. The Clean Energy Revenue Bond can provide financing for energy efficiency projects and may be involved when an ESCO guarantees savings for financing through the New Mexico Finance Authority (NMFA).

1.4 Definitions and Acronyms

**Agencies/Agency** - Eligible governmental entities under the Public Facilities Energy Efficiency and Water Conservation Act [NMSA 1978, 6-23], which are state government, local governments, public schools, higher educational institutions, and other instrumentalities of state government. *(This FMD Standard Operating Procedure applies to GSD-owned facilities only. For assistance with facilities of other eligible Agencies, including state Agencies not occupying GSD-owned facilities, contact EMNRD.)*


**EMNRD** - The Energy, Minerals and Natural Resources Department which is responsible for managing the Whole-building Investments for Sustainable Efficiency (WISE) Program.

**Energy Conservation Measure** - A training program or a modification to a facility, including buildings, systems or vehicles, designed to reduce energy consumption or conservation-related operating costs.

**Energy Performance Contracting** - A project that is backed up by a written guarantee stating that the utility cost savings and conservation-related cost savings will meet or exceed the costs of implemented ECMs or WCMs.

**Energy Services Company** - Company that can provide energy audit, project development, implementation, financing, and monitoring services to Agencies for ECMs or WCMs.

**Guaranteed Utility Savings Contracts** - Contracts for the evaluation and recommendation of energy or water conservation measures and for the implementation of one or more of those measures, and which contract provides that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make the payments for the conservation measures.

**Investment-Grade Energy Audit** – A study approved by a Professional Engineer registered in New Mexico that evaluates in detail the technical and economic issues necessary to justify the investment related to the proposed ECMs or WCMs.
Pre-qualified - The status of an ESCO or vendor that has been selected through an RFP process, certified by EMNRD as a Qualified Provider, and has established a statewide price agreement with the State Purchasing Agent. A pre-qualified ESCO or vendor is eligible for secondary selection processes for EPC services that Agencies may conduct.

Qualified Provider - A person experienced in the design, implementation and installation of energy or water conservation measures and who meets EMNRD’s experience qualifications for energy conservation measures (ECMs) or the Office of the State Engineer for water conservation measures (WCMs). *(A Qualified Provider is typically an interdisciplinary company or team of people meeting requirements of the Act and capable of managing complex EPC projects through the energy audit, project proposal, design, financing, implementation, monitoring, and reporting phases.)*

Secretary – The Cabinet Secretary or other senior executive head of an Agency as designated by statute.

Statewide Price Agreement - The contract executed by the State Purchasing Division (SPD) Director and an ESCO, as selected through a competitive process that is pre-qualified by EMNRD as a Qualified Provider under the Act. Statewide price agreements provide competitively-selected contractors that offer commodities or services under specific provisions approved by the State of New Mexico. These are available to all governmental entities funded by the State of New Mexico. The term is four years, with continuation subject to an annual review by EMNRD of each Qualified Provider’s performance, which is provided to SPD for the renewal process.

Utility Cost Savings - The amounts saved by a Governmental Unit in the purchase of energy or water that are a direct result of energy or water conservation measures implemented pursuant to a Guaranteed Utility Savings Contract. *(For equitable comparisons of different years needed to estimate the cost savings of energy reduction, an engineering approach involving adjustments to purchased energy or water data is typical practice.)*

Water Conservation Measure - A training program, change in maintenance practices, or facility or landscape alteration designed to reduce water consumption or conservation-related operating costs.

Frequently used acronyms -
- DFA – Department of Finance and Administration
- ECM – Energy Conservation Measure
- ECMD – Energy Conservation and Management Division
1.5 Implementation
This procedure applies to all financed energy efficiency projects that will be facilitated by a pre-qualified ESCO for any eligible GSD Tenant-Agency. Pre-qualified ESCOs have statewide price agreements, found at the SPD website. The WISE Process guides the steps to be taken for all projects facilitated by an ESCO. Financed energy efficiency projects require that utility cost savings meet or exceed payments to the ESCO. Energy Efficiency projects are to be comprised of eligible ECMs as stated in the Act.

WISE is the program for state government agencies to reduce energy usage, water usage, and utility costs in public facilities. Through strategic planning led by EMNRD and GSD, Tenant-Agency building inventories are evaluated, energy reduction goals are set, and energy efficiency projects are implemented. The WISE Process (see 2.0, Instructions) serves as a guide for creating sustainable progress in facility performance throughout New Mexico’s public facilities. For more information on the WISE Program and how to participate, contact EMNRD.

1.6 Eligible Energy Conservation Measures
ECMs that may be proposed by Qualified Providers are stated in the Act and include:
   a) Insulation of the building structure or systems within the building;
   b) Storm windows or doors, caulking or weather-stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;
   c) Automated or computerized energy control systems;
   d) Heating, ventilating or air conditioning system modifications or replacements;
e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code or nationally accepted standards for the lighting system after the proposed modifications are made;

f) Energy recovery systems;

g) Solar heating and cooling systems or other renewable energy systems;

h) Cogeneration or combined heat and power systems that produce steam, chilled water or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

i) Energy conservation measures that provide long-term operating cost reductions;

j) Maintenance and operation management systems that provide long-term operating cost reductions;

k) Traffic control systems; or

l) Alternative fuel options or accessories for vehicles.

ECMs may also include “conservation-related cost savings,” which are cost savings, other than utility cost savings, in the operating budget of a Governmental Unit that are a direct result of energy or water conservation measures implemented pursuant to a Guaranteed Utility Savings Contract.

1.7 Roles and Responsibilities

ESCO – ESCOs shall provide information about themselves to Agencies that inquire about their services. An ESCO will determine if Agency is a tenant of GSD. If so, ESCO will contact FMD for notification of services inquiry. ESCO will review and sign the Investment-Grade Energy Audit (IGA) & Project Proposal Contract. ESCO will develop the IGA & Project Proposal and submit to FMD, Tenant-Agency, EMNRD and OSE. ESCO will review the EMNRD-certified IGA & Project Proposal, along with FMD, EMNRD, and the Tenant-Agency, to determine the EPCs to be completed, financing mechanisms, and duration of the contract. ESCO will review and sign the Guaranteed Utility Savings Contract. ESCO will design and construct all ECMs and WCMs that were agreed upon in the Guaranteed Utility Savings Contract. ESCO will, if agreed upon in the contract, provide all necessary maintenance, including materials and labor, for the ECMs and WCMs implemented. ESCO will monitor the energy savings and report those savings to the Tenant-Agency, FMD, and EMNRD. ESCO will request payments according to the Guaranteed Utility Savings Contract.

Third-Party Reviewer – Third-Party Reviewer will independently review IGA & Project Proposal provided by ESCO for feasibility and provide recommendations to the team for all critical decisions. The Third-Party Reviewer will report findings related to the process and implementation to Tenant-Agency, FMD, and EMNRD.
Agency in GSD-Owned Facility – An Agency occupying a GSD-owned facility, partially or completely, is referred to as the “Tenant-Agency” (plural is “Tenant-Agencies.”) Tenant-Agency will gather information to provide to FMD demonstrating the need for utilizing the ESCO process. Tenant-Agency will provide all documentation as required to FMD to determine if facility will be eligible for the ESCO process. Reviews, approvals, and actions may include the following:

- Tenant-Agency Secretary will review and sign the WISE Project Application and Commitment for Energy Performance Contracting.
- Tenant-Agency Secretary will review and sign the Investment-Grade Energy Audit & Project Proposal Contract.
- Tenant-Agency will review the EMNRD-certified IGA & Project Proposal, along with FMD, EMNRD, and the ESCO, to confirm the proposed ECMs and WCMs, financing mechanisms, and duration of the contract.
- Tenant-Agency Secretary will review and sign the Guaranteed Utility Savings Contract.
- Tenant-Agency will assign a staff member to facilitate contact with the PM of FMD.
- Tenant-Agency will make payments to the ESCO according to the signed Guaranteed Utility Savings Contract.

GSD/FMD – FMD will review the WISE Project Application and Commitment for Energy Performance Contracting form provided by Tenant-Agencies to determine which GSD-owned facilities will be eligible for the ESCO process. Involvement, reviews, approvals, and actions will include the following:

- GSD General Counsel will review the WISE Project Application and Commitment for Energy Performance Contracting (Form A).
- GSD Secretary will review and sign the WISE Project Application and Commitment for Energy Performance Contracting, authorizing the Tenant-Agency to move forward with the ESCO process.
- FMD will review the EMNRD-certified IGA & Project Proposal, along with the Tenant-Agency, EMNRD, and ESCO, to confirm the proposed ECMs and WCMs, financing mechanisms, and duration of the contract.
- GSD General Counsel will review the Guaranteed Utility Savings Contract.
- GSD Secretary will review and sign the Guaranteed Utility Savings Contract, allowing the ESCO to initiate work.
- FMD will be involved in development and decision making leading up to the EMNRD-certified IGA & Project Proposal, along with the Agency EMNRD, and the ESCO, to confirm the proposed ECMs and WCMs, financing mechanisms, and duration of the contract.
FMD will assign a Project Manager (PM) to the ESCO project for administration, guidance, and documentation. FMD PM will be involved in all aspects of the project.

FMD will review the *WISE Annual Report of Energy Performance Contracting Project* (Form B).

**EMNRD/ECMD** – EMNRD will collaborate with DFA to format the *WISE Annual Report of Energy Performance Contracting Project* (Form B). ECMD will provide support/information to Agencies inquiring about the ESCO process. Reviews, approvals, and actions may include the following:

- ECMD will review the *WISE Project Application and Commitment for Energy Performance Contracting* (Form A).
- ECMD will review the IGA & Project Proposal Contract and provide technical assistance to Tenant-Agency and GSD.
- EMNRD will review and make a certification determination under the Act of the EMNRD-certified IGA & Project Proposal.
- ECMD will review the Guaranteed Utility Savings Contract and provide technical assistance to Tenant-Agency and GSD.
- ECMD will develop and publish the *WISE Annual Report of Energy Performance Contracting Project*.

**DFA** – DFA will collaborate with EMNRD to format the *WISE Annual Report of Energy Performance Contracting Project* (Form B) under the Act [NMSA 1978, 6-23-6.1].

**SBOF** – The State Board of Finance approves all contracts of more than $5 million before gross receipts tax.

**NMFA** – provides a financing mechanism through the Clean Energy Revenue Bond and Public Project Revolving Fund programs.

### 2.0 INSTRUCTIONS

The *WISE Process* is adopted by GSD in the management of its facilities, statewide, and shall be adopted by the Tenant-Agency in addressing each facility:

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<th>1) Evaluate Needs;</th>
<th>4) Implementation;</th>
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<td>2) Energy Audit;</td>
<td>5) Preventive Maintenance; and</td>
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<td>3) Financing;</td>
<td>6) Continuous Commissioning.</td>
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The purpose of using an ESCO is to procure facility system upgrades utilizing a financing mechanism called energy performance contracting (EPC). An ESCO allows those Agencies
that do not have the necessary funding for system upgrades to finance the projects, paying
them back through energy savings over multiple years. These guidelines are to facilitate the
utilization of statewide price agreements for pre-qualified ESCO services. ESCO pre-
qualification was established to ease the administrative burden on Agencies, fulfill the WISE
Process (see 2.0, Instructions), and provide a source of expertise from the private sector
(the ESCOs) to comprehensively upgrade New Mexico’s public facilities.

Agencies responsible for payment of utility bill invoices may select pre-qualified ESCOs to
implement facilities upgrades utilizing EPC, after the Agency has approval of the facility
owner. This process is available for Agencies that will commit upfront to implementing
energy efficiency projects based on findings of certified IGAs. The following sections
provide direction for the Agencies to incorporate the WISE Process and implement a
project, from preliminary information stage to post-project reporting.

2.1 Agency Buildings Inventory and Funding Needs Assessment

The activities of this section support Step 1—Evaluate Needs—of the WISE Process.

Before selecting a pre-qualified ESCO, the Tenant-Agency shall conduct a preliminary
screening of its occupied GSD building inventory to identify candidate facilities for upgrades
that may yield utility cost savings. For assistance, contact FMD or EMNRD. This initial
attempt to gather information on buildings will help FMD and the ESCO evaluate next steps
needed. Formal facilities condition assessments, energy audits, and existing energy usage
tracking databases (e.g., ENERGY STAR Portfolio Manager) would be the most helpful in this
first step. The energy usage for the previous year should be entered into ENERGY STAR
Portfolio Manager (www.energystar.gov/buildings). This is an energy usage tracking
database sponsored by the federal government. It is available at no cost and allows for easy
documentation of utility usages (electricity, natural gas, water) for comparison after ECM
implementation.

In the absence of such information, alternative criteria that may be used to initiate
evaluation are utility costs, building age, building systems conditions, and indoor
environment conditions. This can be done by a combination of reviewing energy bills,
reviewing facilities condition assessments if available, reviewing building systems
inventories, speaking to maintenance staff or contractors familiar with the facilities, by
occupant interviews, and documenting observed conditions. If contact with an ESCO has
been initiated, the ESCO also may be able to assist; however, no contract shall be
established at this point, before approvals are obtained in Subsection 2.2.

In addition, the Tenant-Agency should review available funding for facilities upgrades and
determine if private financing available through the Act should be considered. Tenant-Agency funding can be combined with the private financing of an EPC project.

2.2 Agency Education on EPC Process and Approval to Proceed

The activities of this section support Step 1—Evaluate Needs—of the WISE Process.

Upon the Tenant-Agency assessing its facilities and funding needs in the above step, the Tenant-Agency shall contact FMD to request that its facility be evaluated, based on the information they have gathered, for possible use of the ESCO process. Upon the Tenant-Agency assessing its facilities and funding needs, and gaining approval from FMD in the above steps, the Agency shall contact EMNRD to request technical assistance under the Act. The Tenant-Agency will complete the WISE Project Application and Commitment for Energy Performance Contracting (Form A) provided by EMNRD. EMNRD will review the Tenant-Agency’s information and provide education and training to the Tenant-Agency on using EPC and selecting an ESCO by statewide price agreement. The Commitment must be signed by the senior executives of the Tenant-Agency and GSD, which commits the Tenant-Agency to selecting energy efficiency project proposed in the IGA and financing them utilizing EPC.

The commitment step demonstrates to all parties involved that the highest level of approval in the Tenant-Agency has been obtained. This is critical in terms of requirements of the Act, which states at 6-23-5, Contract Approval:

A governmental unit shall not enter into a guaranteed utility savings contract with a qualified provider or any installment payment contract or lease-purchase agreement pursuant to that contract unless the contracts and agreements are reviewed and approved as follows:

(1) for school districts, by the superintendent of public instruction;
(2) for state agencies:
   (a) if the facilities, systems or vehicles are owned, leased or otherwise controlled by the general services department, by the secretary of general services; and
   (b) if the facilities, systems or vehicles are not owned, leased or otherwise controlled by the general services department, by the executive head of the state agency;
(3) for municipalities and counties, by the governing body of the municipality or county; and
(4) for all post-secondary educational institutions and the state educational institutions confirmed in Article 12, Section 11 of the constitution of New Mexico, by the commission on higher education.
The Tenant-Agency commitment serves as preliminary approval to proceed to an energy audit by an ESCO, including approval of the Investment-Grade Energy Audit & Project Proposal contract between the Tenant-Agency and the ESCO. Furthermore, the Tenant-Agency commitment is also preliminary approval that the Tenant-Agency will proceed to implement the energy efficiency project, including approval of the Guaranteed Utility Savings contract. If the commitment cannot be given, the Tenant-Agency must demonstrate that adequate funds are available to pay for the energy audit services provided by the ESCO. Upon the Tenant-Agency commitment being approved by GSD, the process to select a Third-Party Reviewer to provide independent oversight of the ESCO will be initiated.

2.3 Selection of an Energy Services Company (ESCO)

The activities of this section support Step 2—Energy Audits—of the WISE Process.

Once the Tenant-Agency commitment is obtained, the selection of an ESCO can occur. This is done via Statewide Price Agreements #15-000-14-05759, AA through AG, maintained by SPD. The price agreements, one for each pre-qualified ESCO, consists of the typical price agreement contract and vendor specific maximum mark ups at which the vendor has been contracted. These mark ups are the only part of the price agreements that are different among the ESCOs. These mark ups are documented as the MAXIMUM the ESCO can charge a Tenant-Agency. This should not be viewed as exactly what will be used in the specific contract, only as a reference to what the maximum could be. Research should be done by the Tenant-Agency into specific ESCOs to determine which ones are suitable for their needs, because different ESCOs specialize in different areas.

The ESCOs will be narrowed down by a secondary selection process. This process will allow each ESCO to give an oral presentation to a board of representatives comprised of members of the Tenant-Agency, FMD, and EMNRD. Each ESCO will be provided with information about the possible facilities, including square footage, utility bills, equipment installed in the last 5 years, and any other pertinent information. Information requested by an individual ESCO will be provided to all ESCOs in the secondary selection process. The independent Third-Party Reviewer will be assigned to the project.

2.4 Energy Audits

The activities of this section support Step 2—Energy Audits—of the WISE Process.

The next step after selecting the ESCO will be planning, conducting, and reporting on the
energy audit. This audit will follow the guidelines for, at minimum, an ASHRAE Level 2 audit. Descriptions of the ASHRAE energy audit levels are provided in an attachment (Section 5.0). From the energy audit, the ESCO will develop recommended ECMs proposed for the energy efficiency project. This list will then be delivered to the Tenant-Agency, along with the energy audit, for review. The energy audit will also be delivered to EMNRD and the Office of the State Engineer (OSE), as applicable, for certification. Levels of Effort in performing energy audits are defined by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (see 3.0, References and 5.0, Appendices / Attachments / Forms).

2.5 Project Selection

The recommended ECMs should be reviewed thoroughly. GSD will review the Project Proposals for those Agencies occupying GSD-owned facilities and work with the Tenant-Agency, EMNRD, and ESCO to determine the final proposed project scope. The ECMs will provide information such as cost of project, projected payback period, and energy savings. All of this information will determine the cost and length of the project contract. Projects that have a long payback period can be combined with those that have a much shorter payback period to create an overall project payback period that is within the necessary payback timeframe determined by the Tenant-Agency.

Any facility in which projects are to be implemented will be sub-metered. If the facility is not currently sub-metered, a charge to provide and install the sub-meters will be added into the contract for financing. This is to be done to make the task of monitoring easier as some facilities share utility meters. The ESCO shall also provide training on use of the sub-meter for facility inhabitants.

2.6 Financing of Energy Efficiency Projects

The ESCO typically provides financing for an energy efficiency project funded through EPC, based on the cost of implementing the ECMs or WCMs. The ESCO should conduct a competitive process for the purpose of obtaining the most favorable financing terms for the project. The financing may cover the full project costs or may be combined with other funding sources. The Tenant-Agency paying the utility bills for a GSD facility is responsible for paying the ESCO. The payment schedule will be provided in the Guaranteed Utility Savings Contract.
Payment for implementation of an energy efficiency project is made by the Tenant-Agency to the ESCO, in agreement with the terms of the selected ESCO’s statewide price agreement and the Tenant-Agency-ESCO Guaranteed Utility Savings Contract. Multiple payments may be made over the term of the financing arrangement as detailed in the Guaranteed Utility Savings Contract. Payments shall not be initiated until the project is accepted in writing by the Tenant-Agency and GSD as having met the specifications. This can occur prior to obtaining measured data on performance of the ECMs or WCMs.

The payment instrument shall be a Purchase Order in a form acceptable to GSD. The Tenant-Agency responsible for payment is the Tenant-Agency that pays the utility bills of the facility. The Tenant-Agency shall incorporate the schedule of payments to the ESCO in its annual budgeting process for the term of the financing arrangement. It is the responsibility of the Tenant-Agency to encumber funds, issue warrants, document payment, and obtain approvals each year of the financing term, or other processing actions as may be necessary. The Tenant-Agency is liable for late charges per the statewide price agreement if payments do not meet the agreed schedule in a timely manner.

Utility company rebates that are generated by a Tenant-Agency’s energy efficiency project shall be provided directly to EMNRD for deposit in the Energy Efficiency Assessment Revolving Fund. This fund is established with an account in the New Mexico State Treasury. Rebate funds shall not be used to buy down upfront project costs or intermingled with the financing plan. The ESCO is responsible for evaluating available utility company rebates on all energy efficiency projects, for both electricity and natural gas. When completing utility company applications for rebates, the Tenant-Agency or ESCO shall indicate that the resulting funds are to be provided to EMNRD. The transfer of utility company rebates to EMNRD shall be included as a requirement in a Governmental Services Agreement between the Tenant-Agency and EMNRD. This supports sustainable funding for energy audits in the WISE Program.

The services of an independent Third-Party Evaluator selected by EMNRD shall be included in all energy efficiency projects utilizing EPC. The cost of these services is 1% of total project cost and shall be included in the financing package. Upon acceptance of the project by the Tenant-Agency and GSD, the Tenant-Agency shall make a separate payment to EMNRD. The Third-Party Evaluator will serve as an agent of the Tenant-Agency, FMD and EMNRD, to ensure that the ESCO of each project is accountable to the agreements, implementation of the ECMs and WCMs, and guaranteed utility savings. The Third-Party Evaluator’s tasks and amount of the payment to EMNRD shall be stated in a Governmental Services Agreement between the Tenant-Agency and EMNRD.
The services of a FMD PM shall be included in all energy efficiency projects utilizing EPC. The cost of this service is 3.0% of the total EPC, as stated at 15-3B-10 of NMSA 1978, and shall be included in the financing package. Upon acceptance of the project by the Tenant-Agency and GSD, the Tenant-Agency shall make a separate payment to FMD once the project is financed. The PM will manage the projects to ensure that the ESCO of each project is accountable to the agreements, is providing the necessary documentation, and is following State requirements.

2.7 Approval of Contracts

The activities of this section support Step 3—Financing—of the WISE Process.

Once the ECMs have been selected, the ESCO will draft a contract based on the Guaranteed Utility Savings model contract provided by EMNRD. This contract is to be signed by the position deemed as signatory authority in the Public Facility Energy Efficiency and Water Conservation Act (6-23 NMSA 1978). In order for the contract to be approved, it must meet the following statutory requirements:

The approval required under this section shall be given upon:

1. a determination that the contracts and agreements comply with the provisions of the Public Facility Energy Efficiency and Water Conservation Act [Chapter 6, Article 23 NMSA 1978] and other applicable law;
2. certification by the energy, minerals and natural resources department that the qualified provider of energy conservation measures meets the experience requirements set by the department and the guaranteed energy savings from the energy conservation measures proposed appear to be accurately estimated and reasonable; and
3. certification by the office of the state engineer that the qualified provider of water conservation measures meets the experience requirements set by that office and the guaranteed water savings from the water conservation measures proposed appear to be accurately estimated and reasonable.

By signing the Guaranteed Utility Savings Contract, the signatory authority of the Tenant-Agency and Cabinet Secretary of GSD are indicating approval to implement ECMs under the Act.

For Tenant-Agencies in GSD-owned facilities, GSD will assign a PM for each EPC project.
2.8 Project Implementation

The activities of this section support Step 4—Implementation—of the WISE Process.

Implementation of the agreed upon ECMs and WCMs will be scheduled by the Tenant-Agency, FMD, and the ESCO. The ESCO will provide the Tenant-Agency’s Construction Manager and FMD’s PM with regular status updates on progress with the project. The ESCO shall coordinate with the Tenant-Agency on scheduling the work so that disturbances to Tenant-Agency business are minimized. The ESCO shall coordinate with the Tenant-Agency and FMD on temporary storage areas needed for ESCO property and ECM/WCM materials, supplies, and equipment. FMD shall enter property asset data on the new ECMs and WCMs into its property asset database. The ESCO shall support FMD by providing the property asset data.

2.9 Maintenance

The activities of this section support Step 5—Preventive Maintenance—of the WISE Process.

Upon acceptance of an energy efficiency project by the Tenant-Agency and GSD, the post-project task of maintenance will begin. The maintenance of the ECMs and WCMs shall be clearly defined in a plan as the responsibility of the ESCO, the Tenant-Agency, GSD, or a combination. These tasks and responsibilities shall be stated in the Guaranteed Utility Savings Contract. The ESCO shall train Tenant-Agency or FMD staff, as applicable for the facility, in cases where the ESCO is not responsible for maintenance of an ECM or WCM. FMD shall enter maintenance data on the new ECMs and WCMs into its preventive maintenance database. The ESCO shall support FMD in obtaining the preventive maintenance data.

2.10 Monitoring and Annual Reporting

The activities of this section support Step 6—Continuous Commissioning—of the WISE Process.

Upon acceptance of implementation of an energy efficiency project by the Tenant-Agency and GSD, the post-project tasks of monitoring and reporting will begin. Facility performance data from the post-project period provides feedback to FMD on how well the property asset, occupants, and maintenance are performing. The Tenant-Agency will implement performance evaluation and fine-tuning of building systems during this period to initiate continuous commissioning of the facility.
Energy usage must be closely monitored by the ESCO and the approved Measurement & Verification (M&V) Plan of the Guaranteed Utility Savings Contract must be initiated. The M&V Plan shall comply with requirements of the International Performance Measurement and Verification Protocol (IPMVP). An annual report to EMNRD, the Tenant-Agency, and GSD shall be provided by the ESCO by July 30th for the previous fiscal year ending June 30th. The Wise Annual Report of Energy Performance Contracting Project (Form B) provides the format. These tasks and responsibilities of the ESCO shall be stated in the Guaranteed Utility Savings Contract. The US Department of Energy (DOE) tool eProject Builder may be used for annual reporting if approved by EMNRD, GSD, and DFA.

Energy usage data during post-project monitoring should also be kept by the Tenant-Agency and FMD. The data will be used in energy savings reporting and to verify the report of the ESCO. The Third-Party Reviewer will track the M&V Plan deliverables, review data and reports from the ESCO on the M&V Plan, and provide comments to the ESCO, Tenant-Agency, FMD, and EMNRD, as applicable, on meeting M&V Plan requirements and guaranteed utility savings under the Act.

Energy usage is the basis of the ESCO’s annual reporting to the Tenant-Agency, provided each year for a length determined in the Guaranteed Utility Savings Contract. Facility energy performance will be closely monitored by both the ESCO and the Tenant-Agency, to determine each fiscal year if the ESCO’s guarantee is being met, or not. It is the responsibility of the Tenant-Agency to verify that the guarantee is being met, in consultation with FMD and EMNRD. This is done by monitoring the sub-meter installed in the facility, or facilities, as well as the energy bills. The sub-meter should be compared to the utility bill for accuracy. This data will also be entered in ENERGY STAR Portfolio Manager for comparison to the agreed upon baseline. The data entry will be performed by either the Tenant-Agency or the ESCO, as determined when developing the Guaranteed Utility Savings Contract. The baseline year remains the same throughout the financing period, with adjustments made for a fair comparison to each new current year. Monitoring will depend greatly on what projects are implemented. Metering of systems that projects are implemented on will be discussed upon selection of projects. This is done to directly verify that the implemented projects are performing as designed, without input from systems that were not selected for upgrade.

The ESCO will provide quarterly updates of utility billings in Portfolio Manager to GSD, which will be shared with the Tenant-Agency and EMNRD. A reduction in energy usage should be clearly shown in the updates. In each year’s annual report, the ESCO shall extend the energy usage data to provide the utility cost savings, comparing the most recent current year to the agreed baseline year. This is an engineering analysis of avoided energy costs, not utility bill accounting, which shall be reviewed by EMNRD for accuracy. If the energy
cost avoidance is not equal to or greater than utility cost savings guaranteed by the ESCO, the Tenant-Agency shall notify the ESCO that the cause needs to be identified. A plan shall be developed by the ESCO and approved by GSD and EMNRD to guide resolution of the shortfall in utility cost savings.

3.0 REFERENCES

Statewide Price Agreements #15-000-14-05759AA, AB, AC, AD, AE, AF, and AG, New Mexico General Services Department, Purchasing Division, [www.generalservices.state.nm.us/statepurchasing/Statewide_Price_Agreements.aspx].

4.0 REQUIRED RECORDS

a) WISE Project Application and Commitment for Energy Performance Contracting (signed)
b) Utilize ENERGY STAR Portfolio Manager to document, at a minimum, the previous year’s energy usage (electricity, gas, water) for all buildings involved in the ECMs. Maintain the data to document the energy savings in a standardized, reportable format.
c) AiM property asset and preventive maintenance database records, updated at conclusion of implementation of ECMs and WCMs (GSD-owned facilities)
d) Investment-Grade Energy Audit certified by EMNRD
e) Statewide Price Agreement with ESCO used on project
f) Investment-Grade Energy Audit contract (signed)
g) Guaranteed Utility Savings Contract (signed)
h) WISE Annual Report for Energy Performance Contracting Project (all years to present through term of Guaranteed Utility Savings Contract)
5.0 APPENDICES / ATTACHMENTS / FORMS

- FMD-420.004.FM01 WISE Project Application and Commitment for Energy Performance Contracting.
- Form B: WISE Annual Report for Energy Performance Contracting Project (*pending development by ECMD*).
- *Levels of Effort*, pages 3-5, ASHRAE *Procedures for Commercial Building Energy Audits*
- Model Investment-Grade Energy Audit Contract document.