

Disclaimer:

The State Energy Office of North Carolina would like to thank the National Energy Services Coalition for allowing the use of this resource for USI participants. A great deal of work went into compiling this information into a single location. As you go through this program and/or have additional questions, please contact Reid Conway reid.conway@ncdenr.gov.



GESPC-U Lesson #105:

The RFP and What Needs to be Gathered

FYI: Terms and Acronyms can be found on the last page

Summary: Details about releasing an RFP and what information needs to be gathered. Looking at all the steps required.

Performance contracting is a multi-billion dollar a year industry that offers unique services that have helped untold numbers of institutions resolve many of their infrastructure issues, be more energy efficient and address their climate change and resiliency goals. Some states are reaping considerable benefits from successful performance contracting projects, often because they have established state-administered programs that help manage this process for the end-user. But there are states without programs, without standardized documents and contracts, without oversight, and without a pool of pre-qualified providers and still, performance contracting marches on.

Lucky for you, NC has a defined process and template documents to help you get started. SEO has spent many years getting these template documents vetted and approved. All the ESCOs are familiar with them and have agreed to only use them for GESPC projects.

As we have been talking throughout the last few sessions, NC has both General Statutes, template documents and other helpful information on our website. You will need to take enough time to read and understand all the information contained within these documents. Especially the contract documents. NC has a successful program and here is the link to a wealth of information.

<https://deq.nc.gov/conservation/energy-efficiency-resources/utility-savings-initiative/performance-contracting>

At the website link above you will find all the critical information. You will want to open each one up and get familiar with the information contained. The General Statutes are the basis for GESPC in NC. The Better Practices for Performance Contracting is a must read for anyone considering doing a GESPC in NC. This will walk you through the process and provides key insights into the process, rules, and regulations. You will need to provide a copy of the contract documents to your legal folks so that they can review and comment prior to the RFP being released.

Prior to getting started, SEO is available to you to help educate your staff and the team that will be responsible for this project. It is important for you to know all you can prior to releasing the RFP.

NC is typical that governmental units will follow a standard process for soliciting, evaluating, and selecting a Qualified Provider. The project owner assembles information for what they'd like a project to involve, which facilities will be included, identify a point person, provide at least 3 years of utility data, copies of blueprints or as-builts if possible, old energy assessments, and any other information that be helpful to the ESCOs. The governmental unit (GU) will work with SEO to fill in the template RFP (Request of Proposal) and timeline. Then the GU will advertise the solicitation in a paper of local distribution for at least 15 days prior to the bid opening. SEO then sends this out to the

prequalified list as a solicitation where several things can happen. The ESCOs will be required to attend a Mandatory Pre-Bid meeting where all the information gathered by the owner will be distributed. The ESCO will be offered an opportunity to join a walkthrough of the facilities. During the Pre-Bid meeting the Owner talks about what they want the project to achieve and offers a tour of the facilities so that the ESCOs get a preliminary sense of the conditions and status of the sites. If an ESCO remains interested in the project, they are required to submit their proposal at the stated time in the RFP, in which they present their initial ideas relating specifically to the owner's stated needs, as well as their strengths to best manage and successfully complete a project like the one envisioned.

As required in NC the owner will need to secure the services of Qualified Reviewer/3rd Party Engineer to review and comment on the ESCO responses to the RFP. This Qualified Reviewer provides expertise that the owner's review team doesn't possess. It is up to the owner as to the whether the QR is a voting member of the team. It is recommended that the QR has knowledge of the owner's facilities, as important has knowledge and understanding of the NC GESPC process and legislation.

At the bid opening, SEO will obtain a copy of all the proposals as required by statute. SEO will provide the owner with comments and remarks for all proposals. However, SEO will not vote or score any of the proposals. SEO is here to help the owner understand the proposals and will provide training on how to review a proposal.

Within the RFP the owner will use the evaluation criteria to evaluate each company's proposal and ultimately develop a "short list" of ESCOs that offer enough potential to invite them to participate in the next step: an interview.

The oral interviews are one of the most critical steps to getting to know the ESCOs. During interviews, it is very important for the owner's selection team to take good notes to provide the grounds for scoring the companies and to validate the decisions that are made later.

If these oral interviews are the first time you have held interviews for a performance contract, it is recommended you get help; from your state, from a peer, or from an experienced 3rd party that can help you know what to ask to find the best fit. SEO is required to attend these oral interviews and will help provide questions if needed to ask during the interview. Remember, this is owner's opportunity to ask the questions that address the issues they want addressed. And don't neglect to ask the uncomfortable questions, either. Like, has the ESCO ever had a project that didn't generate the guaranteed savings? If so, did they cut a check for the shortfall amount? Why do they think it happened? How will they prevent it from happening on this project?

In the end, this is your procurement process and as the owner you will have your own criteria to evaluate, judge and select. The criteria may come from your procurement history and with the assistance of the SEO and a knowledgeable 3rd party. Equally important in finding the best fit is to check references. This is well reinforced in procurement circles that the selection team should reach out and talk to people about their experiences. How did it go? What do you wish they would have done differently? What was the best part about working with that ESCO? And it's not just about the construction but the investment grade audit and post-construction services as well. This will likely have a multi-year finance repayment contract – so be sure to ask the references about how their cost savings looked throughout the entire period, not just after the first year. How did their ESCO manage necessary changes made to your buildings? Did the ESCO's original team remain on their project for the length of the contract or were new ESCO personnel assigned frequently?

It is important to know the legacy of the ESCOs' projects – have they historically performed both physically and financially? But don't just check the references of the best projects. Ask the ESCOs about their worst project as well – and ask what did they do about it? If you know someone that has already done a performance contract, reach out to them for "inside" information.

These are some of the things you need to know so you can make the best choice of an ESCO and confidently enter into a multi-year financing agreement designed to pay for itself from guaranteed cost savings year after year.

So, at this point you have ranked the ESCOs, interviewed the highest ranked and checked references. What now? In NC this is the time you request financials from the highest ranking ESCO. These financials will be based on the ESCOs RFP response and the ECMs included in the ESCOs stated project. (Note: As the owner you will be able to negotiate during the IGA, the scope and other ECMs you would like to see as part of this project.) The Attachments as they are called will include Attachment A which will provide a breakdown by building and by ECM to give you a cost and savings. Attachment B will provide all the cost associated with this project. Some of the costs broken out will be ESCO profit, overhead and markup. ESCO design fees, engineering fees, project management, etc. Attachment C will provide an estimate of the annual guarantee and a total cost of the ESCO proposed project to include escalation rates if used.

Unique to NC is the owner's ability to negotiate these costs or at least negotiate not to exceed percentages of the costs. Attachment B is the only document that breaks down all these costs that are not seen in a normal construction project.

Again, unique to NC if the owner cannot negotiate with the highest ranking ESCO, they can stop the process with ESCO A and move down the list to the next highest ranked ESCO B. In doing so, there is no going back to ESCO A.

So, at this point you move forward with the selection of the ESCO, and Lesson 106 will talk about the Investment Grade Audit.

The State Energy Office will be holding your hand throughout this process of the RFP and providing help as you navigate this entire process from beginning to end.

Once you feel comfortable with the information above, please scroll down and complete the quiz below. Email your answers to Reid Conway at reid.conway@ncdenr.gov. If you have additional questions, feel free to include them as well.

Lesson 105 Quiz

1. How long does the advertisement need to be made prior to the bid opening?
2. What is some of the information needed to be gathered to be provided to the ESCOs at the Mandatory Pre-Bid meeting?
3. During the Oral Interview, what questions should be asked?
4. Why is it important to check references?
5. What is contained in the Attachments?
6. Why do I want to negotiate the costs?

Terms and Acronyms

3 rd Party	3 rd Party Engineer
COS	Council of State
DOA	NC Department of Administration
DPI	NC Department of Public Instruction
ECM	Energy Conservation Measure
ESA	Energy Services Agreement
ESC	Energy Services Coalition
ESCO	Energy Service Company could be interchangeable with QP
ESPC	Energy Saving Performance Contracting
GEPC	Guaranteed Energy Performance Contracting
GESPC	Guaranteed Energy Saving Performance Contracting
GS	General Statute
GU	Governmental Unit
IGA	Investment Grade Audit
IPMVP	International Performance Measurement and Verification Protocol
LGC	Local Government Commission (Housed in the Treasurer's Office)
LGU	Local Governmental Unit
M and V	Measurement and Verification
OR	Owner's Representative
OSBM	NC Office of State Budget and Management
PC	Performance Contracting
Pre-Bid	Meeting held prior to the bid opening
QP	Qualified Provider could be interchangeable with ESCO
QR	Qualified Reviewer
RFP	Request for Proposal
SEO	State Energy Office
UNC	Refers to the UNC System
USI	Utility Savings Initiative