

## **Performance Work Statement (PWS)**

### **1.0. Background**

- 1.1 DOE is one of the largest consumers of energy in the United States. Its facilities consume approximately \$400 Million in utility services (electricity, natural gas, water, and steam each year<sup>1</sup>. DOE has been delegated authority to procure utility services on behalf of its sites and facilities from the United States General Services Administration (GSA). GSA has also delegated authority to DOE to intervene in regulatory proceedings before certain public utility commissions and other regulatory bodies to represent the consumer interests of specified Federal Executive Agencies (FEAs).
- 1.2 In accordance with its delegations from GSA, DOE has an established program to represent FEA's consumer interests in regulatory proceedings and for the acquisition and management of DOE utility services, especially the purchase and use of electric energy and natural gas, to insure the best value for these utility services are acquired by DOE. This program is managed by FEMP and the DOE Office of General Counsel, at the DOE Headquarters, in Washington, DC.

### **2.0 Objectives**

The objective of this Contract is to provide services that will assist DOE in: (1) participating in utility regulatory proceedings to protect FEA and DOE site consumer interests at its facilities; and, (2) determining the most effective strategies for acquiring utility services to meet the needs of DOE facilities. As a direct result of Contract performance, FEMP expects to achieve and obtain the following:

- 2.1 Quality energy related support services in all functional areas.
- 2.2 Timely and highly accurate, defensible recommendations and deliverables (including but not limited to reports, presentations, depositions, and written testimony for Government consideration).
- 2.3 Analysis, evaluation advice, recommendations and deliverables to assist the Government in making faster, better informed decisions concerning DOE utility acquisition strategies and FEA regulatory intervention activities.
- 2.4 Proactive identification of potential issues, with related analysis, evaluation, advice and recommendations to the Government for potential solutions.
- 2.5 Cost avoidance/cost savings results and other benefits through the Contractor's efforts in performing this Contract.

### **3.0 Scope**

- 3.1 This is a Requirements Contract. Funding will be obligated based on actual Government needs using the Task Order (TO) placement process identified in Section G, Paragraph G.4. Although Contractor responsibilities include all requirements described in this PWS, two key Contractor areas of responsibility require the provision of subject matter expertise and technical assistance to DOE regarding: (1) regulatory proceedings as further described in Paragraph 4.1; and (2) utility options studies and reports as

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<sup>1</sup> Based upon Fiscal Year 2010 data collected by FEMP.

further described in Paragraph 4.2. This PWS contains the general scope of the Contract, including other respective areas of servicing. More specific servicing requirements will be designated in executed TOs.

- 3.2 The Contracting Officer is the only person authorized to sign contracts (within his/her respective warrant authority), place TOs, and modify the Contract and TOs. Other duties of the Contracting Officer, and any delegable duties, will be identified at the Post Award Conference (described in Paragraph 7.1 below) along with any limitations on those delegated duties.
- 3.3. As part of the scope of this Contract, the Contractor will be engaged in activities and services that may lead to important Governmental decisions. The Contractor, including all employees and subcontractors, shall at all times clearly communicate its status as a contractor, including but not limited to proper identification in e-mail communications, teleconference calls, and meetings, to assure that all participants can differentiate between Federal employees and Contractor employees/subcontractors. The Contractor shall perform in such a manner as to assure that other parties, Government or otherwise, are informed the Contractor is not acting in any official Government capacity. Contractor-generated documentation shall also clearly identify the Contractor status as independent from the Government and not acting in any official Government capacity.
- 3.4 This is a Non-Personal Service contract. The Contractor is responsible for the quality of work, and the Government will perform inspection and acceptance of the completed work in accordance with Federal Acquisition Regulation (FAR) Clause 52.212-4 (a) Inspection and Acceptance, Government Quality Assurance (Paragraph C.4), and other relevant provisions of this Contract. Contractor employees (and subcontract employees if applicable) performing services under this Contract will be controlled and supervised at all times by Contractor management personnel. Supervision over staff is the domain and direct responsibility of the Contractor. Contractor management shall ensure that its employees properly comply with the performance work standards, and perform duties independently and without supervision by Government personnel. The tasks, duties, and responsibilities set forth in this PWS may not be interpreted or implemented in any manner that results in any Contractor employee creating or modifying Federal policy, obligating funds of the Government, overseeing the work of Federal employees, providing direct personal services to any Federal employee or otherwise violating Government prohibitions. Inherently Governmental functions are not to be assigned to Contractor employees.
- 3.5 Services provided by this Contract are not intended to, and do not, include Inherently Governmental Functions. The tasks, duties and responsibilities set forth in this PWS may not be interpreted or implemented in any manner that impedes or pre-empts the Government's decision-making process, discretion or authority, or results in the Contractor, or any of its employees or subcontractors, creating or modifying Federal policy, regulatory interpretation, or strategies; obligating funds of the Government; overseeing the work of Federal employees; providing direct personal services to any Federal employee; or otherwise violating Government prohibitions against Contractor performance of Inherently Governmental Functions. Inherently Governmental Functions are not to be assigned to Contractor employees or subcontractors. See also H.6 of this Contract.

#### 4.0 Performance Requirements

4.1 Utility Regulatory Proceedings. Utilizing Key Personnel and Other Contractor Personnel the Contractor shall provide the following types of support as further defined in an executed TO for assigned utility regulatory proceedings. In all instances, the Government shall make all final determinations and decisions regarding actions or strategies to be undertaken as a result of the Contractor's analysis, evaluations, advice and/or recommendations:

4.1.1 Ongoing Regulatory Monitoring. Establish and maintain a system for monitoring State, local, Federal or other regulatory activities related to rate proposals or decisions that would affect DOE consumer interests. These regulatory developments (State, local, Federal or otherwise) shall be monitored on a regular basis which, for the purposes of this Contract, is defined as at least monthly or more frequently, as requested by the Government. Regulatory activity that may affect DOE and identified FEAs shall be summarized in a Monthly Regulatory Report. The Monthly Regulatory Report is a brief, newsletter-type document that summarizes State, local, Federal or other regulatory activity that may affect DOE or identified FEAs using plain language. The first page of the Monthly Regulatory Report shall include a table summarizing the potentially affected sites/locations and a brief description of the issue.

4.1.2 Preliminary Analysis of Regulatory Action. Prepare a preliminary review and analysis of State, local, Federal or other regulatory filings that affect DOE consumer interests. These regulatory filings will vary greatly in content and volume and include items such as the utility company's direct testimony, schedules, exhibits, pertinent studies, and supporting appendices. The Contractor will identify from this preliminary review all major issues affecting specific DOE locations and the selected sites of other major FEAs. The Contractor shall provide the Government with a Preliminary Analysis of Regulatory Action Report which shall estimate the annual financial impact to DOE and the identified FEAs and provide information to support a Government decision on whether to proceed with an intervention based on the likelihood of achieving the stated results. The Government shall ultimately make the determination whether to proceed with intervention in a regulatory action.

4.1.3 Detailed Analysis of Regulatory Action. Provide a thorough review and analysis of all documents filed by all parties to a regulatory action, including those submitted by the affected utility company and other interveners, either initially or during the course of the regulatory action. Review and analyze the facts, findings, conclusions, opinions, and orders of the regulatory body in accordance with the overall objectives of DOE and/or other FEAs and in accordance with the individual tasks defined in each TO. Prepare and provide accounting, economic, financial, engineering, regulatory, or other public utility studies, exhibits, expert testimonies, and evaluations as requested by the Government. Such reviews and analyses may include, but are not limited to:

4.1.3.1 Rate Design, Rate Base, Rate of Return, Cost of Service,

Revenue Requirements, and components of the overall Rate of Return.

- 4.1.3.2 Attrition Allowances
- 4.1.3.3 Capital Structure
- 4.1.3.4 Operation and Maintenance Expenses
- 4.1.3.5 Depreciation Expenses
- 4.1.3.6 Utility Plant In Service
- 4.1.3.7 Amortization of Utility Plant Acquisition or Losses or Conversion Expenses
- 4.1.3.8 Taxes Other than Income Taxes; Federal Income Taxes; Provision for Deferred Income Taxes; Investment Tax Credits; and Accumulation of Deferred Taxes
- 4.1.3.9 Gains or Losses from Disposition of Utility Plant
- 4.1.3.10 Allowances for Funds Used During Construction
- 4.1.3.11 Interest Charges
- 4.1.3.12 Extraordinary Items
- 4.1.3.13 Land and Plant Held for Future Use
- 4.1.3.14 Construction Work in Progress
- 4.1.3.15 Contributions in Aid of Construction
- 4.1.3.16 Allowances for Working Capital, Materials and Supplies, and Prepayments
- 4.1.3.17 Pollution Control Equipment

4.1.4 Discovery. Assist DOE's Office of General Counsel in developing necessary data and other requests, appearing in depositions, preparing necessary responses to any data requests directed to DOE, and distributing such data requests and/or responses to interested parties after DOE review and approval. The Contractor shall also be responsible for briefing DOE and/or FEA legal counsel and other representatives on proposed cross-examination questions and expected answers of all witnesses as identified by DOE's legal counsel, as well as assisting in the development of cross-examination questions.

4.1.5 Expert Testimony. Develop and provide pre-filed expert testimony in support of the DOE determined positions and issues, subject to DOE oversight and final approval. Prepare proposed expert testimony in the format required by the regulatory body or as otherwise specified in the TO. Present testimony as an expert witness in support of DOE determined positions and issues, for consideration by State, local, Federal and other regulatory bodies, as requested and approved by DOE. Such testimony may include accounting, economic, financial, engineering, regulatory, or other public utility studies, exhibits, expert testimonies, and evaluations as directed and approved by DOE.

4.1.6 Hearings and Conferences. Attend hearings, settlement conferences and/or other meetings of regulatory bodies, as requested by DOE. Provide technical advice and expert opinion during the course of hearings, settlement conferences and/or other meetings in the capacity of an expert witness, in conformance with DOE positions and issues, as requested and approved by DOE. Any expert opinion provided by the Contractor is expressly subject to DOE oversight and final approval. The TO shall document whether DOE requires the Contractor to provide minutes or other meeting notes for Contractor attended hearings, conferences and other meetings.

4.1.7 Final Order Review. Review and analyze final orders and/or opinions issued by the regulatory body. Prepare and submit to DOE a Final Order Review which includes a brief synopsis of the entire regulatory proceeding and identifies the issues that were decided in favor of or against DOE and identified FEAs. Provide a listing of the issues identified in the Final Order Review with an estimate of the annual dollar impact, and other Government benefits, and recommendations on issues to be addressed in future regulatory proceedings.

4.1.8 In furtherance of, and in addition to the requirements identified in this Paragraph 4.1 and its subparagraphs, the Contractor shall provide all data or information requests and responses to data requests required to develop an intervention effort.

4.2 Utility Studies, Reports, and Other Technical Analyses: Utilizing Key Personnel and Other Contractor Personnel, the Contractor shall provide studies, reports, and other technical analyses as further described below. The Contractor shall be responsible for the research, analysis, and release of such studies, reports, and other technical analyses to the Government for use and publication. Release of such studies, reports and other technical analyses beyond DOE for whatever purpose, will be subject to DOE oversight and approval. The required studies, reports, and other technical analyses shall cover all facets of utility services and physical utility plant, as directed by DOE, including planning, engineering and economic issues which effect the acquisition and management of utility services, and may involve, but are not limited to, the following:

4.2.1 Reviewing DOE facility utility bills to determine if the site is in the proper class of service and taking service under the most appropriate rate schedule; and, if local energy management and energy conservation measures have been properly considered in relation thereto.

4.2.2 Conducting economic and engineering studies of available utility supply options and assisting DOE in the development of recommended strategies to meet facility requirements in a manner which provides the best value to DOE.

4.2.3 Working with facility personnel in determining how proposed changes in site facilities may impact utility service requirements and supporting the Government's development and determination of long-range utility infrastructure development and acquisition plans.

4.2.4 Providing DOE with direct technical support in its contract negotiations with local utilities by conducting research, developing documentation, generating options, analyzing the impact of contract changes, and participating in discussions with utility technical personnel.

4.2.5 Evaluating and proposing alternative options and methods for the Government's consideration in improving efficiency, reducing costs and making effective use of the energy, supplies and utility plant facilities under various conditions of use.

4.2.6 Reviewing changes in pricing structure for utilities to determine potential effects on DOE.

4.2.7 Providing engineering and economic analyses and recommending

alternatives for utility transmission systems and related facilities, including physical plant inspection and assessment and evaluation of service issues, including but not limited to high voltage discounts, ownership of facilities, and access to other sources of supply.

4.2.8 Conducting short-term and long-term energy price forecasts for DOE facilities to assist the Government with its energy procurement decisions and evaluation of energy efficiency retrofit projects.

4.2.9 Examining and evaluating available utility incentive programs and making recommendations to the Government on how DOE facilities may incorporate those funding sources into their energy conservation programs.

**5.0 Deliverables**

5.1 The Service Deliverables (SDS) table below provides a summary of deliverables most commonly expected from the performance requirements stated in Paragraph 4.0. The inclusion of deliverables, or exclusion of deliverables, from the SDS table below does not preclude the Government from requesting, and the Contractor from providing, any additional or modified deliverables as may be specified in a TO. The Acceptable Quality Level (AQL) and Due Date shall be determined and incorporated into each TO. Any additional measures shall be meaningful and shall not contradict the SDS table or Contractor Performance Assessment Reporting System (CPARS) reporting requirements.

<b>SERVICE DELIVERY SUMMARY (SDS)</b>					
	<b>Deliverable</b>	<b>PWS Para</b>	<b>Objective</b>	<b>Acceptable Quality Level (AQL)</b>	<b>Due Date</b>
1	Monthly Regulatory Monitoring Report  (Performance measures negotiated at the TO level)	4.1.1	The Monthly Regulatory Report is a brief, newsletter-type document that summarizes Federal, State, local or other regulatory activity that may affect DOE or certain FEAs using plain language. The first page of the Report shall include a table summarizing the potentially affected sites/locations and a brief description of the issue.	Report is consistently submitted in a timely fashion. Report demonstrates focus on impactful regulatory changes, and site impact. No more than _____ quality issues. No more than ___ days to Rework any major or minor quality issues after Government feedback received. Resubmit any Rework within ___ business days as defined in the TO.	Monthly. TBD at the Task Order level

<p>2</p>	<p>Preliminary Analysis of Regulatory Action Report</p> <p>(Performance measures negotiated at the TO level)</p>	<p>4.1.2</p>	<p>Prepare a preliminary review and analysis of the regulatory action or rate application submitted by each utility company to the appropriate regulatory body. These regulatory actions and rate applications will vary greatly in content and volume and may include items such as the company's direct testimony, exhibits, pertinent studies, and supporting appendices. The Contractor shall provide the annual estimated financial impact to DOE and the identified FEAs and support a Government decision on whether to proceed with an intervention based on the likelihood of achieving the state results. The Government shall ultimately make the determination whether to proceed with intervention in a regulatory action.</p>	<p>Provide quality review and analysis for each rate application to the appropriate regulatory body in a manner that is accurate, succinct, publication quality documents submitted within timeframe to be determined in TO. No more than _____ major quality issue(s). No more than ____ days to Rework any major or minor quality issue(s) after Government feedback received. Minor quality issue(s) will become major if causing significant Rework as to cause delays stemming from the overall accuracy, clarity, timeliness, or quality of the overall TO service.</p>	<p>As negotiated at the TO level</p>
<p>3</p>	<p>Detailed Analysis of Regulatory Action Report</p> <p>(Performance measures negotiated at the TO level.)</p>	<p>4.1.3</p>	<p>Detailed Analysis of Regulatory Action. Provide a thorough review and analysis of all documents filed by all parties to a regulatory action, including those submitted by the affected utility company and other interveners, either initially or during the course of the regulatory action hearings. Review and analyze the facts, findings, conclusions, opinions, and orders of the regulatory body in accordance with the overall objectives of DOE and/or the other FEAs and in accordance with the individual tasks defined in each TO. Prepare and provide accounting,</p>	<p>Accurate, meaningful to the purpose, quality analysis submitted within timeframe to be determined in TO. No more than _____ major quality issue(s). No more than ____ days to Rework any major or minor quality issue(s). Minor quality issue(s) will become major if causing significant rework as to cause delays stemming from the overall accuracy, clarity, timeliness, or quality of the</p>	<p>As negotiated at the TO level</p>

			economic, financial, engineering, regulatory, or other public utility studies, exhibits, expert testimonies, and evaluations as requested by the Government.	overall TO service.	
4	Discovery Support. Regulatory Proceeding, Documents  (Performance measures negotiated at the TO level.)	4.1.4 and 4.1.5	<p>Discovery: Assist DOE's Office of General Counsel in developing necessary data and other requests, appearing in depositions, and in preparing necessary responses to any data requests directed to DOE, and distributing such data requests and/or responses e to interested parties after DOE review and approval. The Contractor will also be responsible for briefing DOE and/or FEA legal counsel and other representatives on proposed cross-examination questions and expected answers of all witnesses as identified by DOE's legal counsel, as well as assisting in the development of cross-examination questions.</p> <p>Expert Testimony: Develop and provide pre-filed expert testimony in support of the agreed DOE determined positions and issues. The Contractor's expert testimony is expressly subject to DOE oversight and final DOE approval. Prepare expert testimony in the format required by the regulatory body or as otherwise specified in the TO. Present testimony as an expert witness for consideration by State, local, Federal and other regulatory bodies, as requested and approved by DOE. Prepare accounting, economic, financial, engineering, regulatory, or other public utility studies, exhibits, expert testimonies, and</p>	Accurate, succinct, publication quality documents submitted within timeframe to be determined in TO. No more than _____ major quality issue(s). No more than ____ days to Rework any major or minor quality issue(s). Minor quality issue(s) will become major if causing significant rework as to cause delays stemming from the overall accuracy, clarity, timeliness, or quality of the TO overall service.	As negotiated at the TO level



			evaluations.		
5	<p>Final Order Review</p> <p>(Performance measures negotiated at the TO level.)</p>	4.1.7	<p>Review and analyze the final orders and/or opinions issued by the regulatory body. Prepare and submit to DOE a Final Order Review summary report which includes a brief synopsis of the entire regulatory proceeding case and identifies the issues that were decided in favor of or against DOE and identified FEAs. Provide a listing of these issues identified in the Final Order Review with an estimate of the annual dollar impact, and other Government benefits, and with recommendations on issues to be addressed in future regulatory proceedings.</p>	<p>No material information is missing. Report contains detailed and useful information capturing the merit of winning the case, or recommendations and a clear approach forward if losing the case. Proper supporting backup documentation showing the integrity of the calculations is present in the report. No more than _____ major quality issue(s). No more than ____ days to fix any major or minor quality issue(s). Minor quality issue(s) will become major if causing significant Rework as to cause delays stemming from the overall accuracy, clarity, timeliness, or quality of the overall TO service.</p>	As negotiated at the TO level
6	<p>Utility Options Studies</p> <p>(Performance measures negotiated at the TO level.)</p>	4.2.	<p>Individual TOs will identify scope, specific deliverables, timeframe for submission and timeframe for correction and resubmission of any requested changes.</p>	<p>Publication quality documents submitted within timeframe negotiated into the individual TO. No more than one major quality issue(s). No more than ____ days to Rework any major or minor quality issue(s) as such days are defined in the TO. Minor quality issue(s) will</p>	As negotiated at the TO level.

				become major if causing significant Rework as to cause delays stemming from the overall accuracy, clarity, timeliness, or quality of the overall TO service.	
7	Utility Price Forecasts  (Performance measures negotiated at the TO level.)	4.2.8	Individual TOs will identify scope, specific deliverables and timeframe for submission and timeframe for correction and resubmission of any requested changes.	Forecasts are quality, reliable, understandable for the intended audience, submitted within timeframe negotiated into the individual TO. No more than _____ major quality issue(s). No more than ___ days to Rework any major or minor quality issues as such days are defined in the TO. Minor quality issue(s) will become major if causing significant Rework as to cause delays stemming from the overall accuracy, clarity, timeliness, or quality of the overall TO service.	As negotiated at the TO level.

**6.0 Additional Submissions Listing.**

In addition to the deliverables identified in Paragraph 5.0 above, the Contractor shall submit the following documentation:

Required Submissions	Time Frames	Description/Due	Provide to:
Year-End Summary of Contract Performance Report.	Annually, with specific date to be identified in the TO.	The Contractor Year-End Summary shall provide DOE with a brief summary of the overall status of all services per TO issued	CO

		under this Contract. The Year-End Summary shall include, as a minimum: an update on funds expended in relation to any ceilings identified in each Task Order; identification of significant risks to scheduled deliverables and plans to mitigate them; and all other items deemed relevant by the Contractor to maintaining the services required in this Contract including, but not limited to, recommendations for changes and; identification of trends or patterns.	
<b>Invoice</b>	Monthly (any/all billable TOs)	Invoices and supporting information shall be submitted monthly on an individual TO basis and/or consolidated basis as requested by the Government. Submit within 7 calendar days of the start of each month.	E-invoice
<b>RFP Ordering</b>	Business days following issuance	The Contractor shall submit the proposal for routine requests within 10 business days and for expedited requests within 5 business days or as identified in the TO.	CO
<b>Licenses and/or Certifications Required to Perform</b>	As needed	Contract shall submit any licenses and/or certifications prior to beginning any performance dependent upon that license, or certification.	CO or as delegated to COR
<b>Travel Requests</b>	As needed	Contractor travel requests shall be submitted prior to any travel.	CO or as delegate to COR
<b>Key Personnel Listing</b>	With proposal submission and as otherwise warranted	Initially submitted with Offeror's proposal. Updates shall be submitted as changes occur and prior to any performance by	Initially in Offeror's proposal and subsequent to CO or as delegated to COR

		newly added personnel.	
<b>Contractor Conflict of Interest Disclosures</b>	With proposal submission and as otherwise warranted	Prior to the individual performing under Contract. Update as changes occur	Initially in Offeror's proposal and subsequent to CO
<b>Contractor Non-Disclosure Agreement</b>	Initial submission by the earlier of 10 business days after contract award or prior to performance under any TO. Subsequent submissions are due prior to the commencement of services under a TO.	A template non-disclosure agreement is provided as Attachment 3, Contractor Employee Non-Disclosure Agreement	CO

7.0 Meetings

7.1 Post Award Conference. The Contractor is required to attend a Post Award Conference for this Contract. The conference will preferably be conducted via conference call or webinar. The date and time will be proposed by the Government and coordinated with the Contractor. As a minimum, all Key Personnel are required attendees.

7.2 Periodic Meetings. DOE may schedule periodic meetings for the purpose of conducting interim Contractor evaluations and monitoring Contract and/or TO performance. The Contractor shall attend such periodic meetings which may address any or all of the following issues:

7.2.1 Overall status of all TOs, including but not limited to: (i) Update on funds expended in relation to any ceilings identified in each TO; and (ii) Significant risks to scheduled deliverables and plans to mitigate them.

7.2.2 All other items DOE determines to be relevant to the Contractor's services under this Contract, including recommendations for changes or issues requested by the Contractor.