



OREGON  
DEPARTMENT OF  
ENERGY

**Oregon Administrative Rules**  
**Chapter 330, Division 130**  
Revision July 29, 2008

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**DIVISION 130**  
**ENERGY EFFICIENT DESIGN FOR STATE AGENCY FACILITIES**

**330-130-0010**

**Purpose**

- (1) The Oregon Department of Energy, in consultation with the Oregon Department of Administrative Services and the Oregon University System, has developed OAR 330-130-0010 through OAR 330-130-0100. These rules prescribe procedures to:
- (a) minimize energy use in new and renovated facilities designed and constructed by state agencies, and
  - (b) reduce the amount of energy used in existing buildings by at least 20 percent from the amount used by the state agency in the 2000 calendar year by the year 2015, in compliance with ORS 276.900 through ORS 276.915.

Stat. Auth.: ORS 276.900 - ORS 276.915; Chapter 26, Oregon Laws 2008 (HB3612)

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01

**330-130-0020**

**Definitions**

- (1) "Agency" means any state agency, board, commission, department or division which has the authority to finance the construction, purchase, renovation, or leasing of buildings or other structures for use by the State of Oregon.
  - (2) "Agency Contact" means a lead person appointed by the Agency who is responsible to coordinate all SEED related business with the Oregon Department of Energy, i.e. project notifications, interagency agreements, invoice and payment, project coordination, guideline updates, advisory.
  - (3) "Baseline Building" means the basic building conceived by the Agency and the Design Team. The Baseline Building shall incorporate the standard design features of typical buildings of the same usage and just meet the prescriptive requirements of the Oregon Energy Code according to criteria established in the SEED Program Guidelines.
  - (4) "Benefit-to-Cost Ratio (BCR)" means the Present Value of ECM benefits divided by the Present Value of incremental ECM costs.
    - (a) The ECM benefit is the difference between the Present Values of the Operating Cost of the Baseline Building and the Operating Cost of the Baseline Building with the ECM added.
    - (b) The incremental ECM cost is the difference between the Present Values of the Capital Cost of the Baseline Building and the Capital Cost of the Baseline Building with the ECM added.
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- (5) "Biennial Report" means the report, which evaluates the compliance of Agencies with the objectives of ORS 276.900 through ORS 276.915.
- (6) Facility and Building Class:
- (a) "Facility" as used in ORS 276.900 through ORS 276.915 means a building for the purposes of these rules;
  - (b) "Class 1 Building" means all:
    - (A) New buildings, additions, or renovations of 10,000 or more square feet of heated or cooled floor area; and
    - (B) Building additions that increase the size of an existing building to 10,000 or more square feet of heated or cooled floor area and renovations to buildings of 10,000 or more square feet of heated or cooled floor area, which significantly affect:
      - (i.) The existing mechanical or control system; or
      - (ii.) At least two of the following energy systems: interior lighting, building envelope, domestic hot water, or special equipment.
      - (iii.) Only those systems identified in (i) and (ii) that are significantly affected are subject to procedures outlined in 330-130-0040.
  - (c) "Class 2 Building" means all new buildings or renovations of less than 10,000 square feet of heated or cooled floor area except:
    - (A) Those described in Class 1 Buildings; and
    - (B) New buildings, structures, or facilities of any size which have no energy using systems.
- (7) "Building Model" means a computer model, which calculates annual building energy use. The Oregon Department of Energy shall approve hourly Building Models, simplified hourly Building Models and the approach to modeling ECM energy savings above the code baseline building as established in the SEED Program Guidelines. The Building Model for all Class 1 Buildings shall be an hourly Building Model, except for the following examples where simplified hourly Building Modeling or prescriptive packages established in the SEED program Guidelines may be used:
- (a) Heated-only warehouses of any size;
  - (b) Theaters and assembly buildings smaller than 35,000 square feet;
  - (c) Office buildings smaller than 35,000 square feet;
  - (d) Other Class 1 Buildings for which a simplified hourly Building Model or other calculation is appropriate as approved by the Oregon Department of Energy.
- (8) "Capital Construction Cost" means the cost of current and future building investments including construction, design, administration, major replacement, and salvage values. Costs of compliance with these rules may also be included.
- (9) "Commissioning Agent" is an individual or firm that has demonstrated experience commissioning Heating, Ventilating, and Air Conditioning (HVAC) mechanical systems and HVAC control systems, commercial and industrial mechanical technologies, lighting controls, and Testing and Balancing of air and water systems.
- (10) "Design Team" means the architect(s), engineer(s), and other professionals who are responsible for the design of the new building or renovation.
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- (11) "Energy Analysis Report" means a report prepared by an Energy Analyst, under the direction of a professional engineer or licensed architect, recommending an Optimum ECM Package for a Class 1 building. The report shall include:
- (a) Oregon Department of Energy State Energy Efficient Design (SEED) forms;
  - (b) A summary of recommendations;
  - (c) A Baseline Building description;
  - (d) ECM descriptions with analysis results;
  - (e) ECM savings calculations; and
  - (f) ECM cost estimates.
- (12) "Energy Analyst" means the individual who prepares the building energy analysis and the Energy Analysis Report under the direction of a professional engineer or licensed architect who reports to the project architect or Agency.
- (13) "Energy Auditor" is an individual or firm that has demonstrated experience performing comprehensive analysis of a building's energy using systems, and performs benefit to cost analysis of energy efficiency measures.
- (14) "Energy Code" means Chapter 13 of the current **State of Oregon Structural Specialty Code**.
- (15) "Energy Conservation Measure (ECM)" means a measure designed to reduce energy use, including alternative energy systems which replace conventional fuels with renewable resources. ECMs shall not conflict with applicable codes and other professional standards.
- (16) "ECM Package" means two or more ECMs combined for analysis.
- (17) "Energy Service Company (ESCO)" means a company, firm or other legal Person with the demonstrated technical, operational, financial and managerial capabilities to design, install, construct, commission, manage, measure and verify, and otherwise implement Energy Conservation Measures and other Work in building systems or building components that are directly related to the ECMs in existing buildings and structures.
- (18) "Energy Services Performance Contract (ESPC)" means a Public Improvement Contract between a Contracting Agency and a Qualified Energy Service Company for the identification, evaluation, recommendation, design, and construction of Energy Conservation Measures, including a Design –Build Contract, that guarantees the energy savings performance.
- (19) "Energy Systems Performance Verification Plan" means a plan that outlines how the building's energy systems are to be tested during the construction phase and how the building's performance is to be verified with long-term monitoring during occupancy.
- (20) "Measurement and Verification (M&V)" means, as used in ESPC Procurement, the examination of installed ECMs using the International Performance Measurement and Verification Protocol or process, to monitor and verify the operation of energy using systems pre-installation and post-installation.
- (21) "Model of energy efficiency" means a facility that is designed, built and operated according to these SEED rules, that exceeds the state building code by 20 percent or more, that makes use of renewable energy resources where practical and that incorporates outstanding energy efficiency measures.
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- (22) "Net Present Value Savings (NPVS)" means the difference between the Present Values of the Capital and Operating Costs of the Baseline Building and the Capital and Operating Costs of the Baseline Building with the ECM added.
- (23) "Operating Cost" means the costs for energy, fuel, annual and periodic maintenance, supplies, consumables, and other operating items associated with ECMs, such as water and sewer, during the life of the building.
- (24) "Optimum ECM Package" means the ECM package which incorporates all reasonable cost-effective ECMs and which meets the following conditions:
- (a) Each ECM included in the package has a BCR greater than 1.0 when modeled independently.
  - (b) The ECM package has a BCR greater than 1.0.
  - (c) The ECM Package has the highest NPVS of the analyzed ECM packages.
- (25) "Present Value" means the value of a financial cost or benefit, discounted to current dollars using discounting factors and methods approved by the Oregon Department of Energy.
- (26) "Renewable energy resource" includes, but is not limited to on-site generation of energy for use in the building from the following sources:
- (a) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal energy; or
  - (b) A hydroelectric generating facility that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and:
    - (A) That does not exceed 10 megawatts of installed capacity; or
    - (B) Qualifies as a research, development or demonstration facility.
- The purchase of green tags does not qualify as a renewable energy resource.
- (27) "SEED Program Guidelines" are guidelines developed by the Oregon Department of Energy with assistance from an Advisory Committee that consists of representatives from interested Agencies, design professionals, consulting engineers and utilities.
- (28) "Simple Payback" means the estimated ECM cost divided by the estimated first year ECM energy, operating, and maintenance savings.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 276.900 - ORS 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01

### **330-130-0030**

#### **Notification**

- (1) When the building class has been determined during the pre-design or programming phase of a building project, the following procedures shall be followed:
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- (a) **Class 1 Buildings.** Before the Design Team is selected, the Agency and the Oregon Department of Energy may enter into an interagency agreement which outlines the procedures as shown in 330-130-0040, the hourly rates to be charged by the Oregon Department of Energy and the related statement of work. The Agency Contact shall coordinate with the Oregon Department of Energy the set-up of the Initial Meeting early in the pre-design or programming phase of a building project. The interagency agreement may include Expanded Services, which are beyond the scope of this rule. See 330-130-0040 section (8) below.
- (b) **Class 2 Buildings.** The Agency shall contact the Oregon Department of Energy for consultation and request a list of recommended ECMs and services applicable to the building.

Stat. Auth.: ORS 276.900 - ORS 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03

### **330-130-0040**

#### **(1) Procedures for Class 1 Buildings**

The SEED process as outlined below follows some typical steps in the design process as the organizing principle. In case the Agency is accustomed to using different phases or terminology, or if the project does not fit the suggested steps, an alternative plan shall be developed between the Oregon Department of Energy and the Agency.

- (a) Pre-Design or Programming phase. The purpose of the SEED process is to ensure early involvement so energy efficiency is an integral part of the building design.
  - (A) Initial Meeting. Early in the Pre-Design or Programming phase, the Agency and the Oregon Department of Energy shall meet to
    - (i.) Discuss the scope of the project.
    - (ii.) Define the role of the Oregon Department of Energy, including but not limited to the level of involvement, decision authority on behalf of the owner, and relationship with contractors. The Oregon Department of Energy shall be notified of all meetings where significant review of or final decisions about energy systems are anticipated.
    - (iii.) Request for proposal and contract. The request for proposal (RFP) and the contract's Statement of Work shall include a reference to the goal of 20 percent or better than the state building code, to the SEED process and to the "model of energy efficiency". The Oregon Department of Energy shall develop language the Agency may use to include energy efficient design in the request for proposals and the contract for architectural and engineering services. Upon request, the Oregon Department of Energy will

review or comment on the RFP, Contract or energy qualifications of proposals as an Expanded Service (see section (8) below).

- (iv.) Energy Analyst. The Agency shall hire the Energy Analyst from the Department of Energy's list of pre-qualified energy analysts.

(b) Schematic Design Phase:

(A) Energy Planning Session. Early in the Schematic Design Phase, the Agency, Design Team, Oregon Department of Energy and Energy Analyst shall meet to further define the project design, construction schedule, energy goals of the project, the design criteria, the integrated energy design approach, the Energy Systems Performance Verification Plan and the modeling approach. The Energy Analyst shall regularly update these items during the design process.

(B) Preliminary Investigation. Working with the Agency and the Design Team, the Energy Analyst shall prepare a comprehensive list of ECMs to capture significant opportunities for building energy savings. Two weeks before the Scoping Process (see step (c) below), the Agency shall deliver to the Oregon Department of Energy the following items:

- (i.) Description of the Baseline Building and its energy-using systems;
- (ii.) List of proposed ECMs;
- (iii.) Approach and tools for modeling;
- (iv.) Initial plans;
- (v.) Design intent;
- (vi.) Description of operating criteria; and
- (vii.) Results of preliminary modeling effort, if any.

(c) Scoping Process. The Oregon Department of Energy, the Agency, the Design Team, and the Energy Analyst shall select the ECMs for analysis. If needed, further refinement of the modeling effort will be discussed and decided upon.

(3) Design Development Phase:

(a) Baseline and Individual ECM Analysis. The Energy Analyst shall use the Building Model for Baseline Building analysis and individual ECMs analysis. The Energy Analyst may use fully documented manual calculations for simple, non-interactive ECMs and may eliminate potential ECMs with preliminary estimates of costs and savings if the Simple Payback is greater than the equipment life.

(b) Metering Plan. The Agency, in consultation with the Energy Analyst, the Design Team and the Oregon Department of Energy, shall specify what types of utility meters are to be installed and what system is to be used to monitor the building's energy use. Where practical, sub-metering shall be provided on major energy using equipment or systems. This Metering Plan shall be incorporated in the Energy Systems Performance Verification Plan.

(c) Interim Submittal and Review. Two weeks before the ECM Review Meeting, the Agency shall submit to the Oregon Department of Energy the Preliminary Energy Analysis Report. The Oregon Department of Energy shall review the Preliminary Energy Analysis Report and provide its written or verbal comments and recommendations to the Agency prior to the ECM Review

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Meeting. The following items shall be submitted as part of the Preliminary Energy Analysis Report:

- (A) Narrative describing the Baseline Building and the proposed ECMs.
- (B) Tables showing energy use for the Baseline Building and the building with proposed ECMs;
- (C) The Baseline Building Model input and output;
- (D) A list of eliminated ECMs and calculations;
- (E) Analysis results for individual ECMs; and
- (F) The Metering Plan.

(d) ECM Review Meeting. The Oregon Department of Energy, the Agency, the Design Team, and the Energy Analyst shall meet to review and agree on the results in the Preliminary Energy Analysis Report.

**(4) Construction Documents Phase:**

- (a) Implementation of Cost-Effective Measures. The Agency shall incorporate the Optimum ECM Package into the final building design.
- (b) Submittal of Construction Documents. The Agency shall provide the Oregon Department of Energy with construction documents in sufficient detail to verify that the ECMs will be included in the final construction documents and specifications or no later than at 90 percent design completion, whichever comes first. This submittal shall also include the Preliminary Energy Systems Performance Verification Plan.
- (c) The Oregon Department of Energy shall review this submittal and forward its written findings and recommendations to the Agency within ten working days after receiving the documents, if practicable.

**(5) Construction Phase:**

- (a) Contractor Submittals and Substitutions. The design firm shall ensure that contractor equipment submittals, requests for substitutions and change orders adhere to the ECM design intent. The design firm must send any substitutions or submittals that differ from the ECM design intent to the Oregon Department of Energy for review.
  - (b) Final Report Submittal. The Agency shall deliver the final Energy Analysis Report containing the Optimum ECM Package and projected energy use to the Oregon Department of Energy for review.
  - (c) Delivery of the Oregon Department of Energy Findings. The Oregon Department of Energy shall review the report and forward its written findings and recommendations to the Agency within ten working days after receiving the report, if practicable.
  - (d) Site Inspections. To verify that ECMs are installed correctly and operating efficiently, the Oregon Department of Energy or its representative may make walk-through site inspections during the installation of ECMs.
  - (e) Performance verification. The Energy Systems Performance Verification Plan shall be carried out and Oregon Department of Energy shall receive a copy of the test reports.
  - (f) Training. It is recommended that instruction on the design intent and operation of the building as a system be offered to the owners and operators of the new facility. This may be part of the Energy Systems Performance Verification
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Plan. The training should parallel the operations manual prepared for the owner.

**(6) Occupancy Phase:**

- (a) **Monitoring.** At completion of functional testing (approximately two months after occupancy begins), a meeting shall be held between the Agency, ODOE, building operator, general contractor, commissioning agent, and energy analyst to review building energy use. Actual building operation will be compared with assumptions made in the Final Design Phase Energy Analysis. If significant differences in schedules, equipment, operation, etc. exist, a calibrated energy model must be submitted at the discretion of the Department of Energy (if actual energy use is outside 5% (+/-) of predicted energy use). During the first 18 months into occupancy, energy use by the building systems shall be monitored and compared with the modeling results. If significant differences between the actual energy use and the model predictions result, the Agency shall investigate to find the cause, so that:
    - (A) An adjustment can be made to the operation of the building; or
    - (B) An explanation for the difference can be found that is acceptable to the Agency and the Oregon Department of Energy. The Agency shall send its finding to the Oregon Department of Energy for inclusion in the Biennial Report to the Legislature.
  - (b) **Non-compliance.** If, after monitoring the building for 18 months, the building's performance does not exceed the energy conservation provisions of the state building code by 20 percent or more because of reasons reported under (6)(a), the Agency shall submit an energy conservation plan to the Oregon Department of Energy within 90 days after reporting the non-compliance. This plan will outline the modifications to be made until monitoring shows that the goal of 20 percent or better is met, or all reasonable attempts to reduce the energy use have been made. These remedial actions shall be reported and sent to the Oregon Department of Energy for inclusion in the Biennial Report to the Legislature.
  - (c) **SEED Award.** The Oregon Department of Energy shall give the SEED Award to the Agency if the building complies with these SEED rules and is a "model of energy efficiency". These reports and the SEED Award will also be used for educational or marketing purposes to show what works and help convince agencies that the return on energy efficient design is well worth the possible extra cost in the planning and construction phases.
- (7) Waiver.** Under certain circumstances, part of these rules that describe specific activities may be waived.
- (8) Expanded Services.** Expanded services are services provided by the Oregon Department of Energy that are outside the scope of OAR 330-130-0010 through 0100. Such services may include but are not limited to acting as the owner's agent on energy issues, modeling during various phases of the design process and when the building is occupied, building commissioning, and providing resource conservation management assistance. The Agency may include Expanded Services as part of the interagency agreement with the Oregon Department of Energy for work required under these Administrative Rules.
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Stat. Auth.: ORS 276.900 - ORS 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03

### **330-130-0050**

#### **Procedures for Class 2 Buildings**

- (1) Role of the Agency. The Agency shall determine that the design incorporates all required prescriptive ECMs or all reasonable cost-effective ECMs. ECMs or ECM packages with a Simple Payback shorter than equipment life shall be considered cost-effective for Class 2 Buildings.
- (2) Role of the Oregon Department of Energy. The Oregon Department of Energy shall provide a list of prescriptive groups of measures or packages in excess of code that are deemed to result in energy usage that is at least 20 percent less than required by code. The Oregon Department of Energy shall also be available to the Agency to advise or suggest potential energy saving measures.
- (3) Project Reporting. The Agency shall provide the Oregon Department of Energy with the list of all measures or packages installed in the building. This information will be used in preparation of the Biennial Report to the legislature.

Stat. Auth.: ORS 276.900 - ORS 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03

### **330-130-0055**

#### **Procedure for Leased Buildings**

- (1) The Department of Energy, in consult with authorized state agencies, shall establish guidelines for incorporating energy efficiency requirements into lease agreements of 10 years or more to be phased in as current leases expire or as authorized agencies enter into new agreements.

### **330-130-0060**

#### **Service Charges**

Charges to the Agency by the Oregon Department of Energy for services shall be as follows:

- (1) Class 1 Buildings:
  - (a) The charges by the Oregon Department of Energy to the Agency will be based on an hourly rate for the actual hours worked on the project. Hourly rates charged by the Oregon Department of Energy and invoiced to the Agency will include salary, other payroll expenses, the federally allowed indirect rate for the Oregon Department of Energy, staff travel expenses, other service or supply costs, and administrative costs. Invoices may be submitted to the Agency by the Oregon Department of Energy monthly commencing one month after notification. Invoices will provide the hours of service and the

hourly rate. The maximum charge shall be calculated at \$0.002 for each dollar of capital construction cost unless otherwise agreed to in writing by the Agency and the Oregon Department of Energy.

- (b) The Oregon Department of Energy will invoice the Agency for all final charges within sixty (60) days following the completion of its work as described in 330-130-0040. To ensure the Agency receives the final invoice prior to closing their construction accounts, the Oregon Department of Energy may invoice in advance for final building inspections and post-occupancy energy use tracking.
- (2) Class 2 Buildings. No charge unless the Agency chooses to enter into an interagency agreement with the Oregon Department of Energy.
  - (3) Charges do not include Design Team or Energy Analyst services. The Agency shall obtain these services directly. Charges include all services provided by the Oregon Department of Energy or their representative in fulfilling the requirements described in 330-130-0040. Charges do not include services such as described in section 330-130-0040(8) "Expanded Services" provided by the Oregon Department of Energy.
  - (4) Charges may be waived for special circumstances including but not limited to demonstration or pilot projects.
  - (5) All charges are subject to review and adjustment by the Administrator of the Oregon Department of Energy.

Stat. Auth.: ORS 276.900 - ORS 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2002, f. 5-8-02, cert. ef. 5-13-02; DOE 1-2003, f. & cert. ef. 1-10-03

### **330-130-0070**

#### **Oregon Department of Energy Administrative Procedures**

- (1) The Oregon Department of Energy shall provide information and administer the program to ensure the program is in accordance with these rules.
  - (2) Under special circumstances, the Administrator may waive certain requirements under these rules, provided the intent of the program is maintained.
  - (3) The Oregon Department of Energy has developed guidelines, which contain recommended procedures, instructions, and information relating to these rules. The Oregon Department of Energy shall solicit Agency comments on the guidelines on a biennial basis and revise the guidelines as appropriate.
  - (4) The Oregon Department of Energy shall compile information about Agency participation and ECM implementation into a database. The Oregon Department of Energy shall make database information available to agencies and use the data in evaluating Agency compliance with the objectives of ORS 276 .900 through ORS 276.915.
  - (5) The Oregon Department of Energy, the Oregon Department of Administrative Services and the Oregon University System shall jointly prepare a Biennial Report to the legislature on January 1 of every odd-numbered year.
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Stat. Auth.: ORS 276.900 - ORS 276.915

Stats. Implemented: ORS 469

Hist.: DOE 1-1990, f. & cert. ef. 4-2-90; DOE 1-1998, f. & cert. ef. 3-26-98; DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01

### **330-130-0080**

#### **Procedures for Monitoring the Reduction in Energy Use by State Agencies**

In order to review whether an Agency meets the requirement to reduce the amount of use of energy by at least 20 percent from the amount used by the Agency in the 2000 calendar year or the first twelve month period for which reliable energy use data exists, the following rules for tracking energy use apply.

- (1) Energy use shall be tracked on a monthly basis using billing data. Electricity and heating fuels shall be tracked separately. The use of standard commercially available software for uniform tracking is recommended.
  - (2) Agencies shall report energy use on an annual basis by entering it into the State Energy Use Database <http://saeuc.wesd.org/>
  - (3) Energy use per square foot of conditioned space shall be tracked, where applicable. Where square footage is not applicable, another metric by which to compare annual energy use must be used in consultation with the Department.
  - (4) Weather adjustments relative to the base year 2000 are allowed if they follow a standard process developed by the Oregon Department of Energy through the SEED Program Guidelines and if both the raw and revised usage is reported.
  - (5) When significant changes of facility size or use takes place, adjustments to the baseline energy consumption may be made.
  - (6) It is recommended that sub-metering of buildings and/or major energy consuming equipment is added where advisable and feasible in order to get better data on energy use and facilitate better energy management of the facilities.
  - (7) To assure that the 20% energy use reduction by 2015 goal is met, interim energy reduction goals shall apply;
    - (a) 10% reduction in energy use by a state agency by December 31, 2010
    - (b) 15% reduction in energy use by a state agency by December 31, 2012
  - (8) Reporting requirements for leased facilities will be developed in SEED Guidelines.
  - (9) If an Agency fails to achieve and maintain the required percent reduction by the dates in (7)(a) and (7)(b), the following rules apply:
    - (a) The Agency must notify the Oregon Department of Energy that it failed to achieve or maintain the required percent energy savings by June 30th of each subsequent year.
    - (b) Within 90 days of such notification, the Agency must submit to the Oregon Department of Energy a corrective plan to reduce energy use by the required percent. The plan must outline all modifications, procedures, and changes that need to be introduced until the target is met and maintained. The plan shall be in a format described in the SEED guidelines.
    - (c) The Agency may request the Oregon Department of Energy to provide technical assistance in developing this corrective plan. In the event that the
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Agency requests assistance, the Agency shall compensate the Oregon Department of Energy's costs for assistance in preparation or review of the plan.

- (d) The Agency shall implement the corrective plan within six months from the date of approval by the Oregon Department of Energy. The Agency shall monitor progress, report to the Oregon Department of Energy, and modify the plan as necessary every six months, until the target reduction is achieved.
- (e) This conservation plan and the results of remedial action(s) shall be included in the Biennial Report to the legislature, to be jointly prepared by the Oregon Department of Energy, the Oregon Department of Administrative Services and the Oregon University System.

Stat. Auth.: ORS 276 .900 - ORS 276 .915

Stats. Implemented: ORS 469

Hist.: DOE 4-2001, f. 11-5-01, cert. ef. 11-15-01; DOE 1-2003, f. & cert. ef. 1-10-03

### **330-130-0090**

#### **Pre-qualification for persons performing Energy Analysis and Energy Savings Performance Contracting Services**

- (1) The Oregon Department of Energy shall establish criteria to prequalify persons or firms to execute the provisions of this bill. Authorized State Agencies must only select persons or firms that have been prequalified by the Oregon Department of Energy to perform energy analysis and energy savings performance contracting services.
- (2) Authorized state agencies that wish to hire a person or firm that has not been previously prequalified by the Oregon Department of Energy must request approval from the Oregon Department of Energy for exemption from this requirement. Only Licensed Professional Architects and Engineers will be considered eligible for exemption from prequalification.
  - (a) Energy Analyst
    - (A) The Oregon Department of Energy shall establish a list of pre-qualified energy analysts. This list will be established through an open RFP process that will use qualifications based scoring criteria to determine a person's ability to perform building energy analysis.
    - (B) If the energy analyst is a licensed engineer or architect not on the approved list, the energy analyst shall be approved by the Oregon Department of Energy and the building energy analysis and the Energy Analysis Report must be stamped by the licensed engineer or architect.
  - (b) Energy Service Company (ESCO)
    - (A) A qualifying firm will have demonstrated expertise in the following areas:
      - (i.) a prior record of successfully performing ESPCs on projects involving existing buildings and structures that are comparable to the project under consideration by the Contracting Agency;
      - (ii.) and the financial strength to effectively guarantee energy savings and performance under the ESPC for the project in question, or the

ability to secure necessary financial measures to effectively guarantee energy savings under an ESPC for that project.

(iii.) Pre-qualification process: The Oregon Department of Energy must utilize a RFQ process as the first step in a two-part process to pre-qualify Energy Service Companies to perform Energy Savings Performance Contracting Services.

(B) RFQ proposal evaluation process: For ESPC proposal evaluations, the Oregon Department of Energy will establish qualifications-based evaluation factors that outweigh price-related factors, due to the fact that the RFQ process is the first step of a two-step process used to establish a list of pre-qualified firms that a contracting state agency must choose from for distribution of RFPs.

(3) Authorized state agencies must adhere to the following requirements for ESPC projects.

- (a) Authorized state agencies must only select persons or firms that have been pre-qualified by the Oregon Department of Energy to provide Energy Savings Performance Contracting Services.
  - (b) Authorized state agency must use the Oregon Department of Energy's template contract documents for all phases of the ESPC contract.
  - (c) Authorized state agencies must only utilize ESPC for comprehensive facility retrofits that include energy efficiency projects for two or more energy using systems. These systems must contribute to at least 50% of a facility's total energy use.
  - (d) Authorized state agencies must only use ESPC for projects that save energy and water resources.
  - (e) Authorized state agencies must only use ESPC for existing buildings that are two or more years old.
  - (f) Eligible contracting phases are limited to Phase I parts A and B for the technical energy audit and project development plan, Phase II Design Build contract, and Phase III for the energy savings guarantee and Measurement and Verification contract.
  - (g) Authorized state agencies must not combine service agreements with an ESPC contract. All service agreement contracts must be mutually exclusive.
  - (h) A contracting state agency must advertise a simplified RFP as the second step of a two-step process for final selection of an ESCO for ESPC services.
  - (i) Contracting agencies may only distribute RFPs to ESCOs that have been pre-qualified by the Oregon Department of Energy.
  - (j) At a minimum, the RFP must include a technical facility profile, mandatory pre-proposal walk-through, and an interview process.
  - (k) A contracting agency may select qualifications based evaluation factors that out-weigh price factors, due to the fact that prices for the major components of the work to be performed will likely not be determinable at the time of proposal evaluation.
  - (l) Authorized state agencies may contract with a third party for commissioning and measurement and verification services.
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- (m) A contracting agency may not select a pre-qualified ESCO for third party commissioning or measurement and verification services associated with the ESPC project.

### **330-130-0100**

#### **Pre-qualification for persons performing Energy Commissioning, Auditing, and Performance Verification Services**

- (1) The Oregon Department of Energy shall establish criteria to prequalify persons or firms to execute the provisions of this bill. Authorized State Agency's may select persons or firms that have been prequalified by the Oregon Department of Energy to perform auditing, commissioning, and performance verification services for energy systems.
  - (a) Energy Auditor
    - (A) The Oregon Department of Energy maintains a list of pre-qualified energy auditing firms. This list will be established through an open RFP process using a qualifications based scoring criteria to determine a person's or firm's ability to perform energy audits in existing buildings.
    - (B) A qualifying firm will have demonstrated expertise in the following areas:
      - (i.) Commercial and industrial technology,
      - (ii.) Energy auditing equipment, heating, ventilating, and air conditioning systems,
      - (iii.) Lighting design,
      - (iv.) Energy efficiency technology, and:
      - (v.) Preventative maintenance procedures.
    - (C) Authorized state agencies may use the Oregon Department of Energy's list of pre-qualified energy auditors for the selection of a person or firm to perform energy conservation measure analysis of existing buildings.
  - (b) Commissioning Agent
    - (A) The Oregon Department of Energy maintains a list of pre-qualified commissioning firms. This list will be established through an open RFP process that uses a qualifications based scoring criteria to determine a person's or firm's ability to perform commissioning of energy using systems in new and existing buildings.
    - (B) At least one individual employed by the firm must be a member of a building commissioning professional association such as Building Commissioning Association (BCA), National Environmental Balancing Bureau (NEBB), or Associated Air Balance Council (AABC).
    - (C) Authorized state agencies may use the Oregon Department of Energy's list of pre-qualified commissioning agents for the selection of a person or firm to perform commissioning services for energy efficiency projects in new and existing buildings.
  - (c) Measurement and Verification
    - (A) Authorized state agencies may select from the list of pre-qualified ESCOs and/or commissioning agents for the Measurement and Verification of implemented energy efficiency measures.