

# Performance Contracting: Recipes for Success

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## “Role of Third Party Consultants”

Presented By:

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# Agenda

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## Consulting Roles

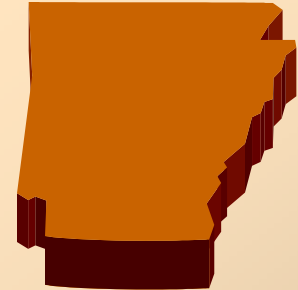
- ◆ Responsibilities / Conflicts
- ◆ Engineer's Point of View
- ◆ Various Consulting Roles
- ◆ Emerging Roles
- ◆ Questions and Answers



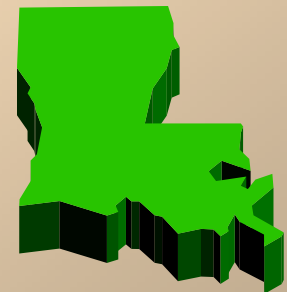


# Responsibilities of the Engineer

- ◆ “In order to safeguard life, health and property, and to promote the public welfare, the practice of engineering in the State of Arkansas is subject to regulation.” Arkansas Code. Anno. 17-30-101



- ◆ “All domestic firms and foreign firms qualifying to do business in the state of Louisiana, which practice or offer to practice engineering or land surveying, or both in the state of Louisiana are subject to regulation and supervision by the board...” Louisiana Code. Anno. 37:689. A.





# Responsibilities of the Engineer

- ◆ “Registrants shall recognize their responsibilities to the public and shall represent themselves before the public only in an **objective and truthful** manner.” Arkansas Rules of Professional Conduct
- ◆ “Licensees shall be **objective and truthful** in all professional reports, statements or testimony. The licensee shall include **all relevant and pertinent information** in such reports, statements or testimony.” Louisiana Rules of Professional Conduct





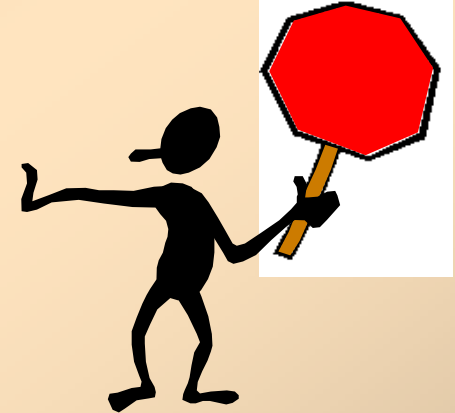
# Responsibilities of the Engineer

“Licensees shall issue no statement, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee’s, by disclosing the identities of any party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matters.” Louisiana Rules of Professional Conduct



# Conflicts

- ◆ Faithful agents or trustees
- ◆ Shall avoid any conflicts of interest, if possible
- ◆ Shall disclose all known and potential conflicts of interest
- ◆ Avoid commissions and gratuities
- ◆ and many more....





# Engineer's Point of View

- ◆ Genuine concern about regulatory risk
- ◆ Thorough process
- ◆ The **Devil** is in the details!
- ◆ Concern regarding cost premium
- ◆ Savings verification has many benefits
- ◆ Viable alternative funding tool
- ◆ Authentic growth opportunity, despite traditional reservations





# Roles of the Engineer

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- ◆ Representing the Owner or End User (Owner's Advocate)
- ◆ Employed by the Energy Services Company (ESCO Team Member)
- ◆ Third Party Review
- ◆ Emerging Roles







# Owner's Advocate

- ◆ **Employed by Owner or end user**
- ◆ **Conduct Preliminary Assessment / Audit**
- ◆ **Develop Request for Qualifications or Proposals**
  - Recruit / solicit interested ESCOs – 3 minimum
  - Document needs / goals of project
  - Require site visits
  - Define minimum submittal requirements
  - Provide utility data – 2 years minimum
  - Publish preliminary assessment / audit results
  - Identify ESCO team members, participation commitment
  - Encourage creativity, alternate proposals
  - Demonstrate scoring and selection criteria
  - Request sample measurement and verification plan
  - Request sample contract documents





# Owner's Advocate (continued)

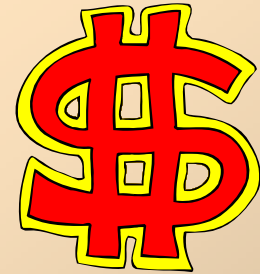


- ◆ **Participate in ESCO selection**
- ◆ **Assist in review / development of contract documents**
  - Memorandum of Understanding
  - Project Development Agreement (PDA)
  - Project Implementation Agreement (PIA)
  - Savings Measurement and Verification Plan (M&V Plan)
- ◆ **Conduct / review all engineering-related services**
  - Detailed energy audits
  - Design documents
  - Bidding and negotiation
  - Construction administration
- ◆ **Conduct / review commissioning activities**
- ◆ **Verify / review project savings**



# ESCO Team Member

- ◆ **Employed by ESCO**
  - Most ESCOs are open to Owner preference
- ◆ **Marketing / sales effort**
  - Full disclosure required
  - Be mindful of fee arrangements
  - Potential Board notification required, Louisiana
- ◆ **Conduct energy audits / assessments**
- ◆ **Engineering design services**
  - Construction documents
  - Bidding and negotiation
  - Construction administration





# ESCO Team Member (continued)

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- ◆ Commissioning services
- ◆ Develop M&V Plan
- ◆ Administer M&V Plan
- ◆ Managed conflict





# Third Party Review

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- ◆ **Legislative requirement**
- ◆ **Macro level involvement**
- ◆ **Focus on technical review**
- ◆ **Partnership with jurisdictional authorities**
  - **State Building Authority**
  - **Facilities Department**
  - **State Department of Resources**
  - **Energy Office**





# Emerging Consulting Roles

## ◆ Acting as an ESCO

- Large and medium size firms
- Construction management approach to PC
- Multiple contract approach
- Savings guarantee



## ◆ Small project financing

## ◆ Independent M&V Plan consultants

- Can be employed by Owner or ESCO
- Compliance with IPMVP
- Viewed as an objective party



# In Conclusion.....

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**The opinions expressed by the presenter today have been solely his own, and may not reflect the opinions of the consulting community as a whole.....**

**.....though they probably should !**



# Questions?

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