



Contractor Agreement Template

How to Use this Home Performance with ENERGY STAR Document

EPA has developed this document to provide Sponsors with recommended wording when developing the required Contractor Participation Agreement. Each topic described below should be addressed in the participation agreement; however, the wording a Sponsor chooses may vary. The wording included in this document has been approved by EPA as meeting the requirements for the Contractor Participation Agreement.

Note that some wording is listed as **Required**, while other wording is **Recommended**. **Required** refers to the subject matter; if the Sponsor wants to adjust the wording, it must be approved before posting. **Recommended** refers to best practices from other Sponsors who have found the inclusion of this language useful. You may copy and paste the language below as you see fit for your Contractor Participation Agreement. Note that those sections with red text require Sponsor-specific information.

Explanation of Agreement: **[INSERT SPONSOR PROGRAM BACKGROUND INFORMATION HERE]**

Terms and Conditions (*Required*): This Agreement sets out the terms and conditions under which contractors shall participate in the Program. Under this Agreement, Participating Contractors contract with property owners to provide building performance services that are in compliance with the Program requirements and standards. The Program, in return, agrees to provide technical and marketing support for Participating Contractors.

Termination Clause (*Recommended*): This Agreement is completely voluntary and can be terminated at any time for any reason by either Sponsor or the Participating Contractor with prior written notice from the terminating party to the other party.

SPONSOR COMMITMENTS (*Recommended*)

Services and support that the Program will make available to Participating Contractors include the following:

- The opportunity to participate in Home Performance with ENERGY STAR training and certification by **[INSERT TRAINING ORGANIZATION HERE]**
- Mentoring in the field and by e-mail and phone
- Promotion of Participating Contractors in Program marketing
- The opportunity to respond to leads generated from a public awareness campaign
- Affiliation with ENERGY STAR and access to the ENERGY STAR marketing toolkit (if providing access to toolkit)
- Incentives for reporting Home Performance jobs to the Program Access to program-mandated software for building analysis and energy savings estimation

PARTICIPATING CONTRACTOR COMMITMENTS (*Recommended*)

By executing this Agreement, the Participating Contractor agrees to play an active role in Home Performance with ENERGY STAR by providing high-quality building performance services to its customers. As a condition of participating in the Program and accessing Program benefits, the Participating Contractor agrees to the following:

Program Requirements

EPA requires the Sponsor to delineate contractor program requirements. The following is suggested wording to be included in this section; some requirements must be addressed in the agreement, but the wording does not need to be the exact phrasing.

Job Reporting (*Required*): For every Home Performance job (which often triggers an incentive from the Program), the Participating Contractor shall report the job following the administrative procedures and reporting requirements of the Program and shall provide the homeowner with a professional report.

Field Inspections (*Required*): Participating Contractor shall allow random field inspections by the Sponsor or its designee of work that has been performed. Participating Contractor, upon request from Sponsor, and at no additional cost to the customer, shall make reasonable repairs or corrections to work that Contractor has performed to bring such work up to Program standards.

Software (*Recommended*): Participating Contractor shall acquire and use the Program-mandated software for building analysis and energy savings estimation.

Program Referrals (*Recommended*): Participating Contractor shall accept referrals from Home Performance with ENERGY STAR and shall provide services to these referral leads in accordance with Home Performance with ENERGY STAR Contractor Participation Agreement.

Jobs Completed (*Recommended*): To qualify for Home Performance with ENERGY STAR incentives for certification, participation fees, equipment, and cooperative marketing, the Participating Contractor shall, during each year of participation, report at least [X] jobs completed, totaling [X] dollars, or that 20 percent of all qualifying jobs are Home Performance with ENERGY STAR jobs.

Equipment Procurement (*Recommended*): Participating Contractor must possess the required diagnostic equipment and Program-approved software, in good working order, and have the ability to deploy it at each participating business location prior to commencing comprehensive energy audits and installing measures under the Program.

Subcontracting Requirements (*Recommended*): Participating Contractor will not subcontract for any of the services without the prior written approval of the Sponsor/implementer and only then upon terms and conditions as Sponsor/implementer may require for services that are incentivized by the program.

(Required): Without written permission, Sponsor shall not employ as a subcontractor any firm that has been suspended or terminated from the Home Performance with ENERGY STAR program.

Programmatic Changes (*Recommended*): Sponsor reserves the right to make changes to the Home Performance with ENERGY STAR program upon notice to Participating Contractors. Such notification shall be by mail and posting or through the **[INSERT WEB SITE ADDRESS]**.

LOGO USAGE (REQUIRED)

The Sponsor must address logo usage requirements. The wording below has been approved by EPA for inclusion in the Contractor Participation Agreement. If you choose to draft your own response to the logo usage requirements, EPA must approve it prior to posting.

Adhering to ENERGY STAR Identity Guidelines (*Required*): The Contractor is responsible for the proper use of the ENERGY STAR marks, as well as the proper use of the Home Performance with ENERGY STAR marketing graphic. The Contractor must comply with current ENERGY STAR Identity Guidelines (available at www.energystar.gov), which describe how the ENERGY STAR marks, marketing graphics, and name may be used. The Contractor is responsible for adhering to these guidelines and ensuring that its authorized representatives, such as advertising agencies, are also in compliance. The Sponsor will actively pursue resolution of noncompliance related to the use of the ENERGY STAR marks.

Promoting Whole-House Process (*Required*): When using the Home Performance with ENERGY STAR marketing graphic, it must be used to promote a comprehensive, whole-house process for improving the energy efficiency of homes to prevent pollution, protect the environment, and save money on energy bills.

Sponsor Approval of Marketing Materials (*Recommended*): Submit all Web site designs and marketing materials that use the Home Performance with ENERGY STAR logo to the Sponsor for review to ensure accuracy of ENERGY STAR marks used and consistency of the ENERGY STAR message. The Contractor will allow a minimum of 10 full working days for review and approval of Web site designs and marketing materials.

Advertising (*Recommended*): When advertising or communicating to customers, the Participating Contractor must remain in compliance with advertising guidelines approved by the Program. Participating Contractor may not use logos or service marks of the Sponsor. Contractors may, however, use logos and other materials as approved by the national Home Performance with ENERGY STAR program offered by EPA and the U.S. Department of Energy. Participating Contractor should ask the Sponsor for guidance prior to development and deployment of marketing and communications materials if there is any uncertainty over compliance.

Contractor Use of ENERGY STAR Mark (Recommended): Contractor should feature the appropriate ENERGY STAR marks on the Contractor Web site and in other promotional materials (if allowing Contractor to use the Mark).

BUSINESS PRACTICES

Sponsors must determine the appropriate business practices for Participating Contractors. Following is some wording that adequately addresses these requirements.

General Business Practices (Required): Participating Contractor shall retain all necessary licensures, certifications, training, and other requirements deemed necessary by state law and the Program policies and guidelines, including all relevant documentation pertaining to the installation of efficiency measures. Participating Contractor will provide the Implementer or Sponsor with access to such documentation on request. This includes appropriate liability insurance, permits, licensure, or certification information, and installed equipment model and serial numbers.

Proof of Upstanding Business (Recommended): Participating Contractor has the capacity to conduct business successfully. The Participating Contractor shall provide the program with one of the following:

- A satisfactory Dun and Bradstreet Rating;
- Proof of membership in the Better Business Bureau;
- Verification of business capacity through at least three of the following items:
 - A satisfactory banking reference,
 - At least three satisfactory professional/trade references, such as suppliers of material, tools or credit, or
 - At least three satisfactory customer references; and
- Proof that the participating contractor has been in business for at least 3 years.

Waiver (Recommended, if applicable): Contractors unable to meet these requirements must submit a written Request for Waiver (requires Sponsor to develop the appropriate form). The request must provide a detailed, reasonable, and credible explanation of the circumstances that prevent the Contractor from complying with one or more of the terms of the requirement. The Sponsor reserves the right to reject any and all requests for waivers. Confirmation of this waiver will be renewed yearly.

Warranty (Recommended): Participating Contractor shall provide the customer with a written warranty of labor and materials for a minimum of 1 year from the date the service is performed. Equipment installed shall carry the manufacturer's warranty, including optional extended warranty coverage.

Seeking Technical Assistance (Recommended): The Participating Contractor shall communicate openly with Program staff to seek assistance as needed in technical or administrative areas pertaining to the Program and provide feedback to the Program on issues pertaining to Program design or administration, or the Participating Contractor's experiences with home performance contracting in general.

TRAINING REQUIREMENTS

The Sponsor must address the training requirements for participating contractors in the Participation Agreement including requirements for staff certification, technician training and work standards. Following is some recommended wording for the description of these skill sets and work specifications. Additionally, following the position descriptions is further recommended wording for the Training Requirements section of the agreement.

Staff Certification (Required): If Participating Contractor intends to conduct home performance energy audits, the Contractor shall maintain at least one staff member who is certified at the (Building Performance Institute, RESNET, or equivalent) level at each participating operating location.

Technician Training (Required): Participating Contractor shall ensure that (BPI, RESNET, or equivalent) -certified technicians receive, at minimum, training that is in compliance with (BPI, RESNET, or equivalent certification body) continuing education credits requirement.

Compliance with Industry Standards (Required): While performing any activities connected to the Program, such as home performance energy audits, installation of measures, or performance of post-installation diagnostic tests and inspections, Participating Contractor shall comply with (BPI, RESNET or equivalent) standards governing home performance inspections, diagnostics, and treatments.

Operating Multiple Locations (*Recommended, if applicable*): Participating Contractor agrees that any of its operating locations can begin participating in the Program, under the supervision of a Program-assigned technical mentor, when at least one staff member at the operating location seeking participation has passed the [BPI, RESNET, or equivalent] tests.

Training Availability (*Recommended*): Participating Home Performance with ENERGY STAR contractor recognizes that Home Performance with ENERGY STAR Program training is available through the Sponsor program and agrees to follow the Sponsor's procedures and protocols. This training shall include (a) a description of Home Performance with ENERGY STAR, (b) tips for answering questions about Home Performance with ENERGY STAR, and (c) information on the economical and environmental benefits of energy efficiency.

Contact Information Update (*Recommended*): Notify the Sponsor of a change in the designated responsible party or contacts for this agreement within 30 days.

CONTRACTOR REPRESENTATION OF SPONSOR PROGRAM

It is the responsibility of the Sponsor to ensure that Participating Contractors accurately represent the Home Performance with ENERGY STAR Program. Following is some wording that adequately addresses this requirement.

Misrepresentation of the Program (*Recommended*): Participating Contractor shall not knowingly misrepresent any information concerning the Program, its purpose, policies, and procedures, or its role in the Program or relationship with the Sponsor.

Program Endorsement (*Recommended*): Participating Contractor understands that participation in the Program does not constitute an endorsement of any kind on the part of the Sponsor. Participating Contractor shall not state or imply any such endorsement, either directly or indirectly.

Contractor-Sponsor Relationship (*Recommended*): Participating Contractor shall properly represent the relationship of the Contractor to sponsor. The Contractor shall identify itself as an independent contractor and a qualified participant in the Sponsor's Home Performance with ENERGY STAR Program. Participating Contractors shall not represent themselves as working for, or certified by, EPA, the Sponsor, or Sponsor's affiliate, nor represent him or her self as a Home Performance with ENERGY STAR contractor.

VOLUNTARY TERMINATION

It is the right of the Sponsor to terminate its agreement with any Participating Contractors. EPA recommends the following wording to address this section of the agreement.

Right to Terminate (*Required*): Sponsor reserves the right to terminate this Participation Agreement at any time for cause of the Participating Contractor's noncompliance with the Home Performance with ENERGY STAR Program guidelines, state laws, or this Participation Agreement.

Privilege to Participate (*Recommended*): Participating Contractor acknowledges that participation in this Program is a privilege, and the Sponsor may suspend or terminate the Contractor's participation in the Program at any time and for any reason. Failure to comply with the requirements of this Participation Agreement or to maintain any of the standards set forth by the Program shall constitute a reason to terminate the Participating Contractor's participation in the program. In all cases involving a contractor's participation status or denial of program incentives, the Sponsor's decision is final.

Right of Contractor to Terminate (*Recommended*): In the event of a change to the Participation Agreement, the Participating Contractor shall have the right to terminate the Participation Agreement if the modified Participation Agreement is unacceptable to the Participating Contractor.

Dispute Resolution: Following is some suggested wording to address disputes that may arise between the Participating Contractor and the Sponsor or a customer.

Authorized Representation (*Recommended*): In the event of a dispute, each party agrees to have an authorized representative empowered to resolve the dispute and to meet for a period of not more than X calendar days to resolve the dispute. Should the dispute resolution be unsuccessful, the matter may be submitted to any court of competent jurisdiction or an alternative dispute resolution panel. No oral or written representation made during the course of any panel proceeding or other settlement negotiation shall constitute a party admission.

Signature of Authorized Contractor	Signature of Sponsor
Printed Name of Authorized Contractor	Printed Name of Sponsor
Date	Date
Company Name	
Street Address	
City, State, ZIP	
Phone Number	
Fax Number	
E-mail	
Web site	
Federal Tax ID or Social Security Number of Authorized Contractor	
List all counties or ZIP codes contractor company serves/works in:	

ADDENDUM—PARTICIPATION AGREEMENT CHECKLIST

- (1) As a precondition for activation in the Program, every Participating Contractor shall provide the Program with evidence of general liability insurance coverage of at least \$1 million and evidence of Workers' Compensation coverage.
- General liability insurance with \$1-million coverage (copy of policy); and
 - Workers' Compensation coverage (copy of policy).
- (2) In addition, every Participating Contractor shall provide the Program with any **three** of the following:
- A satisfactory Dun and Bradstreet Rating;
 - A satisfactory banking reference;
 - A minimum of two satisfactory professional/trade references, such as from suppliers of materials, tools, or credit, dated within 1 year of the execution date;
 - A minimum of three satisfactory customer references dated within 1 year of the execution date;
 - Confirmation that the firm has been in the same business for at least 3 years;
 - Confirmation that the principals in the business have a satisfactory individual credit score with no outstanding liens, judgments, or bankruptcy within the past 7 years; or
 - Confirmation that the principals have a net worth of at least \$50,000, verified by an audited financial statement or tax returns from the past 2 years.

Contractors that are unable to meet these requirements must submit, in writing, a Request for Waiver. The Request for Waiver must provide a detailed, reasonable, and credible explanation of the reasons why the Contractor is unable to comply with the terms of the requirement. Sponsor reserves the right to reject any and all Requests for Waiver.