

Focus on Energy Program Terms and Conditions

General Tribal Nations IRA Home Energy Rebate Programs

Uniform Application Terms & Conditions

Focus on Energy is Wisconsin utilities' statewide energy efficiency and renewable resource program ("FOCUS ON ENERGY®" or "the Program") and makes available incentives, discounts, rebates, rewards ("Incentives"), and other program offerings (each a "Program" and collectively "Programs") to eligible Program participants ("Participants"). A Participant refers to someone who submits an application to Focus on Energy or places an order through the Focus on Energy marketplace (an "Application"), and in doing so has agreed to the Uniform Application Terms and Conditions (the "Terms & Conditions"). Focus on Energy and the Participant may be individually referred to herein as a "Party" and collectively as the "Parties".

Aptim Government Solutions, LLC ("Administrator") is the contractor hired by the Statewide Energy Efficiency and Renewable Administration, Inc. ("SEERA") to administer Focus on Energy. Except where explicitly stated otherwise, "Focus on Energy" shall refer to the Administrator in its capacity as the responsible party for administering the Program and shall also include any of Administrator's implementers or subcontractors assisting with the administration and implementation of the Programs.

Participant expressly agrees to be bound by the following Program requirements:

Section 1. Participant Eligibility: A Participant must be the account holder for the energy services provided by a participating electric or natural gas utility at the project site where the energy-efficient or renewable energy technology will be installed or service performed. Participants can transfer their eligibility to a third party.

Project sites served by a participating electric utility but not a participating natural gas utility will only qualify for incentives for electric technologies. Sites served by a participating natural gas utility but not a participating electric utility will only qualify for incentives for natural gas technologies. Sites with a qualifying electric utility and qualifying natural gas utility will qualify for incentives on both electric and natural gas technologies. Project sites using Liquid Propane (LP) or other non-qualifying fuels will not qualify for incentives on technologies exclusively saving gas.

Some Focus on Energy participating electric and/or natural gas utilities have incentive programs independent of Focus on Energy. Participant should check with their electric and/or natural gas utilities to verify eligibility rules for any utility-sponsored programs.

Section 2. Marketing: The Participant shall not use Focus on Energy's name ("FOCUS ON ENERGY®"), logo, identity, any affiliation, or any related logo, for any marketing, advertising, or solicitation without prior written consent of Focus on Energy, which shall only be granted after Focus on Energy's review and approval of the proposed marketing materials.

Focus on Energy reserves the right to publicize the Participant's participation in the Program, unless a written request to maintain confidentiality of Participant's participation is submitted to marketing@focusonenergy.com no later than fifteen (15) days after receiving Program Payment. Such right to publicize by Focus on Energy is part of Participant's consideration for participation in the Focus on Energy Program. For purposes of the foregoing, to the extent applicable, Participant grants Focus on Energy a nonexclusive irrevocable license to Participant's name and logo, solely for the purpose of publicizing Participant's participation in the Program. Participant does not have the right to revoke such license unless explicitly granted in writing by Focus on Energy.

Section 3. Program Payments: Monetary incentives, rebates, or discounts from Focus on Energy constitute "Program Payments" hereunder. Program Payments shall be available to eligible Participants according to the terms and participation requirements for the applicable Program and related Application. The acceptance and approval of an Application is determined solely by Focus on Energy. Receipt of a completed Application does not guarantee a Program Payment. In some cases, there may be additional participation requirements for certain Programs or applications.

Program Payments are available on a first-come, first-served basis. Focus on Energy shall be under no obligation to make any payments to a Participant if SEERA does not provide the funds to Focus on Energy for this purpose or if Focus on Energy is not under contract with SEERA for this purpose.

In order for the Participant to receive a Program Payment, the below requirements must be met:

1. Products must be purchased and installed within the date range outlined in the Application or Incentive Agreement. An Incentive Agreement is the

agreement between the Participant and Focus on Energy outlining the terms of the applicable custom incentive.

2. Custom incentives must be pre-approved in writing by Focus on Energy prior to equipment being purchased, ordered, or installed.
3. Applications must be postmarked within the number of calendar days reflected on the Application.
4. Participant must provide Focus on Energy with invoices for equipment purchased or service performed, as well as documentation verifying the renewable and/or energy efficiency measures, (1) have been properly installed, (2) are functioning properly, and (3) have the potential to generate energy savings if properly maintained and operated. Purchase orders, proposals and quotes are not considered proof of purchase. A Project Completion Notice must also be submitted for all custom incentives.
5. All projects shall comply with federal, state, and local regulations.
6. All equipment must be new; used or rebuilt equipment is eligible only when requested by Participant and approved in writing by Focus on Energy advance of purchase. Displaced equipment must be removed and cannot be sold and/or re-installed at another site.
7. Equipment purchased under a capital lease structure may qualify for a Program Payment but must be approved by Focus on Energy in writing prior to project initiation or the execution of any equipment lease.
8. Participant agrees to refund Focus on Energy some or all the Program Payment received if Focus on Energy determines, at Administrator's sole discretion, the Participant has misrepresented any Application information or if Participant uninstalls the equipment within two years from installation.

Program Payments must be paid to the Participant unless there is (1) written authorization from the Participant to pay a third-party directly or (2) the Participant received a credit on their invoice from a registered Trade Ally contractor, who is able to receive direct payment Focus on Energy. Participant is entitled to one payment per project measure. If the Participant or its representative receives duplicate payment of a project measure, Focus on Energy reserves the right to recover any excess payments. If equipment is removed prior to two (2) years from the date of Program Payment, Participant is required to return 100% of the Program Payment to Focus on Energy.

Focus on Energy has the sole discretion to determine if Participant's compliance with these requirements has been met. Participants should maintain a copy of their Application for their records. Incomplete Applications may be returned for correction and will not be processed until deemed complete by Focus on Energy.

Section 4. Right to Discontinue Program, Terminate or Withhold Payment:

1. Focus on Energy reserves the right to change or discontinue any Program at any time without notice.
2. Focus on Energy reserves the right to withhold or terminate Program Payments if:
 - An identified problem with a project is not resolved due to a Participant's failure to follow any and all applicable Terms and Conditions, requirements, or procedures; or
 - Focus on Energy determines Participant's receipt of Program Payment will not result in the implementation of the energy efficiency or renewable energy projects by Participant, or if the project(s) will not result in the reduction of energy usage or generation of renewable energy; or
 - The Participant becomes "Insolvent" (which shall mean Participant (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, including but not limited to the United States Bankruptcy Code or the laws of any state, or has any such petition filed or commenced against it; (b) makes an assignment or any general arrangement for the benefit of creditors; (c) otherwise becomes the subject of a bankruptcy proceeding or insolvent (however evidenced); (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (e) is generally unable to pay its debts as they fall due).

Section 5. Disclaimers, Representations, and Warranties: Focus on Energy, the Administrator, the Public Service Commission of Wisconsin, and SEERA (collectively for this section referred to as "Focus on Energy") do not endorse any particular Trade Ally, manufacturer, product, system, or design by offering a Program Payment. Focus on Energy is not responsible for any tax liability imposed on the recipient as a result of Program Payment. FOCUS ON ENERGY MAKES NO REPRESENTATION OR WARRANTY, AND ASSUMES NO LIABILITY WITH RESPECT TO THE QUALITY, SAFETY, PERFORMANCE, OR OTHER ASPECT OF ANY DESIGN, CONSULTING, PRODUCT, SYSTEM, EQUIPMENT, OR APPLIANCE INSTALLED OR RECEIVED AND EXPRESSLY DISCLAIMS ANY SUCH REPRESENTATIONS, WARRANTIES, AND LIABILITY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Focus on Energy does not guarantee installation

and operation of incentivized measures will result in reduced energy usage or in cost savings. Focus on Energy is not responsible for the proper disposal/recycling of any waste generated as a result of this project. FOCUS ON ENERGY IS NOT LIABLE UNDER ANY CIRCUMSTANCES FOR ANY DAMAGES, INCLUDING ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE OPERATION OR MALFUNCTION OF THE PRODUCTS, EQUIPMENT, OR APPLIANCES, OR THE INSTALLATION THEREOF.

Section 6. Monitoring, Verification, Record Keeping, and Right to

Inspect: The Participant and its subcontractors shall maintain accurate records of the project work (e.g., installation records, invoices, and maintenance information) performed hereunder for a period of two (2) years from the date of a Program Payment. Focus on Energy evaluates Program efficacy by monitoring energy use/production prior to and after installation of energy efficiency or renewable energy projects. Focus on Energy, and its designated representatives, shall have the right to:

- Monitor energy use/production prior to and after installation of a project;
- Verify Participant is/was a customer of a participating utility at the time of project completion;
- Perform an inspection of project records or the project itself to evaluate Program efficacy for a period of two (2) years from the date of Program Payment;
- Withhold or terminate current or future payment for failure to allow for a post-installation inspection; and
- Seek reimbursement for up to 100% of the Program Payment if inspection identifies equipment is not installed or functioning in a manner which reduces energy usage as expected.

The Participant's signature on an Application constitutes the Participant's consent (1) for their electric and/or natural gas utility to disclose the Participant's energy usage data directly to Focus on Energy and (2) for Focus on Energy to disclose Participant's energy usage data via energy reports to their energy service provider. If the Participant does not want their project information shared with their energy service provider, the Participant may opt out at any time by emailing Focus on Energy at operations@focusonenergy.com.

Section 7. Indemnification: Participant shall protect, indemnify, defend, and hold harmless Focus on Energy, Program Administrator, SEERA, the State of Wisconsin and participating utilities, their respective affiliates, subsidiaries, parent companies, officers, directors, agents, and employees ("Indemnified

Parties”), against any and all losses, damages, expenses, fees, costs, including reasonable attorneys’ fees, and liability (“Losses”) arising from or in any way connected with any program, design, consulting, product, system, equipment, or appliance, unless such Losses arise out of the gross negligence or intentional misconduct of an Indemnified Party. This indemnification obligation shall include, but not be limited to: (a) Participant’s breach of any obligations under these Terms and Conditions; (b) personal injury, death, or tangible property damage in connection with the Program or this Agreement; or (c) Participant’s negligence, willful misconduct, or violation of any applicable law, regulation, rule, court order or breach of any obligation to a third party in connection with the Program or this Agreement.

The Participant agrees its indemnification obligations under this Section shall survive any expiration or termination of the Application and shall not be limited by any enumeration herein of required insurance coverage. To the maximum extent permitted by law, the Participant agrees to limit Focus on Energy’s liability to the Participant for any reason to the total amount of the payments identified in this Agreement. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

Section 8. Misrepresentation: Making false statements on any Focus on Energy Application or order is punishable by law. Any person who knowingly submits an Application containing any materially false information or who purposely and misleadingly conceals information commits a fraudulent act subjecting such person to criminal and civil penalties. Fraudulent activities include, but are not limited to:

- Applicants misrepresenting eligibility of a project site and/or qualifying utility services
- Applicant falsely representing another party on a Program Application
- Products not installed as stated on Program Application
- Product quantities and/or make and model not matching Program Application
- Products not installed or services not completed at the site specified on the Program Application

Participant hereby agrees and acknowledges any Program Payments determined, in Focus on Energy’s sole discretion, to have been acquired by Participant because of fraudulent or misrepresented information will be fully and immediately returned to Focus on Energy. This section shall not limit other

remedies available to Focus on Energy arising from Participant filing a false or fraudulent Application.

Section 9. Miscellaneous:

Governing Law; Submission to Jurisdiction. All matters arising out of or relating to all Applications, orders, and Incentive Agreements and these Terms and Conditions shall be governed, construed, and enforced in accordance with the internal laws of the State of Wisconsin, without regard to any conflicts of laws principles directing the application of the laws of another jurisdiction. The Participant irrevocably submits to the original jurisdiction of the state and federal courts sitting in Madison, Wisconsin with regard to any controversy in any way relating to the execution, delivery or performance of an Application, Incentive Agreement, or these Terms and Conditions. Suits, claims or actions founded upon such controversies shall be brought or filed exclusively in such courts and nowhere else. The exclusive venue for any dispute or controversy arising under an Application, Incentive Agreement, or these Terms and Conditions shall be the Dane County, Wisconsin Circuit Court, or the Federal District Court for the Western District of Wisconsin.

Compliance with Applicable Laws. The Participant shall at all times comply with and observe all federal and Wisconsin state laws and published circulars, local laws, ordinances, rules and regulations which are in effect from the time at which Participant submits an Application or enters into an Incentive Agreement to Participant's receipt of a Program Payment, and which in any manner affect the performance of an Application or Incentive Agreement. All references to statutes or regulations contained in any Application, order, Incentive Agreement, or these Terms and Conditions shall be construed to include successors thereto.

Assignment. Focus on Energy may assign, transfer, or convey any Application or any of Focus on Energy's rights, obligations, interests, or responsibilities thereunder, in whole or in part, without the consent of the Participant. Neither an Application nor any rights or obligations hereunder or thereunder may be sold, assigned, transferred or otherwise disposed of by Participant, whether pursuant to a change of control, by operation of law or otherwise, without Focus on Energy's prior written consent. Any purported assignment by Participant of this section is null and void.

Severability. If any provision of any Application, Incentive Agreement or these Terms and Conditions is construed by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws, that provision

shall be fully severable and the Application, Incentive Agreement and these Terms and Conditions shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part thereof. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, the Application, Incentive Agreement and these Terms and Conditions shall be reformed to include as a part of the Application, Incentive Agreement and these Terms and Conditions a provision as similar in terms to the illegal, invalid, or unenforceable provision as may be possible and still be legal, valid, or enforceable.

Risk of Loss. The Focus on Energy Parties at no time assumes risk of loss for any personal property of the Participant.

Waiver. No waiver by Focus on Energy of any of the provisions of any Application, order, Incentive Agreement, or these Terms and Conditions shall be effective unless explicitly set forth in writing and signed by an authorized representative of Focus on Energy. Failure or delay on the part of either party to exercise any right, power, privilege, or remedy hereunder shall not constitute a waiver thereof. A waiver of any default shall not operate as a waiver of any other default or of the same type of default on a future occasion.

Authority. Each Party represents that the individuals entering into any Application and Incentive Agreement on its behalf has full right, power and authority to enter into and perform such Application and Incentive Agreement.

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