

## Agreement

Efficiency Manitoba ("EM") offers an "Incentive(s)" to an eligible business owner or designated representative (the "Customer") who undertakes and completes an ASHRAE Level 2 or 3 energy audit for a suitable commercial building which may include, without limitation, a detailed analysis of equipment and materials, current and historical energy consumption and cost information, and analysis to quantify energy-saving opportunities (the "Audit") that qualify under the Commercial Energy Audit Program (the "Program") terms and conditions set out below and as set out in Appendix A – Program Eligibility Criteria, which forms part of this Agreement.

**The Commercial Energy Audit Financial Incentive Application (the "Application") is conditional on APPROVAL by Efficiency Manitoba under the Program and forms a binding agreement on the Customer. All information provided by the Customer must be true and correct as at the application date. This Application must be APPROVED BY EFFICIENCY MANITOBA BEFORE initiating the Audit. All Incentive amounts are estimates and will be finalized based on the Customer meeting all terms and conditions of the Program and a review of all application materials including invoicing and the Energy Audit Report. The Incentive will be calculated in accordance with the Program's Incentive Calculations set out in this Application, which may be amended by EM in its discretion. See [efficiencyMB.ca/energyaudit](http://efficiencyMB.ca/energyaudit) for current Incentive offers.**

### 1.0 Warranties and agreements

- 1.1 The Customer warrants that the Audit fully qualifies and complies with Appendix A - Program Eligibility Criteria.
- 1.2 The Customer warrants that all information contained in the Application is true and correct. The Customer undertakes to advise EM immediately should there be any change to information contained in the Application form during the Customer's participation in the Program. Changes to information contained in the Application may affect eligibility under the Program and Incentive amounts.
- 1.3 The Customer warrants and agrees that: i) they have read Appendix A - Program Eligibility Criteria for this Program and the Customer and that the project are fully eligible for participation in the Program; ii) the Application and all matters relating thereto (including, without limitation, the Audit) fully qualify and comply with the Program Eligibility Criteria; and iii) they have the full authority to provide to EM the Application and all information and documents in relation to this Agreement and that all information and documents are and shall be correct, current, and complete.
- 1.4 The Customer agrees to the terms and conditions of this Agreement and shall comply with same, together with all Program requirements, unless specifically waived by EM in writing. If the Customer fails to comply with this Agreement or any other requirement of EM made pursuant these terms and conditions, including without limitation if the Customer ceases to be the Manitoba Hydro ("MH") account holder for the building specified on the Application, then upon notice from EM, any Incentive then-unpaid to the Customer shall be cancelled and any Incentives paid to a Customer who was in violation of this Agreement as at the payment date of the Incentive shall immediately repay the incentive to EM.
- 1.5 EM decisions relating to the Customer, Application, the Audit eligibility, the amount of Incentive, or other issues relating to the Program will be final and binding on all parties and not subject to appeal.
- 1.6 EM reserves the right to change or terminate the Program at any time in its discretion without notice. In-process applications may be subject to cancellation should the Program be terminated. Incentive amounts are subject to change without notice and are not confirmed until the time of issuance.

EM reserves the right to limit the number of Program participants in its discretion, including where a Customer or Audit would otherwise qualify under the Program.

- 1.7 This Application may be executed in any number of counterparts, including counterparts signed by fax, emailed scan-copy or, by electronic signature when submitted through an EM Customer user account. Where signed in counterparts, each of which shall be deemed an original and all of which together shall constitute one in the same instrument. A photocopied and/or fax copy of this Agreement bearing the signature of each party or an electronic copy of this Agreement having been agreed to electronically through an EM Customer user account and approved by EM shall be deemed an original execution version of this Agreement. Customer is responsible for all activity through the EM Customer user account.
- 1.8 This Agreement shall be governed by and construed in accordance with the laws of Manitoba and the applicable laws of Canada without regard to Manitoba or federal Canadian law governing conflicts of law, even if one or more of the parties to this Agreement is resident of or domiciled in any other province or country. The parties hereby irrevocably attorn to the exclusive jurisdiction of the Court of Queen's Bench of Manitoba, Winnipeg Centre.

## **2.0 Implementation requirements**

The Customer shall ensure that:

- 2.1 The Audit must meet the requirements set forth in the Appendix A - Program Eligibility Criteria and be acceptable to the inspection authorities having jurisdiction.
- 2.2 The Audit must be initiated and completed as specified on this Application within 6 months of the date EM has given the approval, unless otherwise agreed to by EM in writing.

## **3.0 Approvals and supporting documentation**

- 3.1 EM's approval for Incentives under this Program relates to the Customer's Program participation only and should not be interpreted to constitute consents, permits or other approvals required to perform the Audit or for any necessary installation or construction associated with Program participation. The Customer shall obtain all necessary consents, permits, certificates and other such approvals required by applicable laws, building codes and standards to carry out the Audit under the Program.
- 3.2 EM reserves the right to, at any time, request and verify that the Audit has been completed in accordance with this Agreement, including without limitation by way of the Customer supplying EM with itemized invoices and documentation which must detail the following: Consultant(s)/Engineer(s)/Vendor(s), address(es), phone and invoice numbers; Customer name and address where the Audit was completed; date(s) of Audit. The Customer shall, as necessary, provide consents and authorizations, including without limitation, to their Consultant(s)/Engineer(s)/Vendor(s) or otherwise as necessary to provide for direct communication with EM for these purposes.
- 3.3 An ASHRAE Level 2 or 3 final Energy Audit Report signed by the energy auditor, copy of meeting minutes from review with the Customer, invoice for energy auditing services, and a Completion Declaration completed by the Customer must be submitted before the Incentive can be paid.

## **4.0 Tax implication**

- 4.1 EM will not be responsible for any tax liability imposed on the Customer as a result of any payment of the Incentive. EM is exempt from the Goods & Services Tax (GST) and therefore Incentives do not include GST.

## **5.0 Liability**

EM will have no right, title or interest in the Audit/building/facility by virtue of the Customer's participation in the Program or the payment of any Incentive hereunder.

- 5.1 EM takes no responsibility for false or misleading statements made in the Energy Audit Report. EM makes no representation or warranty, expressed or implied, as to the fitness, quality, or accuracy of the Audit and the responsibility for accuracy rests with the Consultant(s)/Engineer(s)/Vendor(s).
- 5.2 The Customer hereby indemnifies and saves harmless EM, its directors, officers, agents, and employees from all damages, expenses, and costs for injury or death of any person, damage to or destruction of property, and all economic loss suffered by any person caused by conducting the study.
- 5.3 The Customer assumes all risk and responsibility for selection of the Consultant(s)/Engineer(s)/Vendor(s) who carries out the Audit, as well as any damages, injury, or costs that may result from conducting the Audit.
- 5.4 EM does not endorse any particular consultant, engineer, manufacturer, product, system, design, contractor, supplier, developer, builder, tool, or installer in promoting this Program.

## Appendix A - Program Eligibility Criteria

To qualify under the Program, the following Program Eligibility Criteria must be met:

### General eligibility

- (a) The Customer must be the owner or designated representative of the facility or business operations who is authorizing and initiating the Audit.
- (b) The Customer must be a MH account holder eligible for MH general service electricity rates and MH service natural gas rates.

Audit reports must address the potential to reduce electric or natural gas consumption. Incentives for Audits to reduce other fuel types are not eligible under the Program.

Incentives for Audits that achieve savings by switching to other energy sources are not eligible under this Program unless otherwise agreed to by EM in writing.

- (c) Incentives are not available for Audits in-progress or already completed prior to approval of an Applicant's application.
- (d) Audits which have received financial assistance under any other federal, provincial energy conservation program may not be eligible for this Program, unless otherwise agreed to by EM in writing. Applicant shall make full disclosure of same as part of the Application and shall provide further information and/or documentation to EM upon request for consideration by EM.
- (e) EM must be notified in writing of any changes to the Audit application otherwise the Audit may be determined by EM to be ineligible for the incentive.
- (f) All Audit requirements must adhere to the best practices and guidelines outlined by ASHRAE to generate a written report.
- (g) Only conditioned (heated) floor area will be considered eligible for determination of the final requested incentive as outlined in the Incentive Calculation section of this application. Unconditioned floor area shall not be included.
- (h) Number of storeys used for incentive calculation refers exclusively to the total above-ground floors. Basements are not included for the purpose of determining the building's height.
- (i) An Energy Audit Report must be provided to EM for review prior to issuing the Incentive.
- (j) The Energy Audit and Audit Report must adhere to the best practices and guidelines outlined by ASHRAE.

Energy Audits must be conducted by an eligible Commercial Energy Auditor selected from EM's pre-qualified list, unless otherwise agreed to by EM in writing.

A copy of the draft Energy Audit Report will be provided to EM for review, including supporting digital energy simulation files or other calculation files when requested. The Customer and EM shall share in the ownership of the copyright in the final Energy Audit Report. Proprietary information which is not otherwise known or available to the public and which belongs to the Customer will be kept confidential by EM.

### Application instructions

1. Read the AGREEMENT and the PROGRAM ELIGIBILITY CRITERIA above.
2. Complete all forms and fields on the APPLICATION. Please ensure that all information requested on the Application is provided. Incomplete Applications may result in delays in the approval process.
3. Read the Applicant ACKNOWLEDGEMENT on the Application and provide the information and signatures required.
4. Retain copies of the Application for your records.
5. If submitting a paper copy of the application, email the completed and signed form to: [EnergyAudits@efficiencymb.ca](mailto:EnergyAudits@efficiencymb.ca)
6. To qualify for the Program Incentives, an Energy Audit Report compliant with ASHRAE Level 2 or 3 standard, an invoice detailing energy audit service costs, and a copy of meeting minutes detailing the report presentation from the auditor to the Customer must be received. A completion declaration link will be provided to the Customer via email that must be completed by the Customer and returned to Efficiency Manitoba prior to finalizing the Incentive payment process.
7. Efficiency Manitoba will review the Application and all required deliverables and, if in agreement, will authorize the incentive and advise the Building Owner. The total Incentive Payable will be determined at the conclusion of the energy audit and be determined by the project's final invoiced amount for energy auditing services. The Incentive will not exceed 50% of the invoiced amount, or the specified maximum for the building category. Incentives for reasonable disbursements will be reviewed in accordance with criteria identified in our Program Requirements guideline and will not exceed 50% of the invoiced amount. Eligible disbursements include hotel, mileage, and airfare.