How to Upgrade Facilities and Infrastructure NOW Without Increasing Your Budget

Using Guaranteed Energy Cost Savings Contracts to Save Time & Spend Less

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What is a Guaranteed Energy Cost Saving Contract?


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8.231. Guaranteed energy cost savings contracts, definitions — bids required, when — proposal request to include what — contract, to whom awarded, to contain certain guarantees. — 1. For purposes of this section, the following terms shall mean:

1. "Energy cost savings measure", a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:
   a. Installation of smart thermostats or systems within the building;
   b. Storm windows or doors, shading or window shading, multi-glazed windows or doors, heat absorbing or heat reflectors glazing and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;
   c. Automated or computerized energy control systems;
   d. Building energy recovery systems or conditioning system modifications or replacements;
   e. Replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall lumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;
   f. Indoor air quality improvements to increase or maintain quality of the air that conforms to the applicable state or local building code requirements;
   g. Other energy saving measures that reduce energy consumption or operating costs, and in compliance with state and local codes;
2. "Guaranteed energy cost savings contract", a contract for the implementation of one or more such measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed energy cost savings contracts shall be considered public works contracts to the extent that they provide for capital improvements to existing facilities;
3. "Operational savings", expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;
4. "Qualified provider", a person or business experienced in the design, implementation and installation of energy cost savings measures;
5. "Request for proposals" or "RFP", a negotiated procurement.

2. No governmental unit shall enter into a guaranteed energy cost savings contract until competitive proposals thereafter have been solicited by the means most likely to reach those contractors interested in offering the required services, including but not limited to direct mail solicitation, electronic mail and public announcement on bulletin boards, physical or electronic. The request for proposal shall include the following:

1. The name and address of the governmental unit;
2. The name, address, title and phone number of a contact person;
3. The date, time and place where proposals shall be received;
4. The evaluation criteria for assessing the proposals, and
5. Any other stipulations and clarifications the governmental unit may require.

3. The governmental unit shall award a contract to the qualified provider that provides the lowest bid proposal which meets the needs of the unit if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, for the period from the date installation is complete, if the recommendations in the proposal are followed. The governmental unit shall have the right to reject any and all bids.

4. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the savings incentive, adjusted for inflation, within fifteen years. The qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed fifteen years, subject to appropriation of funds therefrom.

5. The governmental unit shall include in its annual budget and appropriations measure for each fiscal year any amounts payable under guaranteed energy savings contracts during that fiscal year.

6. A governmental unit may use designated funds for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.

7. Nonwithstanding any provision of this section to the contrary, a not-for-profit corporation incorporated pursuant to chapter 355 and operating primarily for educational purposes in cooperation with public or private schools shall be exempt from the provisions of this section.
What is a Guaranteed Energy Cost Saving Contract?

*Also known as Energy Savings Performance Contract (ESPC) or Performance Contract (PC)*

- A legislative vehicle that allows public entities to improve their facilities, by using their energy and operational budgets to fund a project, with guaranteed results.

- Provide and install the best long-term energy efficient solution for each facility – Best Fit; not necessarily low bid
- Proactively address facility upgrades
- Improve facility comfort and safety
- Repair, modernize and maintain facilities
- Reduce the need for incremental capital funding or tax increases
- Achieve guaranteed results
- Provide a fixed price contract: providing turn-key solutions with a single source provider
- Allows Municipalities to fund improvements for up to 15 years
- Funding comes from energy and operational savings
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How Does Performance Contracting Work?

1. Baseline utility (electric, gas, water, sewer) and O&M costs of the facility are set during the reference year.
2. After an RFP selection process, a partner is selected, and agreed upon energy and O&M saving measures are implemented.
3. Once the saving measures are completed, the guarantee period starts and lasts for up to 15 years. All additional savings are retained by the municipality.
4. When the contract ends, all continued savings are retained by the municipality.
How Does this Compare to Other Project Methods?

**Bid Spec**  
(Design, Bid, Build)

- Municipality at Risk
- Change Orders
- Multiple Municipal Contracts
- Money is spent before cost, scope and funding are finalized
- Overall cost is not known until the project is completed
- Low Bidders Only
- No Savings Measured/Leveraged
- No Single Source of Accountability
- No Energy and Performance Guaranteed Results

**Performance Contracting**  
(Design, Bid, Build)

- ESCO at Risk
- No Change Orders
- One Contract
- No Dollars spent until all the details of the project are known
- Guaranteed project investment is known before proceeding with agreement
- Pre-Qualified Trades
- Savings Measured and Leveraged
- Single Point of Contact and Accountability
- 33% Faster Implementation
- Significant Construction Cost Savings
How Does this Compare to Other Project Methods?

Bid Spec (Design, Bid, Build) vs. Performance Contracting (Design, Build)

- Asbestos Abatement
- Insulation
- Engineering
- Carpentry
- Flooring
- Masonry
- Systems
- Controls
- Lighting
- Equipment
- Plumbing
- Sheet Metal

- Environmental Contractor
- Architectural Services
- General Contractor
- Construction Manager
- Electrical Contractor
- Roofing Contractor
- Mechanical Contractor

Municipality

- Energy Service Company (ESCO)

- Environmental Contractor
- Architectural Services
- General Contractor
- Engineering Services
- Insulation Contractor
- Electrical Contractor
- Equipment Procurement
- Sheet Metal Contractor
- Roofing Contractor
- Controls Contractor
- Mechanical Contractor
- Plumbing Contractor

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Can You Walk Me Through the Process?

- Introduction to Performance Contracting
- Discovery Information Gathering
- Preliminary Building Analysis
- Issue Request for Proposal (RFP)
- Select a Partner with Letter-of-Intent
- Investment Grade Audit
- Energy Services Agreement
- Project Implementation
- Performance Guarantee
What are the Benefits of Performance Contracting?

- Single point of accountability.
- There are no change orders.
- Project funded by reduced energy, operational and maintenance expenses.
- Design/Build construction delivery method is more cost effective and delivers a more comprehensive solution.
- Best solution fit for each facility and not simply lowest bid.
- Performance and financial guarantee ensures long-term, sustainable building operations and lower risk.
- Comprehensive and fully integrated design solutions to improve building operations and operational costs.
- Reduce deferred maintenance by replacing old, aged and obsolete mechanical, electrical and controls systems.
- Provide post installation training and support services.
What to Look for in an ESCO?

Help Municipality develop and implement a long-term strategic plan for their facilities

✓ Partner with the Municipality
✓ Listen to the needs of the stakeholders
✓ Determine the facilities needs
✓ Develop multiple solutions based on the needs
✓ Determine energy savings and O&M savings
✓ Determine a means of funding the proposed solutions
✓ Pursue grants and incentives
✓ Provide project management for turn-key implementation
✓ Provide post installation training and support services
✓ Provide post savings audit to show implementation benefits
Questions & Answers (Hopefully)
Who Can I Contact if I Have More Questions?

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