

CHANGE REQUEST COVER SHEET

Change Request Number: 13-58

Date Received: 1/15/2013

Title: Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs)

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Policy OR Guidance: Guidance

Section/Text Location Affected: T3.6.3A.10 (new)

Summary of Change: Addition of Guidance on Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs)

Reason for Change: Consistency with FAA contracting practices in accordance with 42 USC 6287 as set forth in the DOT Limited Delegation of Authority of July 11, 2012 (ESPCs) and the Energy Policy Act of 1992 (UESCs)

Development, Review, and/or Concurrence: Acquisition Policy Division; Procurement Legal; Office of Environment and Energy (AEE-400) and Contracting Offices at HQ, Centers, and service Areas.

Target Audience: Contracting workforce and program offices

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK 1) [null](#)

Links for New/Modified Forms (or) Documents (LINK 2) [null](#)

Links for New/Modified Forms (or) Documents (LINK 3) [null](#)

SECTIONS ADDED:

Procurement Guidance:

T3.6.3 Environment, Conservation, Occupational Safety, and Drug Free Workplace

Environment, Conservation, Occupational Safety, and Drug Free Workplace

Section 10 : Energy Savings Performance Contracts [\[New Content\]](#)

Procurement Guidance:

T3.6.3 Environment, Conservation, Occupational Safety, and Drug Free Workplace

Environment, Conservation, Occupational Safety, and Drug Free Workplace

Section 11 : Utility Energy Savings Contracts [\[New Content\]](#)

SECTIONS ADDED:

Procurement Guidance:

T3.6.3 Environment, Conservation, Occupational Safety, and Drug Free Workplace

Environment, Conservation, Occupational Safety, and Drug Free Workplace

Section 10 : Energy Savings Performance Contracts

a. An Energy Savings Performance Contract (ESPC) is a contract that allows the FAA to accomplish energy projects for its facilities with little or no upfront capital costs. Under an ESPC, a contractor (i.e., an Energy Savings Company (ESCO)) finances the up-front cost of the project, guarantees the project improvements will generate enough energy and water cost savings to pay for the project over the contract period, and is paid back from the resultant energy and water savings over the contract period. Financed project costs may include ESCO services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair of an identified energy conservation measure or series of measures at one or more FAA facilities. If sufficient appropriated funding to cover the entire project is not available, or is not expected to be available in a reasonable time frame, FAA may award ESPCs to accomplish energy savings projects at FAA. FAA may contract with an ESCO for a period not to exceed 25 years.

b. *Procedures.* To solicit and award an ESPC, the CO must use the procedures, selection method, and terms and conditions provided in 10 CFR Part 436, Subpart B, at the Department of Energy (DOE) [Federal Energy Management Program \(FEMP\)](#) website and must use the "Qualified List" of ESCOs established by the DOE. The resulting award would be processed as an order under the applicable DOE contract consistent with AMS guidance on interagency procurement.

c. *Training.* All COs responsible for negotiating ESPCs must take DOE FEMP-sponsored contracting training for ESPCs (ESPC Contracting and Negotiations Webinar).

d. All ESPCs must comply with the National Energy Conservation Policy Act (42 U.S.C 6287) as set forth in the DOT Limited Delegation of Authority of July 11, 2012 until such time as the DOE statute or implementing regulations are revised.

Procurement Guidance:

T3.6.3 Environment, Conservation, Occupational Safety, and Drug Free Workplace

Environment, Conservation, Occupational Safety, and Drug Free Workplace

Section 11 : Utility Energy Savings Contracts

a. Under a Utility Energy Service Contract (UESC), FAA may contract with a local servicing utility for technical services and/or up-front project financing for energy efficiency, water conservation, and renewable energy investments at one or more FAA facilities. The utility finances the capital costs of the project with little or no up-front capital costs to the FAA, and the utility is then repaid over the contract term from the cost savings generated by the project. If sufficient appropriated funding to cover the entire project is not available, or not expected to be available in a reasonable time frame, FAA may award UESCs at FAA facilities. Unlike a Energy Savings Performance Contract, a UESC is not required to include performance guarantees. Because of this, it is highly recommended that performance guarantees or assurances be incorporated into these contracts to reduce FAA risk. Performance assurances do not guarantee energy savings; however, they provide assurance that equipment installed will perform as expected. A UESC should also include measurement and verification of savings through equipment commissioning and recommissioning.

b. *Planning.* Acquisition planning for a UESC should include the following:

- (1) Inclusion of applicable performance assurance criteria in the SIR and contract;
- (2) Analysis that shows that the planned energy conservation measures are cost effective; and
- (3) A competition or alternatives analysis as part of the selection process.

c. *Procedures.* To solicit and award a [UESC](#), the CO must use the procedures, selection method, and terms and conditions provided on the Department of Energy Federal Energy Management Program (FEMP) website.

d. All UESCs must comply with the Energy Policy Act of 1992 (42 USC 8256).