



6450-01-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Savings Performance Contracts

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) seeks comments and information regarding improvements to Energy Savings Performance Contracts (ESPCs). ESPCs allow Federal agencies to implement energy savings projects where the up-front capital cost is financed by an Energy Services Company (ESCO), who is then repaid from the agency's energy savings over a period of up to 25 years. The DOE Federal Energy Management Program (FEMP) is the lead agency program for providing implementing rules and policies regarding ESPCs. DOE FEMP strives to continuously improve the ESPC processes it has implemented since 1996. DOE is publishing this RFI to obtain ideas and input from ESPC stakeholders and other interested persons to facilitate further improvements to ESPCs.

DATES: Written comments and information are requested on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested persons may submit comments by any of the following methods. Your response should be in the form of a Word document, or a compatible format.

1. Email: to femp@go.doe.gov. Include “ESPC Comments” in the subject line of the message.
2. Mail: Mr. Randy Jones, U.S. Department of Energy, 1617 Cole Blvd., Golden, CO 80401, Telephone: (720) 356-1667, Email: randy.jones@go.doe.gov. Please submit one signed paper original.

FOR FURTHER INFORMATION CONTACT:

Mr. Randy Jones, U.S. Department of Energy, 1617 Cole Blvd., Golden, CO 80401, Telephone: (720) 356-1667, Email: randy.jones@go.doe.gov, or

Ms. Michella Hill, Contracting Officer, U.S. Department of Energy, 1617 Cole Blvd., Golden, CO 80401, Telephone: (720) 356-1489, Email: michella.hill@go.doe.gov.

SUPPLEMENTARY INFORMATION:

The Federal Energy Management Program (FEMP), within the DOE Office of Energy Efficiency and Renewable Energy (EERE), provides services, tools, and expertise to Federal agencies to help them achieve their legislated and executive-ordered energy, greenhouse gas, and water goals. These are delivered through project, technical, and program services. One of FEMP’s major services is to support Federal agencies in identifying, obtaining, and implementing project funding for energy projects through the use of ESPCs.

ESPCs allow Federal agencies to accomplish energy savings projects without up-front capital costs. In an ESPC, a Federal agency contracts with an ESCO, following a comprehensive energy

audit conducted by the ESCO of a Federal facility to identify improvements to save energy. In consultation with the Federal agency, the ESCO designs and constructs a project that meets the agency's needs and arranges the necessary funding. The ESCO guarantees that the improvements will generate energy cost savings sufficient to pay for the project over the term of the contract. After the contract ends, all additional cost savings accrue to the agency. Contract terms up to 25 years are allowed.

Under the ESPC statutes, DOE is required to develop methods and procedures for Federal agencies to implement the use of energy savings performance contracting. On April 10, 1995, DOE established the implementing procedures and regulations for ESPCs at 10 CFR part 436, Subpart B. (See, 60 FR 18334.)

To facilitate and accelerate the use of ESPCs, DOE has issued Indefinite-Delivery, Indefinite-Quantity (IDIQ) contracts designed to make ESPCs as practical and cost-effective as possible for use by Federal agencies. DOE awarded these "umbrella" contracts to ESCOs based on their ability to meet terms and conditions established in IDIQ contracts, and consistent with the ESPC regulations. DOE IDIQ contracts can be used by Federal agencies to achieve energy savings for any Federally-owned facility worldwide, by awarding Task Orders for ESPC projects at their facilities.

Since the inception of DOE's IDIQ contracts in 1996, numerous Federal agencies have used them to award more than 280 ESPC projects throughout the Federal government. More than \$2.71 billion has been invested in Federal energy efficiency and renewable energy improvements. These improvements have resulted in more than 347.5 trillion Btu life-cycle energy savings and more than \$7.18 billion of cumulative energy cost savings for the Federal Government.

While FEMP has provided implementing rules and policies regarding ESPCs, its efforts to promote and improve ESPC projects have been primarily through the DOE IDIQ contract vehicle. Over the course of the last 15 years, FEMP has continuously improved the ESPC IDIQ contract in many key areas, including contractor selection procedures, scope definition, Measurement and Verification (M&V), financing procurement, and definition of risk and responsibilities.

More detailed background and specifics of the current FEMP ESPC program can be found at:

<http://www1.eere.energy.gov/femp/financing/espcs.html>

More detailed information about the IDIQ contracts, FEMP's primary vehicle for implementation of ESPCs, including a generic version of the current contract, can be found at:

http://www1.eere.energy.gov/femp/financing/espcs_resources.html

More detailed information about the new FEMP streamlined ESPC ENABLE program for smaller facilities can be found at:

http://www1.eere.energy.gov/femp/financing/espc_enable.html

Issues on Which DOE Seeks Information:

This request for information is issued to solicit input on further potential improvements to ESPCs, with emphasis on improvements to the FEMP IDIQ contracts. Specifically, FEMP is interested in obtaining ideas and information in the following areas:

Speed to Award

- Decreasing the time from the point an agency decides to go forward (Issues Notice of Opportunity (NOO), Request for Proposals (RFP), etc.) to the time of award.
 - Process improvements and simplifications, while maintaining technical and project management integrity.
 - Addressing internal agency policies and processes to speed up key reviews, approvals, and decisions.

ESPC IDIQ Contract Improvements

- Opportunities and benefits relating to greater standardization of contract processes, terms and conditions across the Government.
- Comments on current IDIQ processes that allow contractor selection based on ESCO qualifications only, without the submission of a price proposal.
- Comments on structuring an ESPC IDIQ Contract so that new contractors may be added during the life of the contract based on meeting the same qualification criteria as specified in the original solicitation.
- Comments on a potential process where the technical criterion to receive an IDIQ ESPC contract from DOE are based partially or fully on meeting requirements of an impartial, national ESCO certification program.
- Comments on structuring an ESPC IDIQ Contract so that contractors can be removed during the life of the contract based on conditions specified in the IDIQ such as non-performance or lack of participation.
- Improvement of deliverables content and format (Investment Grade Audit, Commissioning Plans and Reports, Measurement and Verification Plans and Reports, etc.).

Increasing the Certainty of Energy Savings Persistence

- Improvements to Measurement and Verification methodologies, to achieve and maintain the greatest assurance of energy savings at the least cost.

Approaches to Encourage Innovative or Underutilized Energy Efficiency and Renewable Energy Technologies

- Approaches to increase confidence in investing in technologies with good potential but little implementation experience.
- Approaches to incentivize ESCOs to propose innovative or underutilized technologies.

Potential Improvements to the FEMP streamlined ENABLE Program for Smaller Facilities

- Improvements to the technical tools and contract templates that support project development and execution.
- Feedback on the process that is required by GSA Schedule 84, Special Identification Number 246-53 and use of the Schedule ordering process in general.

Disclaimer and Important Notes

This is an RFI issued solely for information and program planning purposes; this RFI does not constitute a formal solicitation for proposals or abstracts. Your response to this notice will be treated as information only. DOE will not provide reimbursement for costs incurred in responding to this RFI. Respondents are advised that DOE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind DOE to any further

actions related to this topic.

Confidential Business Information

In accordance with 10 CFR 1004.11, any person submitting information he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in a public docket, without change and as received, including any personal information provided in the comments (except information

deemed to be exempt from public disclosure).

Issued in Washington, DC, on March 28, 2013.

Dr. Timothy Unruh
Program Manager
Federal Energy Management Program

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