

## 1. INTRODUCTION

Energy Savings Performance Contracts (ESPCs), first authorized by EPACT 1992<sup>1</sup>, have become an effective tool for financing energy projects in federally owned facilities. FEMP has been providing project and training to agencies going back to 1996. As agencies have implemented projects, their acquisition teams and FEMP have taken note of lessons learned and best practices, which over time have been incorporated into the DOE ESPCs, FEMP ESPC training, and FEMP project assistance.

This document highlights current best practices that agencies may want to consider in their contracting process. These best practices are not all-encompassing, nor can they replace other FEMP services that include discussion of best practices, such as services from FEMP Federal Financing Specialists (FFSs) and Project Facilitators (PFs).

Agencies should use this document and all of FEMP's ESPC resources to help them award high-quality and high-value ESPC task orders (TOs). FEMP ESPC guidance, contract document templates and examples, and other informational resources are available at [http://www1.eere.energy.gov/femp/financing/espcs\\_resources.html](http://www1.eere.energy.gov/femp/financing/espcs_resources.html).

FEMP best practices also aim to minimize delays in the process, which erode the value of a project by postponing accrual of cost savings, or if interest rates increase. Delays commonly occur at decision points if the agency team or an individual is uncertain that a move forward is supported by agency due diligence and will result in a good deal for the government.

Many of these best practices address these challenges by pointing out:

- How teamwork within the agency and with the ESCO is vital to project success,
- How to conduct a cost-effective, compliant, ESCO selection,
- Critical outcomes of review which support award, and
- Key checks and steps in final negotiations and TO award.

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<sup>1</sup> Legislated ESPC Authority

The National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. No. 95-619, as amended by the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, § 7201 (1986), authorized agencies to enter into "shared energy savings contracts." The term "energy savings performance contract" first appeared in amendments to NECPA by the Energy Policy Act of 1992, Pub. L. No. 102-486 (1992). The Energy Policy Act (EPACT) of 1992 also added requirements to the authority. The U.S. Department of Energy promulgated regulations for their use in 1996 (10 CFR 436 Subpart B). The Energy Independence and Security Act of 2007 expanded the authority and made it permanent.