

# FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

November 3-4, 2015  
Houston, TX

## Disposition of Utility Rebates under 42 U.S.C. § 8256

Hosted by:



# Background

- 1992: 42 U.S.C. § 8256(c) enacted.
- 1995: “Statutory note” accompanying 42 U.S.C. § 8256 enacted.
- 1996: Comptroller General decision.
- 2001: GAO Opinion.
- 2005: 42 U.S.C. § 8256(e) enacted.
- 2007: 42 U.S.C. § 8256(c)(5) repealed.

# Background (cont.)

- 2015:



Federal Utility Partnership Working Group November 3-4,  
2015 Houston, TX

# 42 U.S.C. § 8256(c)

## (c) Utility incentive programs

(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

~~(5)(A) An amount equal to fifty percent of the energy and water cost savings realized by an agency (other than the Department of Defense) with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from energy savings performance contracts under subchapter VII of this chapter and utility energy efficiency rebates) shall, subject to appropriation, remain available for expenditure by such agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.~~

~~(B) Agencies shall establish a fund and maintain strict financial accounting and controls for savings realized and expenditures made under this subsection. Records maintained pursuant to this subparagraph shall be made available for public inspection upon request.~~

# 42 U.S.C. § 8256 (note)

(a) Beginning in fiscal year 1996 and thereafter, for each Federal agency, except the Department of Defense (which has separate authority), and except as provided in Public Law 102–393, title IV, section 13 (40 U.S.C. § 490g) with respect to the Fund established pursuant to 40 U.S.C. § 490(f), an amount equal to 50 percent of--

(1) the amount of each utility rebate received by the agency for energy efficiency and water conservation measures, which the agency has implemented; and

(2) the amount of the agency's share of the measured energy savings resulting from energy-savings performance contracts,

may be retained and credited to accounts that fund energy and water conservation activities at the agency's facilities, and shall remain available until expended for additional specific energy efficiency or water conservation projects or activities, including improvements and retrofits, facility surveys, additional or improved utility metering, and employee training and awareness programs, as authorized by section 152(f) of the Energy Policy Act (Public Law 102–486).

(b) The remaining 50 percent of each rebate, and the remaining 50 percent of the amount of the agency's share of savings from energy-savings performance contracts, shall be transferred to the General Fund of the Treasury at the end of the fiscal year in which received.

# 42 U.S.C. § 8256(e)

## (e) Retention of energy and water savings

An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 8253(a) and (b) of this title, that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects. Such projects shall be subject to the requirements of section 3307 of title 40.

# Confused?



Federal Utility Partnership Working Group November 3-4,  
2015 Houston, TX