

Utah Success Story – A Performance Contracting Program

The State of Utah accelerated performance contracting activity from quite slow to racing speed in less than a year. There was not much happening in performance contracting in Utah - with the exception of an ongoing mega-project at the University of Utah which has added phase after phase since its early start in 1998 soon to grow to \$63.5 million. In 2006, the state administration made performance contracting a priority to reach aggressive goals laid down by the governor and the legislature for state facilities. "Once the state embraced performance contracting, it took off," said John Harrington who came on-board as the State Energy Manager with the Division of Facilities Construction and Management (DFCM), hired to apply his ESCO background to help gain acceptance for the use of performance contracting in state facilities. About \$57 million in projects are now getting underway in higher education institutions and state departments. Utah's State Energy Program looks to state facilities to lead by example so that local governments will follow and that strategy is proving it's effective. To date \$165 million in projects have been completed or are underway in state and local governments. Below are a number of challenges that faced the state and the effective program solutions that make Utah a success story in performance contracting.

Fast-Tracking Program

Challenge:

Meet the Governor's aggressive energy efficiency goals in state agencies

Solution: Make performance contracting viable for state agencies and ensure measurable results.

In 2006, the governor set one of the most aggressive energy efficiency goals of any state for its state agencies, mandating a 20% reduction by 2015 compared to that fiscal year's energy use. Through various energy management efforts, a 5.8% reduction was reached two years later. Harrington said: "With ESCO projects beginning to get underway in late 2010, it will put us over the top. Performance contracting is the only

"Performance contracting is the only vehicle we had to hit the governor's energy savings goals."

- John Harrington, Utah State Energy Manager



John Harrington (left), State Energy Manager with Utah Division of Facilities Construction and Management, provides technical assistance on performance contracting with state agencies and higher education institutions.

vehicle we had to hit these goals."

Solution: Develop a streamlined process for procurement and contracting.

The Department of Facilities Construction and Management (DFCM) implemented ESC's Best Practices to streamline the procurement and contracting approach for state agencies. With help from ESC's model procurement and contracting documents and one-on-one technical assistance, Harrington and the expanded team of proactive state procurement and legal staff did the work to pre-qualify nine ESCOs which got the program underway within just a



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year. "We basically used the ESC process and customized it to meet our needs," said Harrington. "The process is working very well and definitely helped overcome barriers." DFCM as well as ESCOs presented the process to state agencies and higher education institutions to get projects started.

Solution: Track building performance.

To track reductions in energy use and gauge progress on the governor's goal, a utility management system provides historical trending data from an electronic utility bill database. This feeds into the ENERGY STAR® Portfolio Manager which is being used to rate all state buildings - before and after ratings will give a clear indication of improvements in energy performance. To ensure ongoing performance and verify annual savings, a monitoring & verification plan is mandated as part of the audit process and then a protocol for each measure is clearly laid out in the contract.



Solution: Beyond typical retrofits, get maximum operational savings.

To optimize savings, recommissioning is a required part of every performance contracting project in Utah's state agencies, providing low-cost/no-cost ways to eke out even more savings while also capturing incentive dollars from utility companies. Persistent savings through recommissioning can be guaranteed through a performance contract. Recommissioning is a major component of LEED® for Existing Buildings (LEED-EB) which will likely be the next step to optimize operational savings.

Solution: Provide technical support.

DFCM's program success is accomplished largely through three state-funded staff. Two consultants paid through ARRA funds provide added technical support to agencies and are brought in at the beginning of the audit stage to follow the project through the monitoring and verification stage, providing third-party technical review of the engineering audit and the monitoring and verification report. A two-year ARRA-funded position provides oversight on the use of ARRA funds. And, interns are doing the work to benchmark facilities in higher education institutions.

CHALLENGE: Influence local governments to do performance contracting projects

Solution: Demonstrate how the state leads by example.

The State Energy Program, housed in the Utah Geological Survey, promotes energy efficiency in local governments and other non-state entities. The program works interactively with DFCM - their mutual goal was for the state to lead by example and for the state to set-up state processes that could extend to local governments.

Utah County had been looking at performance contracting before the state developed processes, but had some concerns. "Once the state got on board the county moved ahead," said Harrington. Susan Shepherd, Utah County's Purchasing Agent, said, "The state's process was very helpful to us – we used the prequalified list for our competitive procurement and recently signed a contract. Until the state had a process in place, we didn't know where to go or how to get started."

Salt Lake City's mayor challenged staff to develop a performance contract. "This was a year before the state developed its process so we were on our own - it was a new concept for us and it's been a very



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long, slow process,” explained Jim Cleland, City Energy Coordinator. “We’re starting with a \$870,000 project and this could grow to \$20 million with the opportunities we’ve identified. The state’s process will make it much easier for local governments to do projects.”

Jason Berry, Manager of the Utah State Energy Program added, “Performance contracting is an important part of the portfolio of funding and financing mechanisms, and can be very effective to leverage ARRA funds in the local government sectors.”

Utah citizens and leaders have a very conservative bent toward debt of any kind (or anything that looks like debt). “Through state agency and higher education projects, the state is demonstrating that performance contracting is a diversion of utility dollars rather than debt, that it’s a good investment and that it’s a different way to solve issues in facilities,” said Harrington.



The University of Utah’s performance contracting project has grown to \$63.5 million in facility upgrades.

Solution: Initiate legislation for local governments

Enabling legislation for performance contracting was enacted long ago for state agencies but there was no such legislation for political subdivisions. In collaboration, DFCM and the State Energy Program initiated legislation based on the state statutes and ESC’s model legislation. It is now in effect and gives school districts, municipalities, counties and others approved guidelines for implementing performance contracting projects following the state’s lead.

CHALLENGE: Low energy costs means less funds to do projects and a lower sense of urgency.

Solution: Plan for future escalating costs; Combine multiple funding sources

To help projects cash-flow, the standard lease-purchase approach is supplanted with utility rebates, ARRA funds and capital improvement facility funds. The latter is a one-time expenditure authorized for state agencies as long as the state funds are tracked separately. “Energy costs remain low but will go up. Performance contracting projects, especially when supported by utility program rebates, will reduce the impact of future energy rate increases,” said Harrington.

Solution: Use ARRA funds as an incentive to leverage other funding sources

Stimulus dollars entered the picture after the program was designed, but fit right in as a project incentive - the bigger the project the bigger the incentive applied to it. “I see ARRA funds as a once-in-a-lifetime opportunity to do energy projects in the state - we’re using the funds as a carrot to do larger-scale projects that could not otherwise cash-flow with savings alone,” said Harrington. ARRA funds will account for only about 5 to 10 percent of a project but that’s enough of an incentive to bring projects on-line. It also brings a sense of urgency for program staff to make agency education a priority and for agencies to make performance contracting a priority.

Currently \$4.1 million are committed for ESCO projects and another \$1.5 million for renewables projects that will be implemented through performance contracts. Harrington anticipates \$60 million in performance contracting projects resulting from the \$10 million ARRA incentive that is earmarked for equal investments in energy efficiency and renewable energy projects. As an example, the University of Utah will get \$1 million of ARRA funds to apply to its \$19.5 million



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performance contracting project to build a new central plant with thermal energy storage for its northern campus.

CHALLENGE: Increase the use of renewables.

Solution: Incorporate renewables into performance contracting projects

DFCM directs ESCOs to evaluate renewable energy projects, especially photovoltaic and solar thermal projects. One project is implementing a ground source geothermal system. Other projects are in the audit stage and evaluating both PV and solar thermal opportunities. “We’re trying to develop awareness of renewables, particularly at higher education facilities where students can see them in action and learn about them and where project managers get first-hand experience overseeing installation and operation,” said Harrington.



Solution: Use Power Purchase Agreements (PPA)

DFCM also is developing a process for Power Purchase Agreements (PPAs) patterned off of the state’s performance contracting process to pre-qualify companies and develop approved contractual processes. (PPAs deliver reduced utility rates which pay for renewables projects but due to ownership and tax issues the process is very different.) An RFP to pre-qualify PPA providers is

now soliciting providers, some of which will be ESCOs which can address efficiency alongside large-scale renewables projects.

AT A GLANCE ESC’s Best Practices in Action

State Leadership (point person; program)	X
Legislation and Governor’s Support	X
Consensus – procurement, legal, finance	X
Pre-Qualified ESCOs	X
Pre-Approved Contracts	X
Public/Private Partnership (ESC Chapter)	
Project Oversight; Technical assistance	X
Education & Outreach	X
Program Funding through Savings	
Data Tracking	X

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The **Energy Services Coalition** is a national nonprofit organization composed of a network of experts from a wide range of organizations working together at the state and local level to increase energy efficiency and building upgrades through energy savings performance contracting.

Energy savings performance contracting enables building owners to use future energy savings to pay for up-front costs of energy-saving projects, eliminating the need to dip into capital budgets.

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