

# FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

November 5-6, 2014  
Cape Canaveral, Florida

**Utility Energy Service Contract (UESC)  
is not an  
Energy Savings Performance Contract (ESPC)**

Hosted by:



# UESC or ESPC

- UESC is similar to ESPC but these are NOT interchangeable.
- UESC Authorities:
  - Federal agencies: 42 U.S.C. §8256
  - DOD: 10 USC §2913 (gas & electric) and 10 USC §2866 (water)
- Similarities with ESPC
  - Third party financing is available

# UESC or ESPC

- DIFFERENCES

- TITLE

- For UESC, title to energy-savings devices must vest in the U.S.
    - For ESPC, title has to be addressed in the contract but does not HAVE to vest in U.S.

- Contract Parties

- UESC authority allows agencies to contract with utility companies
    - ESPC authority – contract is with an ESCO, not a utility

# UESC or ESPC

- DIFFERENCES
- CONTRACT TERM
  - UESC maximum contract term is determined by agency policy
  - ESPC – maximum 25 year term by statute
- PERFORMANCE ASSURANCE
  - ESPC requires a savings “guarantee”
  - UESC buying equipment to reduce energy consumption at facilities, not savings guarantees. Economic evaluations and Performance Assurance planning required.

# UESC or ESPC

- DIFFERENCES
- FEMP SUPPORT
  - ESPC:
    - Required if using FEMP ESPC contract vehicle
    - Agency pays for mandatory FEMP project facilitation
  - UESC:
    - Available at no cost to any agency pursuing UESC

# UESC or ESPC

- UESC CONTRACTING

- FAR applies

- You can compete among available utilities (even with limited sources)
    - You can sole source with just one utility, but this requires the Justification & Approval document and other requirements that apply to sole source actions
    - You can use an existing GSA Areawide contract but you might have to justify a sole source action
    - There are no specific FAR or CFR provisions for a UESC (GSA follows FAR Part 41 for their Areawide contracts)

# UESC or ESPC

- **ESPC CONTRACTING**

- There are existing IDIQ contracts (FEMP, Army Corps of Engineers) in place that can be used for ESPC
- It would be rare to be able to justify a sole source for an ESPC project (except for a follow-on to an existing project at the same location)
- 10 C.F.R. Part 436 provides guidance on ESPC as well as FAR Part 23 – These are not Part 41 actions

# UESC or ESPC

- CONCLUSIONS

- Both UESC & ESPC allow agencies to take advantage of third party financing for projects that will generate savings
- Both are viable options for attaining energy efficiencies and goals