ESPC Basics

- What are ESPCs?
- How do ESPCs Work?
- Benefits
- Federal Authorities
- Flexible Funding
- DOE-FEMP IDIQ ESPCs

What are ESPCs?

Contracts that allow agencies to do energy projects with minimal up-front capital cost and no special appropriations from Congress.

Energy Services Company (ESCO)

- Provides development and installation of energy/water conservation measures
- Guarantees resulting cost savings sufficient to cover project costs

Agency

- Pays ESCO over term of contract from guaranteed cost savings
- Contract administration→life of contract

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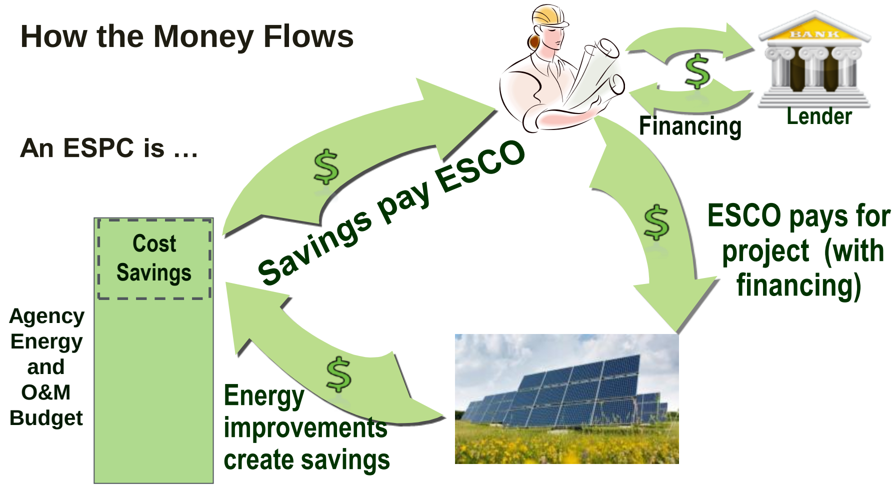
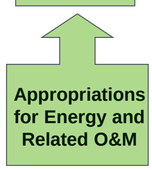
How the Money Flows

An ESPC is …



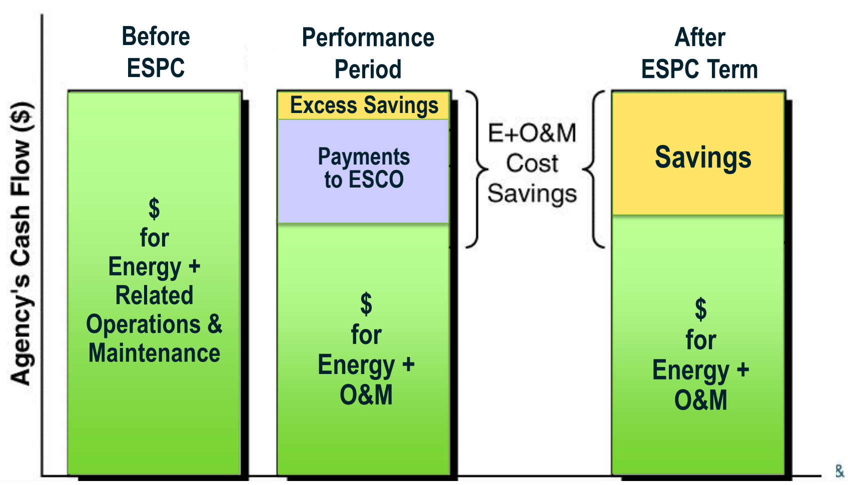


… a contract in which a private company invests in a federal facility by providing energy efficiency improvements. These improvements create a savings in operational costs of the facility, which are then used to repay the private company's investment.

ESPCs are Budget-Neutral

Reallocate the Government's Utility Bill:

♦ Stop paying for waste and pollution ♦ Start paying for efficiency ♦



Key Features of ESPCs

- Legislated purpose: Achieve energy savings & ancillary benefits
- Savings guarantees are mandatory
- Measurement and verification (M&V) is mandatory
- Savings must exceed payments for each year
- Contract term cannot exceed 25 years (starting with award of the task order)

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What Are The Benefits of Using ESPCs?

- Fund energy improvements with minimal or no up-front capital costs
  (Save appropriations for other needs)
- Obtain long-payback ECMs by bundling with short-payback ECMs
- Operations & maintenance (O&M) and repair & replacement (R&R) can be included in contract
- Take advantage of ESCO experience
- ***They deliver guaranteed improvements, savings, and performance***

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Authorizing Legislation

- First authorization for "shared energy savings contracts" with private-sector ESCOs:
  - National Energy Conservation Policy Act (NECPA), Title VIII Shared Energy Savings (1986)
- Superseded NECPA; added requirements:
  - Energy Policy Act of 1992 (EPACT 1992)
- ESPC authority made permanent:
  - Energy Independence & Security Act (EISA 2007)
- Regulations governing ESPCs:
  - DOE Final Rule: 10 CFR 436 Subpart B

See FEMP ESPC Web pages for more on legislation and authorization

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7

Federal Acquisition Regulations

- Federal Acquisition Regulations (FAR) related to ESPCs
  - FAR Part 23.205 Energy savings performance contracts
  - FAR Part 16.505 Ordering
  - FAR Part 2.101 Definitions (Energy Savings Performance Contract)

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8

Flexible Funding

– Authorization

– Strategic Use of Appropriations & Financing

Authorization for Combining Financing and Appropriations in ESPCs

- EISA 2007 §512
  - May use any combination of appropriated funds and private financing under an ESPC
  - EISA 2007 §432 reinforces authorization for “combined funding for the same measure”
- NECPA (42 U.S.C. § 8287a) still applies:
  - ESPC payments may come only from funds appropriated or otherwise made available for the payment of energy, water, or wastewater treatment expenses (and related O&M/R&R expenses).

ORNL Study: Quantitative comparison of three options for use of appropriated funds in energy management:

1. Directly fund short-payback ECMs
2. Directly fund long-payback ECMs (that do not fit into a financed project)
3. Apply as one-time up-front payment to reduce financed amount

Study Conclusions

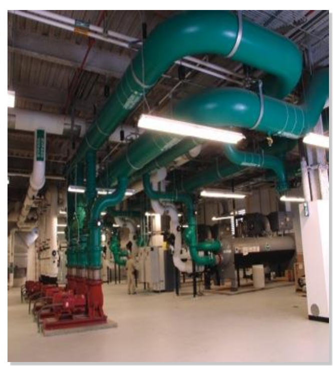
- Best strategy
  - Use private financing to fund as many measures as possible, starting with shortest paybacks
  - Use available appropriations as up-front payment for financed project
- Directly funding short-payback ECMs with appropriations is not a good strategy –
  - Limits investment, limits savings, costs more, limits agency's options

Federal ESPCs

- DOE indefinite-delivery, indefinite quantity (IDIQ) ESPCs
  - The focus of this workshop
- Other federal ESPC vehicles
  - Army Corps of Engineers; GSA Schedule
- Stand-alone (non-IDIQ) contracts
  - Business as usual – Synopsis, solicitation, etc.
  - Substantial agency effort required
  - Must use "DOE-qualified" ESCOs

DOE-FEMP IDIQ ESPCs and Agency ESPC Task Orders

- IDIQ contracts awarded competitively to ESCOs by DOE-FEMP to streamline the process
- Agencies negotiate and award task orders (TOs) under the IDIQs
- Can be used for federally owned facilities anywhere in the world
- Scope includes energy conservation measures A – Z
  - Technology categories are listed in IDIQ Attachment J-3



DOE-FEMP IDIQ ESPC Results Since 1998

QUICK FACTS

330 DOE IDIQ projects awarded

Over $3.5 billion invested in energy-efficiency and renewable energy improvements

More than 4 trillion Btu in life cycle energy savings

More than $8.7 billion in cumulative energy cost savings

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ESPC Process Through Task Order Award

Phase 1: Acquisition Planning

Phase 2: ESCO Selection – Preliminary Assessment (PA)

Phase 3: Investment-Grade Audit (IGA) to Award

★ **Acquisition Planning**

★ **ESCO Selection***
- ★ **Notice of Opportunity**
- ★ **First down-selection, to 2 or more ESCOs**
- ★ **Second down-selection, to 1 ESCO to perform PA**
- ❑ **Preliminary assessment**
- ★ **Review of PA**

★ **Notice of Intent to Award**

★ **TO RFP**
❐ **IGA**

❐ **Proposal development and submittal**

★ ❐ **Proposal review and revisions**

★ **Approvals**
★ ❐ **Final Negotiations**
★ **TO Award**

Key
★ Agency Action
❐ ESCO Action

* Down-selection procedures vary widely. The process represented here is widely used.

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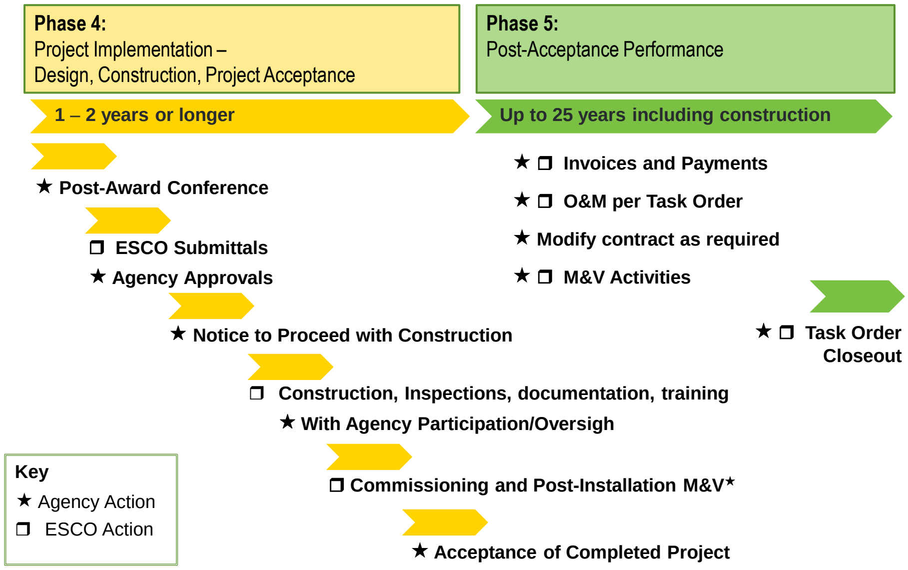
Post-Award Process – Phase 4 and Phase 5



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Keep In Mind

- Opportunity cost is our enemy—keep the big picture in mind.
  - Inaction is very costly
  - Delay is costly especially with financed project
- Despite training, you're not on your own!
  - FEMP team supports every project
- Keep DOE-FEMP on speed dial
  - We're never far away
  - We have an interest in every project throughout its contract term

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Review Questions

Q1: DOE-FEMP ESPCs are _______ (type) contracts awarded by DOE to ESCOs to streamline the ESPC process.

A: IDIQ, indefinite-delivery, indefinite-quantity

Q2: What's the maximum term of a federal ESPC task order?

A: 25 years

Q3: Besides cost savings, what must be guaranteed?

A: Performance of ECMs and standards of service

Q4: What is the geographic scope of the DOE-FEMP ESPCs?

A: Worldwide

Q5: Can you name an ECM that is **not** allowed under DOE-FEMP ESPCs?

A: No

Q6: Where does the ESCO get the capital to fund construction?

A: Borrows from financier/lender

Q7: Is M&V negotiable or required in federal ESPCs?

A: Required by law and contract

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Next: Phase 1, Acquisition Planning ►