

# Energy Savings Performance Contracting (ESPC)

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Energy savings performance contracting (ESPC) is offered by Energy Service Companies (ESCOs) as a way for public sector entities to obtain and finance energy saving projects for their facilities. ESPC can provide the resources to finance and acquire needed capital equipment to improve energy efficiency and comfort in public buildings, without an up-front capital cost. In 2005, the Arkansas Legislature enacted legislation that authorizes state agencies to use ESPC for implementing energy improvement projects.

One of the most attractive and distinguishing goals of ESPC is the guaranteed energy cost savings that pay for all associated project costs over the life of the contract. This provides an opportunity for agencies to free up scarce budget resources for other needed services and activities. The length for Arkansas ESPC projects cannot exceed twenty (20) years.

## Current Barriers:

1. When the law was enacted in 2005, it was placed in the Procurement section of the law.
2. Lack of education and understanding of this method of contracting.
  - a. Personnel expertise – only a few agencies have a professional engineer on staff; lack of understanding of financing options.
  - b. Facilities personnel – a few agencies have energy experts on their staffs, but the ‘guarantee’ is missing.
  - c. Management – lack of understanding and concern about how the financing will be repaid.
3. Most state agencies do not have an on-call contract with a professional engineer to conduct the initial investment grade audit.
4. Agencies are concerned about reduced funding when energy savings are realized that would prohibit the payback of the project.
5. Agencies must have an appropriation to finance the project.
6. ESCOs may not want to work on small projects.
7. Enabling legislation is still needed to support the 2010 Constitutional Amendment that allows State agencies to use bonding as a method of financing for ESPC.
8. The law stipulates it will be solicited by a request for proposal, but the request for qualification method of procurement would be more appropriate. The existing process does not encourage competition among the ESCOs.

## **Governing Laws: ACA 19-11-1201 et seq.**

19-11-1204. Method of Solicitation.

Any solicitation of a guaranteed energy cost savings contract by a state agency shall be consistent with the Arkansas Procurement Law, ACA §19-11-201 et seq.

19-11-1205. Evaluation of proposals.

(a) The state agency’s evaluation of each qualified provider’s proposal shall include an analysis of:

(1)(A) The estimates of all costs, including but not limited to modifications, remodeling, a preinstallation energy audit or analysis, design, engineering, installation, maintenance, repairs, debt service, and postinstallation project monitoring, data collection, and reporting.

## Moving Forward:

The State is developing an Advisory/Review Committee to assist agencies with the EPC process. It will be comprised of employees from Procurement, Accounting, Energy Office, Budget, Arkansas Building Authority, and ADFA.

Stakeholders are interested in establishing an “Energy Service Coalition” association in Arkansas to provide education and outreach.

State Procurement is reworking the procurement process and forms with the assistance of state agencies and ESCOs to improve the current process.

ESCO's provide "Turn Key Services":

- Designs and constructs the Energy Project
- Obtains financing to cover costs
- Guarantees cost savings to cover payment over contract term
- Fixed contract price for specified scope of work
- No change orders required
- Assist in meeting goals established in Acts 1761 and 1494
- Requires that savings be measured and verified under the International Performance Measurement and Verification (M&V) Protocol (IPMVP) each year