

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

## A Bill

DRAFT JLL/JLL  
SENATE BILL

5 By: Senator <NA>  
6

### For An Act To Be Entitled

8 AN ACT TO AMEND THE GUARANTEED ENERGY COST SAVINGS  
9 ACT; AND FOR OTHER PURPOSES.

### Subtitle

12 TO AMEND THE GUARANTEED ENERGY COST  
13 SAVINGS ACT.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 19-11-1205 is amended to read as follows:  
20 19-11-1205. Evaluation of ~~proposals~~ responses to solicitations.

21 (a) A In a state agency's evaluation of each qualified provider's  
22 proposal response to a solicitation under § 19-11-1204, the state agency  
23 shall include an analysis of:

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

28 ~~(2) A determination whether there will be a (1) Whether the~~  
29 qualified provider is most qualified to meet the objectives of the  
30 solicitation, including without limitation a reduction in the state agency's  
31 energy consumption or operating costs resulting from the proposal a  
32 guaranteed energy cost savings contract with the qualified provider;

33 ~~(3) (2) The qualifications and experience of the properly state-~~  
34 licensed qualified provider;

35 ~~(4) The relative importance of price, return of investment,~~  
36 financial performance, stability, quality, technical ability, experience, or

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1 ~~any other relevant evaluation factor;~~

2 ~~(5) Tasks to be performed under the proposal; and~~

3 ~~(6) Timeframes within which the work will be completed.~~

4 (3) The technical approach to the energy cost savings measures;

5 (4) The financial aspects of the energy cost savings measures;

6 (5) The overall benefit to the state agency; and

7 (6) Any other relevant factors.

8 (b) After evaluating the proposals a response to a solicitation as  
9 required under subsection (a) of this section, a state agency may:

10 (1) ~~The state agency may reject any proposal~~ Reject the  
11 response; or

12 (2) Award a contract to a qualified provider to conduct an  
13 investment grade energy audit to be used in developing the guaranteed energy  
14 cost savings contract in a manner consistent with the Arkansas Procurement  
15 Law, § 19-11-201 et seq.

16  
17 SECTION 2. Arkansas Code § 19-11-1206 is amended to read as follows:

18 19-11-1206. ~~Contract~~ Guaranteed energy cost savings contract  
19 requirements.

20 (a) ~~A~~ The following provisions are required in a guaranteed energy  
21 cost savings contract shall include the properly state licensed qualified  
22 provider's guarantee that:

23 (1) A statement that the state agency is not eligible to receive  
24 reimbursement under subdivision (a)(2)(C) of this section if:

25 (A) The state agency fails or refuses to install, operate,  
26 and maintain any new or existing equipment, improvement, or facility that is  
27 an essential component of the energy cost savings measures required by the  
28 guaranteed energy cost savings contract; and

29 (B) The failure or refusal to properly install, operate,  
30 and maintain the new or existing equipment, improvement, or facility under  
31 subdivision (a)(1)(A) of this section has a significant, negative impact on  
32 the energy cost savings guaranteed under the guaranteed energy cost savings  
33 contract;

34 (2) A guarantee by the qualified provider that:

35 ~~(1)~~ (A) The energy and operational cost savings to be  
36 realized over the term of the guaranteed energy cost savings contract shall

1 meet or exceed the costs of the energy cost savings measures;

2           ~~(2)~~ (B) The payback period for heating, ventilation, and  
3 air conditioning systems ~~shall~~ is to be based on the equipment capacity and  
4 efficiency as certified by the ~~Air Conditioning and Refrigeration Institute~~  
5 Air Conditioning, Heating and Refrigeration Institute; and

6           ~~(3)~~ (C) If the annual energy or operational cost savings  
7 fail to meet or exceed the annual costs of the energy cost savings measure as  
8 required by the guaranteed energy cost savings contract, the qualified  
9 provider shall reimburse the state agency for any shortfall of guaranteed  
10 energy cost savings on an annual basis.

11           (b) The maximum term for a guaranteed energy cost savings contract ~~may~~  
12 ~~not have a term beyond~~ is twenty (20) years.

13           (c) Before entering into a guaranteed energy cost savings contract,  
14 the state agency shall require the qualified provider to file with the state  
15 agency a ~~bid bond,~~ payment and performance bond, or similar assurance as  
16 provided under § 19-11-235.

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