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Federal Performance Contracting Coalition (FPCC)

Before the Subcommittee on Energy

House Energy and Commerce Committee

Subcommittee Hearing entitled “"Saving Energy: Legislation to Improve Energy Efficiency and Storage."

February 12, 2020

Chairman Rush, Ranking Member Upton, and members of the Subcommittee:

My name is Jennifer Schafer and I am the Executive Director of the Federal Performance Contracting Coalition (FPCC). I am pleased to testify today in support of legislation aimed at improving the energy efficiency of the federal government. Specifically, the FPCC endorses and encourages the Committee to advance the following bills:

1. H.R. 5650, the Federal Energy and Water Performance Act (Welch-Kinzinger / Murkowski-Manchin)
2. H.R. 3962, Energy Savings and Industrial Competitiveness Act (Welch-McKinley / Portman-Shaheen)

The FPCC is a national industry coalition comprised of Energy Service Companies advocating for increased federal use of Energy Savings Performance Contracts (ESPCs). An ESPC is a multiyear contract between a federal agency and an Energy Services Company that facilitates private investment in federal infrastructure upgrades. FPCC members represent approximately 95 percent of the Federal ESPC market and include: AECOM, ABM, Ameresco, Constellation Energy, CEG, Energy Systems Group, Honeywell, Johnson Controls, Noresco, Schneider Electric, Siemens Government Technologies, SitelogIQ, Southland Energy and Trane.

For the last twenty years, our coalition has promoted policies that encourage the use of performance contracting across the federal sector. We have been proud to work with bipartisan members of Congress, along with Republican and Democratic Administrations, to educate policymakers and to facilitate the use of these financing mechanisms to save taxpayer money, help modernize aging infrastructure, and improve resiliency and sustainability. The legislation before you today will build on this progress and provide federal facility managers and energy professionals with the tools and guidance needed to continue making effective efficiency investments.

Background: Energy Savings Performance Contracting

The federal government is the nation's single largest energy consumer and spends more than $7 billion annually on facility energy costs. Energy efficiency improvements can help agencies reduce this bill, yet, due to limited agency budgets and capital constraints, agencies are often unable to make cost-effective investments in needed infrastructure upgrades.

A brief example highlights this growing infrastructure backlog. In 2007, Congress passed the Energy Independence and Security Act (42 U.S.C. 8253(f)(3)). The law requires federal agencies to perform energy audits of their facilities and to identify cost-effective energy conservation measures that could be implemented. These measures are then reported to the Department of Energy, where the Federal Energy Management Program (FEMP) compiles the findings.

Today, FEMP's EISA database notes that there are more than 65,000 identified energy conservation measures representing over $8 billion in potential investment that have yet to be implemented. These measures have the potential to save the federal government over $807 million annually[1]. There is clearly a vast opportunity for energy efficiency across the federal sector at a time of reduced discretionary funding.

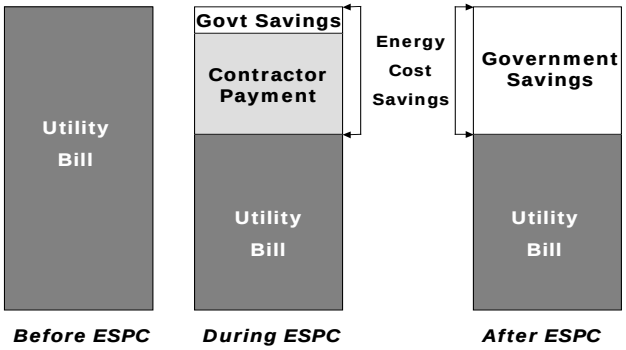
ESPCs and Utility Energy Service Contracts (UESCs) can fill this funding gap. In 1992, Congress authorized the use of performance contracts to serve as an alternative financing method to address needed infrastructure improvements[2]. In the years since then, performance contracts have enabled critical upgrades to federal buildings across the country, including the House and Senate Office Buildings and the U.S. Capitol. In fact, the Government Accountability Office (GAO) found that between 1995 and 2014, agencies awarded over $12 billion through more than 500 ESPCs.[3]

[1] FEMP EISA 432 Compliance Tracking System, Comprehensive Evaluation Findings (by Agency) as of [date] found at https://www.energy.gov/eere/femp/eisa-federal-covered-facility-management-and-benchmarking-data. The DOE database further shows that in the past ten years, Federal agencies have implemented more than 16,000 ECMs for a total estimated annual energy savings of 17 trillion [confirm] Btus.

[2] EPACT, P.L. 102-486

[3] www.gao.gov/products/GAO-15-432

How do ESPC's work?



Under an ESPC, private-sector Energy Service Companies finance and install energy efficiency improvements, which may include new equipment, at no upfront cost to the federal government. Federal agencies repay this investment over time with funds saved on utility costs. The private sector contractors measure, verify, and guarantee that the specified energy savings are achieved over the life of the contract, up to 25 years. Private sector financiers provide the capital, which today is available at historically low interest rates. By law, the post-project costs to the government (utility bill, operating costs, and ESPC repayment) never exceeds what they would have paid for utilities and facility operation had it not entered into an ESPC.

Performance contracting continues to provide the federal government with a cost-effective method to address infrastructure needs. ESPCs and UESCs can significantly reduce the need for federal agencies to use appropriated dollars for equipment replacement, operation, and maintenance. Moreover, ESPCs often yield energy savings in excess of the guaranteed rate. According to a June 2013 Oak Ridge National Laboratory study[4], ESPCs are saving the federal government 107% of the level guaranteed by contractors. This additional savings can then be used to implement additional, unfunded agency priorities such as energy-related resilience or cybersecurity measures in federal facilities. In fact, we see an evolution of contracting mechanisms for such growing needs as resilience, and believe that ESPCs are still a perfect delivery mechanism for larger contracts that can combine efficiency and resilience. It's important to remember that ESPCs can include PPAs and other financing structures and can be combined with appropriated dollars when there is an interest.

[4] https://info.ornl.gov/sites/publications/files/Pub47781.pdf

Performance contracting has a history of bipartisan support. In 2017, 179 members of the House and Senate sent a letter to President Trump expressing support for these measures. The Energy Savings Performance Caucus, chaired by Representatives Welch and Kinzinger, led this letter, and the Caucus has been tireless in supporting federal ESPCs. Earlier this year, the Subcommittee passed H.R. 3079, the Energy Savings Through Public Private Partnership Act, a Welch-Kinzinger bill that addresses several barriers to ESPCs. We hope that this legislation, along with the bills being considered today, will soon become law.

H.R. 5650 -- Federal Energy and Water Management Performance Act of 2020

The FPCC strongly support this bill which would accomplish three priorities important to our members.

First, the bill formally authorizes the Federal Energy Management Program within the Department of Energy's Office of Energy Efficiency and Renewable Energy (EERE). Since its inception, FEMP has served as an expert resource on all efforts to make our nation's federal facilities more resilient, efficient and secure. FEMP provides training to federal facility managers, writes the rules and regulations to comply with legislative mandates, provides guidance, oversight, and assistance to Federal agencies, and tracks progress towards a variety of congressionally mandated efficiency metrics. Explicitly authorizing FEMP within EERE will streamline the Federal Government's "go to" resource into a "one stop-shop with authority" to carry out mission, thereby aligning with the priorities to streamline, clarify and reduce burdens while maximizing coordination, accountability, emissions reductions and energy and water savings.

Second, the bill directs federal agencies to reduce energy consumption in federal facilities by 2.5% each year through 2030. This goal is critical to driving performance contracting and energy and infrastructure improvements in federal buildings. We have not had such goals since the expiration of those proposed by the Bush Administration and adopted in EPACT 2005 which required a 3.0% reduction in energy use per year. The goals in this bill are, admittedly, not as aggressive. However, they were developed by the Administration with input from FEMP and are "achievable stretch goals". There was no interest in setting goals that some agencies would not even try to achieve. These are realistic and will drive energy cost savings, emissions reductions, reduce energy use, and promote more resilient and cybersecure federal facilities.

Third, the bill extends for 10 years the water reduction goals of the Federal government. These have been readily achieved by federal agencies and are "low hanging fruit" in most performance contracting. Not only does water efficiency save energy, but water savings are also incredibly valuable in water-constrained regions of the country. To that end, the bill also includes a goal to achieve a 2% per year reduction in agricultural water use.

H.R. 3962 - Energy Savings and Industrial Competitiveness Act (ESICA)

This legislation includes the provisions detailed above, along with several additional measures relating to federal facility energy use supported by the FPCC. We have several comments on ESICA:

- Both H.R. 5650 and H.R. 3962 (ESICA) contain federal energy use reduction goals. ESICA would set energy reduction goals for seven years while H.R. 5650 would set them for ten years. We prefer the longer term, ten-year goals that give more certainty to our members and government partners.
- ESICA section 421 includes an important change to EISA Section 432. As previously discussed, EISA requires agencies to audit federal facilities and identify cost-effective conservation measures that could be implemented. When EISA was being drafted, this section included an additional provision saying agencies "shall" implement that cost-effective conservation measures they had identified. Unfortunately, due to a CBO scoring issue that has since been resolved, this measure was dropped. In its place, EISA said agencies "may" implement these conservation measures. ESICA and the Energy Savings Through Public Private Partnership Act (H.R. 3079) would both return the original language and require agencies to implement the cost-effective measures they have identified. With federal agency audits showing more than 65,000 energy conservation measures which have not been implemented, we believe it is in the interest of the government, taxpayers, and the environment to require the implementation of those measures which are life-cycle cost-effective.
- The FPCC is on record supporting all of the provisions of Section 421 which include the goals for the Federal government energy reductions, retrocommissioning requirements, "may" to "shall", and extension of 30% better than code. We support these as a replacement for the fossil fuel reduction mandate in EISA 433, which we feel has unintended consequences and, 13 years after passage, remains unimplementable.

- Sections 301 and 302 of ESICA also include the Energy Efficient Government Technology Act, and the Efficient Data Center Act, which encourages the Federal government to harness new information technologies and improve data center efficiency. These measures passed the Committee last year and, among other things, clarify the use of ESPCs in data centers. ESPCs can reduce that energy use at these energy-intensive centers by upwards of 75%-- all paid for from energy savings alone.

In summary, ESPCs and UESCs are private sector financing mechanisms that allow the federal government to improve its energy efficiency, decrease its energy costs, and address deferred maintenance projects with no upfront appropriations. Most importantly, the savings are guaranteed by the contractors. These contracts have a proven history, and significant additional energy savings opportunities abound. Passage of H.R. 5650 and H.R. 3962 is key to ensuring the federal agencies continue to leverage the private sector for energy savings without relying on appropriated funds.

Chairman Rush, Ranking Member Upton, and members of the Subcommittee, thank you for allowing me the opportunity to testify before you today. I stand ready to answer any questions you might have.