Utah Success Story – A Performance Contracting Program

The State of Utah accelerated performance contracting activity from quite slow to racing speed in less than a year. There was not much happening in performance contracting in Utah - with the exception of an ongoing mega-project at the University of Utah which has added phase after phase since its early start in 1998 soon to grow to $63.5 million. The state administration made performance contracting a priority to reach aggressive goals laid down by the governor and the legislature for state facilities. "Once the state embraced performance contracting, it took off," said John Harrington who came on-board as the State Energy Manager with the Division of Facilities Construction and Management (DFCM) to apply his ESCO background to help gain acceptance for the use of performance contracting in state facilities. About $57 million in projects are now getting underway in higher education institutions and state departments. Utah's state energy office looks to state facilities to lead by example so local governments will do the same. Utah is poised to quickly rise to the top of ESC's Race to the Top (a metric of performance contracts in the state per capita). To date $159 million in projects have been completed or are underway in state and local governments. Below are a number of challenges that faced the state and the effective program solutions that make Utah a success story in performance contracting.

Fast-Tracking Program

Challenge:

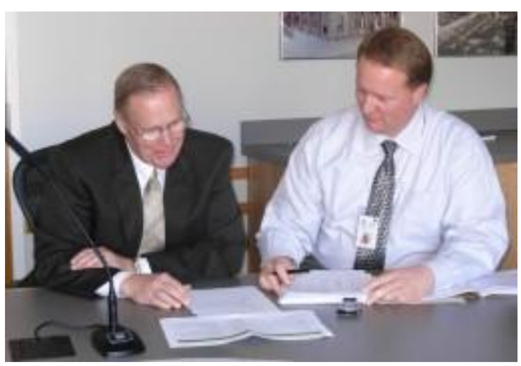
Meet the Governor's aggressive energy efficiency goals in state agencies

Solution: Make performance contracting viable for state agencies and ensure measurable results.

In 2006, the governor set one of the most aggressive energy efficiency goals of any state for its state agencies, mandating a 20% reduction by 2015 compared to that fiscal year's energy use. Through various energy management efforts, a 5.8% reduction was reached two years later. Harrington said: "With ESCO projects beginning to get underway in late 2010, it will put us over the top. Performance contracting is the only vehicle we had to hit these goals."

"Performance contracting is the only vehicle we had to hit the governor's energy savings goals."

- John Harrington, Utah State Energy Manager



John Harrington (left), State Energy Manager with Utah Division of Facilities Construction and Management, provides technical assistance on performance contracting with state agencies and higher education institutions.

Solution: Develop a streamlined process for procurement and contracting.

DFCM implemented ESC's Best Practices to streamline the procurement and contracting approach for state agencies. With help from ESC's model procurement and contracting documents and one-on-one technical assistance, Harrington and the expanded team of pro-active state procurement and legal staff did the work to pre-qualify nine ESCOs which got the program underway within just a year. "We basically used the ESC process and customized it to meet ourneeds," said Harrington. "The process is working very well and definitely helped overcome barriers." DFCM as well as ESCOs presented the process to state agencies and higher education institutions to get projects started.

Solution: Track building performance.

To track reductions in energy use and gauge progress on the governor's goal, a utility management system provides historical trending data from an electronic utility bill database. This feeds into ENERGY STAR's Portfolio Manager which is being used to rate all state buildings - before and after ratings will give a clear indication of improvements in energy performance. To ensure ongoing performance and verify annual savings, a monitoring & verification plan is mandated as part of the audit process and then a protocol for each measure is clearly laid out in the contract.

Solution: Beyond retrofits, get maximum operational savings.

To optimize savings, recommissioning is a required part of every performance contracting project in Utah's state agencies, providing low-cost/no-cost ways to eke out even more savings while also capturing incentive dollars from utility companies. Persistent savings through recommissioning can be guaranteed through a performance contract. Recommissioning is a major component of LEED-EB (LEED for Existing Buildings) which will likely be the next step explored to optimize operational savings. (The state already embraced LEED for new construction where LEED Silver is mandated.)

Solution: Provide technical support.

DFCM's program success is accomplished largely through three state-funded staff. Two consultants paid through ARRA funds provide added technical support to agencies and are brought in at the beginning of the audit stage to follow the project through monitoring and verification, providing third party review of the engineering audit and the monitoring and verification report. A two-year ARRA-funded position provides oversight on the use of ARRA funds. And, interns are doing the work to benchmark facilities in higher education institutions.

CHALLENGE: Influence local governments to do performance contracting projects

Solution: Demonstrate how the state leads by example

The state energy office, housed in the Utah Geological Survey, promotes energy efficiency in local governments and other non-state entities. The office works interactively with DFCM - their mutual goal was for the state to lead by example and for the state to set-up state processes that could extend to local governments.

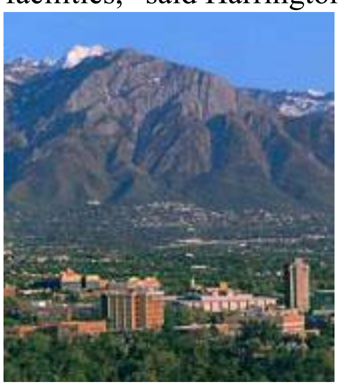
Utah County had been looking at performance contracting before the state developed processes, but had some concerns. "Once the state got on board the county moved ahead," said Harrington. Susan Shepherd, Utah County's Purchasing Agent, said, "The state's process was very helpful to us and we just signed a contract. Until the state had a process in place, we didn't know where to go or how to get started."

Salt Lake City's mayor challenged staff to develop a performance contract. "This was a year before the state developed its process so we were on our own -

it was a new concept for us and it's been a very long, slow process," explained Jim Cleland, City Energy Coordinator. "We're starting with a $870,000 project and this could grow to $20 million with the opportunities we've identified. The state's process will make it much easier for local governments to do projects."

Jason Berry, Manager of the Utah State Energy Program added, "Performance contracting is an important part of the portfolio of funding and financing mechanisms, and can be very effective to leverage ARRA funds in the local government sectors."

Utah citizens and leaders have a very conservative bent toward debt of any kind (or anything that looks like debt). "Through state agency and higher education projects, the state is demonstrating that performance contracting is a diversion of utility dollars rather than debt, that it's a good investment and that it's a different way to solve issues in facilities," said Harrington.



The University of Utah's performance contracting project has grown to $63.5 million in facility upgrades.

Solution: Initiate legislation for local governments

Enabling legislation for performance contracting was enacted long ago for state agencies but there was no such legislation for political subdivisions. In collaboration, DFCM and the state energy office initiated legislation based on the state statutes and ESC's model legislation with full support of the state energy office. It is now in effect and gives school districts, municipalities, counties and others approved guidelines for implementing performance contracting projects following the state's lead.

CHALLENGE: Low energy costs means less funds to do projects and a lower sense of urgency.

Solution: Plan for future escalating costs; Combine multiple funding sources

To help projects cash-flow, the standard lease-purchase approach is supplanted with utility rebates, ARRA funds and capital improvement facility funds. The latter is a one-time expenditure authorized for state agencies as long as the state funds are tracked separately. Energy costs remain low but will go up. "Performance contracting projects, especially when supported by utility program rebates, will reduce the impact of future energy rate increases," said Harrington.

Solution: Use ARRA funds as an incentive to leverage other funding sources

Stimulus dollars entered the picture after the program was designed, but fit right in as a project incentive - the bigger the project the bigger the incentive applied to it. "I see ARRA funds as a once-in-a-lifetime opportunity to do energy projects in the state - we're using the funds as a carrot to do larger-scale projects that could not otherwise cash-flow with savings alone," said Harrington. ARRA funds will account for only about 5 to 10 percent of a project but that's enough of an incentive to bring projects on-line. It also brings a sense of urgency for program staff to make agency education a priority and for agencies to make performance contracting a priority.

Currently $4.1 million are committed for ESCO projects and another $1.5 million for renewables projects that will be implemented through performance contracts. Harrington anticipates $60 million in performance contracting projects resulting from the $10 million ARRA incentive that is earmarked for equal investments in energy efficiency and renewable energy projects. As an example, the University of Utah will get $1 million of ARRA funds to apply to its $19.5 million performance contracting project to build a new central plant with thermal energy storage for the northern campus.

CHALLENGE: Increase the use of renewables.

Solution: Incorporate renewables into performance contracting projects

DFCM directs ESCOs to evaluate renewable energy projects, especially photovoltaic and solar thermal projects. One project is implementing a ground source geoexchange system. Other projects are in the audit stage and evaluating both PV and solar thermal opportunities. "We're trying to develop awareness of renewables, particularly at higher education facilities where students can see them in action and learn about them and where project managers get first-hand experience overseeing installation and operation," said Harrington.

Solution: Use Power Purchase Agreements (PPA)

DFCM also is developing a process for Power Purchase Agreements (PPAs) patterned off of the state's performance contracting process to pre-qualify companies and develop approved contractual processes. (PPAs deliver reduced utility rates which pay for renewables projects but due to ownership and tax issues the process is very different.) An RFP to pre-qualify PPA providers is now soliciting providers, some of which will be ESCOs which can address efficiency alongside large-scale renewables projects.

AT A GLANCE
ESC's Best Practices in Action

State Leadership (point person; program)	X
Legislation and Governor's Support	X
Pre-Qualified ESCOs	X
Pre-Approved Contracts	X
Public/Private Partnership (ESC Chapter)	
Project Oversight; Technical assistance	X
Education & Outreach	X
Program Funding through Savings	
Data Tracking	X

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The **Energy Services Coalition** is a national nonprofit organization composed of a network of experts from a wide range of organizations working together at the state and local level to increase energy efficiency and building upgrades through energy savings performance contracting.

Energy savings performance contracting enables building owners to use future energy savings to pay for up-front costs of energy-saving projects, eliminating the need to dip into capital budgets.

Please visit: www.energyservicescoalition.org

The State of Pennsylvania turns energy challenges into innovative program approaches to advance performance contracting. The Department of General Services (DGS) Energy Management Office pro-actively oversees performance contracting projects for Commonwealth agencies and also consults on local government projects. Through the legislated Guaranteed Energy Savings Act (GESA) performance contracting program, DGS has developed sound procurement and contracting processes, come up with strategies to embrace new industry trends, designed new approaches for under-served customers, and met seemingly impossible goals with aggressive deadlines. "We're using performance contracts to establish long-term savings opportunities through more efficient buildings," said Bruce Stultz, Director of Energy Management.

DGS is linked with the state energy office (the Department of Environmental Protection) through the bridge office of the Governor's Green Government Council, essentially serving as the state energy office's arm for building-related program services. Performance contracting gained acceptance as a way to get projects going and capture deep energy savings. To date, DGS has 41 projects underway totaling $379 million in facility upgrades. With a recent 20% hike in utility rates, the energy saving measures are heading off a utility budget deficit.

An Innovative Program

Challenge:

Meet the Governor's Aggressive Energy Efficiency Goals

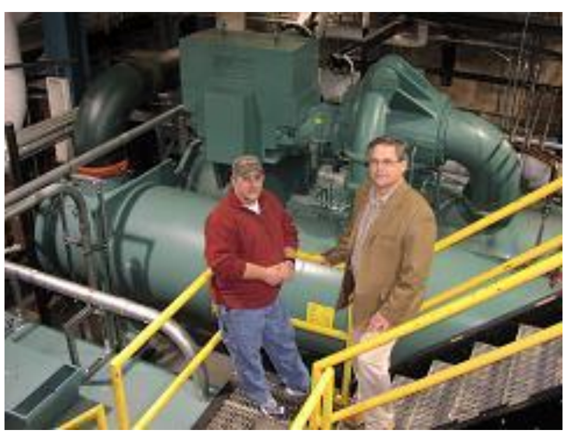
Solution: Strategic approach to bring projects on quickly.

In 2008, Governor Edward G. Rendell challenged DGS with a goal to reduce energy use by 20% in DGS facilities (compared to the 2004/2005 baseline year). Not only is this an aggressive goal but the deadline was aggressive as well – to achieve the 20% reduction in less than 2 years. DGS met that goal by July 200, with only six months – 18 months early.

The governor responded with a bigger challenge, setting the bar to 25% by the same date. DGS is on-track to meet that. With this high-profile success, performance contracting gained acceptance.

"We're using performance contracts to establish long-term savings opportunities through more efficient buildings."

- Bruce Stultz, Director of Energy Management.



Bruce Stultz (right) with Central Plant Manager Mike Penyak and a new chiller in a DGS facility.

Challenge:

Fast-Track Projects to Stimulate the Economy

Solution: Strategic Plan to Stagger the Roll-out of RFPs for Commonwealth Agencies.

On the heels of the governor's challenge, DGS was challenged to do even more. Because DGS is so effective in mobilizing projects, it was *not* given ARRA funds (ARRA funds were directed to local governments and schools), but performance contracting was viewed as a way to get a big and quick economic impact in the state and the self-sufficient GESA program was viewed as a program that could deliver.

In March 2009, DGS was directed to fast-track 15 "shovel-ready" projects to be completed and under construction by December 2010! DGS rose to the challenge, agencies stepped up to the plate, a roll-out schedule for RFPs was developed along with project timelines, and multiple RFPs were issued every 2-3 weeks. ESCOs were given a heads-up on agency schedules for RFPs so they could do advance planning to assign their resources to the potential projects of choice.

Construction actually began in six months, putting people to work and stimulating the Commonwealth's economy. An estimated $124 million in project scope is in the works (mid-2010).

Challenge: Utility Rate Hikes

Solution: Load shaping for competitive utility pricing.

The utility rate hike in early 2010 inspired DGS to dig for further savings. "We believe that with more sophisticated controls we can control 15% of the load in each building, shaping utility usage patterns to negotiate better electricity rates," said Stultz. "We will retain a portion of the rate savings to help fund performance contracting projects that invest further in building controls. We're using performance contracting to establish long-term savings opportunities through more efficient buildings."

Challenge: Push innovation in performance contracts.

Solution: Incorporate LEED, ENERGY STAR and Other Leading Programs.

DGS pushed the boundaries of performance contracting to attain LEED® certification, now going for gold in two facilities and silver in two others. After working through the LEED process the first time, DGS applied its new-found expertise to develop a how-to manual for state agencies - doing that fetched 27 more LEED credits pertaining to Commonwealth policy and procurement practices.

DGS encourages ENERGY STAR® Portfolio Manager to monitor buildings from the first-look through follow-up monitoring and verification to validate savings. One building already displays an ENERGY STAR plaque indicating superior performance and four more are close to achieving the threshold rating.

Challenge: Keep Financing Competitive.

Solution: Make available a variety of financing mechanisms with streamlined processes.

Despite the current economic challenges, DGS is keeping the financing arena competitive with the standard lease option and Certificates of Participation (COPs). DGS works actively with lenders to get the best rates, developing protocols and documents acceptable to both parties. Then DGS provides lender information with standardized forms to ESCOs and end-users, pro-actively brokering the financial deals. "The goal is to make money available and keep rates as low as possible," said Stultz.

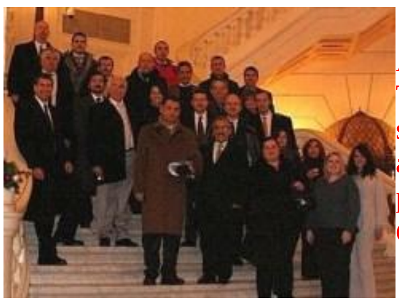
DGS is developing contract templates to make it easier to use Build America Bonds and Qualified Energy Conservation Bonds (QECBs). QECBs offer lower financing rates but the maximum amount funds only a small fraction of the performance contract cost – nonetheless they help bring costs down.

There are also funding options dedicated exclusively to the local government market. DGS works with the Department of Environmental Protection to leverage their insight and connections with the local government sector and make those funding resources available to local governments.

Challenge: Develop Large-Scale Renewables Projects.

Solution: Apply performance contracting program strategies to PPAs.

On top of all this, DGS is pioneering a parallel program to establish Power Purchase Agreements (PPAs) to install and lease renewable energy systems. The GESA model will be customized for this use and companies will be pre-qualified to provide this service.



A delegation from Turkey met with DGS staff to learn more about the program, posing here in the Capitol's Rotunda.

Challenge: Provide Professional Technical Assistance to Projects and Program Staff, on a Limited Program Budget

Solution: Fees Help Support the Program.

DGS is the only agency to authorize performance contracting projects for state agencies. The eight-person staff provides intensive oversight to assess project viability, help select an ESCO, evaluate the audit, put together a sound performance contract agreement, participate in construction meetings, and ensure monitoring and verification processes are followed to validate savings. Two different consultants with varied expertise work on each project.

The cost of consultants is supported through a nominal sliding-scale fee in each state agency performance contract (a flat fee of $15,000 for a $1-2 million project and $60,000 for a $10-$20 million project). The fee is set in the agency's performance contract along with other project costs, so is supported by the guaranteed energy savings. The fee is collected not from the agency but from the ESCO. When the ESCO is paid its first draw during the construction period through the financed escrow account, the ESCO makes the payment to DGS. DGS has an escrow account set-aside to hold the fees collected over multiple years and to make payments to the consultants.

This income enables DGS to bring in expert advisors to provide direct technical assistance to DGS and participating state agencies. It also provides creative options for the clients as they explore various technical alternatives with the help of the consultants.

Because of DGS' work within the state energy office, it breaks away from its state agency focus to work with school districts and local governments. DGS provides free facilitation services to them, now in high demand because local governments were hard-hit by the recent utility rate hike.

"The more services we're structuring to offer, the more important this fee-based service becomes," said Stultz. It was started about two years ago, with a huge demand about 1-1/2 years ago. "We were working in the red for awhile before the projects closed and we're just now getting into the black."

Solution: An effective staff.

DGS has a team of eight people dedicated to performance contracting: one person oversees contracts and funding, another person organizes project timelines and communicates with ESCOs and the attorney general's office, three people are assigned to particular agencies to handle project oversight from the start through monitoring and verification, one person handles ENERGY STAR, and another person handles LEED.

Challenge: Serve Small Projects when ESCO Industry is at Capacity

Solution: Build an Industry to Serve this Sector.

With so much performance contracting activity in large state agencies keeping ESCOs busy, DGS wanted a way to meet the increasing demand of small state agencies, local governments and small school districts. DGS is pioneering a Small ESCO program (SESCO) as a streamlined version of GESA. Seven small businesses were just pre-qualified to fill this niche. Projects will involve simpler measures of lighting, controls, water and HVAC, with a combined total of up to about $700,000 limited to a 10-year lease term. A pilot project is in the works for a county, borough and township, bundling these projects to a scale for financing. SESCO may also be a good fit for single-building or single-measure applications in larger facilities.

Challenge: Expand Education and Leverage "Boots on the Ground"

Solution: Create an ESC Chapter.

The state just held a kick-off meeting to start an an ESC Chapter. Stultz said, "I think a chapter will create a rich opportunity and achieve two goals - continuing education for potential users and a forum for constructive dialogue among parties familiar with the processes to help move the program forward."

Challenge: Overcome Procurement and Legal Barriers for State Agencies to Engage in Performance Contracting

Solution: Pre-qualified ESCOs, standardized Contracts

Pennsylvania's market transformation in performance contracting demonstrates the Best Practices that ESC recommends for all states: state energy office leadership, streamlined processes with pre-qualified providers and model contract documents, technical assistance to end-users, a self-funding strategy to support the program to name a few. With the state chapter, Pennsylvania will check off the last Best Practice recommended for state performance contracting programs. Pennsylvania is quickly climbing up in ESC's Race to the Top - a state to state comparison of performance contracting activity per capita.

AT A GLANCE
ESC's Best Practices in Action

State Leadership (point person; program)	X
Legislation and Governor's Support	X
Pre-Qualified ESCOs	X
Pre-Approved Contracts	X
Public/Private Partnership (ESC Chapter)	X
Project Oversight; Technical assistance	X
Education & Outreach	X
Program Funding through Savings	X
Data Tracking	X

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Washington Success Story – A Performance Contracting Program

The State of Washington was one of the first states, if not the first, to develop a program to use performance contracting in the state. Now in its 26th year (since 1984), it is a well-managed, well-respected , self-funded program, with a team of 13 technical assistance consultants and 14 pre-qualified ESCOs serving state agencies, higher education, schools and local governments. With 129 projects completed totaling $185 million, and $78 million in avoided costs to date, it has the attention of the governor who believes energy efficiency is the way to meet a lofty carbon reduction target. It also has the attention of the legislature which tasked the program to leverage state funds by at least 3 to 1 and get projects started to create jobs and stimulate the local economy.

The program started in the Department of General Administration (GA), Division of Engineering and Architectural Services, after an energy audit of state buildings revealed substantial retrofit opportunities and proposed performance contracting as a funding solution. The program continues under GA today with a broader scope that includes not only state agencies but schools and local governments. The Department of Commerce houses the Energy Policy Office which works closely with GA especially on schools and local government initiatives, while Washington State University delves into energy-related research. All three energy divisions coordinate and provide support to each other to advance energy efficiency in the state.

A Self-Funded Program

Challenge:

Get projects going to create jobs now – a directive from the legislature!

Solution: Bring more ESCOs into the program and let them market the program.

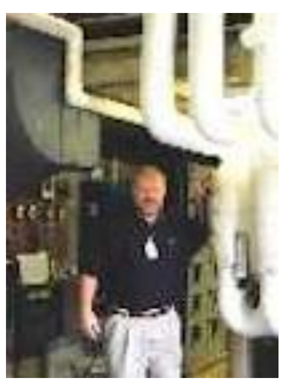
The program has such a good track record that the legislature recently authorized $100 million for energy efficiency projects in schools and higher education facilities, strongly encouraging a 3:1 leveraging that the program can deliver. The real focus of the legislature was jobs – "the Energy Jobs Act is Washington's version of the Stimulus Act," said Tony Usibelli, Assistant Director of the Washington Energy Policy Office, "looking at the design, engineering and construction jobs that these projects can create."

ESCOs were already getting extra work to leverage ARRA funds so this new cash infusion creates a high demand.

To meet the demand, GA expanded the pre-qualified list of ESCOs from 9 to 14 and authorized the ESCOs to market the program and their services. Roger Wigfield, Energy Program Manager, Department of General Administration,

"The support of the General Administration's Division of Engineering and Architectural Services has been great. They have been a critical part of our success in reducing energy usage."

- Tom O'Brien, Facilities Director, South Kitasp School District



This $1.6 million project includes a new heat recovery chiller and cooling tower to heat the building and pool water and dehumidy the air, cutting the electrical load by 75%.

summed up the program: "ESCOs are getting work. They see that GA is a motivating force to move projects along which saves ESCOs money, and that GA advocates for expansive projects. So, ESCOs promote the program when they meet with potential customers, and they bring educated customers to us so they do the educational outreach for us."

The process is easy for customers and ESCOs alike, with a working partnership between the client agency, GA, and the ESCO. GA holds a master agreement with each pre-qualified ESCO. An Inter-Governmental Agreement (IGA) enables non-state entities to participate in the state's process. "The growth in the program shows its value," added Wigfield," and it also shows that the program, ESCOs and performance contracting have earned credibility." GA just completed a detailed document, "Energy Savings Performance Contracting: Guidelines for Public Agencies in Washington State" to lay-out the process.

CHALLENGE: Eliminate the barrier for end-users to pay fees to GA.

Solution: Assess fees through performance contracting projects

GA traditionally assesses fees for its broad range of architectural/engineering services. Performance contracting's pay-through-savings approach provides a means to pay for the fee. A sliding scale fee is based on the size of the project - 1% for a $5 million project to 20% for a $20,000 project (the economy of scale means big projects cost less to administer). The fee is determined at the end of the audit, added to the project scope, financed along with the retrofit measures and paid to GA by the ESCO at the end of construction. Most end-users take advantage of GA's services rather than going it alone. GA often hears, "you took care of it for us – we didn't have to work with accounting, purchasing or other process offices."

Solution: Smart management of a Self-Funded Program (Keep the self-funding program's budget in the black)

The program is 100% self-funded – fees cover all fixed costs of technical assistance and program management now totaling $4.5 million annually and growing as demand grows.

GA collects the fee after providing about 18 months of technical assistance. This delayed payment presents a budget management challenge but GA prepares for the peaks and valleys in cash flow with a $100,000 escrowed reserve, going into the red at times but usually ending each year in the black with $100,000 and roll-over authority to retain the reserve.

Solution: Provide efficient technical assistance services

GA provides extensive project management services to state agencies; through legislation, GA was authorized and mandated to provide services to K-12 schools and other local governments. Staff engineers act as project managers - write contracts, negotiate the scope of work, review design, and follow the project through monitoring and verification. It takes 15 staff to handle the current demand – a program manager, an administrative staffperson managing budgets, and 13 energy engineers to manage performance contracting projects, where each project manager juggles oversight of 12 different projects.

GA developed a streamlined process offering a pre-qualified list of ESCOs, assigning an experienced energy engineer to help manage the project, helping with financing and review of savings verification.

CHALLENGE: Low utility rates make it difficult to cash-flow projects

Solution: Capture utility rebates.

Washington Success Story – A Performance Contracting Program

Electricity rates are very low thanks to the low-cost hydro-power in the state. Low costs means less savings to pay for a project, but this hasn't deterred projects. Local utilities offer generous incentives that often cover 15-20% of the total project cost, so projects are structured to co-mingle the cash flows of incentives and guaranteed savings.

CHALLENGE: Meet aggressive energy efficiency goals and the high interest in sustainability

Solution: Look at a broad range of potential measures - from renewables to system approaches to building envelope and whole building analysis.

"Our projects go beyond the usual," said Wigfield, "and include solar thermal projects, solar electric (PV) projects, heat recovery chillers, a ground source geoexchange system we're doing right now, and a cogeneration system in a waste-water treatment plant, to name a few, while commissioning is required in every project. We're also now doing whole building analysis – windows, roof insulation and roofing, downsizing the heating system, etc. - so that when we're done it's basically a remodeled building. GA wants to do more all-encompassing projects to get deep conservation in the state."

CONTACTS

ON-LINE RESOURCES

Energy Savings Performance Contracting: Guidelines for Public Agencies in Washington State

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Pre-Approved Contracts	X
Public/Private Partnership (ESC Chapter)	
Project Oversight; Technical assistance	X
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