

Welcome to Today's Training on *Negotiating and Entering into an Energy Savings Performance Contract*

Some tips before we get started...

- Session will be recorded
- All attendee phone lines are muted
- Please submit your questions via the **Questions** window
- As many questions as possible will be answered at the end of the session
- Presentation slides along with the summary of ALL questions and answers will be sent to attendees after the training



The Parker Ranch installation in Hawaii

Negotiating and Entering into an Energy Savings Performance Contract for State and Local Grantees

November 18, 2010

**ARRA EECBG Recipient
Webinar Series**

What is TAP?

DOE's Technical Assistance Program (TAP) supports the Energy Efficiency and Conservation Block Grant Program (EECBG) and the State Energy Program (SEP) by providing state, local, and tribal officials the tools and resources needed to implement successful and sustainable clean energy programs.



TAP offers –

- One-on-one assistance
- Extensive online library, including –
 - Webinars
 - Events Calendar
 - TAP Blog
 - Best practices and project resources
 - Facilitation of peer exchange

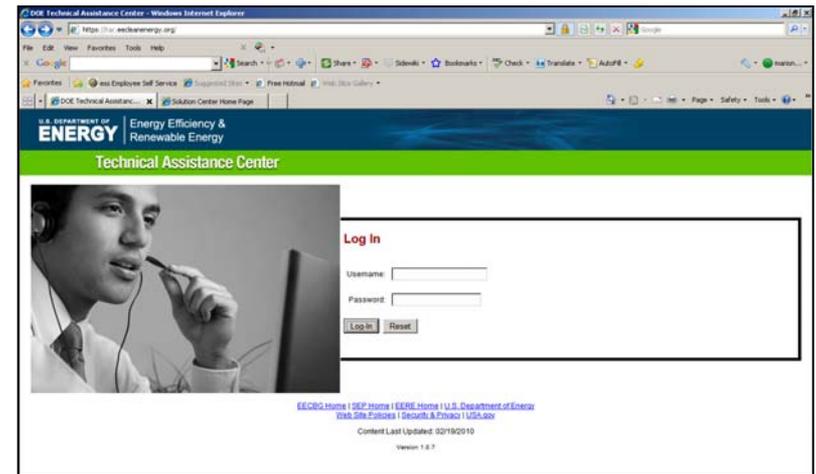
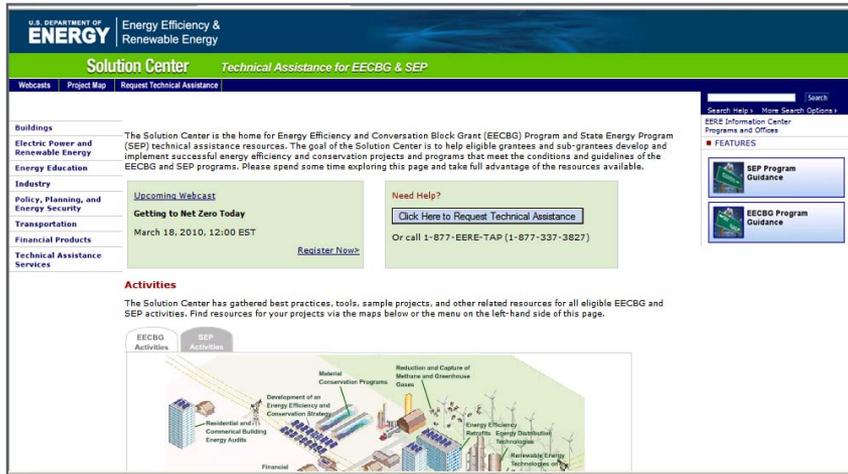
Topics include –

- Energy efficiency and renewable energy technologies
- Program design and implementation
- Financing
- Performance contracting
- State and local capacity building

We encourage you to –

1) Explore our online resources via the [Solution Center](#)

2) Submit a request via the [Technical Assistance Center](#)



3) Ask questions via our call center at 1-877-337-3827 or email us at <http://www1.eere.energy.gov/wip/solutioncenter/default.html>

- SEP funds must be expended by 04/30/2012
- EECBG funds must be expended 36 months after award's effective date and no later than 09/30/2015
 - Expended = paid out by grantee
- SEP and EECBG funds can be combined
- For complete guidance on SEP and EECBG check:
 - SEP – 10 Code of Federal Regulations 420.18
 - EECBG – 42 United States Code § 17154

Please join us again for additional Webinars:

- Title: **Community Renewables Projects**
Host: Cheryl Jenkins, VEIC
Date: November 30, 2010
Time: 2:00 - 3:00 PM EST
- Title: **Defining and Establishing the Role of an Energy Resource Manager**
Host: Harrison Rue, ICF International and Katherine Gajewski, Director of Sustainability, City of Philadelphia
Date: December 2, 2010
Time: 12:00 – 1:30 EST
- Title: **Building Actionable Climate Action Plans**
Host: Jennifer Clymer, ICF International
Date: December 6, 2010
Time: 2:00-3:30 EST

For the most up-to-date information and registration links, please visit the Solution Center webcast page at www.wip.energy.gov/solutioncenter/webcasts

Negotiating and Entering in to an Energy Savings Performance Contract

U.S. DEPARTMENT OF
ENERGY

Energy Efficiency &
Renewable Energy



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- What are Energy Savings Performance Contracts?
- ESCO Responsibilities
- Energy Audit Contract
- ESPC Proposal
- ESPC Contract



What is an Energy Savings Performance Contract (ESPC)?

What Is an Energy Savings Performance Contract (ESPC)?

- Contract between a Grantee (owner) and an Energy Service Company (ESCO)
- Method of paying for today's improvements with tomorrow's energy savings
- Mechanism where no up-front capital is required
- Separate financing contract (e.g., net-financing with an interest bearing escrow account)



- 49 States have enacted ESPC legislation
 - Many different models
 - Many not like federal model
- Local governments generally covered by state legislation
- Always check your state's laws
- Information on state ESPC status is at –



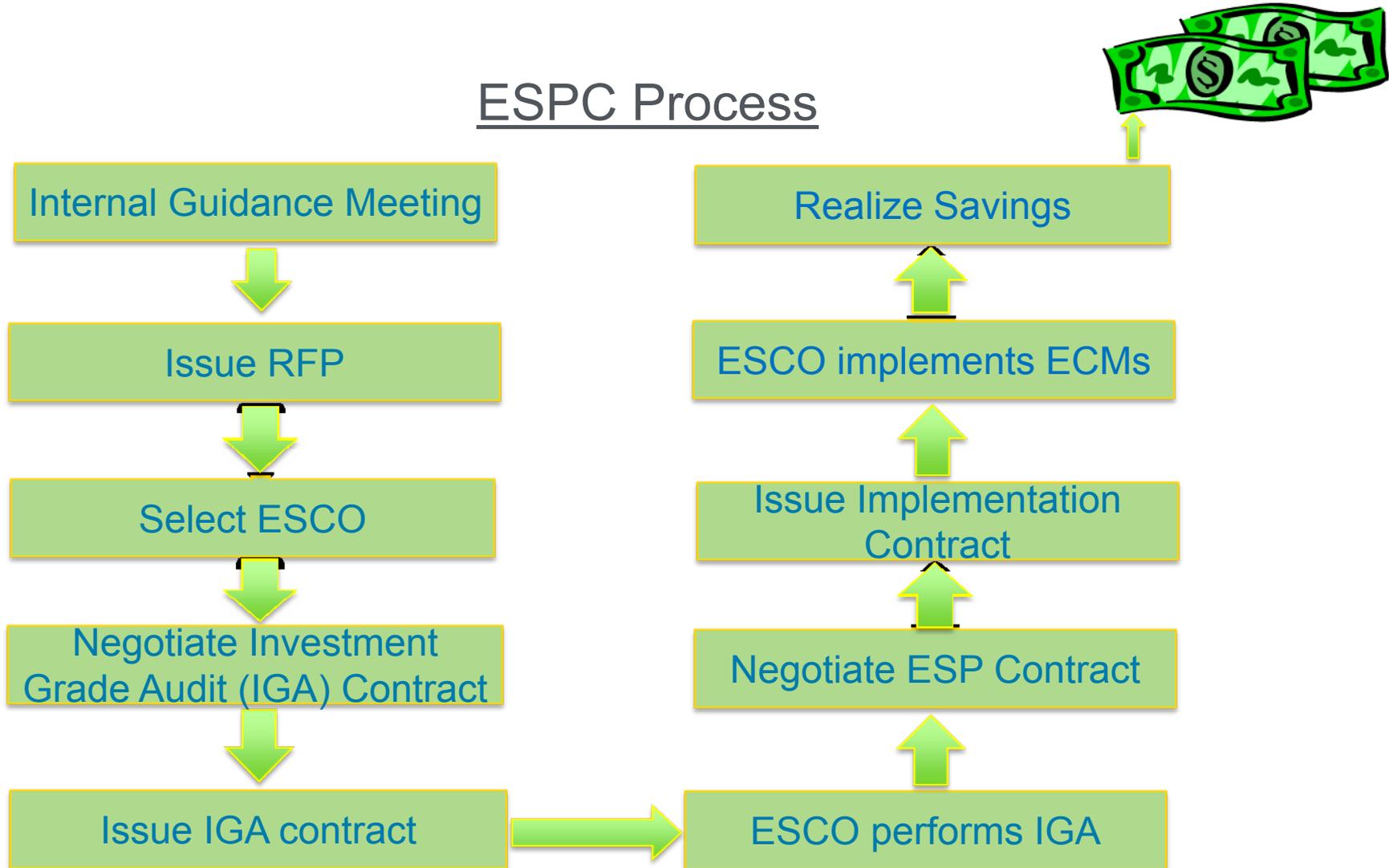
www.ornl.gov/info/esco/legislation/newesco.shtml

ECMs with payback of less than 10 years are ideal!

- Heating: Repair or replace aging equipment (boilers, steam traps, pumps)
- Cooling: Repair or replace aging equipment (chillers, cooling towers, pumps and air handlers)
- Ventilation: Install variable speed fans and convert constant volume distribution boxes to Variable Air Volume (VAV) boxes
- Controls: Upgrade existing or install new, computerized energy management control system and improve operational strategies
- Lighting: Convert fixtures to optimum designed energy efficient lamps and electronic ballasts
- Deferred Maintenance

Basic ESPC Flow Chart

ESPC Process



ESCO Responsibilities under ESPC

- Perform an energy audit and engineering feasibility study
- Develop energy usage baseline
- Provide comprehensive energy efficiency and guaranteed savings program
- Develop and implement plan to reduce energy and energy related service and maintenance costs
- Provide acceptable performance measurements in accordance with International Performance Measurement and Verification Protocol, IPMVP 2009

- Furnish the design and installation of Energy Conservation Measures (ECMs)
- Provide training for the facility operations and maintenance staff
- Provide maintenance and service of everything installed under the ESP Contract for the duration of the contract period
- Provide monitoring of energy use and costs
- Provide an acceptable energy savings guarantee and energy related operation and maintenance savings guarantee

Energy Audit Contract

- Negotiate Investment Grade Audit (IGA) contract with selected ESCO to identify energy-saving opportunities and develop ESPC proposal
 - Negotiate any baseline measurements needed
 - Negotiate IGA schedule
 - Negotiate IGA cost
 - Negotiate Overhead and Profit mark-ups for overall ESPC



- Scope of work
 - Baseline establishment
 - Facility(s) walk-through
 - Modeling
 - Develop list of ECMs
 - Provide audit report
 - ESPC proposal development
 - Preliminary installation layouts
- Time of completion

ESPC Proposal

Major required components of the ESCO's ESPC proposal

- Executive Summary
- Complete description of each facility in the project
- Complete ECM descriptions
- Guaranteed Energy Savings (both energy units and dollars)
- Total implementation cost
- Preliminary Cash flow analysis (You the owner makes final)
- Proposed M&V plan for each ECM (per building)
- Preliminary implementation Critical Path Method (CPM) schedule

- Complete proposed Service and Maintenance
- Description of planned Commissioning procedures
- Description of operator/maintenance training
- All building modeling inputs and outputs (As Att.)
- Project organization chart including sub-contractors and ESCO personnel with resumes (As Att.)
- Financing commitment letters (As Att.)
- Bonding and insurance certificates (As Att.)
- Preliminary drawings (As Att.)

- Assure owner's complete understanding of ECMs
- **Owner verifies that pricing is fair and reasonable**
- Use RS Means® construction cost data or similar resource to compare costs
- Get verification quotes from equipment suppliers



- Is engineering and design time and cost reasonable?
- Cost reduction without effecting quality or result?
- Is the installation schedule reasonable?
- Is Project Management time and cost reasonable?



ESPC Contract

- Everything is negotiable – set your goal
- Don't make unrealistic demands
- Review the energy audit results
- **Review and understand ESCOs ESPC proposal**
- Negotiate an energy performance contract with the ESCO:
 - Negotiate the overall scope of work and terms of the contract
 - **Negotiate an energy savings guarantee**
 - Negotiate individual ECM costs
 - Negotiate individual ECM M&V method



- Negotiate ESCO annual M&V charges
- Negotiate method for baseline adjustments
- Negotiate maintenance and service requirements and associated costs
- **Negotiate the overall implementation cost**



Stop negotiating and shake hands!



Major components of the ESPC contract -

- Scope of work (from ESCO final proposal by reference)
- Total contract price and breakdown
- Payment schedule(s)
- Energy and cost savings guarantees
- Contract duration
- General conditions (RFP by reference)

- Time of completion
- Standards of comfort
- Equipment list (as attachment)
- Equipment warranties
- Service and maintenance (by reference)
- Severability of Service/Maintenance and Energy Savings Guarantee
- M&V Procedures (ESCO's final proposal by reference)
- Documents order of precedence

- Buy American
- Davis Bacon Act (DBA)
- National Historic Preservation Act (NHPA)
- National Environmental Policy Act (NEPA)



- LEED certification
- Miller Act and its applicability
- Owner-initiated changes
- Delays
- Termination

- Define your LEED goals, develop a general process
- Within the general process, identify specific LEED credits you want to achieve
- Develop a sequence of steps for achieving each credit
- Assign responsibilities, be very specific
- Identify consequences of not achieving a certain level of LEED certification and understand the ramifications

40 United States Code Section 3131 to 3134

- Requires a contractor on a federal project to post a performance bond ***as well as*** a labor and material payment bond
- U.S. Department of Treasury issues a list
 - Confirm that your surety company issuing both bonds is listed it as a qualified bond issuer

- Owner-initiated Changes
- Reducing Risks of Delays
- Handling Termination

Resources

Sample Documents available on the DOE Solution Center

- Model Request for Proposals (RFP)
- Model Energy Audit Contract and Project Development Guide
- Model Energy Savings Performance Contract
- Evaluation Forms Templates/Criteria
- List of ESCOs

<http://www1.eere.energy.gov/wip/solutioncenter/default.html>

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