

PROCUREMENT (62 PA.C.S.) - GUARANTEED ENERGY SAVINGS CONTRACTS,
CONTRACTING PROCEDURES AND CONTRACT PROVISIONS
Act of Jul. 2, 2010, P.L. 243, No. 39 Cl. 62
Session of 2010
No. 2010-39

HB 687

AN ACT

Amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, in guaranteed energy savings contracts, further providing for definitions, for contracting procedures and for contract provisions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "energy conservation measure" in section 3752 of Title 62 of the Pennsylvania Consolidated Statutes is amended to read:

§ 3752. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

" Energy conservation measure. " A program [or] , facility alteration **or technology upgrade** designed to reduce energy , **water, wastewater or other** consumption or operating costs. The term may include, without limitation:

- (1) Insulation of the building structure or systems within the building.
- (2) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption.
- (3) Automated or computerized energy control systems.
- (4) Heating, ventilating or air conditioning system modifications or replacements.
- (5) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to applicable State or local building codes for the lighting system after the proposed modifications are made.
- (6) Energy recovery systems.
- (7) Systems that produce steam or forms of energy such as heat as well as electricity for use within a building or complex of buildings.
- (8) Energy conservation measures that provide operating cost reductions based on life cycle cost analysis.
- (9) A training program or facility alteration that reduces energy consumption or reduces operating costs, including allowable costs, based on future reductions in labor costs or costs for contracted services.
- (10) A facility alteration which includes expenditures that are required to properly implement other energy conservation measures.

(11) A program to reduce energy costs through rate adjustments, load shifting to reduce peak demand, and/or use of alternative energy suppliers, such as, but not limited to:

- (i) changes to more favorable rate schedules;
- (ii) negotiation of lower rates, same supplier or new suppliers, where applicable; and
- (iii) auditing of energy service billing and meters.

(12) The installation of energy information and control systems that monitor consumption, redirect systems to optimal energy sources and manage energy-using equipment.

(13) Indoor air quality improvements.

(14) Daylighting systems.

(15) Renewable and/or on-site distributed power generation systems.

(16) Water and sewer conservation measures, including, without limitation, plumbing fixtures and infrastructure.

(17) Equipment upgrades that improve accuracy of billable revenue generating systems.

(18) Automated, electronic or remotely controlled systems or measures that reduce operating costs.

(19) Other energy, water or wastewater measures as may provide measurable, long-term operating costs reductions or billable revenue increases.

* * *

Section 2. Sections 3753(d) and 3754(a) and (c) of Title 62 are amended to read:

§ 3753. Contracting procedures.

* * *

(d) Selection and notice.--The governmental unit shall select the qualified provider that best meets the needs of the governmental unit in accordance with criteria established by the governmental unit. For governmental units that are not required to take actions on contracts at public meetings, the governmental unit shall provide public notice of the award of the guaranteed energy savings contract within 30 days in the Pennsylvania Bulletin. The notice shall include the names of the parties to the contract and the purpose of the contract. For governmental units that are required to take actions on contracts at public meetings, the public notice shall be made at least ten days prior to the meeting. After reviewing the proposals pursuant to subsection (e), a governmental unit may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures recommended in the proposal would not exceed the amount [to be saved in both energy and operational costs] **of energy, water or wastewater cost savings, operational cost savings or revenue increases resulting from the energy conservation measures** within a [15-year period] **period not to exceed 20 years** from the date of **final** installation if the recommendations in the proposal were followed and the qualified provider provides a written guarantee that the energy, **water or wastewater cost savings**, or [operating] **operational cost savings or revenue increases** will meet or exceed the cost of the contract[.], **provided, however, that, when determining the operational cost savings from any contract or project of the type defined in paragraphs (17), (18) and (19) of the definition of "energy conservation measure" in section 3752 (relating to definitions), the governmental unit shall not consider savings that result from reductions in the size of its work force if the reductions are related to or generated by outsourcing or using contract workers to perform tasks previously performed by employees of the governmental unit.**

* * *

§ 3754. Contract provisions.

(a) General rule.--A guaranteed energy savings contract may provide that all payments, except obligations on termination of the contract before its scheduled expiration, shall be made over a period of time. Every guaranteed energy savings contract **that requires payments over a period of time** shall provide that, **after the initial year of the contract**, the savings in [any] **every subsequent** year are guaranteed to the extent necessary to make payments under the contract during that year.

* * *

(c) Payments.--A guaranteed energy savings contract may provide for payments over a period of time not to exceed [15] **20** years and for the evaluation, recommendation, design, implementation and installation of energy conservation measures on an installment payment or lease purchase basis.

* * *

Section 3. This act shall take effect in 60 days.

APPROVED--The 2nd day of July, A.D. 2010.

EDWARD G. RENDELL