

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1313 Session of 2015

INTRODUCED BY WHITE, SCHWANK, FOLMER, BARTOLOTTA, MENSCH, YUDICHAK AND RESCHENTHALER, JUNE 14, 2016

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 17, 2016

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in contract clauses and preference provisions,
3 further providing for definitions, for contract provisions
4 and for funding.

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

7 Section 1. Paragraphs (4) and (13) of the definition of
8 "energy conservation measure" in section 3752 of Title 62 of the
9 Pennsylvania Consolidated Statutes are amended and the section
10 is amended by adding definitions to read:

11 § 3752. Definitions.

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

15 * * *

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

1 * * *

2 (4) Heating, ventilating or air conditioning system
3 modifications [or], extension of systems to new or renovated
4 areas or system replacements.

5 * * *

6 (13) [Indoor air quality improvements.] Systems that
7 provide indoor air quality improvements or improved climate
8 control.

9 * * *

10 "Energy-related cost savings." As follows:

11 (1) A cost saving, except for an energy saving, that
12 results from the implementation of an energy conservation
13 measure.

14 (2) Sources of energy-related cost savings shall include
15 only the following:

16 (i) Avoided current or planned capital expense.

17 ~~(ii) Transfer of responsibility for operating and~~ <--
18 ~~maintaining and equipment repair and replacement to the~~
19 ~~energy savings company.~~

20 ~~(iii) (II) Avoided renovation, renewal or repair~~ <--
21 ~~costs as a result of replacing old and unreliable~~
22 ~~equipment and systems or thermal improvements to the~~
23 ~~building envelope.~~

24 ~~"Energy savings SERVICES company." A commercial or nonprofit~~ <--
25 ~~business providing QUALIFIED PROVIDER OF energy solutions,~~ <--
26 ~~including designs and implementation of energy savings projects,~~
27 ~~retrofitting, energy conservation, energy infrastructure~~
28 ~~outsourcing, power generation and energy supply and risk~~
29 ~~management.~~

30 * * *

1 "Operating costs." As follows:

2 (1) Reductions in expenses, including energy-related
3 cost savings, related to energy and water consuming equipment
4 or the building envelope.

5 (2) The term includes:

6 (i) Operating and maintenance savings.

7 (ii) Capital funds budgeted for projects that, due
8 to the energy ~~savings~~ SERVICES company project, will not <--
9 be necessary.

10 * * *

11 Section 2. Sections 3754(a) and 3755(c) of Title 62 are
12 amended to read:

13 § 3754. Contract provisions.

14 (a) General rule.--A guaranteed energy savings contract may
15 provide that all payments, except obligations on termination of
16 the contract before its scheduled expiration, shall be made over
17 a period of time. Every guaranteed energy savings contract that
18 requires payments over a period of time shall provide that,
19 after the initial year of the contract, the savings in every
20 subsequent year are guaranteed to the extent necessary to make
21 payments under the contract during that year. A guaranteed
22 energy savings contract, IN ADDITION TO THE QUANTIFICATION AND <--
23 GUARANTEE OF ENERGY SAVINGS, shall expressly state, QUANTIFY AND <--
24 VALIDATE THE BUDGETARY SOURCES OF ALL ENERGY-RELATED COST
25 SAVINGS AND OPERATING COSTS UTILIZED TO SATISFY the financial
26 obligations that an energy savings company will require users to <--
27 pay upon a declaration of savings AND PERFORMANCE DURING THE <--
28 TERM OF THE AGREEMENT.

29 * * *

30 § 3755. Funding.

1 * * *

2 (c) Grants, subsidies or other payments.--Grants, subsidies
3 or other payments from the Commonwealth to a governmental unit
4 shall not be reduced as a result of energy conservation measure
5 cost savings obtained as a result of a guaranteed energy savings
6 contract during the life of the contract.

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