

# FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

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## RECs and Financial Incentives

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Hosted by:



# Renewable Energy Credits

- Renewable Energy Credits (RECs) and Solar Renewable Energy Credits (SRECs) are market-based instruments that represent the property rights to the environmental, social and other non-power attributes of renewable electricity generation.
- RECs are issued when one megawatt-hour (MWh) of electricity is generated and delivered to the electricity grid from a renewable energy resource.

# Financial Incentives

- Rebates
- Tax Incentives
  - Deductions
  - Credits
  - Sales tax reductions
- Grants
- Loans

# ESPCs and UESCs

## 42 U.S. Code § 8287c - Definitions

(2) The term “energy savings” means— (A) a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

(iii) the increased efficient use of existing water sources in either interior or exterior applications;

(B) the increased efficient use of an existing energy source by cogeneration or heat recovery;

(C) if otherwise authorized by Federal or State law (including regulations), the sale or transfer of electrical or thermal energy generated on-site from renewable energy sources or cogeneration, but in excess of Federal needs, to utilities or non-Federal energy users; and

(D) the increased efficient use of existing water sources in interior or exterior applications.

# ESPCs and UESCs

42 U.S. Code § 8256 - Incentives for agencies

(c)(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

(e) Retention of energy and water savings An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 8253(a) and (b) of this title, that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects. Such projects shall be subject to the requirements of section 3307 of title 40.

# But where does the rebate go?

As a general proposition, an agency must deposit into the General Fund of the Treasury any funds it receives from sources outside of the agency unless the receipt constitutes an authorized repayment or unless the agency has statutory authority to retain the funds for credit to its own appropriations. 31 U.S.C. § 3302.

# Original 50/50 Split

42 U.S.C. § 8256(c)(5) – Removed by EISA

Public Law 104-52, § 625 – General Appropriations  
50 percent retained by agency – 50 percent to  
General Fund of the Treasury – 42 U.S.C. § 8256  
(note)

DOD exempted – 10 U.S.C. §§ 2912, 2913, 2919  
GSA exempted – 40 U.S.C. § 592(d) and (f)

# RECs

Not Cash

Personal Property – Honeywell case

ASBCA No. 57779 – Aug. 7, 2013

# Authority to Dispose

40 U.S. Code § 571 - General rules for deposit and use of proceeds: Deposit in Treasury, except costs of sale

40 U.S. Code § 572 - Real property

41 CFR 102-71.20 – “*Related personal property*” means any personal property . . . [t]hat is determined by the Administrator of General Services to be related to the real property

# Authority to Retain Proceeds?

DOD: 40 U.S.C. 572(b)

GSA: Section 412

DOE: Atomic Energy Act – Sale but no retention

# Legislative Fix

## S.1460 (Murkowski) Energy and Natural Resources Act of 2017

### Section 1106(e):

Notwithstanding any other provision of law, a Federal agency may sell or transfer energy savings and apply the proceeds of the sale or transfer to fund a contract under this title.

# Legislative Fix (cont.)

Section 1106(h): Definition of “Energy Savings” in 42 U.S.C. 8287c(2) is amended to include

- (E) the use, sale, or transfer of energy incentives, rebates, or credits (including renewable energy credits) from Federal, State, or local governments or utilities; and
- (F) any revenue generated from a reduction in energy or water use, more efficient waste recycling, or additional energy generated from more efficient equipment.