

UESC Financing Guidance

June 25th 2021



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Cycle of Cost Savings and Payments for UESCs



About Utility Energy Service Contracts

<https://www.energy.gov/eere/femp/about-utility-energy-service-contracts>

Contracting relationships for UESC projects



Agency

- UESC Agreement (AWC/BOA/Separate/Interagency)
- Task Order
- Consent to Assignment



ESCO

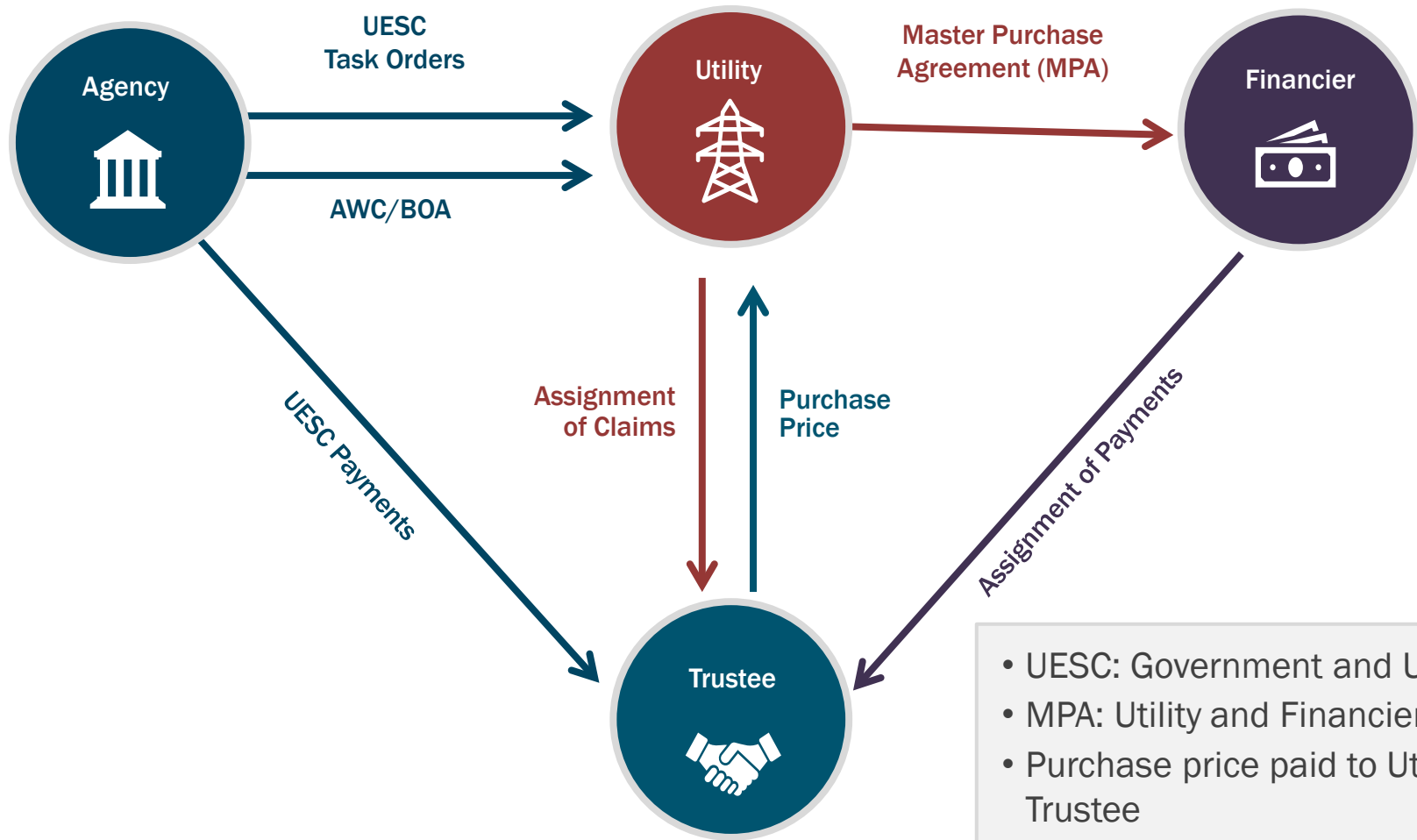
- Design & Development Agreement
- Utility/ESCO Subcontract Agreement



Financier

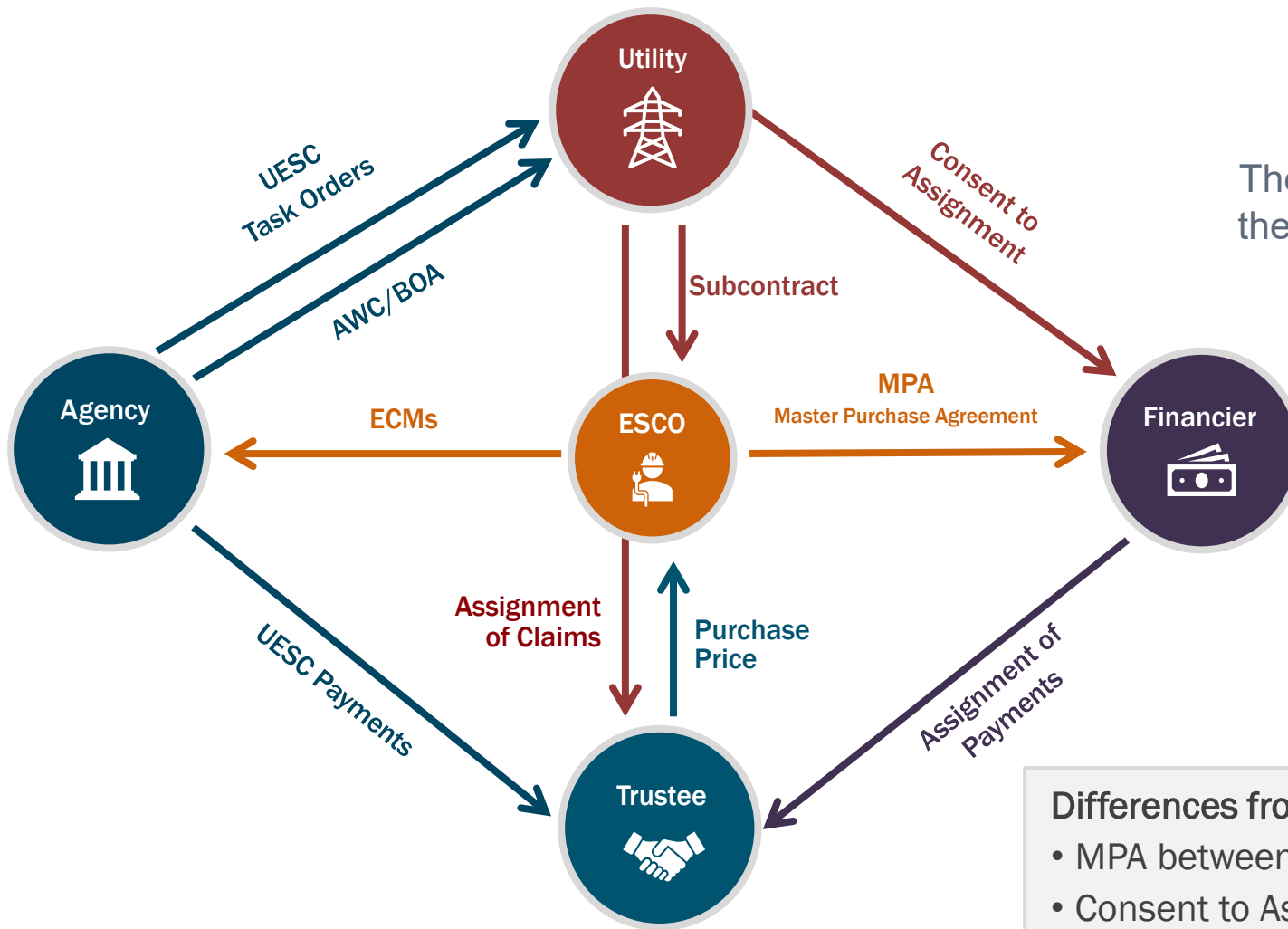
- Master Purchase Agreement
- Assignment of Claims

UESC Standard Financing Structure



- UESC: Government and Utility
- MPA: Utility and Financier
- Purchase price paid to Utility by Trustee
- Under Assignment of Claims, payments paid by Agency to Trustee

UESC Tri-Party Financing Structure



The utility is **always** the prime contractor for a UESC!

Differences from Standard Structure

- MPA between Financier and ESCO
- Consent to Assignment between Financier and Utility
- Purchase price paid to ESCO by Trustee

What's in the Payments?

Total Payments

Performance-period services
(*not* financed)

- Performance Assurance
- Other such as O&M, R&R

Services

Financing
Costs

Project
Investment

Debt service

- Financing costs (interest)
- Project investment (principal)

Bidding Documents – (available templates)



Investor Deal Summary (IDS)

Project-specific information with ECM details to prepare an offer and assess risk (e.g. IGA, Risk/Responsibility Matrix, and Technical Proposal details)



Financing Request Template

Request for UESC financing bids based on IDS details including term, payment structure, and evaluation criteria
(available upon request)



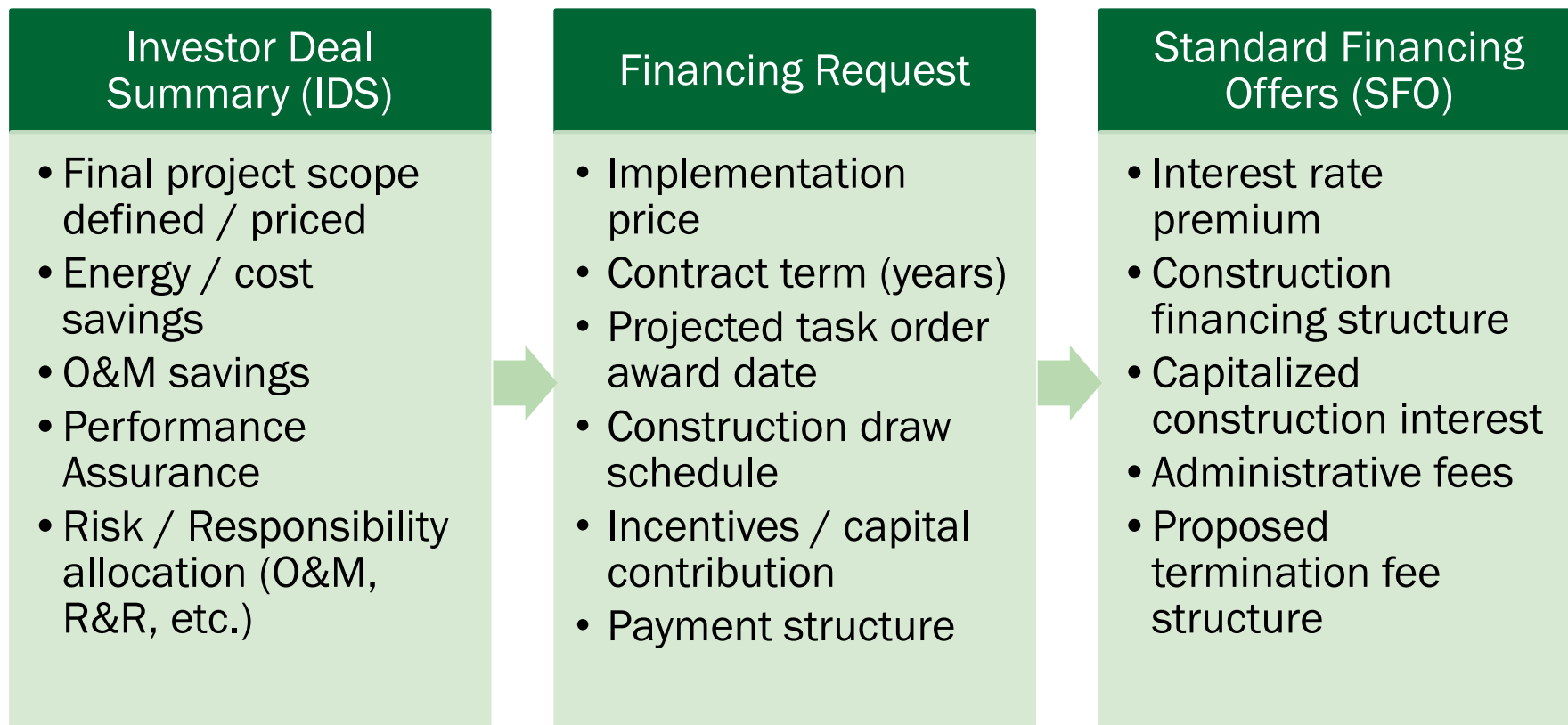
Standard Financing Offer (SFO)

Financing offers submitted using SFO template



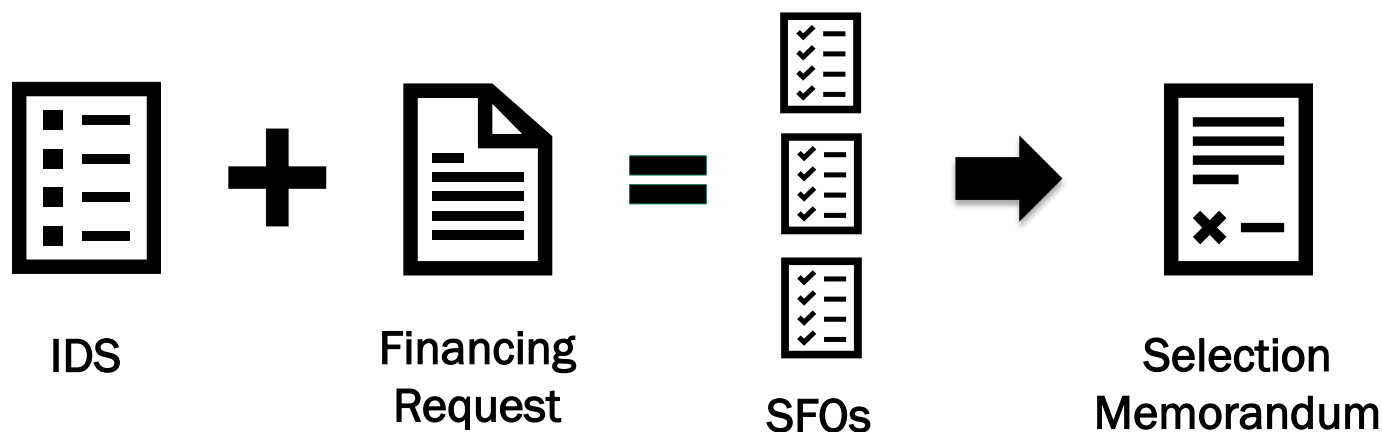
Bidding Process

Competitive financing will depend on the credit party
(utility or ESCO) and project details



Selection of Financier – (best practices)

- FEMP recommends soliciting three financing proposals
- Utilize standard IDS and SFO templates
- ESCO / Utility provides recommendation for financing offer (Selection Memorandum and Certification)
 - Agency reviews recommendation and agrees
 - Utility prepares final proposal with financing



eProject Builder (ePB) Financial Schedules

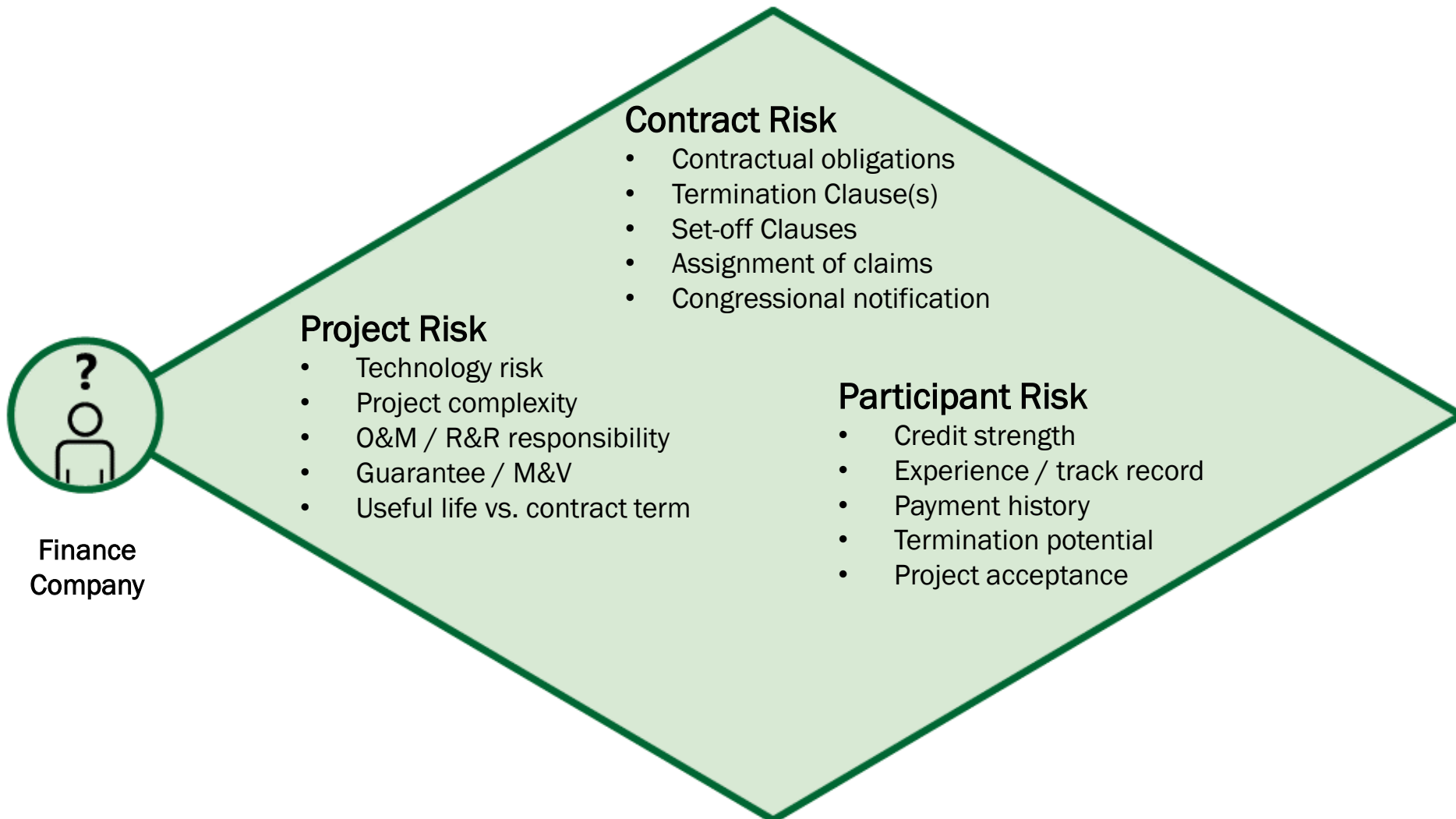


- ePB provides a template for final TO Financial Schedules
- Summary tables and schedules provide estimated savings, implementation costs and cash flow in PA and IGA
 - Summary: financing/payment terms
 - Schedule 1u: UESC annual savings and payments
 - Schedule 3: project cash flow including debt/interest and performance period expense payments
- FEMP's resources for developing schedules include:
 - [eProject Builder \(https://eprojectbuilder.lbl.gov\)](https://eprojectbuilder.lbl.gov)
 - [Project Development Report Template](#)

ePB Help/Documentation Page: eprojectbuilder.lbl.gov/help

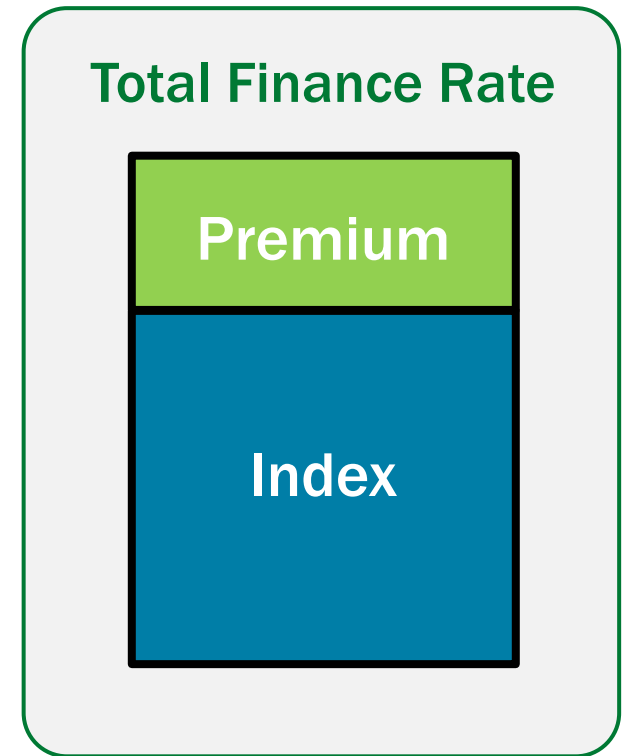
ePB Contact Info: epb-support@lbl.gov | (510) 486-7442

Risk assessment determines premium rate



Components of the finance rate

- **Index interest rate — largest component**
 - Represents prevailing cost of money in long-term borrowing market
 - Based on U.S. Treasury rates
 - Changes day to day
- **Premium — basis points added to index rate (1% = 100 basis points)**
 - Financier's costs (legal fees, administration, etc.)
 - Financier's perception of risk (main factor)



Web sources for rates:

- www.bloomberg.com
- www.federalreserve.gov/releases/h15/current

Project Risk – key elements

Project Construction Phase

On time, on budget

- ESCO/Utility project experience
- Bond rating
- Project installation schedule
- Escrow draw schedule
- Project complexity
- Customer commitment
- Clear risk & responsibility for each party

Performance Period Phase

Uninterrupted payments

- Measurement & Verification risk
- Savings risk
- Equipment Risk (Repair & Replacement)
- Maintenance & Operation Risk
- Useful Life vs Term Risk
- Market/Inflation Risk

Contract Risk – key elements

Standard FAR

- Standard UESC T&Cs will expedite negotiation & review process

Termination Risk

- Clear liability established for termination for convenience

Set-off Clauses

- Risk of government payments of being withheld

Risk & Responsibility Matrix

- Minimize potential for disputes which trigger savings shortfalls

Participant Risk – key elements

Utility / ESCO

Performance

- Experience / track record
- Credit strength
- Documentation
- Performance period
service capabilities

Customer

Commitment

- Project acceptance
- Payment history
- Termination potential
- Partial buy-out potential

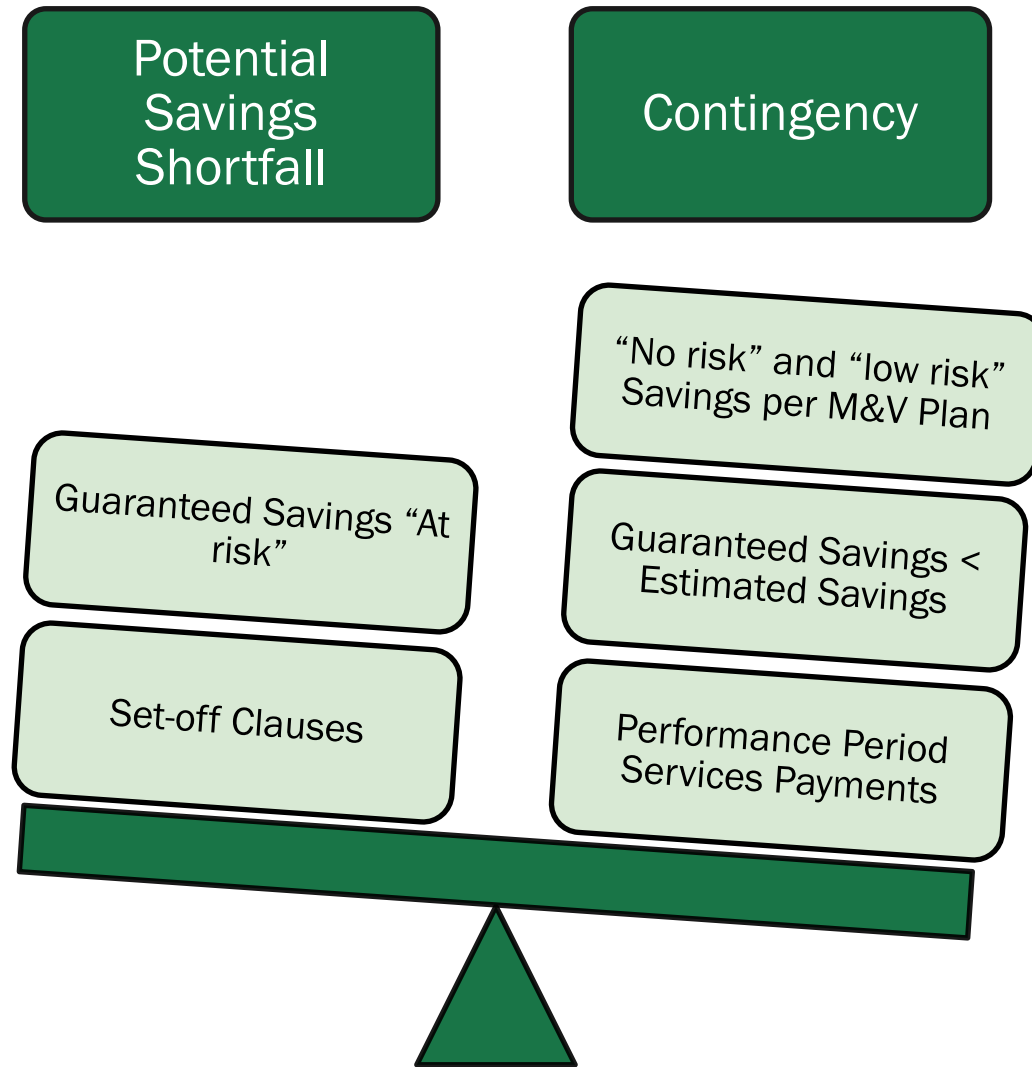
Investment Deal Summary Overview

- **Project Investment**
 - ECM Description, implementation expense, markup
- **Key Project Dates**
 - Planned award date, key project milestones
- **Schedule of one-time payments**
 - Direct funding, utility rebates, other incentive payments
- **Utility/ESCO portion of Financing Procurement Price**
 - Performance bonds, costs for arranging financing, etc.

IDS savings shortfall analysis

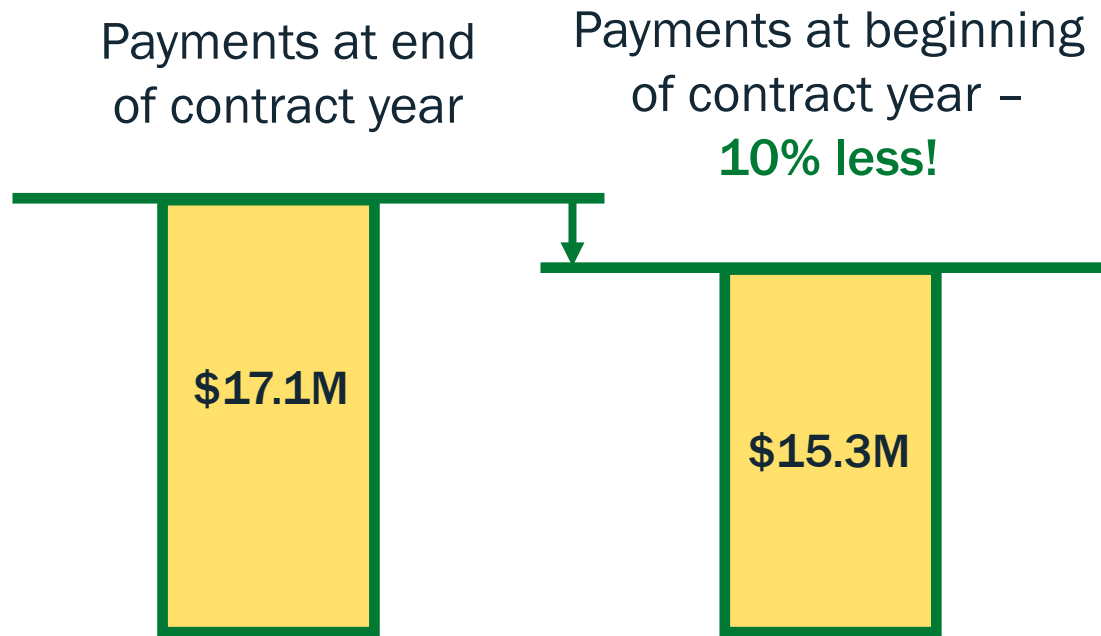
- **Risk Associated with Savings Guarantees**
 - No risk – firm and stipulated
 - Low risk – M&V Option “A” or “potential to perform” ECMs
 - At risk – Savings subject to ongoing measurements (M&V options “B”, “C”, or “D”)
- **Estimated vs. Proposed or Guaranteed Savings**
 - Most proposed or guaranteed savings are less than 100% of estimated savings
- **Government Payments for Performance Period Services**
 - M&V, O&M, R&R, and Training payments are separate and distinct from the financed implementation price
 - Performance-period-services payments can be diverted for debt service in the event of a shortfall

Risk mitigation analysis from IDS (example)



Payment strategies to reduce interest costs

- **Schedule annual payments at beginning of contract year**
 - Agency is already in possession of (has title to) the equipment



Total agency payments over contract term
(avg. project with 5% interest rate)

Preparing stakeholders for financing activities

- **Procurement, Accounting, Treasury, and Legal**
 - External legal counsel for government FAR regulations and UESC expertise is common
 - Establish Master Purchasing Agreement (MPA) with multiple finance companies before soliciting bids
 - Utilize IDS and SFO formats for proposals
- **Public Utility Commission Requirements**
 - Notify PUC in advance of finance bidding
 - Establish implementation model in compliance with PUC regulations

Implementing a financing RFQ

- **Establish Master Purchase Agreements (MPA) with finance companies before bidding**
 - Avoid negotiation after bid solicitation
- **Rate locks may increase premium (usually avoided)**
- **Solicit bids close to planned award date for accuracy (but allow ~30 days)**
- **Avoid potential rate changes after bids received:**
 - Minimize time before planned award date
 - Finalize other contract negotiations prior to Financing RFQ (ESCO, government TO, project details)
 - Complete congressional notifications to avoid delays

Resources & Links



Resource Links

- [UESC Contracts Lessons Learned: Negotiating Financing](#)
- [Investor Deal Summary](#)
- [Standard Financing Offer](#)
- [UESC Guide](#)
- [UESC Enabling Documents](#)
- [Financing for Federal UESCs](#)

Available Upon Request:

- [Sample UESC Financing Request Template](#)