Contents

• UESC Financing Overview
• Competitive Financing
• Risk Assessment & Premiums
• Implementing a UESC Financing RFQ
• Resources & Links
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 Task Orders**
  - Agency
  - Utility

- **Master Purchase Agreement (MPA)**
  - Utility
  - Financier

- **Assignment of Claims**
  - Agency
  - Trustee

- **Purchase Price**
  - Trustee
  - Agency

- **Assignment of Payments**
  - Financier
  - Trustee

- **AWC/BOA**
  - Agency
  - Utility

**Key Points**:
- 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?

Performance-period services *(not financed)*
- Performance Assurance
- Other such as O&M, R&R

Total Payments

- 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.

**Investor Deal Summary (IDS)**
- Final project scope defined / priced
- Energy / cost savings
- O&M savings
- Performance Assurance
- Risk / Responsibility allocation (O&M, R&R, etc.)

**Financing Request**
- Implementation price
- Contract term (years)
- Projected task order award date
- Construction draw schedule
- Incentives / capital contribution
- Payment structure

**Standard Financing Offers (SFO)**
- Interest rate premium
- Construction financing structure
- Capitalized construction interest
- Administrative fees
- Proposed termination fee structure
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)
  - 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

**Contract Risk**
- Contractual obligations
- Termination Clause(s)
- Set-off Clauses
- Assignment of claims
- Congressional notification

**Project Risk**
- Technology risk
- Project complexity
- O&M / R&R responsibility
- Guarantee / M&V
- Useful life vs. contract term

**Participant Risk**
- Credit strength
- Experience / track record
- Payment history
- Termination potential
- Project acceptance
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](http://www.bloomberg.com)
• [www.federalreserve.gov/releases/h15/current](http://www.federalreserve.gov/releases/h15/current)
## Project Risk – key elements

<table>
<thead>
<tr>
<th>Project Construction Phase</th>
<th>Performance Period Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On time, on budget</strong></td>
<td><strong>Uninterrupted payments</strong></td>
</tr>
<tr>
<td>• ESCO/Utility project experience</td>
<td>• Measurement &amp; Verification risk</td>
</tr>
<tr>
<td>• Bond rating</td>
<td>• Savings risk</td>
</tr>
<tr>
<td>• Project installation schedule</td>
<td>• Equipment Risk (Repair &amp; Replacement)</td>
</tr>
<tr>
<td>• Escrow draw schedule</td>
<td>• Maintenance &amp; Operation Risk</td>
</tr>
<tr>
<td>• Project complexity</td>
<td>• Useful Life vs Term Risk</td>
</tr>
<tr>
<td>• Customer commitment</td>
<td>• Market/Inflation Risk</td>
</tr>
<tr>
<td>• Clear risk &amp; responsibility for each party</td>
<td></td>
</tr>
</tbody>
</table>
# Contract Risk – key elements

<table>
<thead>
<tr>
<th>Section</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard FAR</strong></td>
<td>• Standard UESC T&amp;Cs will expedite negotiation &amp; review process</td>
</tr>
<tr>
<td><strong>Termination Risk</strong></td>
<td>• Clear liability established for termination for convenience</td>
</tr>
<tr>
<td><strong>Set-off Clauses</strong></td>
<td>• Risk of government payments of being withheld</td>
</tr>
<tr>
<td><strong>Risk &amp; Responsibility Matrix</strong></td>
<td>• Minimize potential for disputes which trigger savings shortfalls</td>
</tr>
</tbody>
</table>
Participant Risk – key elements

<table>
<thead>
<tr>
<th>Utility / ESCO</th>
<th>Customer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Performance</strong></td>
<td><strong>Commitment</strong></td>
</tr>
<tr>
<td>• Experience / track record</td>
<td>• Project acceptance</td>
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<tr>
<td>• Credit strength</td>
<td>• Payment history</td>
</tr>
<tr>
<td>• Documentation</td>
<td>• Termination potential</td>
</tr>
<tr>
<td>• Performance period service capabilities</td>
<td>• Partial buy-out potential</td>
</tr>
</tbody>
</table>
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)

- Potential Savings
  - Shortfall

- Contingency
  - "No risk” and “low risk” Savings per M&V Plan
  - Guaranteed Savings < Estimated Savings
  - Performance Period Services Payments

- Guaranteed Savings “At risk”
- Set-off Clauses
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

<table>
<thead>
<tr>
<th>Payments at end of contract year</th>
<th>Payments at beginning of contract year – 10% less!</th>
</tr>
</thead>
<tbody>
<tr>
<td>$17.1M</td>
<td>$15.3M</td>
</tr>
</tbody>
</table>

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