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ONE HUNDRED FIFTEENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
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MEMORANDUM

December 10, 2018

To: Subcommittee on Energy Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on "Public Private Partnerships for Federal Energy Management"

On **Wednesday, December 12, 2018, at 10:15 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Energy will hold a hearing titled "Public Private Partnerships for Federal Energy Management."

I. BACKGROUND

There are currently two primary programs designed to improve energy efficiency and save money for federal agencies through public private partnerships: Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs). Congress authorized the use of ESPCs and UESCs in the Energy Policy Act of 1992.[1] The law also encouraged federal agencies to participate in programs to increase energy efficiency, conserve water or manage energy demand.[2] The federal government – the nation's largest energy consumer – uses programs such as ESPCs and UESCs to invest in renewable energy and energy efficiency improvements for its 500,000 facilities through private sector resources and capabilities. The federal government frequently uses these programs because upfront funding for energy efficiency improvements is often difficult to obtain due to budget restraints and competing agency missions.[3]

[1] P.L. 102-486.

[2] *Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs)* (Nov. 23, 2018) CRS Report R45411.

[3] Government Accountability Office, *Energy Savings: Performance Contracts Offer Benefits but Vigilance is Needed to Protect Government Interests* (Jun. 2006) (GAO-05-340) (www.gao.gov/assets/250/246805.pdf).

Under an ESPC, a private contractor finances the upfront costs of energy improvements with the contracting agency paying an annual amount for a fixed period of time. The contractor assumes the risks of the energy improvements and guarantees that the improvements will generate energy cost savings that cover the upfront costs.[4] ESPCs can span up to 25 years and be valued at millions of dollars each. Some examples of ESPC projects include installation of energy-efficient lighting, rainwater harvesting equipment and heating, ventilation, and air conditioning (HVAC) improvements. The U.S. Department of Energy (DOE), for example, has awarded 400 projects, invested $6 billion in energy improvements and saved an estimated $14 billion in cumulative energy costs since 1998.[5]

A UESC is a limited-source contract between a federal agency and a serving utility – an organization supplying customers with electricity, gas, water or sewerage – to help the government meet its energy and water needs. Since 2000, more than 1,800 projects have been reported with $3.3 billion leveraged through utility partnerships.[6] For example, in December 2015, the U.S. Department of Veterans Affairs entered into a UESC with TECO Peoples Gas for $18.6 million at the James A. Haley Medical Center in Tampa, Florida. The contract outlines energy conservation measures to include high-efficiency lighting, water conservation and HVAC and transformer upgrades.[7]

Energy efficiency improvements are typically less expensive than investing in new generation and transmission. Over the last 40 years, these improvements have had a significant impact on the U.S. economy.[8] Energy efficiency is also a crucial factor in addressing climate change by lowering greenhouse gas emissions and other pollutants.[9] According to a recent Congressional Research Service report, between fiscal years 2005 and 2017, investments in federal facility energy efficiency improvements totaled $21.8 billion, with $5.7 billion directed at EPSCs and $1.5 billion for UESCs.[10]

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[4] *Id.*

[5] Department of Energy, *Awarded DOE IDIQ Energy Savings Performance Contract Projects* (accessed Dec. 5, 2018) (www.energy.gov/eere/femp/awarded-doe-idiq-energy-savings-performance-contract-projects).

[6] Department of Energy, *Utility Energy Service Contracts for Federal Agencies* (accessed Dec. 6, 2018) (www.energy.gov/eere/femp/utility-energy-service-contracts-federal-agencies).

[7] Department of Energy, *Recently Awarded Federal Energy Service Contract Projects* (accessed Dec. 6, 2018) (www.energy.gov/eere/femp/recently-awarded-federal-utility-energy-service-contract-projects).

[8] Environmental Protection Agency, *State Energy Efficiency Benefits and Opportunities* (accessed Dec. 5, 2018) (www.epa.gov/statelocalenergy/state-energy-efficiency-benefits-and-opportunities).

[9] *Id.*

[10] *See* note 2.

II. GOVERNMENT OVERSIGHT

In 2015, the Government Accountability Office (GAO) reported on the unexpected increase in the use of ESPCs, which raised questions about the agencies' ability to ensure that the government's interests were being protected.[11] GAO recommended improvements to oversight of ESPC projects, including clearer reporting of savings, improved training, and systematic evaluations of portfolios. A 2017 GAO report on defense infrastructure cited that military services had varying approaches for verifying whether projected savings were achieved for all UESCs.[12] GAO made two recommendations: first, that military services collect and provide the Department of Defense (DOD) complete and accurate data on all alternatively financed energy projects; and second, that DOD update its guidance to clarify requirements for verifying UESC savings.

III. COMMITTEE ACTIVITY

During the 115th Congress, the Committee on Energy and Commerce has considered only one bill addressing ESPCs or UESCs: H.R. 723, the Energy Savings Through Public-Private Partnerships Act of 2017. This legislation, sponsored by Reps. Kinzinger (R-IL) and Welch (D-VT), makes several clarifying improvements to the implementation of ESPCs.

The full Committee reported H.R. 723 by unanimous consent on June 7, 2017. Since that time, the House of Representatives has taken no further action on the legislation.

IV. WITNESSES

The following witnesses have been invited to testify:

Edward Bradley
Executive Director, Office of Asset Enterprise Management
U.S. Department of Veterans Affairs

Kevin Kampschroer
Chief Sustainability Officer and Director
Office of Federal High-Performance Buildings
U.S. General Services Administration

Jack Surash
Acting Deputy Assistant Secretary, Energy and Sustainability
U.S. Department of the Army

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[11] Government Accountability Office, *Energy Savings Performance Contracts: Additional Actions Needed to Improve Federal Oversight* (Jun. 2015) (GAO-15-432) (www.gao.gov/assets/680/670852.pdf).

[12] Government Accountability Office, *Defense Infrastructure: Additional Data and Guidance Needed for Alternatively Financed Energy Projects* (Jun. 2017) (GAO-17-461) (www.gao.gov/assets/690/685558.pdf).

Leslie Nicholls
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