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EXECUTIVE ORDER

Energy Performance Contracting to Improve State Facilities

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, I, Bill Owens, Governor of the State of Colorado, hereby issue this Executive Order concerning energy performance contracting.

1. Background and Purpose

Energy performance contracting enables state governments to invest in energy-saving equipment, using future utility cost savings (or avoided costs) to pay for the improvements. A lease-purchase agreement is paid through annually guaranteed cost savings that are realized in utility and operating budgets. Substantial facility improvements can be accomplished in this way while reducing future utility and maintenance costs, mitigating the future risk of volatile utility prices and modernizing state facilities. A number of state agencies and institutions have tested and proven this approach. The potential exists for substantial improvements in the use of utility and operating budgets.

Legislation to govern energy performance contracts was adopted in House Bill 1381 in 2001, C.R.S. §§ 24-30-2001 through 24-30-2004 and C.R.S. §§ 24-75-108 and 29-4-729. The Governor's Office of Energy Management and Conservation and the Department of Personnel & Administration's State Buildings and Real Estate Programs developed procurement and contracting documents, project guidelines, and reporting and tracking procedures for performance contracting projects.

I direct all agencies of state government to initiate energy performance contracts where opportunity exists to better utilize utility and operating budgets and to make capital improvements in facilities. To assist agencies in this effort, the Governor's Office of Energy Management and Conservation, in partnership with the Department of Personnel & Administration's State Buildings and Real Estate Programs, offers substantial technical services including project development, engineering review, and project implementation guidance.

2. Directive

Each state agency responsible for state-owned facilities shall:

- a. Investigate the feasibility for an energy performance contract and submit a final feasibility study to the Department of Personnel & Administration's State Buildings and Real Estate Programs by July 1, 2004. The feasibility study will be for a performance contract that is comprehensive in scope to implement a wide range of cost-effective energy-saving projects in all buildings, considering a financing term of 12 years or more to capture substantial avoided costs. Guidelines for the feasibility study are available from the Department of Personnel & Administration's State Buildings and Real Estate Programs. Professional engineering services to complete the study are available at no cost through the Governor's Office of Energy Management and Conservation.
- b. Issue a Request For Proposal for services by February 2005 and follow-through with implementation through an energy performance contract for all buildings or a manageable portion of buildings, where it is determined that a performance contract is feasible, viable and economically sound. Assistance in developing an RFP is available through the Governor's Office of Energy Management and Conservation, in cooperation with the Department of Personnel & Administration's State Buildings and Real Estate Programs.
- c. Follow established procedures and requirements as set by the Department of Personnel & Administration's State Buildings and Real Estate Programs, utilizing approved procurement and contracting documents and following construction project guidelines and documenting and reporting procedures.

State Institutions of Higher Education are encouraged to comply with subsections a-c of this section 2.

Except in the case of emergency or extenuating circumstances as determined by the Office of State Planning and Budgeting, no Fiscal Year 2005/2006 or future requests for Controlled Maintenance shall be approved by the Office of State Planning and Budgeting (including approvals from the State Buildings and Real Estate Programs and the Colorado Commission of Higher Education) for any department, agency, or institution of the state that has not submitted an energy performance contract feasibility study approved by the Department of Personnel & Administration's State Buildings and Real Estate Programs.

3. Implementation

All departmental and institutional changes necessary to implement this Executive Order shall be made within existing budgetary appropriations. It is the intent of this Executive Order that future utility and operational budgets will be structured so that the annual cost to support a performance contract will be supported by the utility appropriation that would otherwise be granted.

4. Duration

This Executive Order shall remain in force until modified or terminated by further executive order of the Governor.

GIVEN under my hand and
the Executive Seal of the
State of Colorado, this 16th
day of July, 2003.

Bill Owens
Governor