



Department of Energy

Washington, DC 20585

November 24, 2009

The Honorable Peter Welch
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Welch:

Thank you for the September 15, 2009, joint letter with 60 of your distinguished colleagues commending the Department of Energy's (DOE) efforts to enhance the use of energy savings performance contracting (ESPC) and for your interest in DOE's efforts in implementing the provisions of Section 432 of the Energy Independence and Security Act (EISA) P.L. 110-1409.

I want to assure you that DOE is taking full advantage of the energy efficiency provisions provided by Congress under Section 432. Under my direction as Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), the Department's Federal Energy Management Program (FEMP) assists Federal agencies in meeting these statutory requirements.

FEMP's implementation efforts under Section 432 of EISA include the December 2008 release of *Facility Energy Management Guidelines and Criteria for Energy and Water Evaluations in Covered Facilities*. In May 2009, FEMP also prepared interim guidance for agencies to use for reporting their initial findings of comprehensive evaluations in their EISA covered facilities. FEMP is using \$1.4 million of Recovery Act funding to implement Section 432 activities including developing the required web-based certification system.

The details of these and other implementation efforts are provided in the attached report.

Thank you again for your interest in these critical Department activities to improve the energy efficiency of federal buildings. If you need additional information, please contact me or Mr. Jonathan Levy, Office of Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathy Zoi", written over a white background.

Cathy Zoi
Assistant Secretary
Energy Efficiency and Renewable Energy

Enclosure



Status Report on the Implementation of Section 432 of the Energy Independence and Security Act (EISA), Management of Energy and Water Efficiency in Federal Buildings

October 2, 2009

Background

Section 432 of the Energy Independence and Security Act of 2007 (EISA) amends section 543 of the National Energy Conservation Policy Act, by adding a new subsection (f) *Use of Energy and Water Efficiency Measures in Federal Buildings* (42 U.S.C. 8253(f); referred to as “the statute” in this guidance). The new subsection prescribes a framework for Federal facility energy project management and benchmarking, including the following elements:

- Federal agencies are to identify an inventory of “covered facilities” subject to the EISA requirements that comprise at least 75 percent of their total facility energy use;
- Agency-designated “facility energy managers” for ensuring compliance of covered facilities subject to the requirements;
- “Comprehensive energy and water evaluations” to be undertaken at all covered facilities within a four-year period that include energy audit and commissioning components;
- Implementation of energy and water efficiency measures identified as part of the comprehensive evaluations;
- Follow-up on implemented efficiency measures;
- Web-based tracking system of covered facilities’ energy use, evaluations, projects, and follow-up;
- Benchmarking; and
- Summaries of agency implementation status in Office of Management and Budget (OMB) Scorecards.

The Federal Energy Management Program (FEMP) under the Office of the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE) is responsible for implementing the requirements of EISA Section 432 at the Department of Energy.

Implementation Status

FEMP’s implementation efforts under Section 432 of EISA to-date include the release of *Facility Energy Management Guidelines and Criteria for Energy and Water Evaluations in Covered Facilities* in December 2008 (http://www1.eere.energy.gov/femp/pdfs/eisa_s432_guidelines.pdf). This document was developed through an interagency working group process that also included the participation of energy efficiency advocates and energy and utility service providers. A draft of these *Guidelines* was included as a part of DOE’s fiscal year 2008 annual energy reporting guidance package to Federal agencies so that agency energy coordinators could begin the process of meeting the near-term requirements of Section 432 which included compiling lists of covered facilities and energy managers. These lists were provided to DOE in January 2009.

Based on FEMP's analysis of these preliminary submittals, the energy use of the agency-designated covered facilities was approximately 300 trillion Btu or 77 percent of Government facility energy use (surpassing the statutory target of 75 percent for each agency). The square footage of the agency-designated covered facilities total 1.7 billion square feet or 54 percent of the Government's facility square footage of 3.2 billion square feet.

In May 2009, FEMP prepared interim guidance for agencies to use for reporting their initial findings of comprehensive evaluations in their EISA Section 432 covered facilities in the absence of the required web-based tracking system (http://www1.eere.energy.gov/femp/pdfs/interim_guidance_eisa_reporting.pdf). This enabled many agencies to fulfill an action item on their OMB Energy Management Scorecards to report their findings. FEMP will use the preliminary information provided by the agencies to populate the beta-test version of the web-based tracking system scheduled to be tested in the first quarter of FY 2010. Agencies will have an opportunity to review and revise their data in the Web-based tracking system before compliance certification in June of 2010.

Preliminary analysis of the initial findings from the agencies indicates that almost 774 million square feet of facility space was evaluated since January of 2007, approximately 45 percent of the covered facility total square footage and 25 percent of all Government facility space. More than \$5 billion in potential energy and water project investment was identified with the potential to save almost 28 trillion Btu, an 8 percent reduction from current levels and 6.9 billion gallons of water, a 4 percent reduction from current levels.

FEMP is using an allotment of \$1.4 million of EERE discretionary Recovery Act funding to implement Section 432 activities that were previously unfunded to develop, beta-test, and deploy the required web-based facility tracking system. Initial funding for this work was obligated to the IT contractor in late August 2009 and work has commenced on the requirements analysis, data dictionary and database structure. The system will be beta-tested during the first quarter of fiscal year 2010, deployed for wide-spread agency use in the second quarter of fiscal year 2010, and appropriate data elements of the system will be made available to the public in the last quarter of fiscal year 2010. Also during this period a consolidated implementation guidance document will be drafted with the web-based tracking system the mechanism for certifying agency compliance with the statute.

Upon full implementation, Federal agencies will use the EISA Section 432 web-based tracking system to track performance of their efficiency projects into the future. Measuring and verifying project performance every four years as part of the required facility re-commissioning and evaluation will help ensure persistence of savings and provide a clearer picture of the actual benefits of our Federal investment in energy and water efficiency.

Funding and Financing Issues

While Section 432 provides the authority to use financing arrangements such as energy savings performance contracts (ESPC) and utility energy service contracts to accomplish the ambitious goals of the law, no specific appropriations were made available. The law requires agencies to audit and commission 25 percent of their designated facilities per year, at a cost of between \$0.06 and \$0.15 per square foot depending on building type and

location. This translates to a total annual requirement of between \$46 million and \$116 million for all relevant Federal agencies. Unfortunately, at times agencies must choose between conducting the required audits and making critical investments in energy efficiency and/or renewable power.

Similarly for FEMP, the law imposed a requirement to create a web-based tracking and reporting system—something which could not have been done until fiscal year 2011, absent the subsequently-allotted Recovery Act funding.

Finally, financing approaches such as ESPC do not always result in the best value for the taxpayer. Robust and thorough Federal agency oversight remains critical to any project undertaken to ensure all terms and conditions of the contract are met. In this regard, EERE has recently initiated an ESPC reform effort that will improve DOE's own internal management of ESPC contracts and serve as an example for other agencies to follow.