

January 27, 2010

Mr. W. Todd Grams
Acting Assistant Secretary for Management
Department of Veteran's Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Mr. Grams:

The Federal Performance Contracting Coalition is a group of Federal Energy Service Companies (ESCOs) working to eliminate barriers to Federal Energy Savings Performance Contracts (ESPCs). Our members, Ameresco, Chevron Energy Solutions, Constellation Energy, FPL Energy, Honeywell, Johnson Controls, Lockheed Martin, NORESKO, Pepco Energy Services, Siemens and Trane, are responsible for approximately 90% of Federal ESPC work.

Our companies work every day on this Administration's priorities of creating jobs and greening 75% of our Federal buildings. This is why we write today to comment on your recently released solicitation: VA-776-10-RP-0066 dated December 11, 2009. A similar RFP was issued in 2008 that apparently did not result in an award.

While we applaud the VA's renewed interest in ESPCs, and efforts to improve efficiency in VA facilities, we have a variety of concerns regarding the recently issued RFP. The primary concern is that the VA has decided not to utilize the DOE ESPC IDIQ contract. The recently re-competed contract qualified 16 ESCOs based on multiple criteria including experience, resources, cost and financial stability. The DOE contract defines a clear process for competition and project development based on years of experience with the program. It is surprising that the VA has decided to go through the evaluation and selection process that was recently performed by the DOE. While the VA is more than capable of developing an ESPC program the effort seems to be unnecessary when a similar program is currently in place and supported by the DOE.

The following excerpts and comments on the RFP are a few examples of issues that the DOE ESPC IDIQ contract addresses based on experience and collaboration with the ESCO industry.

- **Termination Liabilities:** The elimination or substantial reduction of contingent termination liabilities compared to those experienced in current ESPC third-party financing will likely result in a higher project financing interest rate to protect the lost opportunity cost that would result if the contract was paid off prematurely.
- **Paragraph C.1.4.a: Finance Rates:** The RFP states that "The VA prefers that the investment interest rate for this contract shall not exceed a maximum of 125 basis points above the 10-year Treasury bond rate published on the date of closing. ESCOs may propose higher rates in the Initial Proposal but must provide a

comprehensive explanation for the higher rate.” A contractor can provide multiple financing quotes from interested qualified lenders however, the rates are market based and the best offered rate may or may not be in line with the VA preferences. .

- Paragraph C.1.4.c: Length of Contract: Limiting the total payback period of the amortized debt to 10 years (simple payback) or the useful life of any one ECM will substantially limit the type of infrastructure improvements that could potentially be achieved. Leveraging the short term payback ECMs to implement longer payback ECMs will allow for a more comprehensive energy project. The useful life of equipment can be addressed by including replacement costs where practical.
- C.2.1 Site Data Packages: We understand that the VA has contracted audit services from independent consulting firms and that these audits will be the basis for the site data packages referenced in Attachment 4 of the RFP. Since an ESPC project includes energy savings guarantees, baselines and performance criteria must be agreed to by both parties. The ESCO will need to obtain and/or verify the data and baselines to develop the savings guarantee.
- C.1.4.d-h: Mark Up and Profit Margins: The proposed/mandated overhead and profit margin does not take into account the complexities of the various technologies and the risks that are associated with an ESPC project. The experience and capabilities that a qualified ESCO provides to insure a successful project should be measured against the cost. The end result must be the “best value” for the government.

We respectfully request that you reconsider utilizing the DOE ESPC IDIQ contract to help you achieve the VA energy conservation goals. We would sincerely appreciate an opportunity to meet with you to discuss your program. We also encourage you to talk with the DOE Federal Energy Management Program team and consider working with them to implement successful energy savings performance contracts with their support.

We look forward to meeting with you, and Jennifer Schafer, the coordinator for the FPCC will follow up to arrange it.

Thank you

Sincerely,

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Ameresco

Ken Ormsbee
Chevron Energy Services

Gregory Jarosinski
Constellation Energy Projects & Services Group, Inc.

Honeywell

Johnson Controls

David Weiss
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