Federal Performance Contracting Coalition

Reconciliation Requests August 2021

Background

The Senate's Budget Resolution Agreement Framework includes federal building investments to address the significant repair, replacement, and maintenance backlog that must be addressed to modernize our federal facilities. The investment proposed within the budget represents a significant opportunity to improve the operations, resilience, energy efficiency, and comfort of these facilities, while at the same time addressing our pressing environmental and mission-related requirements.

To maximize the impact of this funding, we ask that any federal building infrastructure investment include a requirement to leverage performance contracts, specifically Energy Savings Performance Contracts (ESPC) and Utility Energy Service Contracts (UESC). Performance contracts are generally able to leverage at least 5-6 times the federal investment. By doing so, Congress will reduce carbon emissions and deliver greater energy efficiency, clean energy, and resilience investments at a lower cost, with a guarantee of performance and savings from Energy Services Companies (ESCOs).

Currently the government is asking that these private sector-financed and implemented projects achieve more than ever before: climate and mission resilience, cybersecurity, net zero energy, zero carbon electricity, electrification, and mission assurance. By providing appropriated dollars, along with the energy savings from performance contracts in a leveraged fashion, through performance contracts, the federal government can achieve its aggressive energy and climate goals while also freeing funding for other budget reconciliation priorities.

Request

Committees on Energy and Natural Resources ($198B)/Energy and Commerce

Federal procurement of energy efficient materials**:** FPCC supports the $5 B in funding for the Federal Energy Efficiency Fund requested by the U.S. Green Building Council and others. Additionally, we request that at least 20% of this funding be leveraged through performance contracting. Leveraging $1 B (20%) of the proposed $5 B investment in this manner would generate an additional $5 B in private sector expenditures, effectively doubling the impact of the Federal dollars.

> Proposed Legislative Text:
> *$5,000,000,000 to DOE under 42 USC 8256 (b)(1) for grants to Federal agencies to achieve on site carbon emissions reduction through deep energy and net zero carbon retrofits at federal facilities. At least 20% of these funds must be used to leverage performance contracts pursuant to 42 USC 8253(f)(4) and shall be focused on generating new energy and emissions reductions through new contracts.*

Committee on Environment and Public Works ($67B)/ Transportation and Infrastructure

Federal investments in energy efficient buildings and green materials: The FPCC supports the $1.5 B in funding in the Federal Building Fund specifically for GSA Federal building retrofits as requested by U.S. Green Building Council and others. Additionally, we request that at least 20% of the funding be leveraged through performance contracting. Leveraging $300 M (20%) of the proposed $1.5 B investment in this manner would generate an additional $1.5 B in private sector expenditures, effectively doubling the impact of the federal dollars.

Proposed Legislative Text:
$1.5 B to reduce the carbon footprint and energy consumption of Federal facilities, including by (i) initiating projects to enable progress towards net zero carbon and net zero energy buildings, (ii) supplementing project funding from other appropriations and performance contracting to achieve greater energy and water efficiency and greenhouse gas emission reductions beyond those achievable under cost-effective and minimum efficiency requirements, (iii) in conjunction with energy efficiency projects, for onsite, campus, or community renewable energy, energy storage, building-grid integration, and other approaches to reduce total carbon footprints of Federal facilities, including groups of facilities, (iv) to achieve embodied carbon reductions on new construction and major renovation projects; and (v) for the cost of additional employees, contractors, and training needed to support such energy and carbon reductions; provided that at least 20% of these funds must be used to leverage performance contracts pursuant to 42 USC 8253(f)(4) and shall be focused on generating new energy and emissions reductions through new contracts.

Committee on Veterans Affairs ($18B)

Upgrades to VA facilities: The FPCC supports upgrades to VA facilities and notes that much of this funding will be used to retrofit existing VA hospitals and other facilities. To maximize the impact of this investment, we request that 20% of the funds targeted for facility retrofits be leveraged with performance contracting. For example, if $9 B of the proposed $18 B was earmarked for VA facility retrofit work, our request is that $1.8 B (20%) be leveraged through performance contracting. Leveraging the building investment in this manner would generate an additional $9 B in private sector expenditures, effectively doubling overall investment in existing building stock.

Proposed Legislative Text:
provided that at least 20% of the funds for retrofit of facilities must be used to leverage performance contracts pursuant to 42 USC 8253(f)(4) and shall be focused on generating new energy and emissions reductions through new contracts.

Why is this important for the federal government?

1. **By requiring building infrastructure funding to be leveraged with performance contracts, Congress will free funding for other reconciliation investments**

The $3.5 trillion legislation under consideration represents the largest investment in our nation's infrastructure in a generation. Despite its size, Democratic caucus priorities may surpass this spending level. For instance, we have already seen letters sent to Congressional leadership requesting a reallocation of funds to support additional spending on Interior and electric vehicle related programs.

These tensions will grow in the days ahead as Democrats balance competing policy goals with moderate Member desire to reduce the size of the bill. Performance contracts are a perfect tool to solve this challenge. By requiring just a fraction of building retrofit spending to be leveraged through performance contracts, by Congress can increase the impact of its building investments tenfold, freeing funding for other policy priorities while still accomplishing its facility retrofit objectives.

2. Leveraging infrastructure funds through performance contracts will enable more comprehensive federal building upgrades, resilience, more carbon reduction, and increased clean energy deployment than can be achieved through appropriated funding

Performance contracts can increase the impact of appropriated funding at levels greater than 5:1 while increasing high value priorities such as electrification, net zero carbon and deep energy retrofits. In fact, the current program has been achieving even larger leveraging ratios while focusing primarily on energy and water efficiency, resilience and cybersecurity.

As part of the 2009 American Recovery and Reinvestment Act (ARRA), Congress appropriated $5 billion to federal agencies to address facility maintenance backlog. Even under a conservative scenario, fully leveraging this funding with performance contracts would have provided more than $25 billion in total investment to federal agencies ***at no additional cost*** to the federal government. It also would have included a contractual guarantee that project goals would be met and sustained.

As a similar example, if $2.5 billion is provided for building retrofits and leveraged with performance contracts within the budget reconciliation package, at least $10 billion would then be provided by private sector funding, ensuring at least $12.5 billion in stimulative investment and resulting in 125,000 jobs created.

Adding a requirement to leverage ESPCs and UESCs is also consistent with Section 1002 of Division Z within the Consolidated Appropriations Act, 2021 (P.L. 116-260). This law requires federal agencies to utilize performance contracting to implement 50 percent of identified energy conservation measures at federal facilities.

3. Under performance contracting, ESCOs measure, verify, and contractually guaranteed performance and energy savings. Appropriated funds do not provide these safeguards.

Current law (42 USC 8287) requires third party partners (ESCOs) to measure and verify that the conservation measures they have installed perform as promised over the life of the contract. Utility savings and carbon reduction are contractually guaranteed for the government.

Without this requirement, Congress risks a scenario in which building investments are implemented with limited oversight and no guarantee of savings or proper maintenance. This may lead to wasteful spending, decreased efficiency savings, and less accountability.

4. Performance contracts have broad political support

There is broad political support for performance contracting in Congress and within the private and nonprofit sectors.

Supporters of performance contracting include the bipartisan Congressional ESPC Caucus, the Alliance to Save Energy, U.S. Green Building Council, Bipartisan Policy Center, Chamber of Commerce, National

Association of Manufacturers, Edison Electric Institute, and the Business Council for Sustainable Energy. Environmental organizations such as Evergreen Action and NRDC have also called for greater use of these contracts.