

Congress of the United States

Washington, DC 20515

July 16, 2021

Ms. Gina McCarthy
National Climate Advisor
The White House
1600 Pennsylvania Avenue
Washington, D.C., 20500

Mr. Brian Deese
Director
National Economic Council
The White House
1600 Pennsylvania Avenue
Washington, D.C., 20500

Ms. McCarthy and Mr. Deese:

We write to request your help in instituting simple and cost-effective actions across the federal government to ensure we reach the energy and emissions reduction goals of the Biden Administration.

We ask the White House to embrace and communicate the importance of Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs), or performance contracts, as a way for agencies to cost-effectively address backlog maintenance while reducing greenhouse gas emissions. We can reduce emissions from federal facilities by 20-30 percent just through performance contracting. One means to do this would be to establish a Carbon Reduction Performance Contracting Challenge (CRPCC).

Despite recent performance contracting legislation being signed into law within the Energy Act of 2020 (Section 1002 of Division Z within the Consolidated Appropriations Act, 2021 (P.L. 116-260)), your assistance is needed to ensure agency use and prioritization of performance contracting. Unfortunately, some agencies are still not compliant with prior law that required building energy audits to be performed and reported. If agencies are not completing these initial steps, it will be challenging to comply with the Energy Act of 2020 requirement to implement these energy conservation measures (ECMs) without administrative support, encouragement, and tracking. A CRPCC and a renewed focus from leadership in the Biden Administration will provide enhanced agency accountability while allowing Energy Service Companies (ESCOs) and agencies to work more collaboratively to address systemic challenges.

As you know, during the Obama Administration there was a Presidential Performance Contracting Challenge that resulted in over \$4 billion in private sector investment in federal facilities. The challenge helped create jobs and made agencies more efficient and cleaner. Whether the Biden Administration embraces a challenge or not, there are a few important things the administration can do to ensure the effective use of performance contracts:

1. **Cabinet-Level Attention.** We ask that the President require Secretaries to set performance contracting goals themselves and report on their status to the Office of Management and Budget (OMB) or the Council on Environmental Quality (CEQ) on a regular basis.

2. **Monitor Progress / Address Bottlenecks.** Because performance contracting is not “business as usual,” successful use of these contracts by the federal government requires a disciplined approach to tracking and managing the implementation schedule. Sustainability report cards specified in [42 U.S.C. 8258\(b\)](#) were expanded to include reporting on performance contracting at various stages of progress and high level White House attention is necessary to drive action.
3. **Address Resource Needs.** While performance contracting relies on private sector investment in our agencies’ infrastructure, dedicated personnel is still necessary. Many agencies, in part because of management cuts and attrition over the past five years, lack the personnel, experience, or other resources needed to support this type of goal. Billions of dollars of potential savings will be delayed for want of sufficient mid-level government employees, as agencies rely on contracting officers and project managers.
4. **Require federal investments to leverage performance contracts.** As part of the American Recovery and Reinvestment Act (ARRA) of 2009, new stimulus funds for federal building retrofits did not include a requirement to leverage performance contracts. This led some agencies to utilize stimulus funds to buy down performance contract term lengths rather than leverage the funding into new building retrofit projects. The result was fewer funded projects, fewer new ESPC requests for proposals being issued, and missed energy efficiency opportunities. We ask that \$2 billion of any future infrastructure package leverage performance contracts as part of the CRPCC in order to achieve broader energy savings and carbon reductions.
5. **Expand scope of performance contracts.** We support the current effort to allow electric vehicle charging stations to be included in an ESPC.

Thank you for your attention to this matter and for your leadership in implementing the President’s climate agenda. With your leadership and the support of the Biden Administration, we are confident ESPCs can be implemented quickly to address necessary carbon reductions within the federal government. To further discuss the importance of this matter and help address any additional implementation issues, we are happy to schedule a meeting with you. We will continue to support your efforts to have the federal government lead by example on clean energy and energy efficiency.

Sincerely,



Peter Welch
Member of Congress



Paul D. Tonko
Member of Congress

A handwritten signature in black ink, appearing to read "Jared Huffman", is written over a horizontal line.

Jared Huffman
Member of Congress

Cc: Shalanda Young
Andrew Mayock
Brenda Mallory