



ASSISTANT SECRETARY OF DEFENSE

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SUSTAINMENT

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS,
ENERGY, AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY (ENERGY,
INSTALLATIONS, AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE
(INSTALLATIONS, ENVIRONMENT, AND ENERGY)
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Policy on Energy Savings Performance Contracts and Utility Energy
Service Contracts

As described in the *National Defense Strategy*, the variety and velocity of global threats continues to rapidly evolve. The homeland is no longer a sanctuary, and we must anticipate and mitigate potential attacks against our critical defense, government, and economic infrastructure. In this environment, maintaining secure access to energy resources is critical to the Department of Defense (DoD) mission execution, and ensuring energy resilience at DoD installations is a top priority.

This policy provides guidance on the use of Energy Saving Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs), as respectively authorized under 42 U.S.C. 8287 and 10 U.S.C. 2913(d), to enhance energy resilience at DoD installations. ESPCs and UESCs enable the DoD to leverage private sector funding and expertise to execute certain types of energy projects on DoD installations. By law, Congress directed the Secretary of Defense to ensure the readiness of the armed forces for their military missions by pursuing energy security and energy resilience. With this in mind, ESPCs and UESCs shall be designed to achieve objectives aligned with installation energy security priorities, and be documented in Installation Energy Plans (IEPs). The requirement for IEPs is outlined in the Assistant Secretary of Defense for Energy, Installations, and Environment (ASD(EI&E)) Memorandum, "Installation Energy Plans – Energy Resilience and Cybersecurity Update and Expansion of the Requirement to All DoD Installations" of May 30, 2018.

Pursuant to statutory directive, DoD Components shall execute ESPCs and UESCs in a manner consistent with the energy resilience guidance contained in DoD Instruction 4170.11, "Installation Energy Management," December 11, 2009 (Change 1, Effective March 16, 2016) and the guidance provided in the ASD(EI&E) Memorandum, "Energy Resilience: Operations, Maintenance, and Testing (OM&T) Strategy and Implementation Guidance," effective March 2017.

DoD Components shall take a holistic view of the energy project opportunities on their installations, and aggregate energy conservation measures (ECMs) – including ECMs with quick payback – with energy resilience enhancement projects that may have a longer payback period. Aggregating such initiatives is particularly important when a utility infrastructure project facilitates energy savings or is required to affect energy savings as part of an ESPC or UESC. DoD Components should ensure that ESPCs or UESCs continue to support mission assurance

goals and requisite managerial and contractual controls are in place to ensure a ready force. DoD Components shall review the potential for modifying existing ESPCs and UESCs to add energy resilience features to these contracts. Such a review may occur during a Component's master planning process, when developing an IEP, or as the mission requires. Prior to execution of an ESPC or UESC, DoD Components shall ensure required resources are in place to enable proper post award oversight to make certain these contracts are meeting expected performance requirements.

In addition, ESPCs and UESCs must include a cybersecurity plan for ECMs and energy resilience projects that include the installation or modification of Operational Technology (OT). OT encompasses Platform Information Technology (PIT), Control Systems (CS), or Facility-Related Control Systems (FRCS). Cybersecurity for OT shall be incorporated in accordance with Unified Facilities Criteria (UFC 4-010-06), "Cybersecurity of Facility-Related Control Systems," September 2016, "Supply Chain Materiel Management Regulation" (DoDI 4140.01), DoD Federal Acquisition Regulation Supplement (DFARS) Clause 252.204-7012, "Safeguarding Covered Defense Information and Cyber Incident Reporting," and the DoD Cybersecurity 8500 series of directives and instructions. In addition, all ECMs and energy resilience projects must adhere to the applicable Component's existing cybersecurity policy and guidance. DoD Components shall assess OT installed and operating under ESPCs and UESCs, throughout the life of the contract in accordance with DoD and their Component's cybersecurity policies and methodologies, and, where necessary, execute appropriate action in adherence with the Federal Acquisition Regulation (FAR), the DFARS, and above references to ensure the cybersecurity of these systems.

For ESPCs and UESCs, DoD assumption of maintenance, repair, and replacement (MR&R) for ECMs places the long-term performance of the ECMs, and thereby the ESPC or UESC, at risk; such an assumption by DoD should be avoided. Thus, DoD Components shall require that all MR&R for an ESPC or a UESC be carried out by the contractor. Exceptions to this policy should only be permitted on a case-by-case basis, and the DoD Component must document the rationale for assuming responsibility for the MR&R of an ECM in a memorandum signed by the installation commander or commanding officer. The memorandum must be submitted in the Component's next quarterly report to the Office of the Deputy Assistant Secretary of Defense for Energy (ODASD(E)), following contract award.

DoD Components shall report on executed ESPCs and UESCs on a quarterly basis, and shall provide Measurement and Verification reports annually, as required by the ODASD (Installation Energy) Memorandum, "Reporting Requirements for the Oversight of ESPCs and UESCs" of July 13, 2018.

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