

ADC Energy and Water Forum

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What is driving Projects

- Significant infrastructure, Resilience and other needs
- Limited available funding resources
- Third Party Construction, Installation, and Management Expertise
- Core Competency
- Perception of the “Ease in contracting and obtaining capital market based financing”
- Politics

General - DOD Legal Authorities to Acquire Power/Water

- Appropriated Funding – Pay for it upfront
- **Utility Purchase Agreements – (40 U.S.C. 501 / FAR Part 41) -- Up to 10 years**
- Power -- 2922a - DOD Authority – (10 U.S.C. 2922a) – Up to 30 years
- “2667 Leases” “Site Dev Leases” – (10 U.S.C. 2667)
- Energy Savings Performance Contract (ESPC) – (42 U.S.C. 8287)
 - Contracts for the sole purpose of achieving energy savings and benefits ancillary to that purpose. Period not to exceed 25 years.
- Energy Service Agreements (ESA)
 - ESPCs can incorporate the purchase of on-site renewable energy, if the result is lower energy consumption and costs. ESPCs with an ESA, requires Office of Management and Budget (OMB) review as per a Aug 16, 2011 memo.
- Utility Energy Service Contract (UESC) – (10 U.S.C. 2913)
 - DoD may enter into UESCs for up to 10 years.
- Utility Privatization – (10 U.S.C. 2688)
 - Enables a Secretary of a military department to convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. (up to 50 years).

Other - (10 USC 2916, 10 USC 2917, 10 USC 2662, 40 USC 591, DoD Instruction 4170.11, DoDI 4165.70, etc.)

Recent History of DOD Financing Energy/Resilience Projects

- Military Housing
- Utilities/UP
- EUL
 - Renovation of Facilities
 - New Facilities
- Energy Efficiency
- Renewable Energy
- Exchanges
- Etc.

**Market Evolved where DOD/Private
Sector created a Market**

Decreased Cost of Borrowing

Decreased Time to Execute Project

**Project Proceeds Increased
More could be built**

Energy general - Military Service Issues

- Interest at Base for Energy Production/REsilience Project?
- Mission Impact
- Term of Contract
- **Contracting entity's ability to execute agreements**
- Budgetary Scoring
- Long-term Cost - Unstable Project Economics
- 2016 - Expiration of Federal Subsidies
- Expiration of State Subsidies
- REC Markets
- NEPA
- CERCLA
- Politics
- Withdrawn Land Complexities – Interagency Agreements
- Limited Transmission Line Access
- Long Project Lead Times
- Market History
- DOD's long-term commitment
- **Approvals – (2922a – OSD), (Scoring issue – OMB), 2667 (notifications)**

Private Sector Focus in the Contract

- Parties to the Agreement
- **Authority of the parties**
- Description of the Project/facility/etc.
- **Term of the Agreement**
- **Payments/Revenues**
- **Obligations** (DBFOM, DBFM, etc.)
- Construction/Installation Obligation
- **Operation and Management Obligation**
- Base and incentive fees and process
- Special requirements of jurisdiction
- Ability to sell or assign
- Informal/Formal process to resolve disagreements
- **Liabilities/indemnifications**
- Environmental Issues/liabilities
- Insurance
- Bonding
- **Default/Default Process**
- Protection of financiers interest
- Bankruptcy
- **Termination and Termination Process**
-and more

UP Focus for the future

- Resilience
- Cybersecurity
- Energy production
- Energy savings
- Energy backup generation (battery power)
- Microgrids
- Water systems
- Other

Identified UP ESPC UESC and other authority upgrades for projects

- Energy Security Measures:

1. Periodic Renewal & Replacement
2. Distribution voltage upgrade
3. Install SCADA system
4. Add redundant supply lines
5. Replace switchgear or substation
6. Install generation
7. System modeling, studies, & testing
8. Replace gas lines
9. Micro-Grid

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