

Approved: 09-16-22  
Expiration: 09-16-23

**SUBJECT:** UPDATING ENERGY PERFORMANCE CONTRACT REQUIREMENTS  
IN THE NATIONAL NUCLEAR SECURITY ADMINISTRATION

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**PURPOSE:** To: (1) update National Nuclear Security Administration (NNSA) Energy Performance Contract requirements consistent with Executive Order (E.O.) 14057, *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability*, and related documents; and (2) re-enforce the requirement to re-examine and document baseline utility and escalation rates prior to Energy Performance Contract award (reference Department of Energy (DOE) Office of Inspector General (OIG)-22-26 report).

**URGENCY:** To ensure implementation of the direction to leverage and use performance contracting to help achieve net-zero emissions buildings, campuses, and installations as outlined in E.O. 14057 along with Office of Management and Budget (OMB) Memorandum M-22-06 (both December 8, 2021), and the DOE 2021 *Climate Adaptation and Resilience Plan* (August 2021). Also to address the recommendation in the February 2022 DOE-OIG-22-26 report regarding review and verification of utility baseline and escalation rates prior to Energy Performance Contract award.

**APPLICABILITY:** This ACD applies to all federal NNSA elements<sup>1</sup>.

**BACKGROUND:** E.O. 14057, as part of its whole of government approach to reestablish the Federal Government as a leader in sustainability and address the climate crisis, promotes the use of performance contracting. Performance contracting has proven to be an effective tool to improve the efficiency and resilience of federal facilities; deploy clean and innovative technologies; and reduce energy, water, and greenhouse gas emissions. Section 1002 of the *Energy Act* of 2020 requires agencies to use performance contracting to address at least 50 percent of energy and water-saving measures identified through energy and water evaluations. OMB Memo M-22-06 provides direction regarding the use of direct funding, as authorized, to increase performance contract project benefits.

NNSA, in its response to the DOE-OIG-22-26 Inspection Report, *Los Alamos National Laboratory Steam Plant Energy Savings Performance Contract – Phase One*, committed to include procedures to review future Energy Performance Contracts (including consideration of current baseline and escalation rates) prior to the contracting officer signing the contract. The review should engage others as necessary and document the results.

NNSA plans to issue a Supplemental Directive on Energy Performance Contracts, to replace Business Operating Procedure (BOP) 436.1, *Supplemental Procedures for Alternative Financed*

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<sup>1</sup> In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 U.S. Code sections 2406 and 2511, and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate.

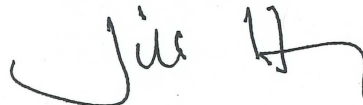
*Energy Savings Projects.* The Supplemental Directive will address the latest E.O. and DOE guidance, including the DOE OIG report recommendation.

**REQUIREMENTS:**

1. NNSA Headquarters and field offices must identify opportunities and implement where appropriate, performance contracting in accordance with the provisions of section 1002 of the *Energy Act of 2020* (Public Law 116-133, division Z), to improve efficiency and resilience of federal facilities, deploy clean and innovative technologies, and reduce greenhouse gas emissions from building operations.
2. As part of portfolio planning, NNSA Headquarters and field offices must seek opportunities to use direct funding, as authorized, in combination with performance contracts to increase project benefits, enable deployment of innovative technologies, and meet the goals and targets established under E.O. 14057.
3. NNSA Headquarters and field offices must review future energy performance contracts (including consideration of current utility baseline and escalation rates) prior to contract award, engage others as necessary, and document the results of the review.
4. The Associate Administrator for Environment, Safety, and Health (NA-ESH) will be the Source Selection Authority for new NNSA energy performance contracts. The contracting officer will share energy performance contract information, including all financial information, with the NA-ESH Associate Administrator.

For questions or comments concerning this ACD, please contact NA-ESH at (240) 220-1643.

BY ORDER OF THE ADMINISTRATOR:

A handwritten signature in black ink, appearing to read 'Jill H' followed by a stylized flourish.

Jill Hruby  
Administrator