

## **Attachment B**

12/27/96 1053.1A

### **APPENDIX 2: LEGISLATION**

#### **A. ENERGY POLICY ACT OF 1992--FEDERAL ENERGY MANAGEMENT PROVISIONS**

##### **SUBTITLE F--FEDERAL AGENCY ENERGY MANAGEMENT**

###### **SEC. 151. DEFINITIONS.**

For purposes of this subtitle--

(1) the term "agency" means has the meaning given such term in section 551(1) of title 5, United States Code, except that such term does not include the United States Postal Service;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of fundamentals of building energy systems, building energy codes and applicable professional standards, energy accounting and analysis, life-cycle cost methodology, fuel supply and pricing, and instrumentation for energy surveys and audits;

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 574 of the National Energy Conservation Policy Act (42 U.S.C. 8257); and

(5) the term "energy conservation measures" has the meaning given such term in section 551(4) of the National Energy Conservation Policy Act.

###### **SEC. 152. FEDERAL ENERGY MANAGEMENT AMENDMENTS.**

(Amends Sections 542 to 550, Part 3, of NECPA, 42 U.S.C. 8252 as follows)

###### **SEC. 541. FINDINGS.**

(No change)

###### **SEC. 542. PURPOSE.**

It is the purpose of this part to promote the conservation and the efficient use of energy and water, and the use of renewable energy sources, by the Federal Government.

###### **SEC. 543. ENERGY MANAGEMENT REQUIREMENTS.**

(a) ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.--(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, its Federal buildings so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1995 is at least 10 percent less than the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1985 and so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 2000 is at least 20 percent less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985.

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(2) An agency may exclude from the requirements of paragraph (1) any building, and the associated energy consumption and gross square footage, in which energy intensive activities are carried out. Each agency shall identify and list in each report made under Section 548(a) the buildings designated by it for such exclusion.

(b) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.--(1) Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544.

(2) The Secretary may waive the requirements of this subsection for any agency for such periods as the Secretary may determine if the Secretary finds that the agency is taking all practicable steps to meet the requirements and that the requirements of this subsection will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this subsection, the Secretary shall notify the Congress promptly in writing with an explanation and a justification of the reasons for such waiver.

(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.

(4) An agency may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of receiving technical assistance in complying with the requirements of this section.

(c) EXCLUSIONS.--(1) An agency may exclude, from the energy consumption requirements for the year 2000 established under subsection (a) and the requirements of subsection (b)(1), any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with such requirements would be impractical. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and, in the cases of the Departments of Defense and Energy, the unique character of certain facilities operated by such Departments.

(2) Each agency shall identify and list, in each report made under section 548(a), the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth in paragraph (1), and may within 90 days after receipt of the findings, reverse a finding of impracticability. In the case of any such reversal, the agency shall comply with the energy consumption requirements for the building concerned.

(d) IMPLEMENTATION STEPS.--The Secretary shall consult with the Secretary of Defense and the Administrator of General Services in developing guidelines for the implementation of this part. To meet the requirements of this section, each agency shall--

(1) prepare and submit to the Secretary, not later than December 31, 1993, a plan describing how the agency intends to meet such requirements, including how it will--

(A) designate personnel primarily responsible for achieving such requirements;

(B) identify high priority projects through calculation of payback periods;

(C) take maximum advantage of contracts authorized under Title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

(D) otherwise implement this part.

(2) perform energy surveys of its Federal buildings to the extent necessary and update such surveys as needed, incorporating any relevant information obtained from the survey conducted pursuant to Section 550;

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(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

(4) install energy and water conservation measures that will achieve the requirements of this section through the methods and procedures established pursuant to Section 544; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

### **SEC. 544. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS AND PROCEDURES.**

(a) ESTABLISHMENT OF LIFE CYCLE COST METHODS AND PROCEDURES.--The Secretary, in consultation with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the National Institute of Standards and Technology, and the Administrator of the General Services Administration, shall--

(1) establish practical and effective present value methods for estimating and comparing life cycle costs for Federal buildings, using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using average fuel costs and a discount rate determined by the Secretary; and

(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

(b) USE OF LIFE CYCLE COST METHODS AND PROCEDURES.--(1) The design of new Federal buildings, and the application of energy conservation measures to existing Federal buildings, shall be made using life cycle cost methods and procedures established under subsection (a).

(2) In leasing buildings for its own use or that of another agency, each agency shall, after January 1, 1994, fully consider the efficiency of all potential building space at the time of renewing or entering into a new lease.

(c) USE IN NON-FEDERAL STRUCTURES.--The Secretary shall make available information to the public on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

### **SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.**

The President shall transmit to the Congress, along with each budget that is submitted to the Congress under Section 1105 of Title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for--

(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) and all applicable Executive Orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).

### **SEC. 546. INCENTIVES FOR AGENCIES.**

(a) CONTRACTS.--(1) Each agency shall establish a program of incentives for conserving, and otherwise making more efficient use of, energy as a result of entering into contracts under Title VIII of this Act.

(2) The Secretary shall, not later than 18 months after the date of the enactment of the Energy Policy Act of 1992 and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).

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(b) FEDERAL ENERGY EFFICIENCY FUND.--(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to assist them in meeting the requirements of Section 543.

(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

(3) The Secretary shall award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall consider the following factors in determining whether to provide funding under this subsection:

(A) The cost-effectiveness of the project.

(B) The amount of energy and cost savings anticipated to the Federal Government.

(C) The amount of funding committed to the project by the agency requesting financial assistance.

(D) The extent that a proposal leverages financing from other non- Federal sources.

(E) Any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

(4) There are authorized to be appropriated, to remain available to be expended, to carry out this subsection not more than \$10,000,000 for fiscal year 1994. \$50,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years thereafter.

(c) UTILITY INCENTIVE PROGRAMS.--(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

(5)(A) An amount equal to fifty percent of the energy and water cost savings realized by an agency (other than the Department of Defense) with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from energy savings performance contracts under title VIII and utility energy efficiency rebates) shall, subject to appropriation, remain available for expenditure by such agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(B) Agencies shall establish a fund and maintain strict financial accounting and controls for savings realized and expenditures made under this subsection. Records maintained pursuant to this subparagraph shall be made available for public inspection upon request.

(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.--(1) The Secretary shall, in consultation with the Task Force established pursuant to section 547, establish a financial bonus program to reward, with funds made available for such purpose, outstanding Federal facility energy managers in agencies and the United States Postal Service.

(2) Not later than June 1, 1993, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors who have--

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- (A) improved energy performance through increased energy efficiency;
  - (B) implemented proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;
  - (C) developed and implemented training programs for facility energy managers, operators, and maintenance personnel;
  - (D) developed and implemented employee awareness programs;
  - (E) succeeded in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;
  - (F) made successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543; and
  - (G) succeeded in the implementation of the guidelines established under Section 159.
- (3) There is authorized to be appropriated to carry out this subsection not more than \$250,000 for each of the fiscal years 1993, 1994, and 1995.

### **SEC. 547. INTERAGENCY ENERGY MANAGEMENT TASK FORCE.**

(No change)

### **SEC. 548. REPORTS.**

(a) **REPORTS TO THE SECRETARY.**--Each agency shall transmit a report to the Secretary, at times specified by the Secretary but at least annually, with complete information on its activities under this part, including information on--

- (1) the agency's progress in achieving the goals established by Section 543; and
- (2) the procedures being used by the agency pursuant to Section 546(a)(2), the number of contracts entered into by such agency under Title VIII of this act, the energy and cost savings that have resulted from such contracts, the use of such cost savings under Section 546(c), and any problem encountered in entering into such contracts and otherwise implementing Section 546.

(b) **REPORTS TO CONGRESS.**--The Secretary shall report not later than April 2 of each year, with respect to each fiscal year beginning after the date of the enactment of this subsection, to the Congress--

- (1) on all activities carried out under this part and on the progress made toward achievement of the objectives of this part, including--
  - (A) a copy of the list of the exclusions made under Sections 543(a)(2) and 543(c)(3); and
  - (B) a statement detailing the amount of funds awarded to each agency under Section 546(b), the energy and water conservation measures installed with such funds, the projected energy and water savings to be realized from installed measures, and, for each installed measure for which the projected energy and water savings reported in the previous year were not realized, the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future.
- (2) the number of contracts entered into by all agencies under Title VIII of this Act, the difficulties (if any) encountered in attempting to enter into such contracts, and the proposed solutions to those difficulties; and
- (3) the extent and nature of interagency exchange of information concerning the conservation and efficient utilization of energy.

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(c) OTHER REPORT.--The Secretary, in consultation with the Administrator of General Services, shall--

(1) conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems; and

(2) not later than 18 months after the date of the enactment of this subsection, transmit to the Congress a report containing the findings and conclusions of such study, including recommendations for the development of streamlined processes for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.

### **SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.**

(a) DEMONSTRATION PROGRAM.--Not later than January 1, 1994, the Secretary, in cooperation with the Administrator of General Services, shall establish a demonstration program to install, in federally owned facilities or federally assisted housing, energy conservation measures for which the Secretary has determined that such installation would accelerate commercial viability. In those cases where technologies are determined to be equivalent, priority shall be given to those technologies that have received or are receiving Federal financial assistance.

(b) SELECTION CRITERIA.--In addition to the determination under subsection (a), the Secretary shall select, in cooperation with the Administrator of General Services, proposals to be funded under this section on the basis of--

(1) cost-effectiveness;

(2) technical feasibility and system reliability in a working environment;

1. lack of market penetration in the Federal sector;

(4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;

(5) the potential Federal sector market, projected over 5 to 10 years;

(6) energy efficiency; and

(7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

(c) PROPOSALS.--Federal agencies may submit to the Secretary, for each fiscal year, proposals for projects to be funded by the Secretary under this section. Each such proposal shall include--

(1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;

(2) a description of the technical reliability and cost-effectiveness data expected to be acquired;

(3) an identification of the potential needs of the Federal agency for the technology;

(4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);

(5) schedules and milestones for installing additional units; and

(6) a technology transfer plan to publicize the results of the project.

(d) PARTICIPATION BY GSA.--The Secretary may only select a project for funding under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General

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Services. If such project involves a total expenditure in excess of \$1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(e) **STUDY.**--The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency. The Secretary shall report to the Congress on the results of the study not later than two years after the date of the enactment of this Act.

(f) **AUTHORIZATION OF APPROPRIATIONS.**--There are authorized to be appropriated to the Secretary for carrying out this section \$5,000,000 for each of the fiscal years 1993, 1994, and 1995.

### **SEC. 550. SURVEY OF ENERGY SAVING POTENTIAL.**

(a) **IN GENERAL.**--The Secretary shall, in consultation with the Interagency Energy Management Task Force established under Section 547, carry out an energy survey for the purposes of--

- (1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country;
- (2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings; and
- (3) identifying barriers which may prevent an agency's ability to comply with Section 543 and other energy management goals.

(b) **IMPLEMENTATION.**--(1) The Secretary shall transmit to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Energy Policy Act of 1992, a plan for implementing this section.

(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of the buildings of the types and in the climates that is representative of buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings. Such sample shall include, where appropriate, the following types of Federal facility space:

(A) Housing.

(B) Storage.

(C) Office.

(D) Services.

1. Schools.

(F) Research and Development.

(G) Industrial.

(H) Prisons.

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(I) Hospitals.

(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under Section 544.

- (c) PERSONNEL.--(1) In carrying out this section, the Secretary shall utilize personnel who are--

(A) employees of the Department of Energy; or

(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

(d) REPORT.--As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, and the agencies who own the buildings involved in such project. Such report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal established under Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).

### **SEC. 551. DEFINITIONS.**

(No change)

### **SEC. 153. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.**

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended--

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end the following new paragraphs:

7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D).

(B) The Administrator may accept, from a utility, goods or services which enhance the energy efficiency of Federal facilities.

(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property if the payback period for such improvement is at least 2 years less than the remainder of the term of the lease.

(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs--

(i) amounts received and deposited in the Federal Buildings fund under subparagraph (A);

(ii) goods and services received under subparagraph (B); and



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(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings fund for use as provided in subparagraph (B).

(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which--

(i) promote further source reduction and recycling programs; and

(ii) encourage employees to participate in recycling programs by providing funding for child care.

### **SEC. 154. REPORT BY GENERAL SERVICES ADMINISTRATION.**

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle.

### **SEC. 155. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

Amends Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) as follows--

#### **TITLE VIII--ENERGY SAVINGS PERFORMANCE CONTRACTS**

##### **SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.**

(a) *In General.*--(1) The head of a Federal agency may enter into contracts under this title solely for the purpose of achieving energy savings and benefits ancillary to that purpose. Each such contract may, notwithstanding any other provision of law, be for a period not to exceed 25 years. Such contract shall provide that the contractor shall incur costs of implementing energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

(B) Aggregate annual payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section) during contract years. The contract shall provide for a guarantee of savings to the agency, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

(C) Federal agencies may incur obligations pursuant to such contracts to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

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(D) A federal agency may enter into a multiyear contract under this title for a period not to exceed 25 years, without funding of cancellation charges before cancellation, if--

(i) such contract was awarded in a competitive manner pursuant to subsection (b)(2), using procedures and methods established under this title;

(ii) funds are available and adequate for payment of the costs of such contract for the first fiscal year;

(iii) 30 days before the award of any such contract that contains a clause setting forth a cancellation ceiling in excess of \$750,000, the head of such agency gives written notification of such proposed contract and of the proposed cancellation ceiling for such contract to the appropriate authorizing and appropriating committees of the Congress; and

(iv) such contract is governed by part 17.1 of the Federal Acquisition Regulation promulgated under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) or the applicable rules promulgated under this title.

(b) IMPLEMENTATION.--(1)(A) The Secretary, with the concurrence of the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act, not later than 180 days after the date of the enactment of the Energy Policy Act of 1992, shall, by rule, establish appropriate procedures and methods for use by Federal agencies to select, monitor, and terminate contracts with energy service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

(2) The procedures and methods established pursuant to paragraph (1)(A) shall--

(A) allow the Secretary to--

(i) request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services; and

(ii) from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

(B) require each agency to use the list prepared by the Secretary pursuant to subparagraph (A)(ii) unless the agency elects to develop an agency list of firms qualified to provide energy savings performance services using the same selection procedures and methods as are required of the Secretary in preparing such lists; and

(C) allow the head of each agency to--

(i) select firms from the list prepared pursuant to subparagraph (A)(ii) or the list prepared by the agency pursuant to subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

(ii) select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

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(iii) permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals; and

(iv) enter into an energy savings performance contract with a firm qualified under clause (iii), consistent with the procedures and methods established pursuant to paragraph (1)(A).

(3) A firm not designated as qualified to provide energy savings services under paragraph (2)(A)(i) or paragraph (2)(B) may request a review of such decision to be conducted in accordance with procedures to be developed by the board of contract appeals of the General Services Administration. Procedures developed by the board of contract appeals under this paragraph shall be substantially equivalent to procedures established under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

(c) **SUNSET AND REPORTING REQUIREMENTS.**--(1) The authority to enter into new contracts under this section shall cease to be effective five years after the date procedures and methods are established under subsection (b).

(2) Beginning one year after the date procedures and methods are established under subsection (b), and annually thereafter, for a period of five years after such date, the Comptroller General of the United States shall report on the implementation of this section. Such reports shall include, but not be limited to, an assessment of the following issues:

(A) The quality of the energy audits conducted for the agencies.

(B) The government's ability to maximize energy savings.

(C) The total energy cost savings accrued by the agencies that have entered into such contracts.

(D) The total costs associated with entering into and performing such contracts.

(E) A comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

(F) The number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

(G) The number of firms engaged in similar activity in the private sector and their respective market shares.

(H) The number of applicant firms under this section and the reason for their nonselection.

(I) The frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

(J) With the respect to the final report submitted pursuant to this paragraph, an assessment of whether the contracting procedures developed pursuant to this section and utilized by agencies have been effective and whether continued use of such procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.

### **SEC. 802. PAYMENT OF COSTS.**

### **SEC. 803. REPORTS.**

### **SEC. 804. DEFINITIONS.**

For the purposes of the title, the following definitions apply:

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- (1) The term "Federal agency" means an agency defined in section 551(1) of title, United States Code.
- (2) The term "energy savings" means a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of--
- (A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or
- (B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.
- (3) The terms "energy savings contract" and "energy savings performance contract" mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. Such contracts--
- (A) may provide for appropriate software licensing agreements; and
- (B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).
- (4) The term "energy conservation measures" has the meaning given such term in section 551(4).

### **SEC. 156. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.**

- (a) **CONFERENCE WORKSHOPS.**--The Administrator of General Services, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The Administrator shall work and consult with the Department of Energy and other Federal agencies to plan for particular regional conferences. The Administrator shall invite Department of Energy, State, local, tribal, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such officials in the planning and organization of such workshops.
- (b) **FOCUS OF WORKSHOPS.**--Such workshops and conferences shall focus on the following (but may include other topics):
- (1) Developing strategies among Federal, State, tribal, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region regarding the use of governmental facilities and buildings.
- (2) The design, construction, maintenance, and retrofitting of governmental facilities to incorporate energy efficient techniques.
- (3) Procurement and use of energy efficient products.
- (4) Dissemination of energy information on innovative programs, technologies, and methods which have proven successful in government.
- (5) Technical assistance to design and incorporate effective energy management strategies.
- (c) **ESTABLISHMENT OF WORKSHOP TIMETABLE.**--As a part of the first report to be submitted pursuant to section 154, the Administrator shall set forth the schedule for the regional energy management workshops to be conducted under this section. Not less than five such workshops shall be held by

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September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

### **SEC. 157. FEDERAL AGENCY ENERGY MANAGEMENT TRAINING.**

(a) ENERGY MANAGEMENT TRAINING.--(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers. Such programs shall be managed--

(A) by the department or agency representative on the Task Force; or

(B) if a department or agency is not represented on the Task Force, by the designee of the head of such department or agency.

(2) Departments and agencies described in paragraph (1) shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study in the areas described in section 151(3) including, but not limited to, courses offered by--

(A) private or public educational institutions;

(B) Federal agencies; or

(C) professional associations.

(b) REPORT TO TASK FORCE.--(1) Each department and agency described in subsection (a)(1) shall, not later than 60 days following the date of the enactment of this Act, report to the Task Force the following information:

(A) Those individuals employed by such department or agency on the date of the enactment of this Act who qualify as trained energy managers.

(B) The General Schedule (GS) or grade level at which each of the individuals described in subparagraph (A) is employed.

(C) The facility or facilities for which such individuals are responsible or otherwise stationed.

(2) The Secretary shall provide a summary of the reports described in paragraph (1) to the Congress as part of the first report submitted under section 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258) after the date of the enactment of this Act.

(c) REQUIREMENTS AT FEDERAL FACILITIES.--(1) not later than one year after the date of the enactment of this Act, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by--

(A) designating facility energy supervisors;

(B) encouraging facility energy supervisors to become trained energy managers; and

(C) increasing the overall number of trained energy managers within such department or agency to ensure a sufficient level to ensure effective implementation of this Act.

(2) Departments and agencies described in subsection (a)(1) may hire trained energy managers to be facility energy supervisors. Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities--

(A) department or agency facilities identified as most costly to operate or most energy inefficient; or

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(B) other facilities identified by the department or agency head as having significant energy savings potential.

(d) ANNUAL REPORT TO SECRETARY AND CONGRESS.--Each department and agency listed in subsection (a)(1) shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each such report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

### **SEC. 158. ENERGY AUDIT TEAMS.**

(a) ESTABLISHMENT.--The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities.

(b) MONITORING PROGRAMS.--The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

### **SEC. 159. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.**

(a) GUIDELINES.--Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in cooperation with the Secretary, the Administrator of General Services, and the Secretary of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reports required under section 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, the Congress, and the general public.

(b) CONTENTS OF GUIDELINES.--Such guidelines shall include the establishment of a monitoring system to determine--

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.--The Administrator of General Services shall include, in each report submitted under section 154, the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

### **SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.**

(a) AUDIT SURVEY.--Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.), and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504) shall--

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(1) identify agency compliance activities to meet the requirements of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and any other matters relevant to implementing the goals of such Act; and

(2) determine if the agency has the internal accounting mechanisms necessary to assess the accuracy and reliability of energy consumption and energy cost figures required under such section.

(b) **PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.**--Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, on the review conducted by the Inspector General of each agency under this section.

(c) **INSPECTOR GENERAL REVIEW.**--Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with part 3 of title V of the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's Office.

### **SEC. 161. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.**

(a) *Procurement.*--The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, each shall undertake a program to include energy efficient products in carrying out their procurement and supply functions.

(b) *Identification Program.*--The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, in consultation with the Secretary of Energy, each shall implement, in conjunction with carrying out their procurement and supply functions, a program to identify and designate those energy efficient products that offer significant potential savings, using, to the extent practicable, the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The Secretary of Energy shall, to the extent necessary to carry out this section and after consultation with the aforementioned agency heads, provide estimates of the degree of relative energy efficiency of products.

(c) *Guidelines.*--The Administrator for Federal Procurement Policy, in consultation with the Administrator of General Services, the Secretary of Energy, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Secretary of Defense and the Director of the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) *Report to Congress.*--Not later than December 31 of 1993 and of each year thereafter, the Secretary of Energy, in consultation with the Administrator for Federal Procurement Policy, the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall report on the progress, status, activities, and results of the programs under subsections (a), (b), and (c). The report shall include--

(1) the types and functions of each product identified under subsection (b), and efforts undertaken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to encourage the acquisition and use of such products;

(2) the actions taken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(3) progress on the development and issuance of guidelines under subsection (c);

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(4) an indication of whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been used in the identification of products under subsection (b);

(5) an estimate of the potential cost savings to the Federal Government from acquiring products identified under subsection (b) with respect to which energy is a significant component of life cycle cost, based on the quantities of such products that could be utilized throughout the Government; and

(6) the actual quantities acquired of products described in paragraph (5).

### **SEC. 162. FEDERAL ENERGY EFFICIENCY FUNDING STUDY.**

(a) *Study.*--The Secretary shall, in consultation with the Secretary of Treasury, the Director of the Office of Management and Budget, the Administrator of General Services, and such other individuals and organizations as the Secretary deems appropriate, conduct a detailed study of options for the financing of energy and water conservation measures required under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) and all applicable Executive orders. Such study shall, taking into account the unique characteristics of Federal agencies, consider and analyze--

(1) the Federal financial investment necessary to comply with such requirements;

(2) the use of revolving funds and other funding mechanisms which offer stable, long-term financing of energy and water conservation measures; and

(3) the means for capitalizing such funds.

(b) *Report to Congress.*--Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing the results of the study required under subsection (a).

### **SEC. 163. UNITED STATES POSTAL SERVICE ENERGY REGULATIONS.**

(a) *In General.*--The Postmaster General shall issue regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates, or manages. Such regulations shall--

(1) establish a monitoring system to determine which facilities are the most costly to operate on an energy consumption per square foot basis or other relevant analytical basis;

(2) identify unusual or abnormal changes in energy consumption; and

(3) check the accuracy of utility charges for electricity and gas consumption.

(b) *Identification of Energy Efficiency Products.*--The Postmaster General shall actively undertake a program to identify and procure energy efficiency products for use in its facilities. In carrying out this subsection, the Postmaster General shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by the General Services Administration and the Defense Logistics Agency.

### **SEC. 164. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.**

(a) *In General.*--The Postmaster General shall conduct an energy survey, as defined in section 551(5) of the National Energy Conservation Policy Act, for the purposes of--

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the United States Postal Service in different areas of the country;



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(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar United States Postal Service buildings; and

(3) identifying barriers which may prevent the United States Postal Service from complying with energy management goals, including Executive Orders No. 12003 and 12579.

(b) *Implementation.*--(1) The Postmaster General shall transmit to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives, within 180 days after the date of the enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of United States Postal Service facilities of the types and in the climates that consume the major portion of the energy consumed by the United States Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the facility or the remaining term of a lease of a building leased by the United States Postal Service.

(c) *Report.*--As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the survey to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives.

### **SEC. 165. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.**

Not later than one year after the date of the enactment of this Act, and not later than January 1 of each year thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives on the United States Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to--

(1) a description of actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) a statement of energy costs incurred in operating and maintaining all United States Postal Service facilities; and

(5) the status of the energy efficient procurement program established under section 163.

### **SEC. 166. ENERGY MANAGEMENT REQUIREMENTS FOR THE UNITED STATES POSTAL SERVICE.**

(a) *Energy Management Requirements for Postal Facilities.* (1) The Postmaster General shall, to the maximum extent practicable, ensure that each United States Postal Service facility meets the energy management requirements for Federal buildings and agencies specified in section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(2) The Postmaster General may exclude from the requirements of such section any facility or collection of facilities, and the associated energy consumption and gross square footage if the Postmaster General finds that compliance with the requirements of such section would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or

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collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The Postmaster General shall identify and list in the report required under section 165 the facilities designated by it for such exclusion.

(b) *Implementation Steps.*--In carrying subsection A(a), the Postmaster General shall--

(1) not later than 1 year after the date of the enactment of this Act, prepare or update, as appropriate, a plan (which may be submitted as part of the first report submitted under section 165)--

(A) describing how this section will be implemented;

(B) designating personnel primarily responsible for achieving the requirements of this section; and

(C) identifying high priority projects;

(2) perform energy surveys of United States Postal Service facilities as necessary to achieve the requirements of this section;

(3) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254); and

(4) ensure that the operation and maintenance procedures applied under this section are continued.

### **SEC. 167. GOVERNMENT CONTRACT INCENTIVES.**

(a) *Establishment of Criteria.*--Each agency, in consultation with the Federal Acquisition Regulatory Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) *Purpose of Criteria.*--The criteria established under subsection (a) shall be used to encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government.

### **SEC. 168. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.**

(a) *In General.*--The Architect of the Capitol (hereafter in this section referred to as the "Architect") shall undertake a program of analysis and, as necessary, retrofit of the Capitol Building, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

(b) *Program.*--

(1) *Lighting*

(A) *Implementation.*--

(i) *In General.*--Not later than 18 months after the date of the enactment of this Act and subject to the availability of funds to carry out this section, the Architect shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less, as determined by using methods and procedures established under section 544(a) of the National Energy and Conservation Policy Act (42 U.S.C. 8254(a)).

(ii) *Replacement of Incandescent Lighting.*--Whenever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

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(B) *Completion.*--Subject to the availability of funds to carry out this section, the program described in subparagraph (A) shall be completed not later than 5 years after the date of the enactment of this Act.

(2) *Evaluation and Report.*---

(A) *In General.*--Not later than 6 months after the date of the enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

(B) *Costs.*--The report submitted under subparagraph (A) shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure, as determined by using methods and procedures established under section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(3) *Review and Approval of Energy Conservation Measures.*--The Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate shall review the energy conservation measures identified in accordance with paragraph (2) and shall approved any such measure before it may be implemented.

(4) *Utility Incentive Programs.*--In carrying out this section, the Architect is authorized and encouraged to--

(A) accept any rebate or other financial incentive offered through a program for energy conservation or demand management of electricity, water, or gas that--

(i) is conducted by an electric, natural gas, or water utility;

(ii) is generally available to customers of the utility; and

(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost-effective for the buildings described in subsection (a); and

(B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

(5) *Use of Savings.*--The Architect shall use an amount equal to the rebate or other savings from the financial incentive programs under paragraph (4)(A), without additional authorization or appropriation, for the implementation of additional energy and water conservation measures in the buildings under the jurisdiction of the Architect.

(c) *Authorization of Appropriations.*--There are authorized to be appropriated such sums as are necessary to carry out this section.

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