

Guaranteed Energy Savings Performance Contracts

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Pursuant to Section 8.231, RSMo, a guaranteed energy savings performance contract is a contract for the implementation of one or more energy saving measures that may be applied to an existing school district facility. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the system. The contractor/vendor must certify to the school district an energy savings equal to or greater than the cost of procurement/installation. Principal payments may not be made until a corresponding amount of energy and energy related operating savings has been realized by the school district.

A school district shall not enter into a guaranteed energy cost savings contract without first soliciting competitive proposals as required by Section 8.231.2, RSMo.

Terms Relating to Guaranteed Energy Savings Performance Contracts:

Per Section 8.231, RSMo, an energy cost savings measure is defined as a facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:

- Insulation of the building structure or systems within the building.
- Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption.
- Automated or computerized energy control system.
- Heating, ventilating or air conditioning system modifications or replacements to existing systems. (Cannot install air conditioning in a building that previously did not have air conditioning since this would not generate or result in any energy or operational savings.)
- Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.
- Indoor air quality improvements to increase air quality that conforms to the applicable state or local building code requirements.
- Energy recovery systems.
- Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or complex of buildings.
- Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes.
- Building operation programs that reduce the operating costs.
- Any life safety measure related to compliance with the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., that provide long-term operating cost reductions and are in compliance with state and local codes.

Operational savings as defined in Section 8.231, RSMo, is “expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed.” Caution should be exercised when accepting vendor designated amounts declared as operational savings or “maintenance offsets”, since operational savings may be used to determine interfund transfers pursuant to Section 165.011, RSMo. Extraordinary operational savings/maintenance offsets may lead to future transfer or program restrictions.

A qualified provider as defined in Section 8.231, RSMo, is “a person or business experienced in the design, implementation, and installation of energy cost savings measures.” The governmental unit shall award a contract to the qualified provider that provides the lowest and best proposal which meets the needs of the school district if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, within a fifteen-year period from the date installation is complete, if the recommendations in the proposal are followed.

Requirements of a Guaranteed Energy Savings Performance Contract (Per Section 8.231, RSMo.)

1. The guaranteed energy savings performance contract shall include a written guarantee from the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the energy cost savings measures, adjusted for inflation, within fifteen years. **The qualified provider shall reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.** The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed fifteen years.
2. A guaranteed energy savings performance contract should be written for each individual project. Each energy performance contract must be entered into after a request for proposal (RFP) process in which all vendors have the opportunity to bid on the project. It is not appropriate to add projects in succeeding years to the initial performance contract. Additional guaranteed energy cost savings contract projects should be considered new projects, utilizing a separate contract with new guarantees of energy savings by the vendor's engineering staff.
3. Guaranteed energy savings performance contract documentation (contract and engineering study indicating energy savings) should be maintained by the district during the contract period in order to maintain eligibility to make the annual interfund transfer from the General (Incidental) Fund to the Capital Projects Fund for operational savings/maintenance off-sets as specified in the vendor's engineering study.
4. The school district shall include amounts payable under guaranteed energy savings performance contracts during that fiscal year in its annual budget if the annual energy savings is actually realized per the vendor's engineering study.
5. A school district may utilize installment payment contracts or lease purchase agreements to fund the appropriate energy savings improvements.

Lease Purchase/Installment Contract

A school district has three financing methods available when entering into a guaranteed energy savings performance contract.

Method one is the lease purchase authority found in Section 177.088, RSMo, which requires a school district to enter into an agreement with a financing entity.

Method two is the lease purchase authority found in Section 177.082, RSMo, which allows a school district to enter into a lease purchase agreement directly with a vendor. Neither of these methods requires a tax levy to be established in the Capital Projects Fund. Lease purchases may be used for the acquisition of appropriate energy savings equipment for the use of the educational institution. Title to the equipment remains with the vendor until termination of the contract.

Method three is an "installment contract" and is allowed only for guaranteed energy savings performance contracts. This provision allows a district to enter into an installment agreement wherein the district takes title to the energy savings equipment and makes payments to a vendor over an agreed upon timeframe.

Suggested journal entries are as follows:

Lease Purchase Entries

General Journal entries to record a yearly lease purchase payment of a capitalized lease purchase:

<u>Date</u>	<u>Capital Projects Fund Entry</u>	<u>A/C No.</u>	<u>Debit</u>	<u>Credit</u>
7/1/xx	Building Acquisition, Construction, and Improvement Services	4051 - 6521	\$43,000	
	Interest - Lease Purchase Agreements	5231 - 6623	\$12,500	
	Cash in Banks	1111		\$55,500

General Journal entries to record a yearly lease purchase payment of a lease purchase (not capitalized):

<u>Date</u>	<u>Capital Projects Fund Entry</u>	<u>A/C No.</u>	<u>Debit</u>	<u>Credit</u>
7/1/xx	Principal - Lease Purchase Agreement	5131 - 6613	\$43,000	
	Interest - Lease Purchase Agreement	5231 - 6623	\$12,500	
	Cash in Banks	1111		\$55,500

Installment Contract Entries

General Journal entries to record a yearly installment contract payment of a capitalized installment contract:

<u>Date</u>	<u>Capital Projects Fund Entry</u>	<u>A/C No.</u>	<u>Debit</u>	<u>Credit</u>
7/1/xx	Building Acquisition, Construction, and Improvement Services	4051 - 6521	\$43,000	
	Interest - Short Term Loans	5221 - 6622	\$12,500	
	Fees - Short Term Loans	5321 - 6622	\$3,000	
	Cash in Banks	1111		\$58,500

General Journal entries to record a yearly installment contract payment (not capitalized):

<u>Date</u>	<u>Capital Projects Fund Entry</u>	<u>A/C No.</u>	<u>Debit</u>	<u>Credit</u>
7/1/xx	Principal - Short Term Loans	5121 - 6612	\$43,000	
	Interest - Short Term Loans	5221 - 6622	\$12,500	
	Fees - Short Term Loans	5321 - 6622	\$3,000	
	Cash in Banks	1111		\$58,500

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