

CHAPTER 12

**IDENTIFICATION, RETENTION, AND USE OF
ENERGY CONSERVATION SAVINGS**1201 OVERVIEW

120101. Purpose. This chapter prescribes financial management policy and procedures for the identification, retention, and reuse of energy cost savings as defined in Title 10, United States Code, section 2865 and Public Law 100-456 (FY 1989 National Defense Authorization Act), section 736, as amended (Title 42, United States Code, section 8287 note).

120102. General

A. Appropriated funds that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation during the following fiscal year to the extent, and for purposes, provided by 10 U.S.C. 2865. The purpose of this extended availability is to fund energy conservation efforts, and other measures specified in paragraphs 120401.A. and B., below, from energy cost savings accrued during the previous fiscal year.

B. Energy Savings Performance Contracts (ESPC) as defined by Public Law 100-456, section 736, as amended, provides that energy cost savings realized by the Military Departments during the first 5 years of an ESPC shall remain available for obligation until expended. The purpose of this extended availability is to fund energy conservation efforts, and other measures specified in paragraph 120402.A., below, from cost savings accrued during the first 5 years of an ESPC.

1202 RESPONSIBILITIES

120201. The Secretary of Defense has overall responsibility for the management of provisions of 10 U.S.C. 2865 and Public Law 100-456, section 736, as amended.

120202. Secretaries of the Military Departments and Directors of Defense Agencies (hereafter referred to as “Component Heads”) shall approve and authorize funding for conservation measures, as described in paragraph 120501.A., below, and determine and report energy cost savings as described in paragraph 120402.C., below.

120203. The Under Secretary of Defense (Comptroller) shall, in consultation with the General Counsel and the Inspector General of the Department of Defense, implement policies and procedures for the administrative control of funds applicable to the extended availability for obligations associated with energy cost savings authorized by 10 U.S.C. 2865 and Public Law 100-456, section 736, as amended.

120204. The Deputy Under Secretary of Defense (Industrial Affairs and Installations), Office of the Under Secretary of Defense (Acquisition and Technology), shall issue policies and procedures to:

- A. Identify energy conservation projects suitable for implementation as described in paragraph 120401.A., below.
- B. Report amounts of energy cost savings, as described in paragraph 120402.C., below.

120205. The Director, Defense Finance and Accounting Service shall provide manual or automated systems to account for and report on, the extended availability of funds authorized by 10 U.S.C. 2865 and Public Law 100-456, section 736, as amended.

120206. Installation Commanders shall ensure that energy cost savings amounts carried over into extended availability accounts are administered in accordance with the guidance provided in subparagraph 120501.A.2. or paragraph 120502.A., below, as applicable.

1203 DEFINITIONS The following definitions apply with respect to the identification, retention and use of energy conservation cost savings:

120301. Extended Availability. An additional period of availability for obligation of the unobligated balances of appropriated funds, past the fiscal year by which such appropriations otherwise would have expired. The length of the period of extended availability is determined by the applicable statutory provision:

- A. Under 10 U.S.C. 2865, unobligated balances at the end of a current fiscal year as a result of energy cost savings realized, shall remain available for obligation for the following fiscal year in which the funds were appropriated.
- B. Under Public Law 100-456, section 736, as amended, energy cost savings realized during the first 5 years of an ESPC shall remain available for obligations until expended.

120302. Extended Availability Account. An account established at the installation level for each appropriation for which energy cost savings have been identified, and to which unobligated balances resulting from such energy cost savings, or a portion thereof, are transferred. The transfer shall be documented on an SF 1151 (Nonexpenditure Transfer Authorization). The authority to be cited shall be, as applicable, 10 U.S.C. 2865 or Public Law 100-456, section 736, as amended.

120303. Energy Cost Savings. There are two definitions of energy cost savings, determined by the applicable statutory provisions:

A. Under 10 U.S.C. 2865, energy cost savings are defined as a reduction in the cost of energy from a baseline cost, determined by metering, if available, or by professionally acceptable engineering models and estimates.

B. Under Public Law 100-456, section 736, as amended, energy cost savings are defined as a reduction in the cost of energy from a base cost established through a methodology set forth in an ESPC, utilized in an existing DoD-owned building or facility as a result of (1) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or (2) the increased efficient use of existing energy sources by cogeneration or heat recovery.

120304. Energy Savings Performance Contract (ESPC). An ESPC is defined as a contracting procedure in which a private contractor evaluates, designs, finances, acquires, installs and maintains energy saving equipment for a DoD Component, and receives compensation based on the performance of that equipment over an extended period of time (not to exceed 25 years, including options). The contract terms shall establish a guaranteed savings amount and determine the level of compensation to be paid the contractor, with the remainder of the savings retained by the Department of Defense, to be utilized and accounted for in accordance with the procedures set forth in paragraphs 120402.A. and 120601.B., below.

120305. Guaranteed Savings. Is a minimum energy savings amount, established by the terms of an ESPC, and realized by the performance of contractor-installed, energy saving equipment over an extended period of time. Guaranteed savings are divided between an amount to be paid the contractor, and an amount to be retained by the government, in accordance with the terms of an ESPC.

1204 PURPOSES FOR WHICH UNOBLIGATED BALANCES RESULTING FROM ENERGY CONSERVATION MEASURES ARE AUTHORIZED.

120401. “Energy Savings at Military Installations” (Title 10, U.S.C., section 2865). Provides that two-thirds of the portion of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department, shall be extended for obligation in the following fiscal year, in accordance with the statutory guidelines described in paragraphs 120401.A. and B., below. Those guidelines identify individuals who may designate the use of unobligated balances resulting from energy cost savings and the purposes for which such amounts may be used. The remaining one-third of the energy cost savings will not be extended, and thus will not be available for obligation in the following fiscal year.

A. The Department’s implementation of this section requires that one-third of the amount of energy cost savings resulting from energy conservation measures (i.e., one-half of the two-thirds amount available to the Department under 10 U.S.C. 2865) will be used only for specific purposes. Such purposes are to implement additional energy conservation measures at Department of Defense buildings, facilities or installations. These measures will be designated by

the cognizant Component Head, or delegated authority (hereafter referred to as “designee”). The Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations) shall issue guidance for the purposes of identifying energy conservation projects.

B. Additionally, as determined by the commander of a military installation at which the energy cost savings were realized, the remaining one-third of these savings shall be used only for:

1. Improvements to existing military family housing units;
2. Any unspecified minor construction project that will enhance the quality of life of personnel; or
3. Any morale, welfare, or recreation facility or service.

C. Energy cost savings amounts in paragraph 120401, above, shall be transferred to extended availability accounts for execution. Accounting for amounts in these accounts shall be established at the level that facilitates the use of the account and provides the appropriate control and oversight (normally at the installation level).

D. An extended availability account shall be established for each appropriation for which energy conservation savings, as defined by 10 U.S.C. 2865, have been identified. Transfers to an extended availability account shall be made using an SF 1151 (Nonexpenditure Transfer Authorization). Reprogramming actions will not be required.

120402. “Energy Efficiency Incentive” (Public Law 100-456, section 736, as amended). Establishes the purposes for which energy cost savings realized by means of an ESPC may be used. These purposes will be determined at the military installation level, within the guidelines discussed below.

A. Specifically, energy cost savings realized in each of the first 5 years under an ESPC may be used as follows:

1. One-half of the amount of such energy cost savings may be used for the acquisition of any appropriate energy conserving measure for military installations, including measures directly not related to the contract that yielded the savings.
2. One-half of the amount of such energy cost savings may be used for any morale, welfare, or recreation facility or service that normally is provided with appropriated funds, or for any minor military construction project funds (as defined in 10 U.S.C. 2865) that will enhance the quality of life of members of the Armed Forces at the military installation at which the energy cost savings were realized.

B. The portion of the guaranteed savings due to the contractor for payment shall be included in the utility requirements submitted as part of budget requests for the length of the ESPC. The entire amount of guaranteed savings provided for in an ESPC (including amounts for contract payments and amounts to be retained by the installation) shall be included in total utility requirements submitted as part of the installation budget requests for the first 5 years of the ESPC. This conforms with the intent of Public Law 100-456, section 736, as amended, which provides incentives for energy conservation efforts at the military installation level. Under no circumstances shall the total of the budget request amounts exceed what would have been requested in the absence of an ESPC.

C. Not more than 90 days after the end of each of the first 5 years, during which energy savings measures have been in operation under a contract, entered into under an ESPC, the Component Head concerned, or designee, shall determine the amount of energy cost savings realized under the terms of the ESPC during that year, attributed to energy savings measures acquired and installed at that installation pursuant to that ESPC. These savings shall be reported in accordance with guidance issued by the Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

D. An extended availability account shall be established for each appropriation for which energy conservation savings have been determined under paragraph 120402.C., above. Transfers to an extended availability account shall be made by using an SF 1151 (Nonexpenditure Transfer Authorization). Reprogramming actions will not be required.

E. Once verified as described in paragraph 120402.C., above, energy cost savings amounts shall be transferred to the extended availability accounts (defined below) for execution purposes. Accounting for amounts in these accounts shall be established at the level that facilitates the use of the account, and provides the appropriate control and oversight (normally at the installation level).

1205 CARRYOVER OF UNOBLIGATED BALANCES RESULTING FROM ENERGY CONSERVATION MEASURES

120501. “Energy Savings at Military Installations” (Title 10, U.S.C., section 2865). As stated in paragraph 120401.A., above, the applicable Component Head or designee, shall approve additional energy conservation measures to be funded by one-third of energy cost savings resulting from the original energy conservation measure(s). Similarly, the installation commander determines the use of the other one-third of the energy cost savings for use as described in paragraph 120401.B., above. Energy conservation cost savings carryover procedures follow:

A. Procedures

1. Component Head or Designee. The Component Head, or designee, shall receive and evaluate savings measures submitted by installation commanders, and authorize funding for those other energy savings measures as the Component Head deems appropriate, to

comply with the provisions in subsection 120401, above. The Component Head, or designee, also shall ensure that procedures are established to provide sufficient time to compute the energy cost savings, and earmark appropriate unobligated amounts to carry over to the following fiscal year. A Component Head may delegate the responsibilities for approval of energy savings measures. Delegations of authority are matters of personal discretion. They shall be exercised by the appropriate Component Head, and as in all other matters pertaining to the operations of the Department of Defense, to the authority, direction, and control of the Secretary of Defense or the Secretary's designee.

2. Installation Commander. Installation commanders, or their designees, shall ensure that energy cost savings amounts that are carried over to future fiscal years, are authorized to be used only for funding energy conservation initiatives approved by the Component Head, or designee, or for other purposes specified in paragraph 120401.B., above. Installation commanders also shall:

a. Ensure the retention of unobligated fund balances available at the end of the normal period of appropriation availability, that are the direct result of energy conservation measures. Funds to be carried forward to the following fiscal years shall be based on the most current available consumption data and represent actual unobligated funds and not be based on estimates.

b. Ensure that the unobligated energy cost savings balances at year-end are carried forward into the following fiscal year, and designate the original appropriation as an extended availability account (see paragraph 120601.A., below).

c. Submit to the Component Head, or designee, proposed energy savings projects for a given fiscal year that are projected to cost more than the amount of funds available to the Commander for that purpose.

d. Implement additional energy conservation initiatives approved by the Component Head, or designee, and other projects as specified in paragraph 120401.B., above.

120502. "Energy Efficiency Incentive" (Public Law 100-456, section 736, as amended). As stated in subsection 120402, above, unobligated balances, carried forward into subsequent fiscal years as the result of an ESPC, normally will be administered and accounted for at the installation level.

A. Installation commanders, or their designees, shall ensure that energy cost savings amounts that are carried forward to subsequent fiscal years are used only for the purposes specified in paragraph 120402.A., above. Installation commanders also shall:

1. Ensure the retention of unobligated appropriation balances existing at the end of the normal period of appropriation availability, that are the direct result of energy

conservation measures. Funds to be carried forward to subsequent fiscal years shall be based on the most current available consumption data and represent actual unobligated funds and shall not be based on estimates.

2. Ensure that unobligated energy cost savings balances at year-end are carried forward into the following fiscal year, and designate the original appropriation as an extended availability account (see subparagraph 120601.B., below).

1206 ACCOUNTING FOR ENERGY COST SAVINGS

120601. Energy cost savings amounts. The savings amounts resulting from energy conservation measures as described in subsections 120401 or 120402, above, as applicable, shall be obligated and recorded against extended availability accounts, which may be retained into the following fiscal year(s) in accordance with one of the following procedures, as applicable:

A. In the case of cost savings amounts realized in accordance with 10 U.S.C. 2865, the lesser of (1) two-thirds of the identified energy cost savings or (2) actual (versus estimated) unobligated funds are to be transferred to an extended availability account on an SF 1151 (Nonexpenditure Transfer Authorization), and properly labeled (e.g. FY 1996/1997 for a FY 1996 account). The authority to be cited for the transfer is 10 U.S.C. 2865. No further adjustments shall be made to the amounts carried forward once the balance is established in the extended availability account.

B. In the case of cost savings amounts realized under an ESPC, once the savings are verified and approved by the cognizant Component Head or designee (see paragraph 120402.C., above), that amount shall be transferred to an extended availability account on an SF 1151 (Nonexpenditure Transfer Authorization), and properly labeled (e.g., FY 1996/1997 for a FY 1996 account; FY 1996/1998 for a FY 1996 account in the second year, etc.

. The authority to be cited for the transfer is Public Law 100-456, section 736, as amended.

120602. Refunds or Rebates. Refunds or rebates paid by a utility company as a result of completion of a utility-approved conservation action (typically a facility project) shall be credited to the same account from which the conservation action originally was funded. Such amounts may be extended for obligation in subsequent year(s), subject to the provisions of subsections 120401 or 120402, above, as applicable.

120603. Cancellation of Appropriation

A. Extended availability accounts established under paragraphs 120401.D. and 120402.D., above, shall remain available for expenditure (i.e., liquidation of obligations) for up to a total of 5 years following the year in which the funds either:

1. Expired for obligation purposes at the end of the year of extended availability, in the case of funds authorized in accordance with 10 U.S.C. 2865; or,

2. Were expended, in the case of funds extended under the provisions of Public Law 100-456, section 736, as amended.

B. Under no circumstances shall funds, extended under 10 U.S.C. 2865, remain available for expenditure beyond the end of the sixth year following the year in which the funds would have expired, had the period of availability not been extended. (For example, if an O&M appropriation normally would expire at the end of FY 1996, the extended availability account normally would expire at the end of FY 1997. The extended availability account would be available for expenditures until the end of FY 2002, at which time any remaining obligated and unobligated balances would be canceled.)

C. In order to account properly for such amounts, and ensure compliance with future cancellation dates, obligations of extended availability funds must be accounted for separately from obligations of other funds, as described in paragraphs 120401.D and 120402.D., above.

1207 REPORTING REQUIREMENTS The following reporting requirements shall be used to report the status of extended availability accounts:

120701. Acct Rpt (M) 1002. Special procedures have been established for reporting extended availability obligated and unobligated balances on the Acct Rpt (M) 1002 (Appropriation Status by Fiscal Year Program and Subaccounts). These procedures are as follows:

A. Normal Availability Obligated and Unobligated Balances. Identify and report as normal.

B. Extended Availability Unobligated Balance. Identify, in column i. (Total Unobligated Balance), unobligated extended availability amounts resulting from energy cost savings at the end of the normal availability period (e.g., FY 199X/199X+1 or FY 199X/199X+2, +3, and so on) available unobligated amounts (that is, FY 1996/1997, FY 1996/1998, etc., for the FY 1996 account). The stub entry shall identify the unobligated extended availability amount as "Extended Availability - Energy Cost Savings." The amount reported shall agree with the amount reported on line 9.A.1. of the SF 133 (formerly DD Form 1176), "Report on Budget Execution" (see subsection 120702, below).

C. Extended Availability Obligated Balance. Identify, in column e, obligations incurred against the extended availability account. The stub entry shall identify those obligations as to the purpose for which the obligations were incurred. Those purposes are "Energy Conservation Measures" and "Other Purposes" as defined in subsections 120401 and 120402, above. In the case of funds extended under 10 U.S.C. 2865, unobligated amounts remaining at

the end of the extended availability period, expire for new obligations. In the case of funds extended under Public Law 100-456, section 736, as amended, funds remain available for obligation until expended. The reporting categories for the extended availability accounts are to be continued for all applicable fiscal years.

120702. SF 133 (Report on Budget Execution). At the end of the first fiscal year, use line 9.A.1, “Balance Currently Available” on the SF 133, to identify the amount of available unobligated funds that are available for energy savings investments (or other authorized purposes) in the following fiscal year(s).

120703. Acct Rpt (TFM) 2108. Transactions reported on the Acct Rpt (TFM) 2108 (Year-End Closing Statement) will be treated in the same manner as a multi-year appropriation.

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