

# Saucon Valley School District

## Meeting of the Ad Hoc Facilities Committee High School Audion October 13, 2021 – 5:00 pm

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*Welcome to the meeting of the Saucon Valley School Board Ad Hoc Facilities Committee. Our objective is to serve the students, parents, and residents of our community. You are an important part of this meeting and we look forward to your questions and comments. We are all here for the same reason. All opinions are welcomed and equally valuable. Our only request is that we address each other with civility and respect. Our courtesy toward each other is the best way to show our students how much we respect them as well.*

**Committee Members: Bryan Eichfeld, Michael Karabin, Sandra Miller, Shawn Welch**

- I. **Call to the Order** –*Bryan Eichfeld, Committee Chair*
- II. **Pledge of Allegiance**
- III. **Recording of Attendance** – *David Bonenberger, Committee Secretary*
- IV. **Motion to Approve Agenda** –
- V. **Approval of Minutes** – September 8, 2021
- VI. **Courtesy of the Floor to Visitors – Agenda Items Only**
- VII. **Update: Replacement of RHP 4 and RHP 15**
- VIII. **Update: High School Window Replacement**
- IX. **Update: Lighting of Panther at Stadium**
- X. **Discussion & Action** - Recommendation to hire additional full time bus drivers
- XI. **Discussion & Action** - Recommendation to Replace Retiring Maintenance Tech
- XII. **Discussion & Action** - Recommendation to increase pay for substitute custodians
- XIII. **Discussion & Action** - Recommendation to hire Tomlinson Bonberger for Athletic Field work.
- XIV. **Discussion & Action** – CM3Building Solutions, GESA/Performance Contract
- XV. **Discussion & Action** – High School Family & Consumer Science cabinets
- XVI. **New Business** –
- XVII. **Old Business** –
- XVIII. **Courtesy of the Floor to Visitors** – *Visitors should state their name and address.*
- XIX. **Future Meetings** – November 10, 2021
- XX. **Motion to Adjourn**

A meeting of the Ad Hoc Facilities Committee of the Board of Directors of the Saucon Valley School District was held on Wednesday, September 8, 2021 in the High School Audion. Present were Committee Members Michael Karabin, Sandra Miller and Shawn Welch. Committee member Bryan Eichfeld was absent. Also present were David Bonenberger - Committee Secretary; Dr. Craig Butler, Superintendent; John McCabe, Supervisor of Campus Operations.

- I. **Call to the Order** – 5:10 p.m. - *Bryan Eichfeld, Committee Chair*
- II. **Pledge of Allegiance**
- III. **Recording of Attendance** – *David Bonenberger, Committee Secretary*  
3-present, 0-absent, 1-absent (Eichfeld)
- IV. **Motion to Approve Agenda** – Director Karabin, seconded by Director Miller moved to approve the Agenda. Vote: 3-yes, 0-no, 1-absent (Eichfeld)
- V. **Approval of Minutes** – Director Karabin, seconded by Director Miller moved to approve the minutes of July 14, 2021. Vote:3-yes, 0-no, 1-absent (Eichfeld)
- VI. **Courtesy of the Floor to Visitors – Agenda Items Only** - None
- VII. **Update on Replacement of RHP #4 and #15** – John McCabe reported that the contract is signed and the install will be over the Thanksgiving break.
- VIII. **Update on the High School Window Replacement** – Our solicitor has the contract and is looking to see if ESSER language is in the contract and complies.
- IX. **Update on the Cooling Tower Installation** – We are waiting on the final documents and will not release the final payment until we receive the documents.
- X. **Update on the Campus Roof Repairs** – The repairs have been completed and they are working on other leaks that were not part of the project.
- XI. **Update on Miscellaneous Repairs** – John McCabe discussed other repairs that be made:  
ES playground steel decks, cost of parts to repair is \$6,700  
Door 23 – made repairs outside door to fix drain problem  
Stadium Bleachers- cost to repair is \$7,500  
High School Gym Walls – flashing needs repairs around windows to stop water infiltration.  
High School Gym Bleachers – cracked and broken, repairs to cost \$4,790
- XII. **New Business** – None

**XIII. Old Business** – Provided update on potential turf soccer field.

**XIV. Courtesy of the Floor to Visitors** – None.

**XV. Future Meetings** – June 8, 2021

**XVI. Motion to Adjourn**

Director Welch, seconded by Director Miller moved to adjourn.

Vote: 3-yes, 0-no, 1-absent (Eichfeld)

5:33 PM



# How to Modernize Facilities using GESA/Performance Contracting Legislation

You may know that you can use Performance Contract legislation as a budget-neutral approach to energy-efficiency projects at your facility. But, did you know that same legislation is available to fund necessary capital projects?

Established in Pennsylvania in 1998 under the Guaranteed Energy Savings Act (GESA), the law permits public / governmental entities to use Energy Performance Contracting to pursue necessary capital improvements that save energy and money without any upfront cost. Through the Performance Contract Legislation, traditional energy savings measures are combined with necessary facility capital / infrastructure projects to provide a larger scale facility improvement solution.



## Benefits

### Streamlined Project Plan

By using this method of procurement, Public / Governmental entities can accomplish and address more of their needs under one umbrella project with a single source of execution responsibility, as an alternative to the traditional bid and spec method with multiple low-bid prime contractors. This saves time and manpower during the installation and minimizes disruption to building occupants, activities, and schedules.

### Guaranteed ROI

One of the most valuable aspects of Performance Contracts over traditional bid/spec projects is the project guarantee. The guarantee provides for a defined energy / operational savings to the customer while maintaining or improving comfort.

This minimizes the entity's financial risk associated with the installation by guaranteeing a ROI. Providing a turnkey solution guarantees that the finished project will meet the customer's agreed upon expectations.

### Maximized Rebate / Grant Programs

Performance Contracting allows for greater leverage in maximizing potential utility rebate programs to help fund these projects. The performance contracting company will also look to include any and all available grants associated with specific scope measures further offsetting cost to the customer.

### Contractor/ Manufacturer Control

Performance Contracting provides Public / Governmental entities the freedom to dictate which equipment manufacturers and contractors are used to upgrade / modernize their facilities. This eliminates the low bid "...and or equal" aspects of the bid and spec procurement method, resulting in customers having to settle for substandard work.

Owner's Reps and engineering firms have also found this approach beneficial in serving the Owner for the speed, flexibility, and end results this provides following identification of necessary facility improvements.

## Additional Advantages

- » No referendum required
- » No change orders
- » Fast approach to facility improvements
- » Minimal disruption to building schedules
- » Greater oversight regarding scope of renovations
- » Better control over final cost of the project
- » Enhanced management of renovation timeline



## Type of Facility Improvements

Both traditional energy savings measures and non-traditional, large scale facility improvements can be included in the Performance Contract project.

### Traditional Energy Savings Measures

- » Lighting Upgrades
- » Building Automation Systems
- » Mechanical System Upgrades
- » Roof Replacements
- » Window Replacements
- » Building Envelope Updates
- » Emergency / On Site Power Generation
- » Electrical System Upgrades
- » Renewable Energy Systems

### Non-Traditional Measures Executed Through GESA Legislation

- » Surveillance Systems Replacements
- » Environmental Remediation
- » Access Control System Installation
- » Auditorium / Multipurpose Room Renovations
- » Carpet and Tile Replacements
- » Painting
- » ADA Compliance Issues
- » Parking Lot Repaving
- » Exterior Building Signage
- » Sports Field / Stadium Renovations / Lighting
- » Tennis Court / Gymnasium Updates

## Performance Contracting as a Construction Management Solution



As Performance Contract project scopes expand beyond traditional pay-from-savings measures, CM3 has become one of the leading ESCO-based, construction management firms in the state, successfully completing performance contract projects for nearly 20 years.

Our service provides our customers with better accountability, easier access, and enhanced control over every aspect of their project.

**Reach out to CM3 today for a consultation!**

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§ 3751. Short title of subchapter.

This subchapter shall be known and may be cited as the Guaranteed Energy Savings Act.

§ 3752. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Allowable costs." Equipment and project costs that:

- (1) the governmental unit reasonably believes will be incurred during the term of the guaranteed energy savings contract; and
- (2) are documented by industry engineering standards.

"Energy conservation measure." A program, facility alteration or technology upgrade designed to reduce energy, water, wastewater or other consumption or operating costs. The term may include, without limitation:

- (1) Insulation of the building structure or systems within the building.
- (2) 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.
- (3) Automated or computerized energy control systems.
- (4) Heating, ventilating or air conditioning system modifications or replacements.
- (5) 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 applicable State or local building codes for the lighting system after the proposed modifications are made.
- (6) Energy recovery systems.
- (7) Systems that produce steam or forms of energy such as heat as well as electricity for use within a building or complex of buildings.
- (8) Energy conservation measures that provide operating cost reductions based on life cycle cost analysis.
- (9) A training program or facility alteration that reduces energy consumption or reduces operating costs, including allowable costs, based on future reductions in labor costs or costs for contracted services.
- (10) A facility alteration which includes expenditures that are required to properly implement other energy conservation measures.
- (11) A program to reduce energy costs through rate adjustments, load shifting to reduce peak demand, and/or use of alternative energy suppliers, such as, but not limited to:
  - (i) changes to more favorable rate schedules;
  - (ii) negotiation of lower rates, same supplier or new suppliers, where applicable; and
  - (iii) auditing of energy service billing and meters.
- (12) The installation of energy information and control systems that monitor consumption, redirect systems to optimal energy sources and manage energy-using equipment.

- (13) Indoor air quality improvements.
- (14) Daylighting systems.
- (15) Renewable and/or on-site distributed power generation systems.
- (16) Water and sewer conservation measures, including, without limitation, plumbing fixtures and infrastructure.
- (17) Equipment upgrades that improve accuracy of billable revenue generating systems.
- (18) Automated, electronic or remotely controlled systems or measures that reduce operating costs.
- (19) Other energy, water or wastewater measures as may provide measurable, long-term operating costs reductions or billable revenue increases.

"Guaranteed energy savings contract." A contract for the evaluation and recommendation of energy conservation measures and for implementation of one or more such measures.

"Governmental unit." Any officer, employee, authority, board, bureau, commission, department, agency or institution of a government agency, including, but not limited to, any Commonwealth agency, State-aided institution or any county, city, district, municipal corporation, municipality, municipal authority, political subdivision, school district, educational institution, borough, incorporated town, township, poor district, county institution district, other incorporated district or other public instrumentality which has the authority to contract for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including, but not limited to, highway work.

"Industry engineering standards." Industry engineering standards may include the following:

- (1) Life cycle costing.
- (2) The R.S. Means-estimated method developed by the R.S. Means Company.
- (3) Historical data.
- (4) Manufacturer's data.
- (5) American Standard Heating Refrigeration Air-Conditioning Engineers (ASHRAE) standards.

"Qualified provider." A person or business which is responsible and capable of evaluating, recommending, designing, implementing and installing energy conservation measures as determined by the governmental unit.

(July 15, 2004, P.L.703, No.77, eff. 60 days)

#### § 3753. Contracting procedures.

(a) General rule.--Notwithstanding any other contrary or inconsistent provision of law, a governmental unit may enter into a guaranteed energy savings contract with a qualified provider in accordance with the provisions of this subchapter or in accordance with another statutorily authorized procurement process.

(b) Guaranteed energy savings contract.--If in accordance with applicable law the award of a contract by a governmental unit requires action at a public meeting, a governmental unit may award a guaranteed energy savings contract at a public meeting if it has provided public notice in the manner prescribed under 65 Pa.C.S. Ch. 7 (relating to open meetings), the notice including the names of the parties to the contract and the purpose of the contract. For governmental units that are not required to take actions on contracts at public meetings, the governmental unit may award a guaranteed energy savings contract in accordance with the procedures adopted by the governmental unit and the requirements of all applicable laws.

(c) Competitive sealed proposals.--For the purpose of entering into a guaranteed energy savings contract, all governmental units are authorized to utilize the competitive sealed proposal method of procurement. The governmental unit shall evaluate any proposal that meets the requirements of the governmental unit and is timely submitted by a qualified provider. The request for proposals shall be announced through a public notice from the governmental unit which will administer the program. The request for proposals shall provide all interested parties with sufficient information necessary to submit a timely and responsive proposal.

(d) Selection and notice.--The governmental unit shall select the qualified provider that best meets the needs of the governmental unit in accordance with criteria established by the governmental unit. For

governmental units that are not required to take actions on contracts at public meetings, the governmental unit shall provide public notice of the award of the guaranteed energy savings contract within 30 days in the Pennsylvania Bulletin. The notice shall include the names of the parties to the contract and the purpose of the contract. For governmental units that are required to take actions on contracts at public meetings, the public notice shall be made at least ten days prior to the meeting. After reviewing the proposals pursuant to subsection (e), a governmental unit may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures recommended in the proposal would not exceed the amount of energy, water or wastewater cost savings, operational cost savings or revenue increases resulting from the energy conservation measures within a period not to exceed 20 years from the date of final installation if the recommendations in the proposal were followed and the qualified provider provides a written guarantee that the energy, water, cost savings, or operational cost savings or revenue increases will meet or exceed the cost of the contract, provided, however, that when determining the operational cost savings from any contract or project of the type defined in paragraphs (17), (18) and (19) of the definition of "energy conservation measure" in section 3752 (relating to definitions), the governmental unit shall not consider savings that result from reductions in the size of its work force if the reductions are related to or generated by outsourcing or using contract workers to perform tasks previously performed by employees of the governmental unit.

(e) Report.--

(1) Before the award of a guaranteed energy savings contract, the qualified provider shall provide a report as part of its proposal which shall be available for public inspection, summarizing estimates of all costs of installation, maintenance, repairs and debt service and estimates of the amounts by which energy or operating costs will be reduced.

(2) The report shall contain a listing of contractors and subcontractors to be used by the qualified provider with respect to the energy conservation measures.

(f) Bond.--A qualified provider to whom a contract is awarded shall give a sufficient bond to the governmental unit for its faithful performance. Commonwealth agencies shall obtain such bonds in accordance with the provisions of section 533 (relating to security and performance bonds). All other governmental units shall obtain such bonds in accordance with the act of December 20, 1967 (P.L.869, No.385), known as the Public Works Contractors' Bond Law of 1967.

(g) Award of contract.--Notwithstanding any other provision of law governing the letting of public contracts, a governmental unit may enter into a single guaranteed energy savings contract with each responsible provider selected in accordance with the provisions of this subchapter.

(July 15, 2004, P.L.703, No.77, eff. 60 days)

§ 3754. Contract provisions.

(a) General rule.--A guaranteed energy savings contract may provide that all payments, except obligations on termination of the contract before its scheduled expiration, shall be made over a period of time. Every guaranteed energy savings contract that requires payments over a period of time shall provide that, after the initial year of the contract, the savings in every subsequent year are guaranteed to the extent necessary to make payments under the contract during that year.

(b) Written guarantee.--A guaranteed energy savings contract shall include a written guarantee that savings will meet or exceed the cost of the energy conservation measures to be evaluated, recommended, designed, implemented or installed under the contract.

(c) Payments.--A guaranteed energy savings contract may provide for payments over a period of time not to exceed 20 years and for the evaluation, recommendation, design, implementation and installation of energy conservation measures on an installment payment or lease purchase basis.

(d) Improvements not causally connected to an energy conservation measure.--An improvement that is not causally connected to an energy conservation measure may be included in a guaranteed energy savings contract if:

(1) the total value of the improvement does not exceed 15% of the total value of the guaranteed energy savings contract; and

(2) either:

(i) the improvement is necessary to conform to a law, a rule or an ordinance; or

(ii) an analysis within the guaranteed energy savings contract demonstrates that there is an economic advantage to the governmental unit implementing an improvement as part of the guaranteed energy savings contract; and the savings justification for the improvement is documented by industry engineering standards.

(e) Other expenditures.--A facility alteration which includes expenditures that are required to properly implement other energy conservation measures may be included as part of a guaranteed energy savings contract. In such case, notwithstanding any other provision of law, the installation of these additional measures may be supervised by the contractor performing the guaranteed energy savings contract.

(July 15, 2004, P.L.703, No.77, eff. 60 days)

#### § 3755. Funding.

(a) General rule.--Guaranteed energy savings contracts which have terms which extend beyond one fiscal year of the governmental unit must include a provision which allows the governmental unit to terminate the contract if in any fiscal year during the term of the contract the governmental unit does not receive sufficient funds in its annual appropriations to make the payments required under the contract.

(b) Funds.--A governmental unit may use funds designated for operating, utilities or capital expenditures for any guaranteed energy savings contract, including, without limitation, for purchases on an installment payment or lease purchase basis.

(c) Grants, subsidies or other payments.--Grants, subsidies or other payments from the Commonwealth to a governmental unit shall not be reduced as a result of energy savings obtained as a result of a guaranteed energy savings contract during the life of the contract.

#### § 3756. Commonwealth contracts.

In connection with the letting of any guaranteed energy savings contract for a governmental unit under this subchapter, the department shall have the power to waive the process for selection of architects or engineers otherwise prescribed under section 905 (relating to procurement of design professional services). In exercising its discretion under this section, the department shall consider the best interests of this Commonwealth and any relevant circumstances peculiar to the proposed contract.

#### § 3757. Construction.

This subchapter shall not be construed to abrogate any duty to comply with prevailing wage or residency requirements contained in any other act or part thereof.

#### § 3758. Review of proposed capital improvement projects.

Prior to entering into a guaranteed energy savings contract, every governmental unit shall review all proposed capital improvement projects for potential applicability of this subchapter and shall consider proceeding with a guaranteed energy savings contract under this subchapter where appropriate.

(July 15, 2004, P.L.703, No.77, eff. 60 days)

2004 Amendment. Act 77 added section 3758.

PROCUREMENT (62 PA.C.S.) - PUBLIC ACCESS TO PROCUREMENT RECORDS,  
SOLE SOURCE PROCUREMENT, EMERGENCY PROCUREMENT, PROHIBITED  
CONTRACTS, CONTRACT PROVISIONS AND FUNDING

Act of Nov. 4, 2016, P.L. 1216, No. 163

Cl. 62

Session of 2016  
No. 2016-163

HB 2107

AN ACT

Amending Title 62 (Procurement) of the Pennsylvania Consolidated Statutes, in general provisions, providing for public access to procurement records; in source selection and contract formation, further providing for sole source procurement and for emergency procurement; providing for prohibited contracts; and, in contract clauses and preference provisions, further providing for definitions, for contract provisions and for funding.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 62 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

**§ 106.1. Public access to procurement records.**

(a) **General rule.--**Records concerning a procurement shall be made public, consistent with the act of February 14, 2008 (P.L. 6, No.3), known as the Right-to-Know Law.

(b) **Public posting and availability of procurement information.--**The purchasing agency shall post the following procurement documents on the department's or, in the case of an independent agency, its own publicly accessible Internet website or otherwise make available in the manner indicated below:

(1) Public notice of an invitation for bids or request for proposals may be given in accordance with section 512(c)(1) (relating to competitive sealed bidding) or 513(b) (relating to competitive sealed proposals) by posting the invitation for bids or request for proposals, including, if applicable, the written determination required by section 513(a), on the date issued and until the closing date for receipt of bids or proposals.

(2) Bid tabulations recording the name of each bidder and bid amount in accordance with section 512(d) shall be posted as soon as practicable after bid opening, unless the purchasing agency elects to cancel the invitation for bids.

(3) Notices of award pursuant to an invitation for bids shall be posted as soon as practicable after the purchasing agency elects to make an award in accordance with section 512(g).

(4) The written determination required by section 513(g) shall be posted upon receipt of the final negotiated contract signed by the selected offeror. Subject to proper redaction under the Right-to-Know Law, responsive proposals received by the purchasing agency and, until fully executed, the final negotiated contract are not required to be posted but shall be made available to the public upon request.

(5) Requests to award a contract pursuant to section 515(a)(1), (2), (4) and (10) (relating to sole source procurement) shall be posted for seven calendar days for public comment prior to approval of the request by the department or independent purchasing agency. Upon approval of a request by

the department or independent purchasing agency, the signed and written determination required under section 515(b) shall be posted.

(6) The written determinations required by section 516 (relating to emergency procurement) shall be posted in advance, if feasible, but no later than seven calendar days after authorization by the department or independent purchasing agency.

(7) A contract resulting from a procurement under this part shall be posted as soon as practicable upon its full execution by the Commonwealth.

(8) Requests under section 515 or 516 to extend a contract for which no further options, renewals or extensions are available in the contract shall be posted for seven calendar days for public comment prior to approval of the request by the department or independent purchasing agency. Upon approval of a request by the department or an independent purchasing agency, the signed and written determination required under section 515(b) or 516 shall be posted.

(c) Access and retention.--Procurement documents specified under subsection (b) must be accessible on the Internet website for a minimum of 30 days from posting and further retained in accordance with section 563 (relating to retention of procurement records) and applicable agency record retention policies.

Section 2. Sections 515 and 516 of Title 62 are amended to read:

§ 515. Sole source procurement.

(a) **General rule.**--A contract may be awarded for a supply, service or construction item without competition if the contracting officer first determines in writing that one of the following conditions exists:

(1) Only a single contractor is capable of providing the supply, service or construction.

(2) A Federal or State statute or Federal regulation exempts the supply, service or construction from the competitive procedure.

(3) The total cost of the supply, service or construction is less than the amount established by the department for small, no-bid procurements under section 514 (relating to small procurements).

(4) It is clearly not feasible to award the contract for supplies or services on a competitive basis.

(5) The services are to be provided by attorneys or litigation consultants selected by the Office of General Counsel, the Office of Attorney General, the Department of the Auditor General or the Treasury Department.

(6) The services are to be provided by expert witnesses.

(7) The services involve the repair, modification or calibration of equipment and they are to be performed by the manufacturer of the equipment or by the manufacturer's authorized dealer, provided the contracting officer determines that bidding is not appropriate under the circumstances.

(8) The contract is for investment advisors or managers selected by the Public School Employees' Retirement System, the State Employees' Retirement System or a State-affiliated entity.

(9) The contract is for financial or investment experts to be used and selected by the Treasury Department or financial or investment experts selected by the Secretary of the Budget.

(10) The contract for supplies or services is in the best interest of the Commonwealth.

(b) **Written determination.**--The written determination authorizing sole source procurement shall be included in the contract file. **For procurements over \$250,000 made under**

subsection (a)(10), the determination shall be signed by the head of the purchasing agency.

(c) **Approval required by board of commissioners of public grounds and buildings.**--With the exception of small procurements under section 514 and emergency procurements under section 516 (relating to emergency procurement), if the sole source procurement is for a supply, except for computer software updates under \$50,000, for which the department acts as purchasing agency, it must be approved by the Board of Commissioners of Public Grounds and Buildings prior to the award of a contract.  
§ 516. Emergency procurement.

The head of a purchasing agency may make or authorize others to make an emergency procurement when there exists a threat to public health, welfare or safety or circumstances outside the control of the agency create an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two [bids] **quotes** shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the [contract file.] **procurement file. No written contract may be required. The supplier of the supply, service or construction may be paid based on the emergency approval and approved invoice.**

Section 3. Title 62 is amended by adding a chapter to read:

**CHAPTER 36  
PROHIBITED CONTRACTS**

Sec.

3601. Short title of chapter.

3602. Declaration of purpose.

3603. Definitions.

3604. Prohibition.

3605. Certification.

3606. Penalties for false certification.

§ 3601. Short title of chapter.

This chapter shall be known and may be cited as the Prohibited Contracts Act.

§ 3602. Declaration of purpose.

The General Assembly finds and declares as follows:

(1) Pennsylvania is privileged to engage in international trade and commercial activities.

(2) Israel is America's dependable, democratic ally in the Middle East, an area of paramount strategic importance to the United States.

(3) It is in the interest of the United States and the Commonwealth to stand with Israel and other countries by promoting trade and commercial activities and to discourage policies that disregard that interest.

§ 3603. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Boycott." To blacklist, divest from or otherwise refuse to deal with a person or firm when the action is based on race, color, religion, gender or national affiliation or origin of the targeted person or entity.

"Company." Any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability company or other entity or business association qualified to do business in this Commonwealth.

§ 3604. Prohibition.

Notwithstanding any other provision of law and except as provided under section 516 (relating to emergency procurement), a purchasing agency may not contract with a company to acquire or dispose of supplies, services or construction that exceed the

applicable small purchase threshold unless the company certifies that:

- (1) the company is not currently engaged in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce; and
- (2) the company will not during the duration of the contract engage in a boycott of a person or an entity based in or doing business with a jurisdiction where the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

§ 3605. Certification.

The department shall make available a certification form indicating that a company is eligible to contract with the department under section 3604 (relating to prohibition). The company shall provide a certification form to the department when registering to do business as a vendor with the Commonwealth.

§ 3606. Penalties for false certification.

(a) Penalties.--A company shall pay a civil penalty in the amount of \$250,000 or twice the amount of the contract, whichever is greater, if the department determines that the company provided a false certification form to the department under section 3604 (relating to prohibition).

(b) Report of false certification.--The department shall report to the Attorney General the name of the company that submitted the false certification and the pertinent information that led to the department's determination. No later than three years after the department makes a determination under subsection (a), the Attorney General shall determine whether to bring a civil action against the company to collect the penalty described in subsection (a). If a court determines the company submitted a false certification, the company shall pay all reasonable costs and fees incurred in the civil action. Reasonable costs shall include the reasonable costs incurred by the Commonwealth entity in investigating the authenticity of the certification. Only one civil action against the company may be brought for a false certification on a contract.

(c) No private right of action.--Nothing in this section may be construed to create or authorize a private right of action.

Section 4. Paragraphs (4) and (13) of the definition of "energy conservation measure" in section 3752 of Title 62 are amended and the section is amended by adding definitions to read:  
§ 3752. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Energy conservation measure." A program, facility alteration or technology upgrade designed to reduce energy, water, wastewater or other consumption or operating costs. The term may include, without limitation:

\* \* \*

(4) Heating, ventilating or air conditioning system modifications [or], **extension of systems to new or renovated areas or system** replacements.

\* \* \*

(13) [Indoor air quality improvements.] **Systems that provide indoor air quality improvements or improved climate control.**

\* \* \*

"Energy-related cost savings." As follows:

(1) A cost saving, except for an energy saving, that results from the implementation of an energy conservation measure.

(2) Sources of energy-related cost savings shall include only the following:

(i) Avoided current or planned capital expense.

(ii) Avoided renovation, renewal or repair costs as a result of replacing old and unreliable equipment and systems or thermal improvements to the building envelope.

"Energy services company." A qualified provider of energy solutions, including designs and implementation of energy savings projects, retrofitting, energy conservation, energy infrastructure outsourcing, power generation and energy supply and risk management.

\* \* \*

"Operating costs." As follows:

(1) Reductions in expenses, including energy-related cost savings, related to energy and water consuming equipment or the building envelope.

(2) The term includes:

(i) Operating and maintenance savings.

(ii) Capital funds budgeted for projects that, due to the energy services company project, will not be necessary.

\* \* \*

Section 5. Sections 3754(a) and 3755(c) of Title 62 are amended to read:

§ 3754. Contract provisions.

(a) General rule.--A guaranteed energy savings contract may provide that all payments, except obligations on termination of the contract before its scheduled expiration, shall be made over a period of time. Every guaranteed energy savings contract that requires payments over a period of time shall provide that, after the initial year of the contract, the savings in every subsequent year are guaranteed to the extent necessary to make payments under the contract during that year. **A guaranteed energy savings contract, in addition to the quantification and guarantee of energy savings, shall expressly state, quantify and validate the budgetary sources of all energy-related cost savings and operating costs utilized to satisfy the financial obligations and performance during the term of the agreement.**

\* \* \*

§ 3755. Funding.

\* \* \*

(c) Grants, subsidies or other payments.--Grants, subsidies or other payments from the Commonwealth to a governmental unit shall not be reduced as a result of energy **conservation measure cost** savings obtained as a result of a guaranteed energy savings contract during the life of the contract.

Section 6. This act shall take effect in 60 days.

APPROVED--The 4th day of November, A.D. 2016.

TOM WOLF

Hi Tami,

I had a thought and wanted to run it by you. I'm not sure if you have noticed, but my kitchens are a little outdated. One of the FCS teachers before me was able to paint some of the walls on the non-cooking side for her Interior Design class, and I had a thought for my Creative Constructions class on "Updating" the kitchens by redesigning what is already in the kitchen. The class focuses on Reusing, Recycling, Repurposing, and Upcycling.

I could have the students give the kitchens a "face lift" simply by sanding and staining/painting the cabinets and even painting and sealing the countertops. I would research products that would be ok to use indoors. I actually redid my kitchen at home this way. Let me know what you think and if you think it is something I could do with them. If it is, let me know what I would have to do. I have 2 classes of Creative Constructions during quarter 3 and no cooking classes, so it would be a perfect time.

Thanks,  
Alexia

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