

ENERGY SAVINGS PERFORMANCE CONTRACTING STATUTES

VERMONT (as of June 28, 2010)

Vermont has few statutes governing energy savings performance contracting. 3 V.S.A. § 2291 sets forth the State’s policy regarding energy conservation and mandates the development of a state energy plan. That plan, issued by the Department of Buildings and General Services and available at <http://bgs.vermont.gov/sites/bgs/files/pdfs/BGS-VTStateEnergyPlan.pdf>, references energy savings performance contracting as one means available to state agencies for fulfilling the state’s energy conservation goals.

	Statute	Procurement Method	Competitive Bidding/ Selection Requirements	Term of Contract	Guarantee Requirement	Restrictions/ Miscellaneous
State	29 V.S.A. § 152	Not specified.	<p>Not specified. Generally, the “most responsive” bid will be accepted. <i>See</i> Department of Buildings and General Services policies at: http://aoa.vermont.gov/sites/aoa/files/pdf/AOA-Bulletin_3_5.pdf</p> <p>See generally 29 V.S.A. § 161, which specifies the competitive bidding process and the procurement of design-build contracts.</p>	20 years. 29 V.S.A. § 152(a)(27).	“Improvements must within 20 years achieve savings sufficient to cover their costs.” 29 V.S.A. § 152(a)(27).	<p>29 V.S.A. § 152(a) gives the Commissioner of Buildings and General Services the authority, with the approval of the emergency board, to enter into multiyear contracts with energy service companies for energy efficiency improvements to state facilities, the cost of which will be recovered through avoided costs resulting from the improvements, and to enter into performance contracts with private sector providers to create energy-smart state buildings and facilities primarily through revised operating strategies that will result in operating cost savings.</p> <p><i>See also</i> 30 V.S.A. § 235 (allows Dept. of Public Service to enter into performance contracts with goal of increasing fuel efficiency for all Vermont heating and process fuel consumers).</p>

	Statute	Procurement Method	Competitive Bidding/ Selection Requirements	Term of Contract	Guarantee Requirement	Restrictions/ Miscellaneous
Counties						
Municipalities						
Townships/ Villages						
School Districts	16 V.S.A. § 3448f	RFP. 16 V.S.A. § 3448f(c).	The school district shall select a “ <u>qualified contractor</u> .” Factors to be considered include contract terms, comprehensiveness of the proposal and cost-saving measures, experience of the contractor, quality of technical approach, and overall benefits to the district. 16 V.S.A. § 3448f(c) (1).	20 years. 16 V.S.A. § 3448f(b).	Payment by the district is contingent on energy or operational cost-saving results. 16 V.S.A. § 3448f(a)(4).	If a performance contract permits a district to make payments over a period exceeding 10 years, the district may not enter into a final performance contract until it receives approval from the electorate. 16 V.S.A. § 3448f(c)(3). Costs of investment grade audit are to be included in cost of performance contract with successful bidder. 16 V.S.A. § 3448f(c)(2).
State Universities	Unclear, but probably governed by 29 V.S.A. § 152.	See State.	See State.	See State.	See State.	See State.