

ENERGY SAVINGS PERFORMANCE CONTRACTING STATUTES

MAINE (as of June 14, 2010)

Maine has no specific PC-enabling legislation, but there is a pilot program in place. 5 M.R.S. § 1770 mandates the institution by the Department of Administrative and Financial Services of a pilot program utilizing energy savings performance contracts to achieve by 2010 a 25% reduction in energy consumption in various facilities owned by the state. The rules for ESPC under the pilot program are determined by the Department of Administrative and Financial Services.

	Statute	Procurement Method	Competitive Bidding/ Selection Requirements	Term of Contract	Guarantee Requirement	Restrictions/ Miscellaneous
State	5 M.R.S. § 1770 (Pilot Program) <i>See generally</i> 5 M.R.S. § 1743 (Contracts for Public Improvements)	RFP	Pilot Program selection procedures to be determined by the Department of Administrative and Financial Services. 5 M.R.S. § 1770(6). Competitive bidding required for all public improvement contracts unless the project is classified as being one for “professional, architectural and engineering services” or is waived for alternative procurement methods. 5 M.R.S. § 1743(3)(a). <i>Also see generally</i> 5 M.R.S. § 1825 regarding the competitive bid process. Contracts are generally awarded to the “best value bidder.” Also note that contracts are awarded to Maine businesses where all other factors are equal.	Not statutorily specified.	Yes.	Rules to be adopted by the Department of Administrative and Financial Services. 5 M.R.S. § 1770(6). Note: shared savings plans are allowed. 5 M.R.S. § 1170(C)(2).
Counties	<i>See generally</i> 30-A M.R.S. § 903	Not statutorily specified	The statute broadly grants authority to county commissioners to enter into energy service contracts. The statute does not	Not statutorily specified.	Not statutorily specified.	Expenditures by county commissioners under this section are subject to county budgetary approval process.

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			otherwise specify additional limitations or exceptions; look to local provisions for contracting procedures. 30-A M.R.S. § 903(1).			30-A M.R.S. § 903(3).
Municipalities	None specified. <i>See</i> 30-A M.R.S. § 5953-C (loans from Maine Municipal Bond Bank for energy efficiency improvements)	RFP	ESPCs financed through the Maine Municipal Bond Bank shall be awarded to Maine businesses, if all other factors are equal. 30-A M.R.S. § 5953-C(3).	Not statutorily specified.	ESPCs financed through the Maine Municipal Bond Bank must be structured to ensure to the greatest extent possible that the cost savings achieved by the improvements are sufficient to cover the loan. 30-A M.R.S. § 5953-C(4).	<i>See generally</i> 30-A M.R.S. § 3272 for establishment of Municipal Energy Commission with broad authority to promote energy conservation measures by municipalities.
School Districts	20-A M.R.S. § 15915 <i>See also</i> 30-A M.R.S. § 5953-C (loans for energy efficiency improvements)	RFP or RFQ	Exempt, if the restrictions in the “Restrictions” column are met. 20-A M.R.S. § 15915(1). ESPCs financed through the Maine Municipal Bond Bank shall be awarded to Maine businesses, if all other factors are equal. 30-A M.R.S. § 5953-C(3)	Up to 15 years.	Yes (see “Restrictions” column). ESPCs financed through the Maine Municipal Bond Bank must be structured to ensure to the greatest extent possible that the cost savings achieved by the improvements are sufficient to cover the loan. 30-A M.R.S. § 5953-C(4).	To be exempt from competitive bidding, the agreement must: A. provide for operation or maintenance of the improvement for at least 5 years or entire term of financing agreement if longer than 5 years; B. require guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and C. Have a total contract cost, excluding interest and operating and maintenance costs, of less than \$2,000,000 for any school building. 20-A M.R.S. § 15915(1).

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State Universities	See state.	See state.	See state.	See state.	See state.	See state.