

ENERGY SAVINGS PERFORMANCE CONTRACTING STATUTES

INDIANA (as of June 11, 2010)

	Statute	Procurement Method	Competitive Bidding/ Selection Requirements	Term of Contract	Guarantee Requirement	Restrictions/ Miscellaneous
State	Ind. Code § 4-13.6-8-1 <i>et seq.</i> <i>See also</i> Ind. Code § 4-13.5-1.5-10.5 <i>et seq.</i> for financing	RFP. Ind. Code § 4-13.6-8-5.	The state may approve an energy cost savings contract with a qualified provider that <u>best meets the needs of the governmental body.</u> Ind. Code § 4-13.6-8-7.	20 years. Ind. Code § 4-13.6-8-7. NOTE: revised May 2009 pursuant to PL 71-2009 and PL 99-2009. Previously was 10 years.	The provider must guarantee that the energy cost savings, operational cost savings, or both, will meet or exceed the cost of the project. Ind. Code § 4-13.6-8-7(b). [But note: an ESPC “may” provide that energy cost savings are guaranteed to the extent necessary to make payments for the project. Ind. Code § 4-13.6-8-6.]	
Counties	Ind. Code § 36-1-12.5-0.5 <i>et seq.</i> <i>See</i> Ind. Code §§ 36-1-12.5-1.5 and 36-1-2-9, including county in definitions of “governing body” and “legislative body.”	RFP. Ind. Code § 36-1-12.5-5(b).	Exempt. <i>See</i> Ind. Code § 36-1-12-1.	20 years. Ind. Code § 36-1-12.5-5(a).	The savings must cover the costs of the payments for the measures. Ind. Code § 36-1-12.5-5(d).	If payments are made pursuant to installment payment contract, installments may not exceed the lesser of 20 years or average life of measure. Ind. Code § 36-1-12.5-7. Improvements that are not causally related to energy conservation measures may be included in the PC in certain circumstances. Ind. Code § 36-1-12.5-12.
Municipalities	Ind. Code § 36-1-12.5-0.5 <i>et seq.</i> <i>See</i> Ind. Code §§ 36-1-12.5-1.5 and 36-1-2-9, including cities in definitions of “governing body”	See counties.	See counties.	See counties.	See counties.	See counties.

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	and “legislative body.”					
Townships/ Villages	Ind. Code § 36-1-12.5-0.5 <i>et seq.</i> <i>See Ind. Code §§ 36-1-12.5-1.5 and 36-1-2-9, including townships in definitions of “governing body” and “legislative body.”</i>	See counties.	See counties.	See counties.	See counties.	See counties.
School Districts	Ind. Code § 36-1-12.5-0.5 <i>et seq.</i> <i>See Ind. Code §§ 36-1-12.5-1.5 and 36-1-2-9, including schools in definitions of “governing body” and “legislative body.”</i>	See counties.	See counties.	See counties.	See counties.	See counties.
State Universities	Ind. Code § 21-33-4-1 [Note: Ind. Code § 20-12-5.5-7 was repealed].	RFP. Ind. Code § 21-33-4-2.	Exempt. The higher education institution shall select the provider and enter into a contract that <u>best meets the needs</u> of the higher education institution. Ind. Code § 21-33-4-4.	10 years. Ind. Code § 21-33-4-5.	Permitted but not required. The contract “may” include a guaranty from the provider that the energy cost savings, operational cost savings, or both will meet or exceed the cost of the contract. Ind. Code § 21-33-4-5.	All payments, except obligations on termination of the contract before its expiration, must be made over time. Ind. Code § 21-33-4-2.