

**56.774 Purpose of program -- Engineering analysis -- Methods of finance -- Documentation of savings.**

- (1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy conservation measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for state-owned or state-leased buildings.
- (2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who may be employees of the cabinet or employed pursuant to KRS Chapter 45A, except that any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings performance contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835.
- (3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building, which have an aggregate simple payback period of five (5) years or less, shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy efficiency measures for a building may be utilized for monitoring the results.
- (4) If general fund appropriations are available for energy efficiency improvements, the cabinet shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.
- (5) If general fund appropriations are unavailable, energy efficiency measures for a state-owned building may be financed by other means. These other means include but are not limited to guaranteed energy savings performance contracts as defined under KRS 56.770 entered into pursuant to KRS 45A.085 and KRS 45A.045(10). Guaranteed energy savings performance contracts shall not be subject to the provisions of KRS 45A.800 to 45A.835. These energy efficiency measures shall not be limited to those that have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy efficiency measures shall be transferred to the Commonwealth upon completion of the guaranteed energy savings performance contract or as otherwise agreed upon in the contract. Savings from the implementation of the energy efficiency measures under the guaranteed energy savings performance contract shall be used to satisfy the obligations under the guaranteed energy savings performance contract and to repay the cost of the other means used to finance the energy efficiency measures, and may be used to repay expenses incurred by the cabinet to reimburse the cabinet for expenses related to the guaranteed energy savings performance contract, including but not limited to staff time for monitoring, overseeing, and managing the project. Notwithstanding KRS 45.229, remaining savings shall remain in the state agency account and shall not lapse. All savings projected under a guaranteed energy savings performance contract shall be guaranteed to the Commonwealth.

- (6) The savings in reduced expenditures that are specified as payment sources shall be documented in the guaranteed energy savings performance contract. Savings shall be determined by using one (1) of the measurement and verification methodologies listed in the United States Department of Energy's "International Performance Measurement and Verification Protocol." If specific data limitations or documented unique characteristics of the project prevent use of the "International Performance Measurement and Verification Protocol," an alternative method that is compatible shall be adopted upon documentation and approval of the secretary of the cabinet.

**Effective:** February 25, 2010

**History:** Repealed and reenacted 2010 Ky. Acts. ch. 5, sec. 3, effective February 25, 2010. -- Amended 2008 Ky. Acts ch. 139, sec. 3, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 35, sec. 2, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 375, sec. 5, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 223, sec. 3, effective July 15, 1996.

**Legislative Research Commission Note (2/25/2010).** 2010 Ky. Acts ch. 5, sec. 28, provides that the repeal and reenactment of this section in that Act "shall apply retroactively to July 15, 2008."