VOLUME 12, CHAPTER 12: "ENERGY AND WATER SAVINGS AND REVENUE MANAGEMENT"

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also denoted by blue font.

Substantive revisions are denoted by an (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated September 2024 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Title	Changed title from "Identification, Retention, and Use of Energy and Water Conservation Savings" to "Energy and Water Savings and Revenue Management."	Revision
All	Updated hyperlinks and formatting updates in accordance with the Department of Defense Financial Management Regulation Revision Standard Operating Procedures.	Revision
All	Updates made throughout to account for modifications to Title 10, United States Code, section 2912 (10 U.S.C. § 2912) and 10 U.S.C. § 2913.	Revision
1.2.2 (previous version)	Removed statutory reference to the Fiscal Year 2021 National Defense Authorization Act section 2827 for Authoritative Guidance and reference.	Deletion
1.2.5, 1.2.6 (previous version)	Removed statutory reference to 10 U.S.C. § 2914 and 10 U.S.C. § 2915 as they do not address energy savings or revenues.	Deletion
2.6	Added definition and guidance on Utility Energy Service Contracts.	Addition
7.2	Added language from 10 U.S.C. § 2912(e) to Unobligated Balance Transfers.	Addition

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CHAPTER 12

ENERGY AND WATER SAVINGS AND REVENUE MANAGEMENT

1.0 GENERAL

1.1 Purpose

The Congress has enacted a series of measures aimed at strengthening energy and water security, resilience, and sustainability within the Department of Defense (DoD). This chapter establishes the financial management policy for identifying, retaining, and utilizing energy and water cost savings, as well as financial incentives and revenues derived from the sale of electricity. It provides comprehensive guidance on the receipt and use of utility incentives and water cost savings for conservation efforts; the availability and application of energy cost savings; the implementation of energy savings contracts and related activities; the sale of electricity generated from alternative energy and cogeneration facilities; and DoD participation in programs designed to manage energy demand or reduce energy consumption during peak periods.

1.2 Authoritative Guidance

1.2.1. Funds attributable to water cost savings realized under Title 10, United States Code, section 2866 (***10 U.S.C. § 2866***) "Water Conservation at Military Installations," must be used as prescribed in subparagraphs 1.2.2.1.1 and 1.2.2.1.2, provided that subparagraph 1.2.2.1.1 is for water conservation activities. Neither 10 U.S.C. § 2866 nor any provision in the Department's appropriations acts provides for the extended availability of such funds. Accordingly, only for the period for which they were appropriated makes such funds are available.

* 1.2.2. ***10 U.S.C. § 2912***, "Availability and Use of Energy Cost Savings," provides that an amount of funds appropriated to DoD for a fiscal year that is equal to the amount of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts pursuant to ***10 U.S.C. § 2913***, "Energy Savings Contracts and Activities," and in the case of operational energy, from both training and operational missions, must remain available for obligation for that fiscal year and the succeeding fiscal year, without additional authorization or appropriation.

1.2.2.1. With respect to installation energy cost savings, the amount that remains available for obligation must be used as follows:

1.2.2.1.1. One-half of the amount must be used for the implementation of additional energy resilience, mission assurance, weather damage repair and prevention, energy conservation, and energy security measures, including energy resilience and energy conservation construction projects, for buildings, facilities, or installations of the DoD, or related to vehicles and equipment of the DoD, which are designated, in accordance with regulations prescribed by the Secretary of Defense, by the head of the department, agency, or instrumentality that realized the savings.

1.2.2.1.2. One-half of the amount must be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for (a) improvements to existing military family housing units; (b) any unspecified minor construction project that will enhance the quality of life of personnel; or (c) any Morale, Welfare, and Recreation facility or service.

1.2.2.2. The amount that remains available for obligation that relates to operational energy cost savings realized by the Department must be used for the implementation of additional operational energy resilience, efficiencies, mission assurance, energy conservation, or energy security within the department, agency, or instrumentality that realized that savings.

* 1.2.3. 10 U.S.C. § 2913, "Energy savings contracts and activities," provides several directives and authorities to the Secretary of Defense to enable installations to enter into various types of agreements or participate in certain programs which enable energy savings. Much of this section provides clarifying or amplifying instruction to authorities otherwise afforded to the Secretary of Defense by ***42 U.S.C. § 8287*** through § 8287d and ***42 U.S.C. § 8256***.

1.2.3.1. Section § 2913(a) directs the Secretary of Defense to develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of DoD as well as the private sector. Contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned may be provided for direct negotiation by the Secretary (by departments, agencies, and instrumentalities of DoD).

1.2.3.2. Section § 2913(b) directs the Secretary of Defense to permit and encourage DoD Components to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation.

1.2.3.3. Section 2913(c) authorizes the Secretary of Defense to authorize military installations to accept any financial incentive, goods, or services generally available from a State or local government or gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interest of the US and consistent with the DoD's energy performance goals in order to facilitate the cost effectiveness of DoD participation in the agreements, contracts, and programs covered by this statute. Per 10 U.S.C. § 2912(d), gas or electric utilities must be deposited and utilize financial incentives in accordance with section 3.0.

1.2.3.4. Section 2913 (d) authorizes the Secretary of Defense to authorize the military department secretaries to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation. It requires that if such an agreement provides for a utility to advance financing costs for the design or implementation of such a program to be repaid by the United States, that the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer. Additionally, subject to the availability of appropriations, repayment of such advanced costs must be made from funds available to a military department for the purchase of utility services. Lastly, it requires that title to any energy-saving device or technology installed at a military installation pursuant to such an agreement vest in the United States. It allows that such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

1.2.4. ***10 U.S.C. § 2916***, "Sale of Electricity from Alternate Energy and Cogeneration Production Facilities," provides that the Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy must be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978, and ***16 U.S.C. § 2601***, "Findings: Public Utility Regulatory Policies." Revenues from the sale of electricity must be deposited and utilized in accordance with section 4.0.

1.2.5. ***10 U.S.C. § 2919***, "Department of Defense Participation in Programs for Management of Energy Demand or Reduction of Energy Usage During Peak Periods," provides that the Secretary of Defense, the Secretaries of the military departments, the heads of the Defense Agencies, and the heads of the other instrumentalities of the Department are authorized to participate in demand response programs for the management of energy demand or the reduction of energy usage during peak periods conducted by any of the following: an electric utility; an independent system operator; a State agency; or a third party entity (such as a demand response aggregator or curtailment service provider) implementing demand response programs on behalf of an electric utility, independent system operator or State agency. Financial incentives received from such entity must be (a) received as a cost reduction in the utility bill for a facility; or (b) deposited into an Energy Savings Financial Incentives fund established under 10 U.S.C. § 2919(c) for use, to the extent provided for in an appropriations Act, by the military department, Defense Agency, or instrumentality receiving such financial incentive for energy management initiatives.

2.0 DEFINITIONS

The following definitions apply with respect to the identification, retention, and use of energy cost savings or energy sales:

2.1 Energy Savings Performance Contracts

An Energy Savings Performance Contract (ESPC) is a contract between the Federal government and an energy service company (ESCO) that allows agencies to accomplish energy and/ or water conservation measure projects for their facilities without up-front capital costs and without Congressional appropriations available at the time of contract issuance to pay for the improvements. Once the contract goes into performance, the contract's work must be repaid with annual appropriations using the accounts from which the savings were generated. 42 U.S.C. § 8287c(4) defines the "energy or water conservation measure" as applicable to an ESPC. The ESCO designs, implements, and arranges financing for an energy and/ or water savings project that meets the Federal agency's needs. The ESCO guarantees that the improvements will generate savings sufficient to pay for the project over the term of the contract up to 25 years. If the energy and/ or water conservation measures installed by the ESCO do not deliver the guaranteed energy savings, the agency pays only an amount equal to the verified, not guaranteed, savings for that period. The ESCO must immediately determine the reasons for the under achieved energy and/ or water savings during that period. If it is determined that the ESCO-installed and maintained equipment and controls malfunctioned, then the ESCO must immediately correct the malfunction. If it is determined that the ESCO-installed and government-maintained equipment and controls malfunctioned, the guaranteed savings to the ESCO for that period may have to be repaid by the government to the ESCO. After the contract ends, any additional cost savings accrue to the agency. An extended availability account receives the additional savings, in accordance with section 3.0 for use as indicated in subparagraph 1.2.2. An ESPC is an alternative financing tool to reduce unnecessary energy and water use, modernize aging equipment, reduce maintenance costs, and deploy energy and water efficiency and resilience technologies. See ***DoD Instruction 4170.11***, Installation Energy Management, for further details on ESPC. 10 U.S.C. § 2913(a) and 42 U.S.C. § 8287 authorizes such contracts.

2.2 Energy Cost Savings

Energy cost savings, for the purposes of 10 U.S.C. § 2912, are savings realized as the result of a reduction in the cost of energy, or the amount equivalent to avoided cost from energy not consumed, during the period in question. Energy cost savings are determined by metering or by other methodology, such as professionally acceptable engineering or economic models and estimates, as determined appropriate by the Component Head. The types of energy commodities to be included in their programs may be defined by the Component Head or designee. As per subparagraph 1.2.1, water is excluded as a commodity for this purpose. Energy cost savings are exempt from the funds remaining after an energy bill is paid or additional unobligated funding becomes available in an amount equivalent to avoided cost from energy not consumed during the previous fiscal year.

2.3 Extended Availability of Funds

Except as stated in subparagraph 1.2.1, pursuant to 10 U.S.C. § 2912, savings realized by DoD and transferred to an extended availability account, including financial benefits, remain available for obligation for the current fiscal year and the succeeding fiscal year in accordance with subparagraph 1.2.2, without additional authorization or appropriation.

2.4 Extended Availability of Funds Account

An account established for each appropriation to which identified energy cost savings and unobligated balances resulting from such energy cost savings, or a portion thereof, are transferred. The balances in this account remain available for obligation under 10 U.S.C. § 2912(b) or (c) for that fiscal year and the succeeding fiscal year, without additional authorization or appropriation. The Military Department realizing the savings must retain, an equivalent amount of funding in the extended year account, using appropriately established financial management accounting codes to separate the funding (i.e., 50 percent of the savings amount for the military department and

50 percent for installation energy; savings for operational energy) to use in accordance with subparagraph 1.2.2.

2.5 Component Head or Designee

The Secretary of a military department, the Director of a defense agency, or individual designated to act for the Secretary of a military department or the Director of a defense agency for the purposes of executing the duties, functions, and responsibilities set forth in this chapter. Refer to the Secretary concerned, or designee when a provision is applicable only to the military departments.

*2.6 Utility Energy Service Contract

A Utility Energy Service Contract (UESC) is a limited-source acquisition between the Federal Government and an installation's serving utility for energy or water management services, including energy or water conservation measures and energy demand reduction. Such contracts are authorized by 10 U.S.C. § 2913(b) through (d) and 42 U.S.C. § 8256.

3.0 ENERGY SAVINGS AND INCENTIVES RECEIVED FROM UTILITIES

3.1 Extended Availability from Energy Savings

Energy savings amounts having an extended availability must be transferred to extended availability accounts for execution.

3.1.1. An extended availability account must be established for each appropriation for which energy cost savings have been identified and for a period of extended availability is established.

3.1.2. Transfers to extended availability accounts must be made by a Standard Form (SF) 1151, "Nonexpenditure Transfer Authorization," or other authorized Service-specific method that incorporates all SF 1151 requirements (see ***Volume 14, Chapter 1***, subparagraph 2.6.2.6). Reprogramming actions will not be required in the case of such transfers.

3.1.3. The level that use the accounts, such as the command, installation, Military Department, Defense Agency, and/or Office of the Secretary of Defense level Accounting, must establish appropriate controls, and oversight for amounts in extended availability accounts to optimize funds executability.

3.2 Financial Incentives

Energy cost savings do not include financial incentives received from gas, water, or electric utilities under 10 U.S.C. § 2913 or 42 U.S.C. § 8256. In accordance with 10 U.S.C. § 2912(d), the installation's accounts used for operations and maintenance credit these incentives and keep them available for the same purposes and the same period as the appropriation to which they are credited.

Refunds or rebates are deposited in the accounts used for operations and maintenance, not credited to the utility bill.

4.0 REVENUES FROM THE SALE OF ELECTRICITY

4.1 Sale of Electricity

Proceeds from sales of electricity from alternate energy and cogeneration production facilities under 10 U.S.C. § 2916 must be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy. The Secretary concerned or designee determines the accounts to which such proceeds must be credited. (See Treasury's Federal Account Symbols and Titles: ***The FAST Book*** for current accounts.) In the case of proceeds from the sale of electrical energy generated from any geothermal energy resource, 50 percent must be credited to the appropriation account, and 50 percent must be deposited in a special account per the guidelines that are described in ***10 U.S.C. § 2916(b)(3)***.

4.2 Use of Proceeds from the Sale of Electricity

In addition to the other purposes authorized for the account into which proceeds from the sales of electricity are placed, and subject to the availability of appropriations for this purpose, proceeds credited may be used to carry out military construction projects for energy resilience, energy security, or energy conservation, under the energy performance plan developed by the Secretary of Defense under ***10 U.S.C § 2911(b)***, "Energy Policy of the Department of Defense," including minor military construction projects for energy resilience, energy security, or energy conservation, authorized under ***10 U.S.C. § 2805***, "Unspecified Minor Construction," which are designed to increase energy conservation.

4.3 Congressional Notification

Before carrying out an unspecified minor military construction project for energy resilience, energy security, or energy conservation, described in paragraph 4.2 using proceeds from sales under paragraph 4.1, the Secretary concerned must notify the appropriate committees of Congress of the project. For energy conservation projects, the notification must include the justification and cost estimate, the expected savings-to-investment ration, payback estimates, and the project's measurement and verification cost estimate. For energy resilience or energy security, the notification must include the rationale for the project and known vulnerabilities. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by Congress in an electronic medium pursuant to ***10 U.S.C. § 480***, "Reports to Congress: Submission in Electronic Form."

5.0 BUDGETING FOR ENERGY SAVINGS FROM ESPC AND UESC

Each military department must include the portion of the guaranteed savings due to the contractor for payment under an ESPC or to the utility for payment under an UESC in its utility requirements submitted in budget requests for the length of the ESPC or UESC entered by that military department. The total utility requirements submitted as part of budget requests must include the entire amount of guaranteed savings provided in an ESPC or performance assurance savings provided in an UESC, including amounts for contract payments and amounts to be retained by installations. The total of the amounts requested must not exceed those that would have been requested in the absence of the ESPC. The Secretary concerned, or designee, must specify the procedures for identification of such amounts by installations, facilities, or operating locations at which ESPCs or UESCs for that military department are in existence. In accordance with the Office of Management and Budget ***(OMB) Circular A-11, Appendix B***, "Budgetary Treatment of Lease-Purchases and Leases of Capital Assets," the costs of ESPCs may be scored on an annual basis, consistent with the guidance provided in ***OMB Memorandum M-98-13***, "Federal Use of Energy Savings Performance Contracting," and ***OMB Memorandum M-12-21***, "Addendum to OMB Memorandum M-98-13 on Federal Use of Energy Savings Performance Contracts and Utility Energy Service Contracts."

6.0 USE OF BALANCES AVAILABLE RESULTING FROM ENERGY COST SAVINGS

6.1 Installation Commanders

6.1.1. Installation Commanders or their designees must ensure funds made available for obligation because of energy cost savings captured in accordance with 10 U.S.C. § 2912, are expended for purposes authorized by 10 U.S.C. § 2912 (see subparagraph 1.2.2).

6.1.2. Submit to the Component Head or designee proposed projects for a given fiscal year and obligation data, upon request, to satisfy organizational and congressional reporting requirements.

6.2 Component Heads

The Component Head or designee must establish procedures to allow adequate time for computing energy cost savings and identifying the amounts to transfer into the extended availability of funds account(s). The Component Head or designee must validate that the proposed expenditures are appropriate and meet authorization requirements.

7.0 ACCOUNTING FOR ENERGY COST SAVINGS

7.1 Title 10, United States Code, Section 2912

The energy cost savings amounts realized in accordance with 10 U.S.C. § 2912 remain as unobligated balances available for obligation at the end of the fiscal year and the succeeding fiscal year.

*7.2 Unobligated Balance Transfers

Unobligated balances covered by paragraph 7.1 must be transferred to extended availability accounts on an SF 1151 or other authorized Service-specific method that incorporates all SF 1151 requirements (see paragraph 3.1). The authority and policy to be cited for the transfer is 10 U.S.C. § 2912(e).

7.2.1. The Secretary of Defense may transfer amounts described in subparagraph 1.1.2 that remain available for obligation to other funding accounts of the DoD if the purpose for which such amounts will be used is a purpose specified in subparagraphs 1.2.2.1 and 1.2.2.2.

7.2.2. Amounts transferred to a funding account of the Department under subparagraph 7.2.1 will be available for obligation for the same period as amounts in that account.

7.2.3. At the end of each fiscal year, the Secretary of Defense must submit to Congress a report detailing any funds transferred pursuant to subparagraph 7.2.1 during that fiscal year, including a detailed description of the purpose for which such amounts have been used.

8.0 REPORTING REQUIREMENTS

The standardized Service-specific reporting methods or the following requirements must be used to report the status of extended availability accounts:

8.1 Accounting Report (Monthly) 1002

The following special procedures have been established for reporting extended availability obligated and unobligated balances on the Accounting Report (Monthly), (AR(M)) 1002, Appropriation Status by Fiscal Year Program and Subaccounts:

8.1.1. Normal Availability Obligated and Unobligated Balances

Identify and report as usual.

8.1.2. Extended Availability Unobligated Balances

Identify, in column F (Cumulative Unobligated Balance), unobligated extended availability amounts resulting from energy cost savings at the end of the normal availability period (e.g., FY 200X/200X+1 or FY 200X/200X+2, +3, and so on) and available unobligated amounts (that is, FY 2026/2027, FY 2026/2028, FY 2026/2029 for the FY 2026 account). The stub entry, column a (Budget Activity) identifies the unobligated extended availability amount as "Extended Availability - Energy Cost Savings." The amount reported must agree with line 2201 of the SF 133, "Report on Budget Execution" (see paragraph 8.2).

8.1.3. Extended Availability Obligated Balances

Identify, in column E, obligations incurred against the extended availability account. The stub entry must identify those obligations as to the purpose for which the obligations were incurred. The reporting categories for the extended availability accounts must be continued for all fiscal years with remaining obligated balances against the extended availability account.

8.2 Standard Form 133

Refer to ***Volume 6A, Chapter 4*** for instructions for implementing ***OMB Circular A-11*** for the monthly SF 133, Report on Budget Execution and Budgetary Resources.