

**ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ACQUISITION OF
ENERGY CONSERVATION MEASURES**

June 14, 2004

1.00 Authority

- 1.01 The Arkansas State Board of Education's authority for promulgating these rules is pursuant to Ark. Code Ann. § 6-11-105, Ark. Code Ann. § 6-20-402 and 6-20-405 and Act 58 of the Second Extraordinary Session of 2003.
- 1.02 These rules shall be known as the Arkansas Department of Education Rules Governing the Acquisition of Energy Conservation Measures.

2.00 Purpose

- 2.01 The purpose of these rules is to establish how school districts acquire energy conservation measures using energy savings contracts and short-term debt instruments.

3.00 Definitions – For purposes of these rules, the following terms mean:

- 3.01 "Energy conservation measure" - any improvement, repair, alteration, or betterment of any building or facility owned or operated by a school district or any equipment, fixture, or furnishing to be added to or used in any building or facility that is designed to reduce energy consumption or operating costs and may include, without limitation, one (1) or more of the following:
 - 3.01.01 Insulation of the building structure or systems within the building;
 - 3.01.02 Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;
 - 3.01.03 Automated or computerized energy control systems;
 - 3.01.04 Heating, ventilating, or air conditioning system modifications or replacements;
 - 3.01.05 Replacements or modifications of lighting fixtures to increase the energy efficiency of the lighting system;
 - 3.01.06 Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements even in lieu of an increase in energy usage;
 - 3.01.07 Any additional building infrastructure improvements, cost savings, and life safety or other safety or conservation measures that

provide long-term operating cost reductions and are in compliance with state and local codes; and

3.01.08 Building operation programs that reduce operating costs.

3.02 "Energy savings contract" - a contract for the implementation of one (1) or more energy conservation measures as defined in § 6-20-401 and shall include a pre-installation energy audit or analysis.

3.02.01 The contract may provide that all payments except obligations on termination of the contract before its expiration are to be made over time and that the energy cost savings are guaranteed to the extent necessary to pay the costs of the energy conservation measures.

3.02.02 The energy conservation measures to be performed under the contract may be paid for with either revenue or non-revenue receipts of a school district or, alternatively, financed by the issuance of postdated warrants or entering into installment contracts or lease-purchase agreement.

3.03 "Qualified provider" - business that possesses a valid Arkansas contractor's license and that is experienced in the analysis, design, implementation, and installation of energy efficiency and facility improvement measures, and who has demonstrated the ability to secure necessary financial measures to support energy savings guarantees, the technical capabilities to ensure such measures generate energy cost savings, and the ability to provide maintenance and ongoing measurement of these measures to ensure and verify energy savings.

4.00 Process And Procedure For Acquiring Energy Conservation Measures

4.01 A school district may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures recommended in the proposal would not exceed the amount to be saved in either energy or operational costs, or both, within a fifteen-year period from the date of installation, if the recommendations in the proposal are followed.

4.02 A school district's purchase or installation or both of energy conservation measures under § 6-20-405 may be financed by the school district over a fifteen-year period after the execution by the school district of the postdated warrants, lease-purchase agreement, or installment contract.

4.03 The energy conservation measures to be performed under the contract may be paid for with either revenue or non-revenue receipts of a school district or, alternatively, financed by the issuance of postdated warrants or entering into installment contracts or lease-purchase agreements.

- 4.04 Postdated warrants, lease-purchase agreements, and installment contracts must be registered on forms provided by the State Board of Education with the treasurer of the district and the board.
- 4.05 A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the Department of Education.
- 4.06 Obligations incurred pursuant to a guaranteed energy savings contract are not included in computing a district's debt ratio.
- 4.07 The district may select the qualified provider or providers best qualified and capable of performing the desired work and negotiate an energy savings contract for the project.
- 4.08 The qualified provider shall reimburse the school district for any shortfall of guaranteed energy savings projected in the project.
- 4.09 The qualified provider's proposal shall include:
 - 4.09.01 The estimates of all costs of installation, modifications, or remodeling, including, without limitation, costs of a pre-installation energy audit or analysis, design, engineering, installation, maintenance, repairs, debt service, post-installation project monitoring, and data collection and reporting, as well as whether energy consumed or the operating costs, or both, will be reduced;
 - 4.09.02 The qualifications of the provider; and
 - 4.09.03 Certification that all energy-consuming products utilized in the projects will be certified with the appropriate standards by the Air Conditioning and Refrigeration Institute.