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Energy Project Contracting

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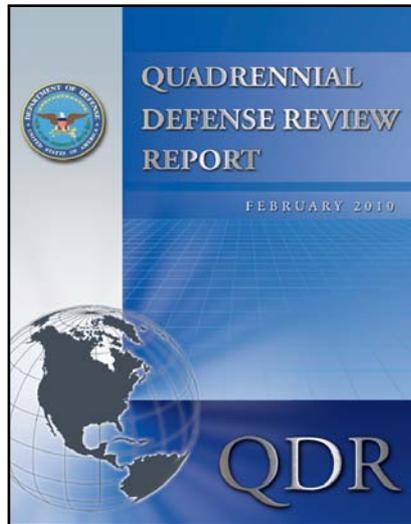
OUTLINE

- Introduction
- Army Energy Security – A New Mission
- Resourcing Requirements
- General Federal Contracting Process
- Contracting Options Summary
- Example –Enhanced Use Lease (EUL) process
- The Way Ahead - Potential for Partnering

Quadrennial Defense Review

FEB 2010

QDR energy security discussion is consistent with Army approach and priorities



Energy Security – *“assured access to reliable supplies of energy and the ability to protect and deliver sufficient energy to meet operational needs”* – pg 87

- DoD will
 - promote investments in energy efficiency
 - ensure that critical installations are adequately prepared for prolonged outages caused by natural disasters, accidents, or attacks
- Balance energy production and transmission to preserve test and training ranges and operating areas needed to maintain readiness

Focused on four specific issues where reform is imperative:

- security assistance
- defense acquisition
- defense industrial base
- **energy security**
and climate change

Energy efficiency *can serve as a force multiplier, because it increases the range and endurance of forces in the field and can reduce the number of combat forces diverted to protect energy supply lines...* – pg 87

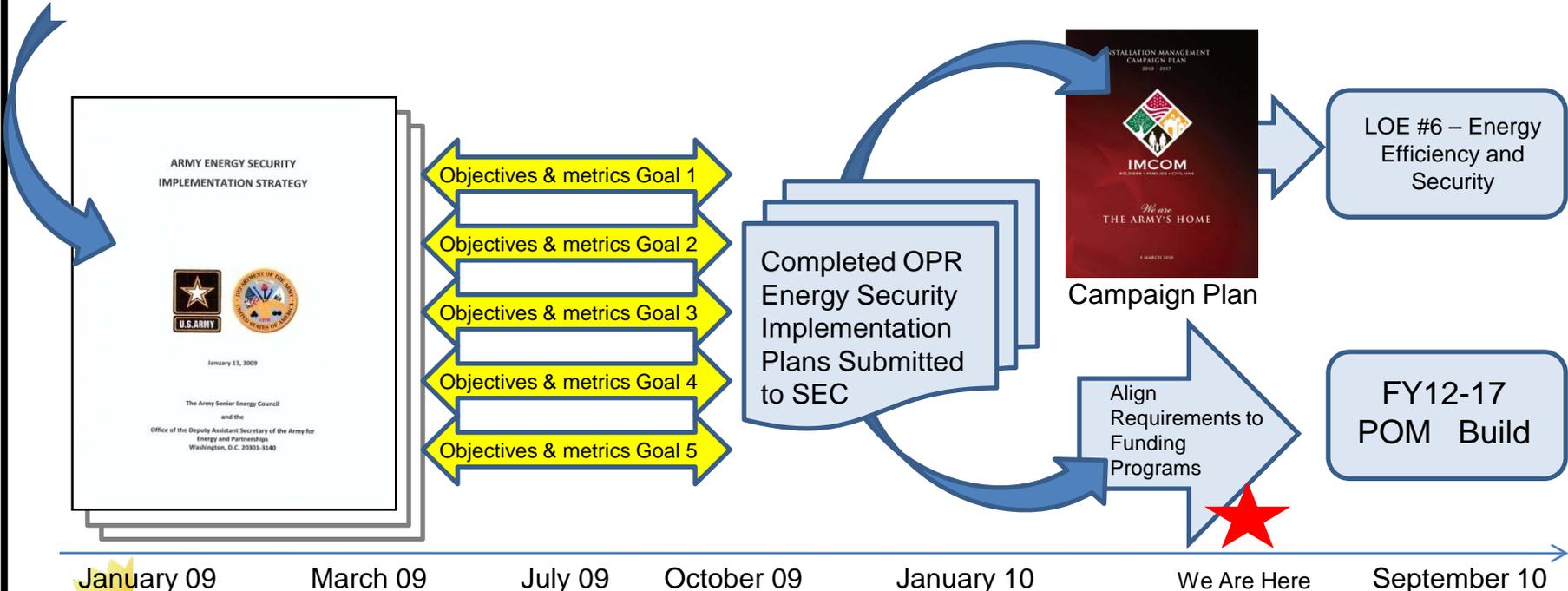
- DoD will fully implement the energy efficiency KPP and fully burdened cost of fuel

Army Strategic Energy Security Process

Energy Security Goals

- 1.Reduced energy consumption
- 2.Increased energy efficiency across platforms & facilities
- 3.Increased use of renewable/alternative energy
- 4.Assured access to sufficient energy supplies
- 5.Reduced adverse impacts on the environment

Statutes,
Executive
Orders,
Committee
Reports,
Rules,
DOE/OMB/CEQ Directives



Army Installation Energy Security Resourcing Requirements

- **Estimated funding requirement (FY2012 – FY2016): \$12.6 Billion**
 - **Planned appropriated funds (MILCON, ECIP): \$ 3.2 Billion**
 - **POM Energy Security support (critical O&M): \$ 0.7 Billion**
 - Renewable energy generation
 - Energy efficiency improvements
 - Utility modernization
 - **Private sector financing target : \$ 8.7 Billion**
- **Alternative contracting options**
 - **Power Purchase Agreement (PPA)**
 - **Energy Savings Performance Contract (ESPC)**
 - **Utilities Energy Services Contract (UESC)**
 - **Enhanced Use Lease (EUL)**
- **Combinations of options can add value to meet Government requirements**

General Federal Contracting Process

- Step 1: Determine requirement, type of contracting process and project team
 - Requirement scope and funding
 - Funding source
 - Contract type (EUL, PPA, ESPC, UESC, etc)
 - Contracting and work schedule / milestones
- Step 2: Prepare and transmit the Solicitation
 - Type: RFP, RFQ, NOL, etc
 - Publishing forum and process
 - Statement of Work, deliverables
 - Respondent instructions – format/page limit, deadlines
 - Evaluation criteria
- Step 3: Conduct Industry Forum (If required)

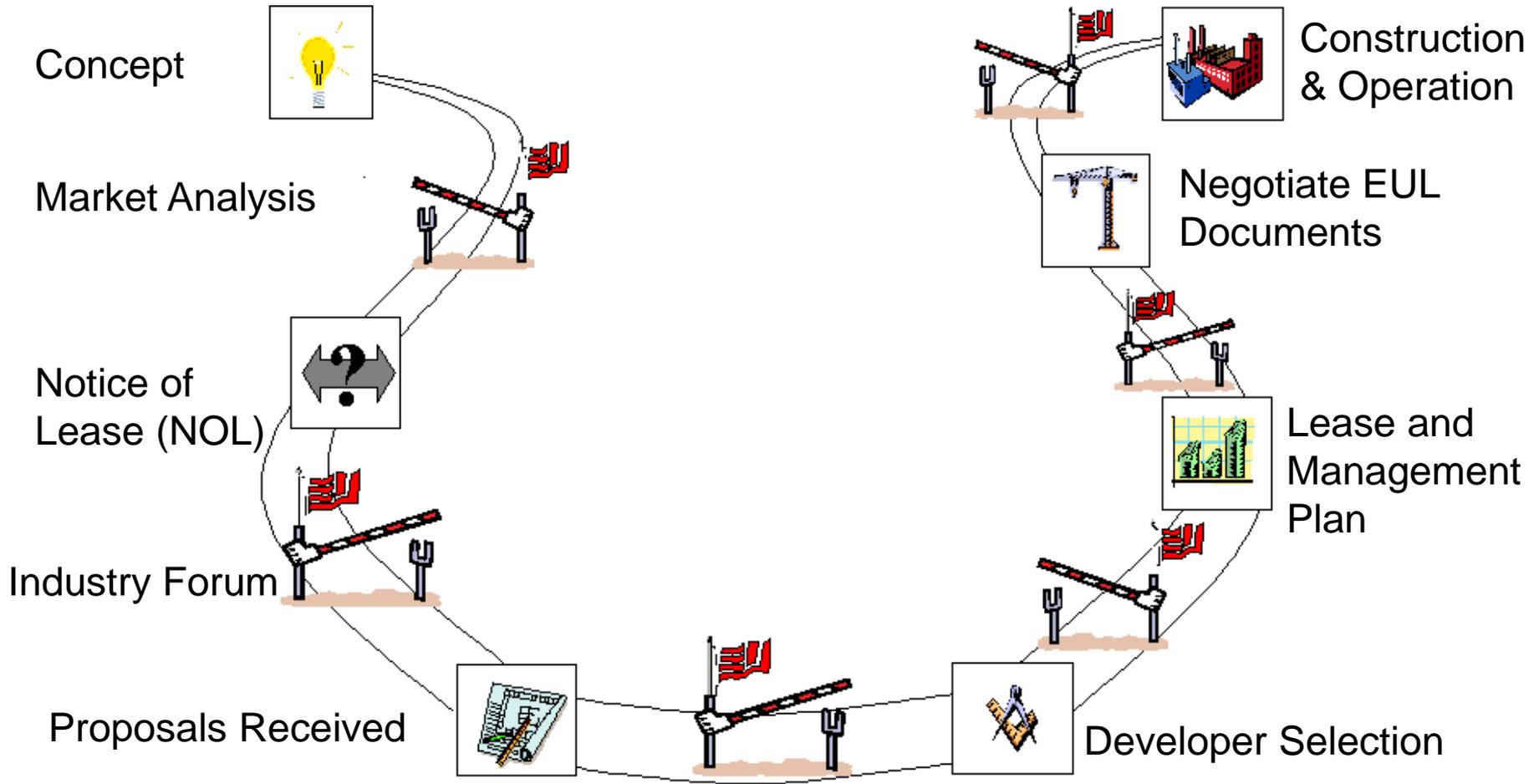
General Federal Contracting Process (cont)

- Step 4: Receive, Review Proposals (Source Selection Evaluation Board, SSEB)
 - SSEB evaluates the contractors' responses against evaluation criteria
- Step 5: Select and Announce Winning Contractor
 - Select contractor that provides the best value to the government
- Step 6: Negotiate contract terms / Business Plan
- Step 7: Sign contract / Land lease
- Step 8: Secure funds and begin work

Contracting Options Comparison

	ESPC	UESC	PPA	EUL (Energy)
DESCRIPTION	An Energy Services Company (ESCO) acquires, installs, and finances energy and/or water conservation measures for existing Federally owned building. ESCO repaid by the Army from the resulting related cost savings	A contract whereby the Army pays back the utility's investment for acquiring, installing and financing conservation measures (electric, natural gas or water) for existing Army owned buildings from the utility cost savings achieved	A contract whereby a developer installs renewable energy system on agency property for an agency commitment to purchase the power generated. Developer cost recovery occurs through these power payments over the life of the contract.	A lease allowing agencies to out-lease available non-excess real property to the private sector in return for cash and/or in-kind consideration.
AUTHORIZATION	EPAAct 42 USC 8287; 10 CFR 436	EPAAct, 42 USC 8256; 10 USC 2913; 10 USC 2866; 48 CFR 41; 48 CFR 16	None specific to PPA	Title 10 USC Section 2667. Section 2812 of H.R. 5408, Public Law 106-398. AR 405-80. DFAS-IN Reg 37-1
COMPETITION	Competitive Competition in Contracting Act (CICA) applies FedBiz Opps required	Exempt from CICA, sole source to utility; utility competitively selects subcontractors	Depends on specific situation	Competition required
CONTRACTING PARTY	Contract with energy services company (ESCO)	Contract with utility	Contract with developer or utility provider	Contract with private developer
PERFORMANCE	Guaranteed performance required	Guaranteed performance negotiable	Provider has incentive for maximum performance-payment based on solar electricity produced	Guaranteed performance negotiable
TERM	25-years maximum	Up to 25 years allowed; varies by agency	Depends on authorities used. 10 years allowed using FAR Part 41, 30 years allowed for the DoD using 2922A, 20 years & longer allowed using WAPA.	Varies by agency.
MEASUREMENT & VERIFICATION	M&V and annual energy audit required	M&V and annual energy audit negotiable	None. Highly recommend negotiating FEMP Option C style M&V to ensure redundant 'owner' metering, etc.	None required.
OPERATION & MAINTENANCE	O&M typically included	O&M negotiable	O&M typically included	
TITLE/OWNERSHIP RETENTION	Agency typically takes title at ECM acceptance. CO may allow ESCO/ financier to retain title to apply applicable tax incentives.	The civilian and DOD authorities - silent regarding title . UESC Model Agreement - agency takes title at ECM acceptance.	Owned by renewable developer. Contract terms determine energy prices & buyback options.	Agency-owned. May be sub-leased.
CONTRACTOR RELATIONSHIP	Typically no existing relationship is in place with ESCO	Relationship with serving utility usually well established	Typically no existing relationship is in place.	Typically no existing relationship is in place.
POTENTIAL COMBINATIONS	Energy Services Agreement (ESA - similar to PPA provisions). EUL.	PPA, EUL.	Can be combined with ESPC, UESC or EUL. PPA requires a land use agreement – typically a lease or easement.	ESPC, UESC, and/or PPA.
FINANCING COMBINATIONS	Any combination of appropriations for energy or water efficiency and alternative finance may be used. Examples include appropriations, bonds, leases, exchange of RECs, and bank loans (with added interest, premiums, procurement prices).	Any funding the agency deems appropriate for paying their utility bill can be used. UESC can be paid for with appropriations in their entirety or any combination may potentially be used.	Appropriated funding may potentially be used to supplement the project.	N /A

Contracting Example: EUL Process Overview



Army Energy EUL Project Inventory

- Completed—
 - Fort Detrick, MD (developers Keenan/Chevron)
- Under Development—
 - Fort Irwin, CA (developers: Clark/Acciona)
 - Watervliet Arsenal, NY (developers: Siemens/HP)
 - Camp Navajo, AZ (developers: Concourse/Bostonia)
- Feasibility Determinations—
 - Yuma Proving Ground, AZ
 - Schofield Barracks, HI
 - Fort Richardson, AK
 - Radford Arsenal, VA
 - Pueblo Chemical Depot, CA
 - Sierra Army Depot, CA

The Way Ahead - Potential for Partnering

- Build an effective enterprise-wide project execution strategy
- Develop a clear understanding and acceptance of stakeholder roles and responsibilities from the Garrison level to the Secretariat
- Develop approaches that afford flexibility and creativity in defining and executing projects
- Create and communicate the Army's energy partnership business posture to industry