



**Office of General Counsel
Real Property Division**



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PPA term authority: 10 years (40 U.S.C. § 501(b)(1)(B))

Problem: Payback for renewables generally longer than 10 years (15-17)

Solutions: Legislation – Scoring

Options – Financing

Other contract (i.e. lease) – Matching goals



The Problem:

- Most agreements require indemnity clauses - usually either by tariff or by the submission of standard contracts to PSCs
- Federal Government precluded from providing indemnity by:
 - Anti-deficiency Act – 31 U.S.C. 665(a)
 - Adequacy of Appropriations Act – 41 U.S.C. 11

GSA – Interconnection Agreements



- Exception: Utility Contracts
- GAO decisions lay foundation for exception for utility contracts
- Narrow exception

GSA – Interconnection Agreements



- Application to Interconnection Agreements
- Keys: Requirement for service
Tariff or PSC action on contract
Rejection of Gov't contract

RECs, Other Credits and Incentives



- Value important in economics of transaction but often hard to realize for several reasons
- UESCs – 42 U.S.C. 8256(c) v. P.L. 104-52
- DOD and GSA authority to retain but other agencies only 50% (40 U.S.C. §§ 592(d) and (f))

RECs, Other Credits and Incentives



GSA has authority to sell as related personal property
(40 U.S.C. § 543) but:

- Process is not direct to sale

- Many agencies cannot retain the proceeds
(40 U.S.C. § 572)

New CEQ guidance to implement carbon emission
goals may impact traditional transactions