

MSBA Guidance on the Procurement of Energy Management Services Contracts with Energy Services Companies

After a review and analysis of Energy Management Services Contracts (“EMS Contracts”) procured by municipalities for school buildings, the MSBA offers the following guidance:

- Any costs associated with an EMS Contract are not eligible for reimbursement by the MSBA. By their terms, EMS Contracts pay for themselves over time through the savings guaranteed by the Energy Services Company (“ESCO”) providing the services. Typically, the ESCO guarantees that the savings resulting from the energy improvements will be equal to or greater than the project’s costs. If the guaranteed savings do not materialize, the ESCO pays the difference, resulting in no cost to the municipality.

- The MSBA neither endorses nor discourages the procurement of EMS Contracts. However, the MSBA strongly encourages any municipality that is considering procuring an EMS Contract to consult with the Department of Energy Resources (“DOER”) before the procurement and to follow DOER’s Best Practices for Procurement of Energy Management Services, a copy of which is available at <http://www.mass.gov/Eoeea/docs/doer/ems/ems-best-practices.pdf>. The MSBA urges districts to follow these Best Practices to avoid the pitfalls commonly associated with EMS Contracts.

- In the event that a municipality procures an EMS Contract for a school facility, the MSBA will not eliminate that facility from consideration for a grant solely on the basis of the EMS Contract.

- If the facility has deficiencies beyond those being addressed pursuant to the EMS Contract, the municipality should submit a Statement of Interest to the MSBA, and the MSBA will determine whether the facility may be eligible for a grant.