



PHIL MURPHY
GOVERNOR

TAHESHA L. WAY
LT. GOVERNOR

State of New Jersey
BOARD OF PUBLIC UTILITIES
44 South Clinton Avenue
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/
(609)777-3300

Christine Guhl-Sadovy
President

Dr. Zenon Christodoulou
Commissioner

Marian Abdou
Commissioner

Michael Bange
Commissioner

ESIP Program Guidance Update- Cooperative Purchasing Agreement

TO: ESIP Stakeholders

FR: New Jersey Board of Public Utilities (BPU) Staff

DATE: Monday, March 24, 2025

Please be advised that per the Department of Community Affairs's Division of Local Government Services ("DLGS"), **a public entity may not utilize a cooperative purchasing agreement to hire an Energy Savings Contractor for an ESIP project.** The DLGS advises that since an ESIP is designed and engineered to the specific needs of the local public entity, the procurement of an ESCO by cooperative purchasing off of a master contract awarded by another agency would be antithetical to the goals of the program. An ESCO would be bidding on the cooperative contract without knowing the specific structures that would serve as the basis for a given governmental unit's plan. In addition, DLGS states that its cooperative purchasing regulations (N.J.A.C 5:34-7.1 et seq.) do not permit cooperative purchasing systems to utilize competitive contracting, while the ESIP law permits this type of contracting as an option for procuring an ESCO.

Based on prior DLGS guidance, the ESIP Program had previously advised in Staff Guidance May 2023 that a local government may utilize a properly bid cooperative agreement to enter into a contract with an ESCO in the ESIP program. **That guidance is now invalid** and has been superseded by the current DLGS and subsequent Staff guidance.

In summary, a public entity may not hire procure an ESCO through cooperative purchasing, but rather must competitively procure the ESCO. A public entity must use the public bidding process, using either a bid process (awarding to lowest responsible, responsive bidder) or through competitive contracting using a BPU approved RFP.

Any inquiries related to this guidance should be sent directly to lpcl@dca.nj.gov.