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Federal Government Energy Conservation Contracting and Related Experience

Steptoe and Johnson LLP has extensive experience representing clients involved in energy conservation contracting with the Federal Government. This includes advice on government contract legal and regulatory matters under various contractual vehicles and transactional work. We also have substantial experience with other energy related design-build and construction projects, and can draw on the transactional experience of our outstanding Energy practice with power related contracts.

ENERGY RELATED FACILITIES CONTRACTS

- **Federal Government Energy Savings/Cogeneration Plant Contract:** We represented an electric utility and its unregulated affiliate in the successful negotiation of a contract to procure, build, operate and maintain a cogeneration plant on a federal installation that was entered into pursuant to the utility's Energy Services Agreement. We negotiated back-to-back contracts with the Government agencies and the principal equipment supplier/construction contractor and provided advice on applicable government contract requirements and compliance issues in connection with the negotiation of those agreements.
- **Other Design-Build, International Construction and Energy Experience:** We have represented both owners and contractors in contracts for the design, build and operation of power plants and related facilities in both the US and internationally. Representative matters include:
 - Represented an owner on time-and-materials contract to design and build a geothermal electric generating project in the United States.
 - Represented an owner on an RFP, contractor selection and negotiation of design-build contract for combined-cycle gas-fired power project in Peru, including pipeline and transmission interconnections.
 - Represented a major international construction company on contracts to design, build, finance and operate a power plant in Latin America.
 - Our Energy Transactions practice has represented clients in electric power plant development projects and in the negotiation of power transmission and power purchase contracts. For additional information see our [Energy Transactions](#) practice description.

Federal Government Energy Conservation Contracting and Related Experience

ESPCs:

We have advised clients on government contract and transactional issues related to DOE and DOD ESPCs:

- We have reviewed and provided legal advice on the terms of a DOD ESPC and on RFPs for DOE ESPCs, including advice on interpretation and applicability of FAR clauses, subcontractor flowdowns and on other government contract legal and regulatory requirements.
- We prepared a partnership agreement between an electric utility client and an energy services contractor for the performance of DOD ESPC awarded to the partnership.
- We reviewed and advised a client on a joint venture agreement for a JV formed to pursue a DOE ESPC.

OTHER GOVERNMENT ENERGY RELATED SERVICES CONTRACTS:

We have considerable experience advising clients on government contract issues and transactional matters in connection with utility Energy Savings Contracts.

- Government Contracts Advice: Advice on statutory, regulatory and compliance considerations relating to energy savings contracts and delivery orders with various federal agencies, including competition requirements, contract pricing requirements, contract funding and fiscal law issues, assignments of contract payments, FAR and DFARS clauses, subcontractor flowdowns, and audits/access to records.
- Third Party Financing: Review of requests for proposals and assistance in negotiation of contracts with financing institutions for third party financing of energy savings contracts with federal agencies.
- GSA Areawide Agreements: Advice to electric utility clients on negotiation of energy savings contracting provisions of areawide agreements with GSA.

OTHER ENERGY RELATED GOVERNMENT CONTRACTS EXPERIENCE:

Federal Government Energy Conservation Contracting and Related Experience

- **Washington Policy Advice:** We have assisted clients in preparation and presentation of position papers on energy conservation and utility privatization contracts.
 - Preparation of White Paper for submission to executive branch officials on legal authority under the Energy Policy Act, the Federal Property & Administrative Services Act and applicable procurement regulations for proposed energy efficiency/savings contract for utility service to federal buildings.
 - Assisted in the development and presentation of positions to the DOD on the intersection of government procurement laws and regulations and state regulatory authority relating to provision of utility services in connection with a utility privatization RFP.
- **Utility Privatization:** We have advised clients on government contract legal issues in RFPs for DOD utility privatization contracts.
- **Acquisitions:** We have represented clients in the acquisition of energy related services companies, including negotiation of an asset purchase agreement and advice on government contract due diligence and transitioning/novation issues.
- **Solar Power Industry:** We have represented DOE contractors in the solar power industry, including defense of a civil False Claims Act action and advice to another client on size status and intellectual property rights under DOE R&D contracts.