



## Ohio Revised Code

### Section 717.02 Installment payment contracts for energy conservation measures.

Effective: December 30, 2008

Legislation: House Bill 420 - 127th General Assembly

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(A) As used in this section:

(1) "Energy conservation measure" means the construction of, installation or modification of an installation in, or remodeling of, a new or existing building or infrastructure, to reduce energy consumption. It includes:

- (a) Insulation of the building structure and of systems within the building;
- (b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- (c) Automatic energy control systems;
- (d) Heating, ventilating, or air conditioning system modifications or replacements;
- (e) Caulking and weatherstripping;
- (f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such an increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;
- (g) Energy recovery systems;
- (h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;



(i) Acquiring, constructing, furnishing, equipping, improving the site of, or otherwise improving a central utility plant to provide heating and cooling services to a building or building infrastructure together with distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building or building infrastructure;

(j) Meter replacement, installation of an automatic meter reading system, or any other construction, modification, installation, or remodeling of water, electric, gas, or any other municipally supplied utility system;

(k) Any other construction, modification, installation, or remodeling approved by the legislative authority of the municipal corporation as an energy conservation measure.

(2) "Infrastructure" includes, but is not limited to, a water, gas, or electric utility, renewable energy system or technology, traffic control signal, or any other asset owned, operated, or maintained by a municipal corporation.

(B) For the purpose of evaluating buildings owned by a municipal corporation for energy conservation measures, a legislative authority of a municipal corporation may contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for an energy conservation report. The report shall include all of the following:

(1) Analyses of the energy needs of the buildings owned by that municipal corporation and recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption in the buildings;

(2) Estimates of all costs of the recommended installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, and repair;

(3) Estimates of the amounts by which energy consumption could be reduced;

(4) The interest rate used to estimate the costs of any energy conservation measures that are to be financed by the municipal corporation;



(5) The average system life of the energy conservation measures;

(6) Estimates of the likely savings that will result from the reduction in energy consumption over the average system life of the energy conservation measures, including the methods used to estimate the savings;

(7) A certification under the seal of a registered professional engineer that the energy conservation report uses reasonable methods of analysis and estimation.

(C)(1) A municipal corporation desiring to implement energy conservation measures may proceed under any of the following methods:

(a) Procure the energy conservation measures in any manner authorized by the municipal corporation's charter, ordinances, or any other existing authority;

(b) Advertise for bids using a report or any part of an energy conservation report prepared under division (B) of this section, and, except as otherwise provided in this section, comply with competitive bidding requirements;

(c) Notwithstanding any requirement in the Revised Code that requires competitive bidding or specifies bidding procedures, request proposals from at least three vendors for the implementation of energy conservation measures. A request for proposals shall require the vendor that is awarded a contract under division (C)(2)(b) of this section to prepare an energy conservation report in accordance with division (B) of this section.

Prior to sending any vendor a copy of any request for proposals, the legislative authority shall advertise its intent to request proposals for the installation of energy conservation measures in a newspaper of general circulation in the municipal corporation once a week for two consecutive weeks. The notice shall state that the legislative authority intends to request proposals for the installation of energy conservation measures, indicate the date on which the request for proposals will be mailed to vendors, which shall be at least ten days after the second publication in the newspaper, and state that any vendor interested in receiving the request for proposals shall submit



written notice to the legislative authority not later than noon of the day on which the request for proposals is to be mailed.

(2)(a) Upon receiving bids under division (C)(1)(b) of this section, the legislative authority shall analyze them and select the lowest and best bid or bids most likely to result in the greatest energy savings considering the cost of the project and the legislative authority's ability to pay for the improvements with current revenues or by financing the improvements.

(b) Upon receiving proposals under division (C)(1)(c) of this section, the legislative authority shall analyze the proposals and the vendors' qualifications and select the most qualified vendor to prepare an energy conservation report in accordance with division (B) of this section. After receipt and review of the energy conservation report, the legislative authority may award a contract to the selected vendor to install the energy conservation measures that are most likely to result in the greatest energy savings considering the cost of the project and the legislative authority's ability to pay for the improvements with current revenues or by financing the improvements.

(c) The awarding of a contract to install energy conservation measures under division (C)(2)(a) or (b) of this section shall be conditioned upon a finding by the contracting authority that the amount of money spent on energy conservation measures is not likely to exceed the amount of money the municipal corporation would save in energy, operating, maintenance, and avoided capital costs over the average system life of the energy conservation measures as specified in the energy conservation report. In making such a finding, the contracting authority may take into account the increased costs due to inflation as shown in the energy conservation report. Nothing in this division prohibits a municipal corporation from rejecting all bids or proposals under division (C)(1)(b) or (c) of this section or from selecting more than one bid or proposal.

(D) The legislative authority of a municipal corporation may enter into an installment payment contract for the purchase and installation of energy conservation measures. Provisions of installment payment contracts that deal with interest charges and financing terms shall not be subject to competitive bidding requirements and shall be on the following terms:

(1) Not less than a specified percentage of the costs of the contract shall be paid within two years from the date of purchase, as determined and approved by the legislative authority of a municipal



corporation.

(2) The remaining balance of the costs of the contract shall be paid within the lesser of the average system life of the energy conservation measures as specified in the energy conservation report or thirty years.

(E) The legislative authority of a municipal corporation may issue the notes of the municipal corporation specifying the terms of a purchase of energy conservation measures under this section and securing any deferred payments provided for in division (C) of this section. The notes shall be payable at the times provided and bear interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the municipal corporation, may be pledged and applied to the payment of interest and the retirement of the notes. The notes may be sold at private sale or given to the contractor under an installment payment contract authorized by division (C) of this section.

(F) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a municipal corporation under section 133.05 of the Revised Code.