

Federal Environmental Symposium

Executing On-Site Distributed Energy (DE) Projects

Procurement Options

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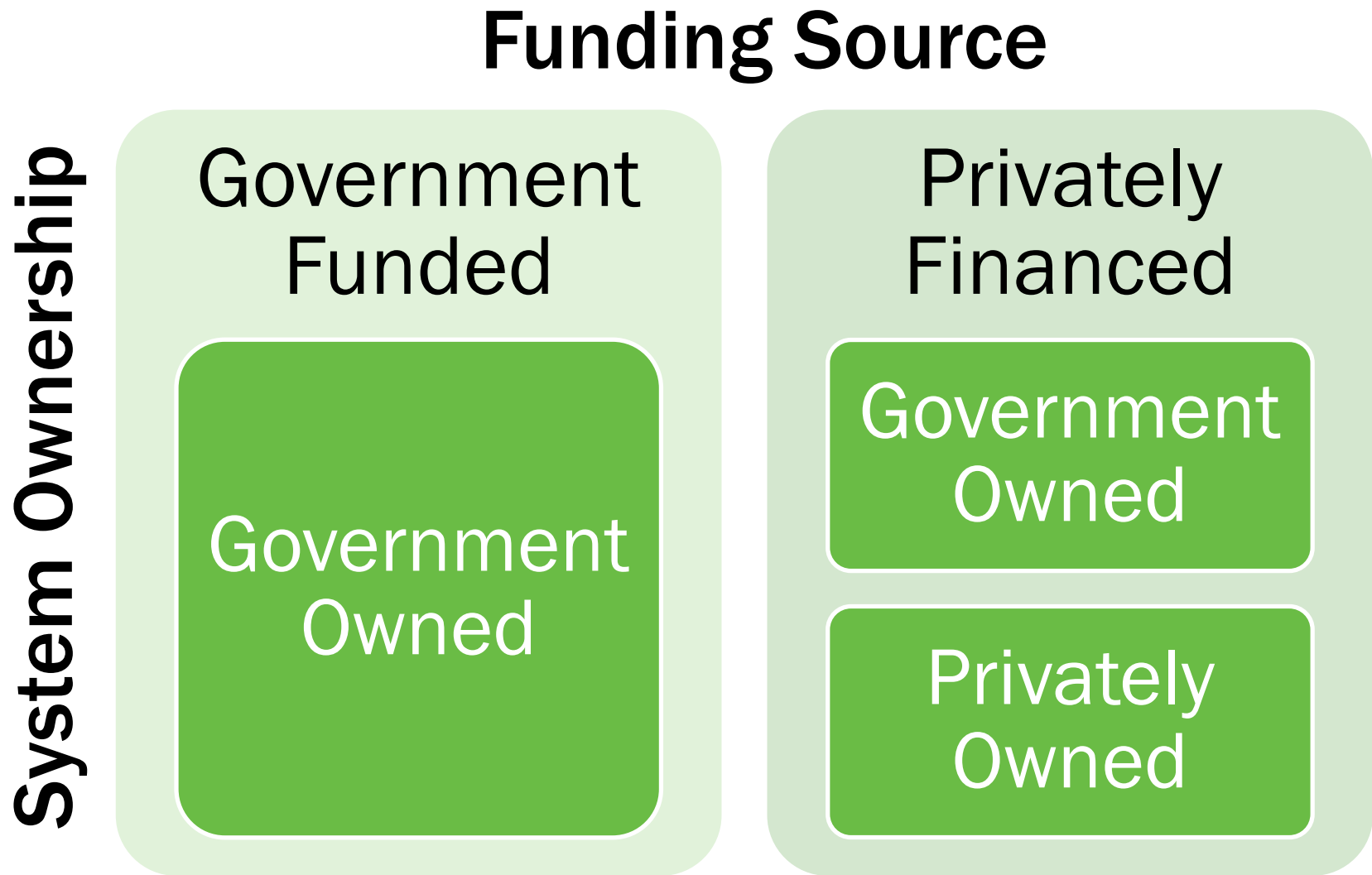
October 31, 2019



Determining the Best DE Project Procurement Option

- 1. How will the proposed project be funded & who will own the system?**
- 2. What type of contract vehicle works best for the project?**

DE Project Ownership and Funding Source Options

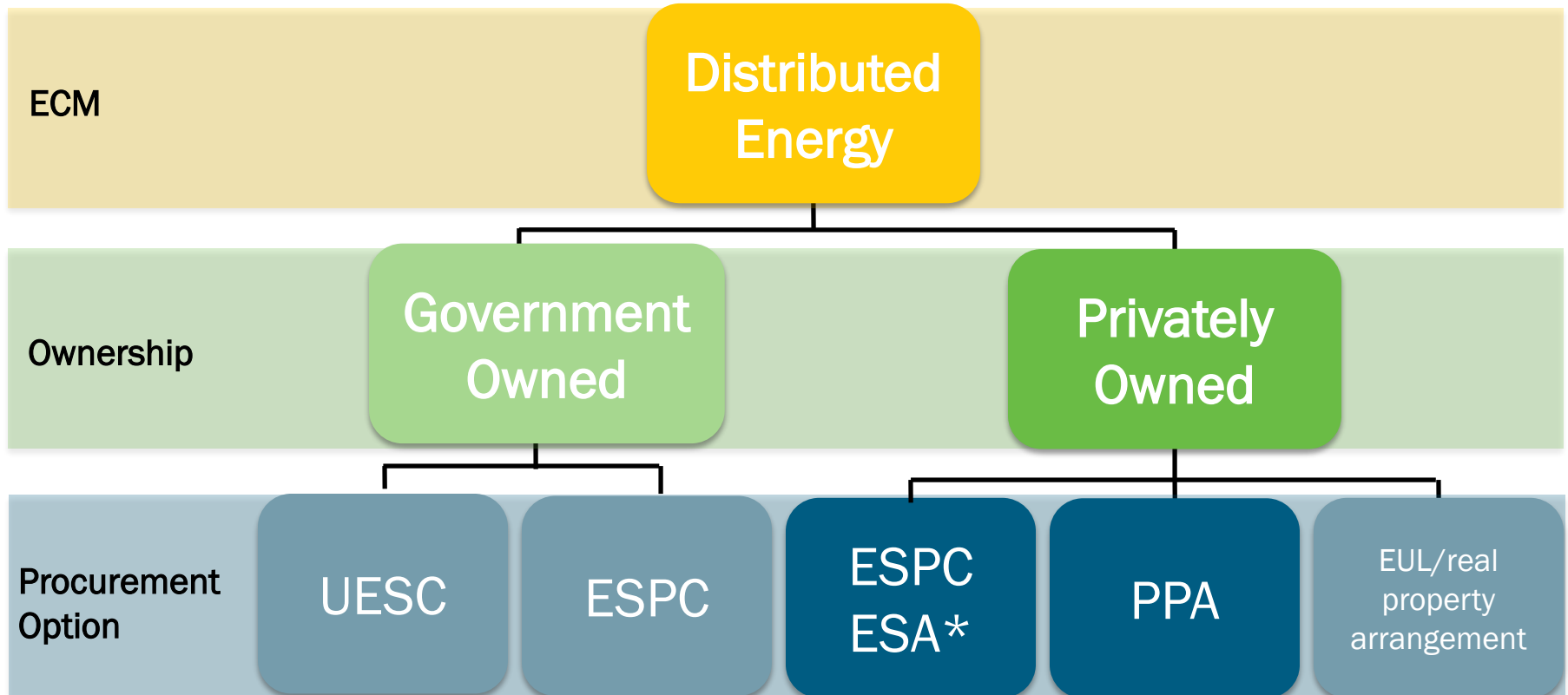


Government vs. Privately Owned

	Government Funded	Privately Financed	
Questions to Consider	Government Owned	Government Owned	Privately Owned
Is upfront funding required?	Yes	No	No
Can the project take advantage of tax incentives?	No	No	Yes
Is there financing costs associated with the project?	No	Yes	Yes
Is the government responsible for operation & maintenance (O&M)?	Yes ¹	Yes ¹	No
In general, will the contract be easy to execute?	Yes	Depends on the agency	Depends on the agency
Can the associated RECs be sold to improve the project economics?	Depends on the agency	Depends on the agency	Yes

¹ Unless specified otherwise

Privately Financed DE Project Procurement Options



Legend & Abbreviations

ECM	Energy Conservation Measure	ESPC ESA	ESPC Energy Sales Agreement
UESC	Utility Energy Service Contract	PPA	Power Purchase Agreement
ESPC	Energy Savings Performance Contract	EUL	Enhanced Use Lease

*System is privately owned initially, government must retain title by end of the contract (OMB Memo requirement)

Power Purchase Agreement

- Agency buys electricity from on-site DE project
- Developer installs and owns DE project; provides O&M/repair and replacement
- Developer captures tax incentives; may sell RECs to reduce PPA price
- Often separate site access agreement (easement, license, lease, other)
- Agency may include option to purchase DE project at end of contract
- Developer could be any third-party including the site's serving utility company
- Best for large DE projects (>500 kW)

Legal Authority & Max. Contract Length:

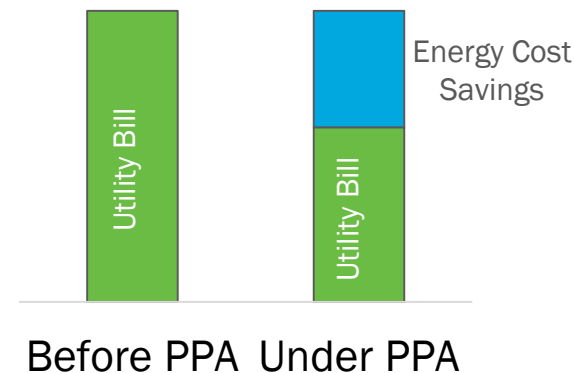
[40 USC 501](#) (FAR Part 41, GSA authority requiring delegation, 10 years)

[10 USC 2922a](#) (DOD only, 30 years)

[FAR Part 12](#) as primary authority (contract length depends on agency, no examples to date)

[WAPA](#) (20 years, possibly longer)

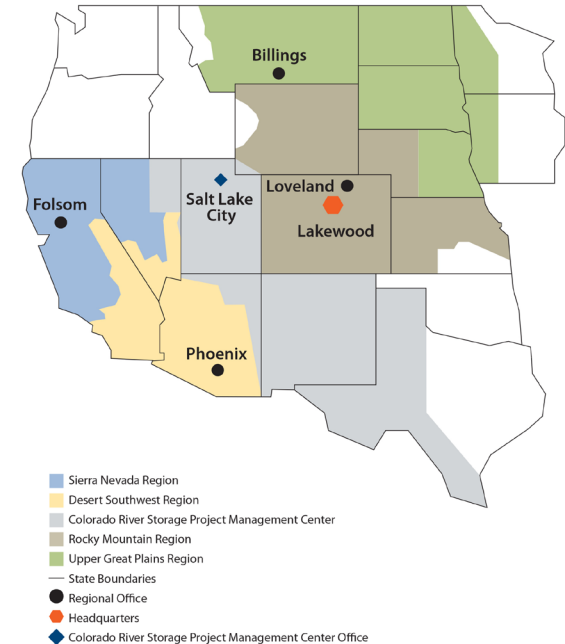
Payment Structure



PPA: Western Area Power Administration (WAPA)

- WAPA has a unique power marketing authority that can be used for long term agreements
- Only available for federal agencies in WAPA's service territory
- Agency selects renewable developer
- WAPA negotiates and signs PPA contract
- WAPA has a Renewable Resources for Federal Agencies (RRFA) program
- Fee for WAPA's services

Western Area Power Administration
Customer Service Territories



Western Area Power Administration

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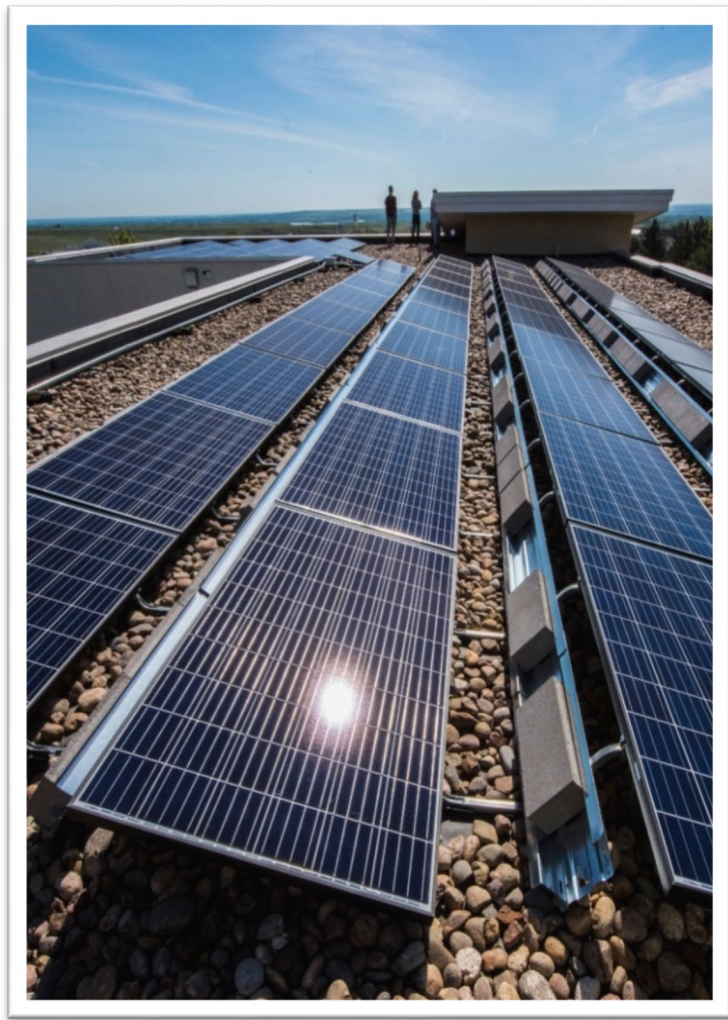
ESPC Energy Sales Agreement (ESA)

An ESPC ESA* is a project structure that uses the long-term ESPC authority to implement distributed energy projects on federal buildings or land.

- Similar to PPA (agency purchases the electricity)
- ESA ECM privately owned until the end of the contract
- ESA can be bundled with other ECMs
- Must meet all ESPC requirements
- Authorized by FAR Part 41.102(b)(7)

**Referred to as an ESPC ESA or ESPC with an ESA ECM*

ESPC ESA Benefits



- Uses a long-term contract authority
- Energy service company (ESCO) captures tax incentives; may sell RECs to reduce ESA price
- ESCO provides O&M, repair & replacement
- Project could provide resilience benefits (if configured to operate during a grid outage)
 - Battery may be eligible for ITC: See [Federal Tax Incentives for Energy Storage Systems](#) factsheet
- Agency benefits from the savings immediately if ESA is the only ECM

ESPC ESA: Differences from Typical ESPC



- Payment is based on kWh generation; price is in ¢/kWh
- Private ownership until end of contract term, allowing tax incentives to be captured*
- Agency must retain equipment title by the end of the contract for annual scoring ([OMB Memo M-12-21](#))
- Safe harbor provided by IRS ([Internal Revenue Bulletin 2017-07](#))*
 - Maximum contract term is 20 years

**ESCO is responsible for tax incentive due diligence*

ESPC ESA Contract Vehicle Options

All requirements apply regardless of ESPC ESA contracting option.

DOE Indefinite-Delivery, Indefinite-Quantity (IDIQ)

- A streamlined master contract that allows federal agencies to work with 21 DOE qualified ESCOs holding the current DOE ESPC IDIQ contract.

DOE ESPC ENABLE

- A standardized and streamlined procurement process to implement basic ECMs under an ESPC. There are over 20 DOE qualified ESCOs on GSA's Federal Supply Schedule 84, SIN 246-53.

Site-Specific/Stand-Alone

- An ESCO is selected through a request for proposal (RFP) process. The selected ESCO must be on DOE's Qualified List of ESCOs prior to contract award.

Army Corps MATOC (IDIQ, DOD Only)

- The U.S. Army Corps of Engineers' ESPC program awards master ESPCs and multiple award task order contracts (MATOCs).

Solar Investment Tax Credit (ITC)

- For developers (federal agencies not eligible)
- Declines from 30% to 10% by 2022
- ITC amount is based on the “commence-construction” year. See table below and [IRS Notice](#)*
- [FEMP fact sheet](#) available

Solar Investment Tax Credit Deadlines

Year of Commence Construction	Deadline for Placement in Service	ITC Amount
2019	End of 2023	30%
2020		26%
2021		22%
2022 onward	2022 onward	10%



*The third-party project owner should seek tax advisor advice when applying this IRS Notice

Resources and Contact Information

ESPC ESA Webinar #5 on December 10

Join our next ESPC ESA Webinar on December 10: DOE IDIQ ESPC with an ESA

- Will provide instructions and resources for financing ESAs through the DOE IDIQ ESPC contract vehicle
- Topics to be covered include:
 - Overview of DOE IDIQ contract vehicle
 - ESA specific considerations for IDIQ ESPCs
 - Case studies

Register on the WBDG website:

<https://www.wbdg.org/continuing-education/femp-courses/femplw12102019>



ESPC ESA and Applicable Resources

- [ESPC ESA website](#) includes an overview, fact sheets and case studies
- [ESPC ESA Toolkit](#) for site-specific/stand-alone contract vehicle with information and editable templates*
- [ENABLE templates](#)
- [IDIQ templates](#) (coming soon)
- [“Tech Specs”](#)
- [Database for State Incentives for Renewables and Efficiency](#)
- [DSIRE Third Party PPA Policies](#)

The screenshot shows the 'Energy Savings Performance Contract Energy Sales Agreements' webpage. The header is green with white text. Below the header, there's a breadcrumb trail: Home » Energy & Project Procurement Development Services » Distributed Energy » Procurement » Energy Savings Performance Contract Energy Sales Agreements. The main content area is white and contains several sections: 'An energy savings performance contract energy sales agreement (ESPC ESA) is a project structure, similar to a power purchase agreement, that uses the multiyear ESPC authority to implement distributed energy projects—referred to as ESA energy conservation measures (ECMs)—on federal buildings or land. The ESA ECM is initially privately owned for tax incentive purposes, and the federal agency purchases the electricity it produces with guaranteed cost savings. An ESPC can be used for the acquisition of utility services per 48 CFR § 41.102(b)(7) (2015).', 'Benefits of ESPC ESAs' (listing four bullet points), 'Start an ESPC ESA' (with a sub-section for 'Contact a federal project executive' and 'Request assistance from the Federal Energy Management Program (FEMP) through the FEMP Assistance Request Portal'), 'ESPC ESA Contract Vehicle Options' (with sub-sections for 'DOE IDIQ ESPC', 'DOE ESPC ENABLE', 'Site-Specific/Stand-Alone', and 'U.S. Army Corps of Engineers MATOC'). A sidebar on the right titled 'ESPC ESA RESOURCES' lists links to 'ESPC ESA Fact Sheet', 'ITC Fact Sheet', 'NIST Case Study', 'DEA Case Study (coming soon)', 'ESPC ESA Webinar Series', and 'ESPC ESA Toolkit'.

Energy Savings Performance Contract
Energy Sales Agreements

Home » Energy & Project Procurement Development Services » Distributed Energy » Procurement » Energy Savings Performance Contract Energy Sales Agreements

An energy savings performance contract energy sales agreement (ESPC ESA) is a project structure, similar to a power purchase agreement, that uses the multiyear ESPC authority to implement distributed energy projects—referred to as ESA energy conservation measures (ECMs)—on federal buildings or land. The ESA ECM is initially privately owned for tax incentive purposes, and the federal agency purchases the electricity it produces with guaranteed cost savings. An ESPC can be used for the acquisition of utility services per 48 CFR § 41.102(b)(7) (2015).

Benefits of ESPC ESAs

- ESPC ESAs do not require any upfront capital from a federal agency for the ESA ECM.
- ESPC ESAs provide guaranteed cost savings, and a federal agency only pays for the electricity that is generated, minimizing federal risk.
- The energy service company (ESCO) may be able to take advantage of federal and other tax incentives and can sell the renewable energy certificates generated by the ESA ECM to reduce the ESPC ESA price.
- The ESCO is responsible for ESA ECM operations and maintenance, and for equipment repair and replacement, which also reduces federal risk.

Start an ESPC ESA

To start an ESPC ESA, an agency should review the ESPC ESA requirements and contract vehicle options. For questions, more information, or assistance:

- Contact a [federal project executive](#)
- Request assistance from the Federal Energy Management Program (FEMP) through the [FEMP Assistance Request Portal](#).

ESPC ESA Contract Vehicle Options

DOE IDIQ ESPC
Master contract that allows federal agencies to work with 21 DOE Qualified ESCOs holding the current DOE IDIQ ESPC contract.

DOE ESPC ENABLE
Procurement process to implement basic ECMs under an ESPC. More than 20 DOE Qualified ESCOs are on Federal Supply Schedule 84, SIN 246-53.

Site-Specific/Stand-Alone
The site-specific/stand-alone ESPC contract vehicle can be used to implement an ESPC energy sales agreement for federal distributed energy projects.

U.S. Army Corps of Engineers MATOC
ESPC program awards master ESPCs and multiple award task order contracts (MATOCs) for only the U.S. Department of Defense.

ESPC ESA RESOURCES

- [ESPC ESA Fact Sheet](#)
- [ITC Fact Sheet](#)
- [NIST Case Study](#)
- [DEA Case Study \(coming soon\)](#)
- [ESPC ESA Webinar Series](#)
- [ESPC ESA Toolkit](#)

Online Resources

General	<ul style="list-style-type: none">• FEMP's Energy and Project Procurement Development Services• FEMP's Distributed Energy Program• FEMP Renewable Energy Trainings
RFP Using Appropriations	<ul style="list-style-type: none">• FEMP Support for Appropriations-Funded Projects• Federal Distributed Energy Projects & Technologies
UESCs	<ul style="list-style-type: none">• UESC for Federal Agencies• FEMP UESC and Utility Engagement Trainings
ESPCs	<ul style="list-style-type: none">• ESPCs for Federal Agencies• ESPC ENABLE for Federal Projects• FEMP ESPC Trainings
ESPC ESAs	<ul style="list-style-type: none">• ESPC Energy Sales Agreements• ESPC ESA Toolkit & Templates for Site-Specific Stand Alone
PPAs	<ul style="list-style-type: none">• Federal On-Site PPAs• Sample Documents for Federal PPAs• FEMP Federal On-Site PPAs Training

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