



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

JUL 30 2004

Ms. Constance C. Davis
Chief Administrative Officer
King County Housing Authority
600 Andover Park West
West Tukwila, WA 98188

Subject: King County Housing Authority's Energy Performance Contracting Terms under the Moving to Work Demonstration Program

Dear Ms. Davis:

This letter serves to reaffirm the terms of the Moving to Work (MTW) Agreement signed by HUD and the King County Housing Authority (KCHA) on September 8, 2003, regarding terms of energy performance contracting. HUD understands that KCHA is preparing to commence an energy conservation project as described in 24 CFR 990.107 and that it elects to act as its own Energy Service Company (ESCO). HUD further understands that, through a request for qualifications process, KCHA has selected Siemens Corporation to partner with them in this effort, and that Siemens is seeking HUD confirmation of the energy performance contracting authorities permitted to KCHA under their MTW Agreement in order to satisfy financing requirements. With regard to energy performance contracting, HUD reaffirms that KCHA's Agreement (Statement of Authorizations, Article VII, A-C) includes provisions that permit the following activities.

- KCHA may, without prior HUD approval, enter into energy performance contracts with Energy Service Companies (ESCOs), and make local determinations of the terms and conditions of energy performance contracts, including the debt service source, in order to satisfy reasonable financing requirements, provided that, with respect to each contract, (i) the term does not exceed 12 years, (ii) at least 50% of the energy cost savings are used to pay financing and debt service costs with the balance of any savings kept by KCHA, (iii) and KCHA maintains adequate file documentation showing the basis for KCHA's determination that debt service payments can be funded from the reasonably anticipated energy cost savings.
- KCHA may function as its own ESCo, provided that any financing complies with requirements (i) through (iii) of the Statement of Authorizations, Article VII, A.
- HUD will honor the terms and conditions of such contracts during and beyond the term of the MTW demonstration.
- KCHA may pledge its reserves or other funds provided by HUD (for use during and after the term of the MTW demonstration) to guarantee the payment of debt service in the event that projected energy savings are not adequate to cover the debt service costs for an energy conservation project undertaken during the term of the MTW demonstration.
- To satisfy financing requirements, HUD will provide to the KCHA any reasonable documentation affirming the terms of the MTW Agreement, including KCHA's

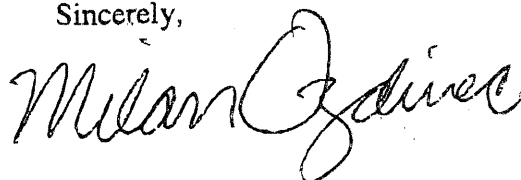
authority to enter into performance contracts or function as its own ESCo and HUD's agreement to freeze the KCHA's utility consumption for purposes of calculating operating subsidy eligibility, as provided in the Agreement, during the term of the MTW demonstration and continuing for the term of any contract or financial agreement, as provided above.

- KCHA may exclude from its subsidy calculation declines in tenant-paid utilities that are the result of energy performance contracting for developments with tenant-paid utilities. Line 11A, in KCHA proposed Form 52578, will continue to be inflated by rate changes in electricity costs during the term of the MTW agreement and continuing for the term of any contract or financial agreement as provided in the Statement of Authorizations, Article VII, A-C.

In addition, this letter confirms that savings from measures installed directly by KCHA as well as measures installed by a third party can be considered eligible for HUD energy incentives outlined in 24 CFR 990.107. Savings from both sources can be used to pay for the measures as long as the overall return period of all measures does not exceed twelve years, the current limits required by regulations. This letter further acknowledges KCHA's authority to proceed with its Energy Services Company Plan (dated October 1, 2003), including the savings from all measures installed after October 1, 2003.

If you have any questions, please contact Leigh van Rij at (202) 708-0614, extension 5788.

Sincerely,



Milan Ozdinec
Deputy Assistant Secretary
Office of Public Housing Investments

Cc: Harlan Stewart, Seattle HUD office