

**REGULATION**  
**on the provision of energy services**

**I. General Provisions**

1. Regulation on the provision of energy services (hereinafter referred to as Regulation) is drafted pursuant to Article 7, letter c) of the Law no. 142 of 2 July 2010 on energy efficiency (Official Gazette of the Republic of Moldova, 2010, no. 155-158, Article 545) with a view to implementation of the Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC published in the Official Journal of the European Union L/315 of 14 November 2012. The purpose of this Regulation is to establish a regulatory framework for the implementation and development of energy services and create conditions for the implementation of energy performance contracts in the country.

**II. Definitions**

2. For the purposes of this Regulation, the used terms are defined as follows:

a) *standard conditions* – conditions relating to the operation of all facilities and equipment provided in the technical documents, legal framework, regulatory documents, standards, specific consumption norms in force;

b) *guaranteed savings* – a commitment of the energy service provider to reduce energy consumption and other operating costs, thus generating guaranteed savings during the contract period;

c) *energy service provider* – a natural or legal person who delivers energy services or other energy efficiency improvement measures in a final customer's facility or premises;

d) *cash flow* – a flow of income and expenditures for a specific period of time;

e) *established assumptions* – quantitative parameters, a set of data and, where appropriate, projections that were considered as a basis for the calculation of future energy consumption and costs of a future development scenario;

f) *constant prices* – the value of all goods and services produced in the base year used in the calculations of energy efficiency in order to ensure relevant calculations;

g) *baseline scenario* – the level of future energy consumption, set in physical units, which does not provide for the implementation of any energy efficiency measures;

**III. Responsibilities of the Energy Efficiency Agency**

3. Energy Efficiency Agency, as part of its responsibilities assigned under Article 9 of the Law no. 142 of 2 July 2010 on energy efficiency and the Government Decision no. 1173 of 21 December 2010 "On Energy Efficiency Agency" shall:

a) disseminate information about available contracts for the provision of energy services and their terms;

- b) disseminate information about available financial instruments, incentives, grants and loans to support the development of energy services;
- c) ensure public access to the updated list of energy service providers;
- d) prepare a sample energy performance contract;
- e) develop guidelines on energy performance contracts;
- f) provide information to the public about best practices on energy performance contracts, including cost-benefit analysis using the life cycle approach.

#### **IV. Requirements for public authorities relating to the provision of energy services**

4. Public authorities that signed the Energy Performance Contract in accordance with the Local Action Plan for Energy Efficiency shall inform the Energy Efficiency Agency about:

- a) the signing of the Energy Performance Contract;
- b) planned measures, costs and energy savings.

5. Public authorities shall organize tenders for the procurement of energy services and shall conclude an Energy Performance Contract under the Law no.96-XVI of 13 April 2007 on public procurement. The draft Energy Performance Contract shall be prepared in advance and shall be included in the tender documents.

6. The public authority shall sign the Energy Performance Contract, which shall specify the timing for the execution of all obligations of the contracting parties, including payment during the contract period.

#### **V. Requirements for the energy performance contract**

7. The Energy Performance Contract shall not exceed ten years.

8. The calculation of all quantitative parameters of the Energy Performance Contract, including the energy and financial parameters shall be based on a transparent calculation methodology and a set of assumptions established in the contract.

9. Provisions of the Energy Performance Contract relating to energy and financial issues shall be based on the baseline scenario. The value of the Energy Performance Contract shall cover all costs for the implementation of energy efficiency measures.

10. The baseline scenario shall include the analysis of energy consumption and cash flow analysis for a maximum period of one year.

11. Cash flows and related calculations shall be expressed in constant prices, unless an exhaustive justification is provided that would allow the use of current prices in financial calculations, supported by clear information on inflation rates/price indices for each category of costs.

12. The Energy Performance Contract shall include the following structural elements:

- a) standard conditions that shall remain unchanged during the execution of the Energy Performance Contract. Standard conditions are used to adjust the energy consumption during the contract period in the event of any deviations from such conditions;

- b) the recalculation procedure in the event of deviations from standard conditions;

- c) the obligation of the energy service provider to obtain the total amount of guaranteed energy savings and their breakdown in annual savings and the procedure for recalculation of the final result upon the expiry of the contract;
- d) the obligation of the beneficiary to pay for the energy savings made as a result of implementation of energy efficiency measures, in accordance with the payment terms and schedule as set forth in the contract;
- e) the obligation of the energy service provider to prepare annual reports with a clear and transparent description of the method for calculating the results of energy efficiency measures implemented under the contract;
- f) methodology of sharing any additional profits between the beneficiary and the provider of energy services, if savings made after implementation of energy efficiency measures under the contract exceed the guaranteed savings for one year or for all previous years. Beneficiary's share from additional savings shall be equal to or greater than 60%;
- g) the obligation of the energy service provider to compensate for differences between savings and guaranteed savings after implementation of measures stipulated in the contract, if savings are lower than guaranteed savings. If, in the previous year, savings were higher than guaranteed savings for that period, surplus savings made in the previous year can be included in the calculation of the results for the current year;
- h) the dispute resolution procedure, including arbitration;
- i) the procedure for amendment or termination of the contract before its expiry and obligations of the parties arising out of such events.

13. The Energy Performance Contract and its annexes shall expressly provide for the following parameters:

- a) boundaries of the system(s) and/or facilities that are included in the Energy Performance Contract;
- b) definition of baseline conditions to estimate savings by comparing the baseline energy consumption with the energy consumption after the implementation of energy efficiency measures and for calculation of savings during the contract period;
- c) a clearly defined and transparent list of the energy efficiency measures to be implemented and the results to be achieved;
- d) guaranteed savings to be made after the implementation of the measures stipulated in the contract;
- e) the duration and stages of the contract, terms and timing for notifications;
- f) a clearly defined and transparent list of the obligations of each Contracting Party;
- g) baseline information for identifying savings;
- h) a clearly defined and transparent list of stages of implementation of (a package of) measures and related costs;
- i) obligations of the parties to fully implement all the measures stipulated in the contract and document all changes made during the project;
- j) provisions specifying the requirements applicable to any subcontracted third parties.