

## Department of Defense Initiatives Focus on Renewable Energy Projects

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The recession, improvements in energy efficiency, low natural gas prices, ratepayer unwillingness to fund higher-cost renewable energy and largely satisfied renewable energy portfolio standards have resulted in slower load growth. This, in turn, has created a scarcity of long-term renewable power purchase agreements (PPAs) with creditworthy counterparties, which form the backbone of a financeable renewable power project. In response, renewable energy developers are turning to a new creditworthy off-taker that has expressed a significant interest in renewable energy: the Department of Defense, the nation's largest energy user.

### What are the drivers pushing the Department of Defense to obtain renewable energy?

The Department of Defense must comply with a series of statutes and policies as summarized below.

- **Energy Policy Act of 2005 Section 203.** Requires federal agencies to purchase 7.5 percent of their energy from renewable sources by 2013.
- **Energy Independence Act of 2007.** Includes a requirement to reduce petroleum consumption and increase alternative fuel consumption.
- **National Defense Authorization Act of 2007.** Codifies the Department of Defense's voluntary goal of procuring 25 percent of total energy from renewable energy sources beginning in 2025.
- **Executive Order 13423.** Requires the improvement of energy efficiency and consumption of renewable energy from new sources, establishes an agency-wide greenhouse gas emissions percentage reduction target and includes a requirement to reduce the use of fossil fuels.

According to Pike Research, the Department of Defense spends nearly \$16 billion per year for fuel and \$4 billion per year on energy facilities and infrastructure. Department of Defense clean energy investments increased 300 percent between 2006 and 2009, from \$400 million to 1.2 billion. Projections for 2030 are set to exceed \$10 billion in renewable energy spending annually.

### What actions have the U.S. military taken to procure renewable energy?

- **Department of Defense Goals.** The Department of Defense and various branches of the U.S. military have outlined strategic goals to increase the use of renewable/alternative energy (e.g., the Department of Defense's Operational Energy Strategy, the Army Energy Security Implementation Strategy, the Air Force Energy Plan and plans issued by Navy Task Force Energy). Recently, the Department of Defense announced Project SolarStrong, which will provide up to 300 megawatts (MW) of solar power to up to 120,000 military housing units.<sup>1</sup>

<sup>1</sup> Skadden represented Bank of America Merrill Lynch in this transaction.

- **Army.** On February 24, 2012, the U.S. Army Engineering & Support Center in Huntsville, Alabama issued a draft request for proposal (RFP) titled “Large Scale Renewable Energy Production for Federal Installations.” The objective of the draft RFP is to procure up to \$7 billion in renewable energy from solar, wind, biomass and geothermal sources. Under the RFP, the Army would purchase power from facilities owned by developers. In addition, the Army recently awarded the following amounts in energy savings contracts: 2009-\$115 million, 2010-\$139 million, 2011-\$144 million and in 1Q 2012-\$93 million. More specifically, the Army leases 12 acres to the Black River generation facility, an up-to 50MW biomass facility, and purchases power from the White Sands Missile Range project, a 4.44MW solar photovoltaic generation facility.
- **Air Force.** The Air Force adopted a strategy to acquire as much as 27 percent of its electric demand from clean sources by fiscal 2016 and has indicated plans to add 33 renewable energy projects at its installations during the next five years. Projects on Air Force land include a 14.2MW solar photovoltaic facility at Nellis Air Force Base and a 14.5MW solar photovoltaic facility at Davis-Monthan Air Force Base. Recently, Nellis Air Force Base was in additional discussions with a developer to lease a site and acquire output from another solar photovoltaic facility.<sup>2</sup>
- **Navy.** By 2020, the Navy intends to procure up to 1 gigawatt of power from renewable energy sources and have 50 percent of total energy consumption come from alternative sources. A 13.78MW solar photovoltaic facility already has been built at Naval Air Weapons Station China Lake. Additionally, the Navy has on several occasions leased sites to developers of geothermal power plants seeking to drill for geothermal resources.<sup>3</sup> Typically, the Navy does not own the power facility directly.
- **Enhanced Use Lease (EUL).** The branches of the military may offer an EUL to encourage renewable energy development. An EUL is a long-term lease of underutilized military land that allows private development, construction and operation of renewable energy projects “inside the fence” on military installations without requiring any government spending. The military receives fair market value for the lease in cash or in kind. In some instances, the military may offer the EUL but may not buy the energy through a PPA. In such instances, the energy may be sold to a third party (including to a utility).

To date, there have been relatively few PPAs awarded by the U.S. military, which has issued relatively few RFPs. Thus, significant opportunities remain for renewable development to meet Department of Defense demand.

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2 Skadden represented the developer in this transaction.

3 Skadden represented the developers in several of these transactions.