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Thomas E. Wright, Chairman  
Ward Loyd, Commissioner

Corporation Commission

Sam Brownback, Governor

March 17, 2011

Representative Marc Rhoades  
Chairman, House Appropriations Committee  
State Capitol, Office 351-S  
Topeka, KS 66612

Dear Chairman Rhoades:

A question was raised in Committee yesterday concerning the availability of **American Recovery and Reinvestment Act (ARRA) of 2009** funding for regent deferred maintenance capital improvement projects. We have requested a copy of the project list for review. I would like to provide additional information about the Recovery Act funds.

Use of Recovery Act funds requires a lengthy approval process from the U.S. Department of Energy. Prior to any contracting with subgrantees, the DOE must first approve the scope of the activity, which must fall within certain market title categories (such as energy efficiency retrofits). This process has been taking a very long time. We submitted a new activity in October, and still do not have approval. This nearly 6 month turnaround is incredibly cumbersome and frustrating.

All projects that use Recovery Act funding must meet certain federal requirements. The first of these is the Davis-Bacon and Related Acts, requiring contractors to pay prevailing wages. This can dramatically increase the cost of a project. Additionally, Davis-Bacon requires that contractors submit weekly payroll reports to verify that they are paying contractors, and the subgrantee and Kansas Energy Office must review these and interview workers to verify that the appropriate wage was paid.

The National Environmental Policy Act (NEPA) requires that projects have their environmental impact assessed prior to approval by the U.S. Department of Energy. While not all projects require this approval, any project that will be breaking ground, or is of any substantial size, may trigger this requirement. In the most severe cases, a formal Environmental Assessment is required, which itself can take 6 months. Projects that don't require an Assessment still must be approved by DOE NEPA officials.

Projects using Recovery Act funds must also meet Buy American provisions of the Recovery Act and ensure that the equipment installed is Made in the U.S.A.

Finally, all projects must be approved by the Kansas State Historical Society for compliance with Historical Preservation Guidelines.

The Kansas Energy Office will work with universities to determine if there are deferred maintenance projects that will successfully and timely meet the Recovery Act requirements.

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Attachment 3

It is important to share with the Committee that more than \$50 million worth of **Facility Conservation Improvement Program (FCIP)** projects are currently under construction at KSU, KU & WSU. There is also a project under consideration at PSU.

FACILITY NAME	PROJECT STATUS	TOTAL PROJECT COST	ANNUAL SAVINGS
Pittsburg State University	Energy Audit Under		
Wichita State University - Housing	Construction	\$ 1,548,989	\$ 109,294
University of Kansas - Deferred Maintenance	Under Construction	\$ 25,596,490	\$ 2,017,439
Kansas State University - Water	Under Construction	\$ 3,942,618	\$ 404,720
Kansas State University - Phase II	Construction	\$ 19,459,752	\$ 1,512,056
University of Kansas - Campus	Complete	\$ 18,393,010	\$ 1,723,488
Pittsburg State University	Complete	\$ 4,500,000	\$ 385,152
Fort Hays State University	Complete	\$ 4,887,301	\$ 348,816
Kansas State University - Housing	Complete	\$ 2,418,169	\$ 356,097
University of Kansas - Medical Center	Complete	\$12,289,489	\$ 964,768
Pittsburg State University - Nation Hall	Complete	\$ 1,550,401	\$ 90,425
Kansas State University - Campus	Complete	\$ 21,090,000	\$ 1,629,935
Wichita State University	Complete	\$ 12,316,635	\$ 1,118,277
<b>TOTAL</b>		<b>\$ 127,992,854</b>	<b>\$10,660,467</b>

The FCIP is housed at the Kansas Energy Office and works on the principal of Energy Savings Performance Contracting. By working with Energy Service Companies (ESCOs), the FCIP can *guarantee* the avoided utility costs a facility will save as a result of energy efficiency improvements.

The FCIP is a program that allows Kansas municipalities, counties, public schools, community colleges and other public entities to enter into contracts with private companies quickly and confidently. The Kansas Energy Office provides oversight and consultation throughout the entire process – from the initial contact with the ESCOs, to the end of the energy savings verification period, as long as 30 years. The State of Kansas has negotiated contracts with ten ESCOs. These nationally recognized companies all have offices in Kansas, and all have extensive experience in Energy Performance Contracting

Projects implemented under the FCIP are guaranteed by the ESCO to cover the financing. If the savings don't materialize, the ESCO, not the customer, is obligated to make up the difference. The contract signed by the ESCO and the customer includes a guarantee of savings. Based on product performance, utility cost models, and detailed knowledge of the industry, ESCOs are able to know exactly how a building performs, how often the building is used, and how much money it will cost to run the equipment installed in the building.

Appropriations Committee

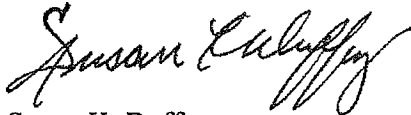
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Attachment 3-2

The money saved from the utility bill is used as a means to pay for those improvements. The payments made on the debt incurred from the project matches the guarantee of savings. No up-front capital costs are required by the customer in most cases – payments made on the equipment comes from the avoided energy costs. After the debt has been retired by the customer, all additional savings are an added bonus to the customer.

I hope that this information is helpful to you. If we can provide additional information, please let me know.

Sincerely,



Susan K. Duffy  
Executive Director

Appropriations Committee

Date March 21, 2011

Attachment 3-3