



TALKING POINTS FOR CPUC SOLICITATIONS WORKSHOP JULY 31, 2020

Good afternoon. My name is Greg Wikler and I am the Executive Director for the California Efficiency + Demand Management Council. The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California. Our member companies employ many thousands of Californians throughout the state. My members are the engine that powers California's energy efficiency industry. I am proud to announce that today marks my 1-year anniversary serving as the Council's Executive Director. But I have been an active participant in California's energy efficiency marketplace for over 30 years. I wanted to express my sincere thanks to the CPUC for giving me the opportunity to speak at today's solicitations stakeholder workshop.

After significant delays by the IOUs in launching the third-party solicitation process, the Council is encouraged to see things now starting to move along at a more reasonable clip, and we applaud the CPUC and IOUs for making that happen. To that end, we were happy to learn this week that PG&E has contracted with 6 vendors for 8 new innovative programs which were just filed via advice letter. In those advice letters PG&E also shared information that the industry has been asking for on the funnel of activities, so progress is being made. We look forward to hearing from SDG&E any day now on their awards.

We also want to acknowledge the focused efforts over the past 6-9 months made by the CPUC and independent evaluators aimed at improving the solicitation process; it has made a difference and the industry is very appreciative.

Finally, I would like to express my thanks to Elizabeth Lowe and the Stakeholder Engagement Working Group for taking the time to reach out to the Council a few months ago to learn more about the perspectives and insights about the solicitations process from industry. I hope to continue working with this group to funnel critical Stakeholder feedback and insights.

With that said, we continue to see challenges with the process which give us deep concerns about the overall health of California's energy efficiency resource. Our concerns are focused in three main areas:

- Timing and transparency
- Proposal process
- Risk burden

I will speak in detail to each of these areas. But before I do that, I wanted to note that my membership is also deeply concerned about the impact of the COVID crisis and the

uncertainties that it leaves for the health and viability of the EE resource. To that end, we look forward to today's session dedicated to this topic and I will hold any COVID-specific comments until we are to that point in the agenda.

Timing and Transparency

- While we are encouraged by reports from the CPUC and IOUs indicating that the solicitation process is moving in the right direction, there unfortunately continues to be a serious lack of clarity and transparency and this is endemic to the entire process and affects the industry and businesses to successfully participate.
- The solicitation process is still too slow and has lots of challenges in various places:
 - No reasonable explanation has been offered for why the IOUs did not launch their solicitations in the timeframes that they originally committed to.
 - Negotiation processes have been tedious and dangerously slow.
 - The IOUs have shifted the responsibility for contracting delays onto the implementers and are using potential delay as a pressure tactic to get implementers to accept unreasonable contracting terms.
 - We recommend that the CPUC work with the IOUs to develop more granular timelines that will require the IOUs to reach certain interim milestones for finalizing program-specific contracting negotiations.
- Despite overtures and vague commitments by the IOUs to improving transparency, there remains a lack of visibility for bidders in terms of providing meaningful feedback about the reasons why their bids were rejected.
 - We were pleased to learn at last week's workshop from the IOUs about plans for offering feedback to unsuccessful bidders. Unfortunately, each IOU is taking a different approach and philosophy to carrying out these activities.
 - We recommend that the IOUs develop and CPUC approve a consistent approach for offering bidder feedback and build this into the solicitation process moving forward.
- While there has been a lot of effort put into meeting the 25/40/60 percent contracting schedule, there is no schedule or any indication about the steps beyond contracting (e.g., timeline regarding advice filings, program planning, market rollout, etc.). We recommend that the CPUC require the IOUs to develop post-contracting schedules and include them in the dynamic scheduling tool.

Proposal Process

- We question the viability and necessity of the current 2-stage proposal process (RFA/RFP). From the market's perspective, a significant amount of effort goes into the RFA process which contributed to schedule delays, contained highly speculative estimates, and did not result in achieving progress.
 - We recommend moving to a new 2-stage process for future solicitations. First pre-qualify bidders through an RFQ process. Then issue RFPs to qualified bidders. This will result in achieving a faster outcome without losing any valuable information.

- Proposal scoring is done in secret and so there is no way for those who didn't make it to know what they didn't do well and focus on improving their efforts. We don't understand why the IOUs can't share scoring results with individual bidders.

Risk Burden

- Note that the industry understands the pay-for-performance (P4P) concept. Most of California's third-party implementers have been operating on a P4P format for over a decade.
- The contracting positions now being taken by the IOUs tilt the balance of risk almost entirely to the implementer community. This runs counter to CPUC policy and completely upends implementer business models that have been established from over three decades of experience.
- Onerous T&Cs including IOU requests for unlimited liability, large payment retentions, and long claw back provisions, tends to narrow the field of implementers and limits the diversity of industry players to meaningfully participate.
- It is reasonable to allocate more risk (if buyers are willing to pay for it), but the current placement of 100% of the risk to implementers is not reasonable nor sustainable.
 - IOUs need to shoulder their share of the risk since they are afforded the benefit of cost recovery and shareholder incentives; none of those mechanisms apply to third party implementers.
 - Implementers are being asked to take on risk without the benefit of visibility and certainty.
- Furthermore, strict regulatory rules pertaining to cost-effectiveness, attribution and measure allowance make it virtually impossible for the market to offer meaningful, innovative, and cost-effective programs and solutions.
- By shifting all the risk to implementers in light of the high amount of market and regulatory uncertainty, the IOUs are creating an environment that is more expensive to do business, and there is very little upside opportunity for implementers.
- We recommend that the CPUC confidentially engage bidders to learn more about specific examples of risk burdens that they experienced during prior negotiations. Once more information has been gathered by the CPUC, then it would be appropriate for the CPUC to order the IOUs to modify their contracting approaches to better align with industry needs, capabilities, and expectations.

In conclusion, I appreciate this opportunity to express our concerns and I thank the CPUC and participants for listening. I understand that bidder communication and risk burden will be covered in two of the breakout sessions today, and I look forward to participating in these discussions and elaborate further on some of the recommendations that I just offered.