

Comments of MCE, BayREN, 3C-REN, SoCalREN and SFE to the Draft Proposal for Revamped Energy Efficiency Procurement Review Group and Independent Evaluator v3

MCE Clean Energy (MCE), the Bay Area Regional Energy Network (BayREN), the Central Coast County Regional Energy Network (3C-REN, or the counties of Ventura, San Luis Obispo and Santa Barbara), the Los Angeles County Southern California Regional Energy Network (SoCalREN) and the San Francisco Department of Environment (SFE), collectively referred to herein as “the Collective Parties”, submit these comments to the Draft Proposal for Revamped Energy Efficiency Procurement Review Group and Independent Evaluator v3, (the Proposal). We appreciate having had the opportunity to discuss this proposal at the December 7, 2016 CAEECC meeting, and to have these comments considered by the ad hoc group that developed the Proposal.

The Collective Parties requests that the Proposal be limited to the IOU procurement for Third Party Programs and Statewide Programs only. We also call attention to Conclusion of Law #63 in D.16-08-019 which may be of note in finalizing such a document.

*COL 63. We should look favorably on proposals for peer review groups or independent evaluators in the context of third-party selection, but do not have enough record in this proceeding to adopt the structure. Ongoing work on these issues should occur in the integrated resource planning and/or IDER rulemakings.*

As local governments, our procurement processes are open and transparent, and all contracts must be reviewed and executed by our Boards, comprised of elected officials from our respective jurisdictions. Contract approvals are agendaized and discussed at our public Board meetings that are subject to the Brown Act. We have built into our procurement, compliance with state requirements found in statute, and local rules and procedures related to competitive solicitations. Also as local governments, we are subject to the Public Records Act, so documents and correspondence related to procurement are available to the public, suggesting less need for oversight than the IOUs. (Attached is a bullet list of examples of our procurement policies.)

Our budgets are significantly smaller than the IOUs – as is our internal capacity, therefore the administrative burden already associated with CPUC authorized energy efficiency programs are particularly challenging for small organizations. If there is any directive to add another layer of oversight to the competitive solicitations of the Collective Parties, we request this exploration be done through a separate process.

The Collective Parties look forward to working with members of the Ad Hoc committee and other stakeholders to develop an approach that meets the expectations of all involved.

## EXAMPLES OF ACCOUNTABILITY IN LOCAL GOVERNMENT PROCUREMENT

- ✓ All solicitation materials are posted on their website.
- ✓ Board and committee meetings where solicitations are discussed are public meetings with video recordings and meeting notes that are also publicly posted.
- ✓ Examples of provisions from recent RFPs:

### **Protest of Non-Responsiveness Determination.**

Within five (5) working days of issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that LG has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by LG on or before the fifth working day following LG's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for LG to determine the validity of the protest.

### **Protest of Contract Award**

Within five (5) working days of LG's issuance of a notice of intent to award the contract, any firm that has submitted a responsive proposal and believes that LG has incorrectly selected another proposer for award may submit a written notice of protest. Such notice of protest must be received by LG on or before the fifth business day after LG's issuance of the notice of intent to award. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure and/or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for LG to determine the validity of the protest.

### **Delivery of Protests**

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date LG received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered.