

**Relevant Business Plan Sections** Role of Independent Evaluator

**1** Background

CLEAResult appreciates the opportunity afforded by the CAEECC to provide input on the proposed role of an independent evaluator in the forthcoming development, evaluation, review, and reporting of Program Administrator solicitations expected over the coming years.

CLEAResult has significant concerns over the practical implementation of an independent evaluation process, over the scope and conflict that such a role might entail, and particularly with the potential for increasing what will already be a complex, long, and costly process for all involved.

**2** Role of the IE

The scale of the task for an independent evaluator may be beyond the qualification of any individual or group of evaluators. We have proposed some edits to the role of the Independent Evaluator in the attached Marked Up document to focus the scope of the role on metrics that can be quantified and compared with limited subjectivity and without necessarily requiring deep expertise on the entire breadth of current, potential, and innovative energy efficiency programs.

The only item we suggested be removed or more fully defined is the IE's role in determining the scope of work of each solicitation. Below we propose some caution on the scale of the task and question whether such evaluators exist who could understand the full scope and interactivity between several hundred solicitations – let alone the responses to those RFPS without becoming mired in several years of review.

We see a useful role in focusing independent evaluation on process compliance, evaluating a targeted set of comparable metrics, and in reporting on the outcome and evaluation of the solicitation process.

**3** Process Proposal

We strongly caution against the potential to place the role of IE in any single individual or firm. The potential for market control of solicitations and the potential to create bottlenecks that might slow the solicitation process down should not be underestimated. We would suggest that at an absolute minimum, there should be three to five Independent Evaluators selected by each PA and each PA should balance their evaluations among all independent evaluators. The ad-hoc group should provide guidelines for a minimum number of IEs that must be used to enable a balanced independent evaluation process across each PA and across the state.

We propose that any truly independent evaluator should be conflicted out of any program implementation or EM&V activities related to solicitations they have evaluated or congruent activities related to the solicitation process for a period after the contracting of bids that the IE has evaluated.

We do not agree with the Cons that an IE selected by an IOU would not be independent, particularly if IOUs had to select multiple IEs, and if IEs deliverables to the CPUC Energy Division allowed ED to advise the IOUs on the ongoing role of the IE.

#### 4 Level of Review

1. We do not believe it would be feasible to review all RFPs, proposals, and contracts in depth. The IOUs can clarify their own contracting processes but our experience suggest this task would be too time-consuming or costly. We also know that PA contracts have certain formats, terms and conditions, and internal requirements which may be hard for an IE to influence. For illustration purposes, here is a hypothetical estimate of review effort just for the IE, let alone bidding implementers, and IOU reviewers/evaluators:
  - There are 7 current PAs. The most basic (and unlikely) solicitation would be 7 RFPs (i.e. PAs bid everything in 1 large RFP).
    - a. A More likely solicitation will be a combination of 3P, statewide RFPs, and functional RFPs. We expect at least 50.
  - Suppose there's conservatively ~50 RFPs per PA because 3Ps could propose diverse responses to any RFI or RFP (e.g. 15 industrial sub-programs versus 3 industrial large programs). RENS/CCAs may have less but IOUs may have many more.
    - a. Regardless, there might be >350 RFPs
  - A RFP response is typically 30-80 pages. Assume at least 10 responses from among ~100 active 3P implementers in California (remember Lincus's example of 300 bids for one RFP).
    - a. Regardless, there would be at least 500 pages plus budgetary submissions to read per RFP. There should be about 200,000 pages of responses.
  - At an average of 250 words per page, that would be 50MM words. Average reading speed is @200 wpm = 4,166 hours of basic review = >2 full-time years for just reading RFP responses not necessarily digesting and evaluating them.
    - a. QED - meaningful review of content will be hard and extremely costly if there are multiple reviewers across solicitations – which given experience is to be expected.

We think the scope of review should be defined once PAs have detailed their solicitation protocol and schedule. While we do not object to review of all RFPs, an alternative proposal might allow the IE to spot check RFPs, and to define a process and format for efficient and compliant review of proposals as proposed in the definition of the role, could work with PAS to define a common form of contract, spot check the Scope of Work attached to contracts. The IE could still leave a reasonable onus of responsibility for compliance with the PA including but not

limited to the drafting and negotiation of the scope of work. If this approach is considered insufficient oversight to ensure total compliance, the IE could limit RFP and proposal review to short-listed respondents selected by PAs and could spot check non short-listed responses to ensure fairness and compliance.

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## Order of Operations

We support NRDC comments to further define the expected and desired timelines for each solicitation incorporating the process of independent review. The ad-hoc group should be mindful of the practical experience of all PAs in contracting and how such timelines will integrate in practice with the solicitation guidelines and schedules that will be in the Business Plan filings.