

California Energy Efficiency Coordinating Committee Ad Hoc Workshop on Local
Government Partnerships: Terms and Conditions
Final Meeting Summary
July 26, 2018, 10:00 a.m. to 12 p.m.
Webinar
Facilitator: Ellen Zuckerman, CAEECC Facilitation Team

I. OVERVIEW

On July 26, 2018, the California Energy Efficiency Coordinating Committee (CAEECC) convened an Ad Hoc Workshop via webinar to discuss the Investor-Owned Utility (IOU) draft Terms and Conditions (T&Cs) on Local Government Partnerships (LGPs) (which the IOUs are developing pursuant to the California Public Utility Commission's (CPUC) recent decision D.18-05-041, Ordering Paragraph 31) and to solicit clarifying questions and gather structured feedback from stakeholders. Forty-five CAEECC members/proxies and individuals representing CAEECC member organizations participated in the webinar. An additional fifty-nine stakeholders also participated. Meeting facilitation was provided by Ellen Zuckerman (Independent Consultant) and Meredith Cowart (CONCUR). A full list of meeting participants is provided in Appendix A. Meeting materials, including presentations, are provided on the CAEECC website at: <https://www.caecc.org/7-28-18-ad-hoc-workshop>.

II. WELCOME AND INTRODUCTIONS

E. Zuckerman welcomed participants and reviewed the goals of the meeting:

1. Get stakeholders up-to-speed on timeline and key deadlines ahead
2. Hear about the IOUs-proposed T&C s including the underlying rationale for:
 - a. Standard T&Cs: Contract term/length; Dispute resolution; Termination process; and Budget and payment schedule and terms
 - b. Modifiable T&Cs: Progress and Evaluation; Energy Monitoring and Verification (EM&V); Data collection and ownership; and Method for calculating co-benefits and economic development programs
3. Solicit initial clarifying questions on each component of the IOU proposal
4. Gather initial structured feedback from stakeholders on each component of the IOU proposal

III. PRESENTATION, COMMENTS AND CLARIFYING QUESTIONS, AND IOU RESPONSES

IOU progress and process; and draft LGP Standard and Modifiable Contract T&Cs: Raghav Murali, San Diego Gas and Electric (SDG&E), first reviewed the IOU process thus far in developing the draft motion, and the relevant timeline and dates ahead. See slide 6 in "Workshop Presentation – All Slides" on the CAEECC website at the link above.

R. Murali then presented the IOU draft LGP Standard and Modifiable Contract T&Cs in five subsections: (a) Contract Term/Length; (b) Dispute Resolution Process; (c) Termination Process; (d) Budget Payment Schedule and Terms; and (e) Modifiable Terms. These presentations are available on slides 7-15 in the document “Workshop Presentation – All Slides” on the CAEECC website at the link above. During his presentation, R. Murali also referred to the document “IOU Proposed Joint Motion for Approval of Standard Contract for Local Government Partnerships,” also available on the CAEECC website at the link above. After each subsection, webinar participants posed clarifying questions and made comments.

R. Murali’s presentations are listed below but not summarized, as presentation slides are available on the CAEECC website at the link above. Following the presentations, all clarifying questions or comments are listed and *responses to questions* are noted in *italics*. Several questions and comments posed after these presentations pertained more generally to the bidding process and expectations around how third-party (3P) implementers will work with local governments (LGs) moving forward. These questions and comments, and IOU responses, are captured in an additional section, (f) General Comments and Clarifying Questions on Bidding Process and Future LGP and 3P Expectations

Questions and answers are captured without attribution, but all answers were made by one or more IOU representative(s) and/or attorney. In some cases questions have been slightly modified to ensure clarity.

(a) Contract Term/Length

Comments and Clarifying Questions on Contract Term/Length:

- What is the definition of “implementer”? In our current contract, the City of San Jose is the "contractor" and Ecology Action is our "implementer." *We view the implementer as the entity that is awarded and holds the contract and signs the agreement with the utility to execute the program. As we move to a solicitation model, LGPs can bid on solicitations and implement the partnership themselves and continue to partner directly with the utilities.*
- After seeing the significant benefits of currently having a five-year contract, why was there not an option to extend contracts to five-years to better match the rolling portfolio cycle, as there is an opportunity for implementers to be off-cycle (i.e. to submit a proposal during the last year of a rolling portfolio cycle)? *The standard length varied across IOUs, and three years represented a good average. Given the uncertainty facing all partners and IOUs with the Business Plans, the IOUs determined that a three-year contract provides stability while also giving us the opportunity to adapt and be flexible. There is an opportunity to extend the contract beyond that term as we reach the end of the three years. Additionally, if the contract is three years and less than five*

million dollars, it does not require CPUC Advice Letter approval, and we wanted to keep implementers from having that additional burden.

(b) Dispute Resolution Process

Comments and Clarifying Questions on Dispute Resolution Process:

- There were no comments or clarifying questions.

(c) Termination Process

Comments and Clarifying Questions on Termination Process:

- How is noticing delivered? By mail or electronically? *We can specify electronic notice if this is preferred.*
- Can you elaborate on the “Termination for Convenience” clause? A 20-day notice could cause real issues for organizations or local governments from a staffing perspective. *We based this on the third-party contract, but we are sensitive to the fact that LGPs have unique needs, one of which may be the amount of time it takes to ramp down or terminate a contract. Please suggest modifications in your comments due August 3rd, and we will be happy to take that into consideration.*
- Why was the existing LGP contract not used as the starting place for this proposed LGP contract? *We felt it was necessary that the contract be closely aligned with the Rolling Portfolio requirements. Those requirements have been negotiated by the IOU legal teams and have gone through the CAEECC process, so these are already vetted.*
- Following the question above, there may be and likely are existing and proposed 3P contract T&Cs - like termination - that will present government code, legal liability, and HR challenges for local governments. *Please put these specific examples in writing for the IOUs to consider.*
- What is an undisputed payment? *A payment due by either party, which both parties agree is owed.*
- How would a C.1.b.iv public safety issue arise? *This would be a public safety issue that is due to the negligence of the contractor. If we think there may be an unsafe work practice in the field, we will address it, and determine if it needs to be stopped. If it is serious enough to require termination, we’ll take those measures. Termination is not automatic.*

(d) Budget and Payment Schedule and Terms

Comments and Clarifying Questions on Budget and Payment Schedule and Terms:

- Pay for performance doesn't work for cities because of the liability of using funds with no guarantee of reimbursement. The City's Staff can't engage in "contingency fee" type arrangements. Otherwise, the work for the private utility would be subsidized by general fund or another special fund, which may be perceived as an improper use of public funds. *We may want to add language stating that if that's the case, additional terms will apply. In your comments, please provide specific examples where this is not workable, and we can provide flexibility and modifications. Please also note whether or not this is consistent across LGPs and needs to be a standard condition, or whether it is not consistent and needs to be modifiable.*
- Can we see illustrative elements of what "non-resource elements" might look like before we submit the next round of comments? *Some of the non-resource work is included in the Program Implementation row in Table 2. Rather than adding a non-resource row to this table, if you and others can provide specific suggestions, we will take those suggestions into consideration and try to incorporate them in the next draft of the Contract Terms.*
- Pay for performance (P4P) requirements will likely disqualify LGPs from participating in a solicitation as 3P implementers. Did you contemplate that P4P requirements will be included in ALL public sector Request for Proposal (RFP) bidder requirements? *P4P is one of the pay structure options that bidders can choose to use, and it's considered best practice, but it's not required.*

(e) Modifiable Contract Terms

Comments and Clarifying Questions on Modifiable Contract Terms:

- What is the definition of a "final implementation plan"? *The Implementation Plans (IPs) are what used to be Program Implementation Plans (PIPs). As part of the solicitation process, once awarded, the implementer has 60 days to post the IP. There will be a template, and the implementer will post it on the CPUC website.*
- Have you made sure that these privacy or data provisions are all compliant with the unique data transparency laws that LGs have to comply with? *Nothing in the contract terms should supersede LG privacy and data provisions. If anything here seems to contradict with what LGs can do, please provide specific examples and suggestions, and we are happy to make modifications.*
- Regarding contract level Key Performance Indicators (KPIs) and public sector metrics and indicators, can you talk a little bit about your expectations for KPIs in light of the public sector metrics/indicators? E.g., what relationship do you see there? *From our perspective, the KPIs will be unique to these contracts. The Public Sector metrics are obligations owed to the IOUs.*

To the extent LGs want to participate in the Public Sector metrics, there will be opportunities down the road.

- When is the EM&V study looking at co-benefits expected to be completed? *We expect to have a study done in the 2019 timeframe.*
- What definition will be used for “hard to reach”? *The definition that was used in the decision [D.18-05-04]).*
- Language about co-benefits would be included in any LGP RFP as well as any LGP contract, correct? *Language about the co-benefits would not be included in the RFP, but part of the contract will spell out which of the co-benefits will be collected. The implementer does not have the opportunity to propose new co-benefits, but will need to adhere to the proposed methodology.*
- The Public Sector has not been studied for targets and goals. In the Business Plan proceeding during the metrics discussions, PG&E had recommended that occur and the CPUC's Potential and Goals Decision said it would occur in the future. Is there a plan for this? Will it impact metrics for these contracts? *We have requested that future Navigant studies pull out the Public Sector specifically. This may or may not impact the next solicitation process, depending on timing.*

(f) General Comments and Clarifying Questions on Bidding Process and Future LGP and 3P Expectations

Throughout the webinar, participants posed questions and made comments relating to the bidding process and expectations around how 3P implementers will work with local governments moving forward. These questions did not relate directly to the contract T&Cs. These questions and comments, and the IOU responses, are captured below.

Comments and Clarifying Questions on Bidding Process and Future LGP and 3P Expectations:

- What happens when there are multiple bidders overlapping in a territory? *There can be a transition period that allows for overlap, and new contracts will go into effect after the closure of existing contracts.*
- It is clear that the CPUC is directing all of us to work together to create more consistency and certainty for LGPs/LGs through Ordering Paragraph #31. Given the timeline of this process, how will the dozens of LGP contracts up for renewal in 2019 get handled by IOUs? *If a current agreement expires in 2018, we will look to extend it to 2019. Those ending in 2019 may need to establish a new agreement and that may result in the new T&Cs.*
- What role do you contemplate the LGPs will play in crafting the program design and related solicitation that leads to implementing these agreements? *LGP should work closely with implementers to craft the RFP, though they will not have a role in scoring the proposals. Additionally, all RFPs go through the*

Procurement Review Group process and the Independent Evaluator process, so there will be significant independent review of the RFPs.

- *Wouldn't it also be helpful to highlight this need to coordinate with the LGs with the 3rd parties? Yes, it should also be incumbent on the IOUs to make interested implementers aware of the need to coordinate with LGs. Also keep in mind that some proposals that impact LGs may be for regional projects, and not tailored to a specific government/geographic area.*
- *The contracts we are discussing here only apply in a 3P solicitation context, with either vendor or local government as an implementer, correct? Correct. A program designed by a local government would not be considered 3P and would not count towards the 3P requirement, but we'll adopt these as much as we can.*
- *If we are talking about removing program funding from one LG territory to focus on more regional efforts, that makes LG input from the LG losing programming funding only more important. We are not taking funding away, but a bidder might offer a proposal that goes to a wider region. Funds may shift from one entity to another, but the benefits will still be seen in that region.*
 - *Follow up question: Should that be a criterion, or formalized in some other way? Good question, we will take that into consideration.*
- *If in fact there will be LGP work that is not put out to bid in a 3P context, can you please elaborate on what this might look like? E.g., what is process, timing, scope? A lot of what will go out to bid and what won't is still being figured out. Since a minimum of 60% of the utility portfolio must go out to bid, we can't expect the LGP portfolio to remain untouched. The utilities will bid for the public sector, see what comes back, and identify any gaps that need to be filled.*
- *Do any LGPs right now qualify as 3rd Parties? No, we have worked very collaboratively with LGPs on developing scopes.*
- *A year ago we were talking about leveraging the SCE tiered LGP model, is that no longer being considered? That depends on what bids we end up getting. If there are gaps, we may still implement the tiered model.*

IV. OUTCOMES AND NEXT STEPS

- *The IOUs welcome additional feedback/questions on their proposal through Fri., August 3, 2018. Send comments/feedback to: sdgelgp@semprautilities.com*
 - *The IOUs request that, for any T&C that poses problems (such as KPIs and P4Ps), stakeholders provide specific examples to allow the IOUs to modify the T&Cs to the degree possible.*

- The CAEECC facilitation team will post a word file of the Contract Terms on the CAEECC website (see link above) so that participants can provide edits in redline to the IOUs.
- IOU responses to questions not fully answered at today's webinar, and to additional questions received by Friday August 3, 2018, will be posted by Friday, August 10, 2018, on the CAEECC website.
- Draft meeting notes will be posted on the CAEECC website no later than end-of-day on Thursday, August 2, 2018, with a one-week opportunity for red flag review by stakeholders. Final notes will be posted on the CAEECC website by Thursday, August 9, 2018.
- The IOU proposal will be submitted to the CPUC on Friday, August 31, 2018.

Appendix A

Note: All participants listed by subsection in alphabetical order

CAEECC members/proxies:

| | | |
|-----------|-----------|---|
| Athena | Besa | SDG&E |
| Kathleen | Bryan | SF Department of Environment |
| Lara | Ettenson | NRDC |
| Jon | Griesser | County of San Luis Obispo |
| Hob | Issa | Lincus, Inc. |
| Courtney | Kalashian | SJVCEO |
| Aaron | Lu | City of San Diego |
| Alejandra | Tellez | Ventura County Regional Energy Alliance |
| Michelle | Vigen | California Efficiency + Demand Management Council |

Participants from CAEECC member organizations and CPUC:

| | | |
|-------------|--------------|---|
| Ana | Aceves | SoCalGas |
| Ellen | Adler | SDG&E |
| Christine | Baginski | Baginski Consulting |
| Margaret | Bruce | Local Gov't Commission/LGSEC |
| Alyssa | Bruner | PG&E |
| Henry | Burton | CPUC Office of Ratepayer Advocates |
| Esther | Chen | SDG&E |
| Bruce | Cheney | Anchors Aweigh Energy LLC |
| Eva | Chu | PG&E |
| Lowell | Chu | City & County of SF, Dept of ENV |
| Derrick | Clifton | SoCalGas |
| Joe | Cruz | SoCalGas |
| Michael | Ellison | SCE |
| Kerynn | Gianotti | PG&E |
| Lindsey | Hawes | Center for Sustainable Energy |
| Barbara | Hernesman | Western HVAC Performance Alliance |
| Justin | Kjeldsen | PG&E |
| Jeannie | Kong | SoCalGas |
| Jeff | Lawler | SoCalGas |
| Michelle | Lewis | FESS Energy |
| Barbara | Locci | City of Chula Vista |
| Marilyn | Lyon | South Bay Cities Council of Governments |
| Christopher | Malotte | SCE |
| Candis | Mary-Dauphin | StopWaste |

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|-------------|------------|-------------------------------|
| Samantha | Meza | The Energy Coalition |
| Christopher | Moore | CPUC |
| Sara | Moore | California Energy Commission |
| Paulo | Morais | SoCalGas |
| Raghav | Murali | SDG&E |
| Alelia | Parenteau | City of Santa Barbara |
| Kimberly | Rodriguez | Southern California Edison |
| Nils | Strindberg | CPUC |
| Leigh Lain | Walker | County of Ventura/VCREA |
| Meagan | Winters | Center for Sustainable Energy |
| Coleen | Wisniewski | City of Chula Vista |
| Tracy | Wood | Ecology Action |

Other stakeholders:

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| Paul | Ahrns | Sierra Business Council |
| Don | Arambula | DAC |
| Julie | Benabente | City of San Jose/ Silicon Valley Energy Watch |
| Elisabeth | Bertrand | Association of Monterey Bay Area Governments |
| Pam | Bold | High Sierra Energy Foundation |
| Martin | Bond | CESC |
| Amanda | Booth | City of San Pablo |
| Steve | Campbell | Association of Monterey Bay Area Governments |
| Andrea | Campos | North Valley Energy Watch |
| Kelly | Cattanach | Ventura County Regional Energy Alliance & emPower Ventura County |
| Julia | Chase | County of San Diego |
| Marc | Costa | The Energy Coalition |
| Dave | Cross | Santa Maria Valley Chamber of Commerce |
| Susan | Davison | Susan Davison |
| Ivana | Dorin | The Energy Coalition |
| Cory | Downs | City of Chula Vista |
| Eric | Eberhardt | University of California Office of the President |
| Anna | Ferrera | School Energy Coalition |
| Kimberly | Fleming | County of Kern |
| Casey | Fritz | Strategic Energy Innovations |
| Jordan | Garbayo | County of San Luis Obispo |
| Donald | Gilligan | NAESCO |
| Demian | Hardman | Contra Costa County / Conservation and Development |
| Stephanie | Harper | Cascade Energy |
| J.Paul | Harrington | Solano Energy Watch |
| David | Harvey | TEAA |

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| Julia | Hatton | Rising Sun Energy Center |
| Brendan | Havenar-Daughton | PG&E |
| Nora | Hernandez | Los Angeles County |
| Leanna | Huynh | City of San Jose |
| Katherine | Johnson | Johnson Consulting Group |
| Rosie | Kang | Willdan |
| Floyd | Keneipp | Tierra Reso |
| SiewYee | Lee | The Alix Group |
| Anna | Lowe | SANDAG |
| Matthew | Marshall | Redwood Coast Energy Authority |
| Andrew | Martin | San Diego Association of Governments |
| Tyler | Masters | Western Riverside Council of Governments |
| Katie | Moore | TEAA Inc |
| Cindy | Moore | City of Goleta |
| Irene | Moosen | Local Government Sustainable Energy Coalition |
| Mark | Ouellette | ICF |
| Veronica | Padilla | Southern California Gas Company |
| Dennis | Quinn | JouleSmart Solutions |
| Laurel | Rothschild | The Energy Coalition |
| Lisa | Schmidt | Home Energy Analytics |
| Anthony | Segura | Western Riverside Council of Governments |
| Sally | Seymour | Napa County Energy Watch/ Sustainable Napa County |
| Matt | Smizer | LM Energy |
| Nicole | Soto | San Bernardino Council of Governments |
| Marianne | Sy | San Diego Gas & Electric |
| Jordana | Temlock | Bidgely |
| Rochelle | Thomas | San Joaquin Valley Clean Energy Organization |
| Kerri | Timmer | Sierra Business Council |
| Bryan | Titzler | Community Development Commission of Mendocino County |
| Ying | Wang | Okapi Architecture Inc. |
| Katie | Ward | San Gabriel Valley Council of Governments |
| Jennifer | West | StopWaste |
| Sandy | Wong | C/CAG of San Mateo County |

CAEECC facilitation team:

| | | |
|----------|-----------|--------------------------|
| Meredith | Cowart | CAEECC Facilitation Team |
| Ellen | Zuckerman | CAEECC Facilitation Team |