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CLEAResult Implementer Comments

Additional submitted attachment is included below.

March 28, 2024

To: California Energy Commission

From: Alex Scott, Vice President – Client Services, CLEAResult

Date: March 28, 2024

Re: Draft Solicitation for Equitable Building Decarbonization (EBD) Direct Install Program
Docket No. 22-DECARB-03 - Draft Scope of Work & Solicitation Manual

Response to Pre-Solicitation Workshop, Scope of Work & Solicitation Manual

Summary

We appreciate the opportunity to provide comments on the EBD Workshop and draft Scope of Work and Solicitation Manual. CLEAResult has deep experience, with decades of energy program implementation work throughout California. We currently have five fully staffed teams in various regions of the state providing residential customers with direct installations focused on energy efficiency, electrification, and safety. Since we are members of the communities in which we run programs, we are also excited about the chance that EBD affords to both deliver more benefits to disadvantaged communities as well as further prepare the workforce for a transformed clean energy economy.

The Scope of Work and Solicitation Manual as currently drafted will create barriers to reaching customers in these communities and to achieving the state's goals for carbon emission reductions.

EBD Direct Install Funding Amounts- Maximum Administrative Funding

- CLEAResult currently administers dozens of direct install programs that deliver energy and cost savings to thousands of households and businesses every year across North America. In our experience, necessary administrative costs, even on the leanest of programs, amount to at least 10 percent or more than the total program budget.
- Additionally, in low- to moderate-income programs, where customer outreach and engagement requires a more thorough and thoughtful approach and where conversions to deep retrofits take more time and effort, administrative costs may range from 15 percent to 35 percent of total funding.
- The most significant non-project cost in a direct install program is outreach. By including outreach costs within the proposed 5% administrative cost cap, the proposed program would not have sufficient resources available to identify, communicate with, and recruit households to participate in the program in numbers adequate to meet the program's goals. The majority of outreach costs are not in marketing materials, media or digital campaigns. Rather, the most effective form of outreach to low- and moderate-income households relies on boots-on-the-ground engagement and relationship-building. The CEC has rightly identified that community-based-organizations (CBOs) are best positioned to carry out this important task. Including outreach and engagement costs in the 5% administrative cap will effectively ask CBOs to take on

the additional responsibility of promotion and recruitment without sufficient funding to hire, train, equip outreach staff and manage associated administrative tasks.

- **Recommendation: Increase the Administrative budgets to no less than 10 percent of the total budget, or add a separate budget category for outreach and engagement at a level of no less than 5 percent.**

Administrator Budgets and Retention

- Based on the grant-funding parameters put forth by the CEC, not only would companies leading the work not be able to make any profit, but due to the standard 10 percent retention and the additional five percent retention on savings measurement and performance, these companies would always be operating at a loss.
- Presumably some of this budget would be needed to pay subcontractors and partners engaged in doing the work in the market, which Prime Administrators would need to pay regardless of their own payment schedule.
- Due to high interest rates, carrying this kind of debt costs quite a bit of money at this time, and there appears to be no room in the budget for reimbursement of those carrying costs
- **Recommendation: Either:**
  - **a) Ease the limit on profit for Prime Administrators such that they have operating budgets to pay their employees and subcontractors while adhering to performance-based retention requirements, or**
  - **b) Allow enough Administrative budget such that the cost of money on retention would be reimbursable after retention is released**

Capped Profit for Sub-Contractors

- A profit cap for sub-contractors would provide an arbitrary barrier to participation for California's most qualified HVAC, electrical and plumbing contractors. This requirement would have the unintended consequence of discouraging participation from qualified, high-quality program participants.
- In our 30 years of program implementation and contractor network management experience, we've learned that arbitrary price caps imposed on local contractors simply drive businesses to seek to make up profit margins elsewhere, often at the expense of households in the form of shoddy workmanship, increased callbacks, upselling and/or unnecessary repairs and services.
- Policing a profit cap on sub-contractors would be prohibitively expensive such that it would be unrealistic to enforce. To properly enforce such a policy, expensive financial and legal consultants would be employed to conduct audits of a business' financials on a random and regular basis, which would not be feasible within the administrative budget defined in the proposed solicitation.
- Experienced contractors bid higher margins on a per project basis knowing that there will be unforeseen costs (such as callbacks, warranty repairs, etc.) on some projects, particularly decarbonization projects with rigid performance tolerances that will bring down the overall business margin within a fiscal year. Capping profits denies contractors the pricing flexibility required to manage unknowns and uncertainties that are intrinsic to their business and electrification measures.

- A more effective means of managing program costs while maintaining a quality workforce is to have the program administrator engage in a competitive solicitation process whereby qualified contractors can submit pricing for defined measures and measure bundles that meet the program requirements. This process encourages qualified contractors bid lower prices in hopes of being selected to participate in a closed contractor network. At the same time, this does not commit contractors to prices that are not feasible for the typical contractor business model.
- **Recommendation: Discard the 10 percent profit cap on sub-contractors in favor of a competitive solicitation process whereby qualified contractors can submit pricing for portions of the program scope. In each scope area, the most feasible but cost-effective pricing models will be selected as the standard, and other sub-contractors will be offered the chance to participate using this pricing rubric.**

Use of Single Platform across Multiple Regions/Administrators

- Development and coordination of a single platform for use by multiple administrators would not save costs or result in more quality data reporting. Rather, enabling administrators to use their own platforms and integrating them to report data into a common data repository would be more cost-effective and in-alignment with how direct install programs are managed and facilitated across California today. Experienced program administrators are skilled at integrating their program management and database systems with a centralized reporting framework. As such, development of a new single platform would be an unnecessary cost burden and would not constitute established best practice.
- **Recommendation: Allow each Regional Administrator to use their own platforms and report data into a common data repository. Data inputs, KPIs, and data upload frequency should be determined by the CEC.**

Contractor Feedback on 10% Profit Cap

We reached out to some of the contractors with whom we routinely work asking, *"What would be the effect of participating in a direct-install program where you are required to cap pricing at a 10% profit?"* Their answers are provided in the following table.

Contractor Response	Contractor Representative Name and Title
10% profit is within standards and in accordance with our current Company requirements. There are many costs that need to be accounted for to make sure a 10% profit is achievable. The issue arises from unforeseen expenses that are typically withdrawn from the 10% and thus making for less that 10% profit. Operating expenses are at an all time high and have not always been fully captured within past direct install programs. I guess what I am getting at is when you allow for such a strict profit margin, any mistakes or operational changes can severely impact the little profit that remains. In order for a cap at 10% to be achievable, there needs to be some wiggle room with operational costs and overhead reimbursements. Also materials are a fluctuating cost and in order to be successful it would be best for all material burdens to be directed thru an implementer or single source of acquisition.	Empire Specialties, Chris Kleiber - General Manager

Contractor Response	Contractor Representative Name and Title
First, what is considered profit? There are many "costs" that are not normally considered, such as warranty calls and customer service issues that transpire after the install, sometimes a year or more after the install. These and other costs, over and above the cost of goods, labor and typical overhead must be taken into account to determine what is the real profit. Next: Is there a guarantee of 10% profit? In contracting there is "degree of difficulty" associated with doing the installation. Some jobs, due to difficulty or "unforeseen" issues, or customer difficulties result in a loss or substantially reduced profit. Is there also a guarantee of making the 10%. With a cap of 10% and there are no way contractors will average 10% profit due to the losses or reduced profit on jobs. The only way to remedy this would be to have variable pricing not fixed pricing for measures and the contractor then can take the variables into consideration. There are programs that have measures that do not meet the 10% and are subsidized by the contractors and hopefully made up by other measures that do meet or exceed the 10%.As the requirements to participate on programs get more stringent and more is expected of the contractor, for example, the new safety guidelines which are good, there is additional costs associated with them and the additional costs need to be built in or accounted for. The contractors are already giving prices below the standard nonpublic work market rates and the additional requirements and paperwork is more than the standards from the building codes. More is expected and we already get paid less than in the private sector. Ultimately, this could preclude contractors from participating on these programs. I like to put it this way "If you build it, a solid program, they, the contractors, will come. If not, they will not. There is a gross mis-character that contractors are making exorbitant profit, that simply is not true.	David C Price, Synergy Companies, General Manager

Contractor Response	Contractor Representative Name and Title
1. This would be difficult to administer. We often do not know what our profit margin is until the end of the year. Inflation makes it particularly challenging. The thinner the margin gets, the more risk to contractors that unforeseen events could push a contractor into a net loss for the year. Smaller contractors would be impacted because they often have less assets available to carry them through losses. 2. Usually, contracts are based on assumptions that everything goes right on a project. The reality is that projects often have issues. Customers are not home or reschedule, distance often impacts a project's profitability. Projects with less travel time subsidize projects that are further away. Contractors would not be anxious to service projects with less that 10% profit unless travel was compensated. This also goes for more complex and risky installations where there might be cost overruns. 3. Projects that require heavy capital outlays would not be viable. HVAC can often cost $7000+ for the unit alone. Other items such as heat pump water heaters also have high capital cost. Contractors float this money often waiting weeks to be paid. A 10% margin is not possible. Skilled contractors would likely shift production to the private market where margins are better leaving the programs with less skilled contractors and employees. 4. The overall customer service and image of these programs would be degraded. Tight margins make it difficult and risky to replace vehicles and equipment. Office support and customer service would be impacted as contractors would need to run lean operations. This also impacts employee training and Quality Assurance. 5. Tighter margins increase risk for contractors. New contractors coming into these programs would probably be dissuaded as the capital outlays would not be worth the return. Existing contractors may leave since the risk is increased and profitability is lowered making other options more attractive. 6. 10% may work if it were a generous calculation. It would need to take into account overheads, fleet operations, QA personnel, inflation adjustments, travel expenses and time, fuel, Skilled work force wages, and other expenses that are outside the control of the contractor. My experience in the last few years are that contracts are very tight and don't take into full account the overheads, inflation and the costs of doing business. I would guess that many contractors are under 10% profit already.	Bright Ideas Construction, General Manager