

LIOB MEETING STOCKTON, CALIFORNIA 9-5-07

I'm Peter Hofmann, President of Bo Enterprises, a firm with 25 years experience in the weatherization business.

There are many problems with the current IOU bidding arrangements. First, as described at the LIOB Meeting in San Diego, every IOU has a different approach. The range varies from open competition at PG&E to no competition at Edison.

In this context, the different LIEE programs have grown to hundreds of millions of dollars in funding. For the 2009-2011 cycle, Edison's Direct Assistance Program (DAP) will alone spend approximately \$100,000,000. The overall statewide budget could reach 1/2 Billion. LIEE has moved from small individual IOU programs to a massive statewide conservation effort. Processes that have been acceptable in the program's past may be totally unacceptable today.

In our opinion, the award of multi-million dollar no bid contracts in Southern California is unacceptable. The Public Goods Funds come with a fiduciary duty to award contracts in a fair and equitable manner. This is not what is happening in DAP.

The fact that experienced, qualified contractors are summarily rejected by DAP, tells you something needs

to change. As we gear-up to double production for 2015, can we, at the same time, tell would be applicant contractors that there are no openings? If there wasn't a bid, most of us wouldn't be here, including BO Enterprises. We owe it to future participants to expand the opportunity to participate - not decrease it or end it. Bottom Line, new talent benefits the program at all levels.

We further understand there are other DAP inconsistencies concerning primary subcontractors who subcontract 100% of their work. While much is said about community contacts, a new second tier subcontractor does all the outreach, all installs, and all billings. However, the primary subcontractor receives a 10% "retainage fee". Why are organizations who do not want to actively participate in DAP receiving program money? The low-income customer pays in reduced services for this arrangement. With 16% of DAP contractors so engaged, we estimate over \$500,000 of program funds will be lost over the next cycle. This practice defies public policy.

Another problem with the current DAP process is the lack of competitive pricing. According to Webster's Dictionary, the word competitive means "...involving or based on competition." Therefore, the act of competing is what generates competitive pricing. By definition, DAP

has no competitive pricing because there is no competition - no bid. This is not OK. WE owe the low-income community and the ratepayers alot better on the fiduciary duty side. Public policy demands better.

At PG&E, the LIEE Administrator (RHA), who is themselves bid, bids out 58 distinct project areas throughout PG&E's service territory. The project characteristics and competition are different for every area, and each area ends up with unique pricing. In DAP, all installation subcontractors are paid the same. In our opinion, the average unit cost should be lower for DAP. To support this notion, it is our understanding that the last bid winner, Weingard, won with a lower bid price, but was soon paid the same (through negotiation) as existing contractors. In our view, the PG&E model, is the vehicle of choice for the 21st Century.

Lastly, IOU's have been discouraged from providing both administration and inspection for their own programs. While PG&E bids out administration and performs their own inspections to uphold strict program installation standards, EDISON administers DAP and subcontracts inspections thereby leaving program standards to a third party. We question how independent this third party can possibly be. EDISON readily admits to "inspecting the inspectors" thereby violating the prohibition against administration and inspection. While we understand their

need to oversee their inspection subcontractor, the entire approach seems awkward. In our view, the need for the IOU to be guarantor of program integrity far exceeds any benefits of self-administration.

On the counter argument side, let's address two issues. First, we agree that price is not everything. Community contacts and other elements detailed in Section 327 are important for effective participation. Whoever gets a contract will develop these attributes over time. For a case in point, we look to Weingard which is now one of the top companies in the DAP program. Initial lack of community contacts or leveraging strategies was not a fatal flaw for them. Overall, it seems allowing their bid greatly benefited DAP.

Second, some would say that bidding denigrates CBO preferences which is simply untrue. Relevant Public Utility Codes and amendments do not prohibit bidding. In fact, Section 327 details possible bid criteria if the Commission decides to bid. These sections encourage the inclusion of CBOs, but not at the exclusion of all others. To the contrary, the commission is directed to encourage all energy efficiency service providers. The overriding purpose of all these programs is to provide access to energy for low-income customers. Public policy abhors waste that reduces the number of low-income served, and

therefore it would support competitive bidding.

In conclusion, much has changed over 25 years. Due to ever-increasing prices of gas and electricity, the needs of the low-income community, and the scepter of global warming, the need for the best possible results has skyrocketed. In our opinion, the design flaws, inconsistencies, and exclusionary policies of DAP, violate public policy. Times have changed, and equity requires the program adapt. Therefore, we urge LiOB support for our request that all future administration and installation be bid.

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