



MEMORANDUM

TO: Chairman Andy Ramirez
Weatherization Committee of the Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) & Small Business Enterprise Procurement Program Advisory Committee

FROM: Karl R. Rábago
Vice President, Distributed Energy Services

DATE: 18 March 2011

SUBJECT: Committee Recommendations re: Austin Energy Federal Weatherization Program

This memorandum provides written summary of Austin Energy's response to a set of recommendations from the Weatherization Committee of the Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) & Small Business Enterprise Procurement Program Advisory Committee (the "Committee") relating to program design and administration of Austin Energy's Federal Weatherization ("WX") Program. These matters were discussed in detail with the Committee at a meeting held in Austin City Hall on 15 March 2011.

Austin Energy greatly appreciates the thought and effort put into developing the recommendations regarding the WX Program. As the discussion of 15 March 2011 revealed, Austin Energy shares the Committee's goal that Austin Energy administer a program that is effective, efficient, compliant, and fair, and that the program contribute to economic, business, and job development in the Austin community. Austin Energy also agrees that the WX program should be administered in a way that encourages the highest quality work by contractors to ensure best value to customers and taxpayers.

Austin Energy has done an outstanding job with the WX Program. The program is ahead of schedule for completion and has garnered both praise and an offer of additional funds from the Texas Department of Housing and Community Affairs ("TDHCA"). According to the most recent report from SMBR reflecting fully completed contract work in the amount of about \$1.75 million (about 1/3 of the total contract), MBE and WBE participation is running substantially above the goals set for the weatherization services contract. MBE participation to date is about 17.88% against a goal of 14%; WBE participation to date is about 12.15% against a goal of 1%. Austin Energy is on track to provide vital weatherization services to some 1,064 homes under the original contract, and if the City Council approves acceptance of additional funds, will be able to weatherize an additional 600 households in Austin.

General:

Austin Energy views the Committee recommendations as relating respectively to contract issues and process issues. Contract issues involve the project contract Austin Energy executes with the

TDHCA, as well as the contracts Austin Energy executes with the businesses delivering test-in, test-out, and weatherization services. Process issues relate the manner in which Austin Energy exercises its discretion under the contracts to administrate the contracts and the WX program.

Austin Energy is not in a position to offer any definitive responses to the Committee recommendations on contract issues. Several of the recommendations could create additional contracting opportunities for some firms providing weatherization-related services. On the other hand, some of the proposals could have unintended adverse impacts on competition and quality. A careful review of the DOE weatherization contracting requirements and regulations, TDHCA contracting requirements and regulations, and City of Austin (“COA”) procurement and contracting requirements and regulations is necessary to definitively address the majority of contract recommendations.

As to the current contract between Austin Energy and TDHCA, Austin Energy views the majority of contract terms, with the exception of funding level and deadlines, to be set and agreeable. This contract was fully reviewed by the Procurement department and SMBR. Austin Energy does not see any opportunity to modify the existing contract at this time. The WX program has substantially completed the majority of the work contemplated by the current contract. TDHCA is processing a contract amendment that could add about \$2.1 million to the current contract. If TDHCA offers the additional funds, Austin Energy plans to seek City Council approval on 7 April 2011 to accept the additional funds under a simple extension to the existing contract. The funds will provide critical weatherization services to some 600 additional Austin low income households. Time will be of the essence; Austin Energy cannot meet its execution requirements if the current contracts must be re-solicited or re-negotiated due to routine processing time, pre-construction training, Davis-Bacon compliance, and other required activities.

TDHCA has advised Austin Energy that delay beyond the planned 7 April 2011 date for City Council action on the additional funds will result in loss of some or all of the monies. (See eMail pasted below.) Some 200 households have already been qualified and are ready to proceed to work. Any delay will cause file qualifications to expire and TDHCA views the resulting processing time to re-qualify the customers as unacceptable. Delay would likely also result in interruption in work flow, and perhaps even result in contractors being forced to idle crews.

There exists a theoretical possibility that Austin Energy may have an opportunity and be interested in pursuing an opportunity to become a sub-grantee in future WX program annual funding cycles. There is simply too little known about such an opportunity at this time for Austin Energy to comment on that likelihood now. Nonetheless, Austin Energy appreciates having the benefit of the Committee recommendations in evaluating any future potential opportunities.

Austin Energy appreciates and generally concurs with the Committee recommendations regarding process; Austin Energy shares the view that the WX program processes should be and be understood to be driven by objectives of efficiency, quality, fairness, and compliance with applicable regulations and contract terms.

Austin Energy also appreciates receiving the Committee’s recommendations and input as we begin to develop the structure and approach for its internal, non-Federal “Free Weatherization” program.

Responses to Specific Recommendations:

| Recommendation | Response | Comments |
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| <p><i>Separate out the different activities(scopes of work) as follows:</i></p> <ol style="list-style-type: none"> 1. <i>Test In (requires certification)</i> 2. <i>Test Out (requires certification)</i> 3. <i>AC work</i> 4. <i>Weatherization</i> 5. <i>Appliances</i> | <p>This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue.</p> <p>Would increase administrative costs and decrease benefits to customers.</p> | <p>Might increase opportunities for more-specialized service firms. Would increase administrative burden. Might adversely impact competition to provide some services. Could compromise the “whole-house” approach Austin Energy uses and result in improperly sized AC equipment and other measures.</p> |
| <p><i>Ensure all contractors know on the front end what type of certifications or licensing is required</i></p> | <p>Concur</p> | <p>Current contracts include, e.g., BPI/RESNET and other certification requirements.</p> |
| <p><i>AC companies not allowed to be primes, weatherization firms should get the opportunity vs. the AC companies.</i></p> | <p>This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue.</p> <p>Would increase administrative costs and decrease benefits to customers.</p> | <p>Might adversely impact competition to provide some services and create unfair discrimination.</p> |
| <p><i>Local companies should get extra points over companies located outside SLBP.</i></p> | <p>This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue.</p> | <p>Might adversely impact competition to provide some services.</p> |
| <p><i>Homes or files distributed equally to the subcontractors.</i></p> | <p>This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue.</p> | <p>Current contract term is satisfactory. This could have negative quality of work impacts.</p> |
| <p><i>Don't allow subcontractors to work in more than one area.</i></p> | <p>This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue.</p> <p>Would increase administrative costs and decrease benefits to customers.</p> | <p>Might adversely impact competition to provide some services. Might adversely impact quality.</p> |
| <p><i>Sanctions be applied to program for non-compliance.</i></p> | <p>This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue.</p> | <p>Addressed in current contracts and related requirements.</p> |

| Recommendation | Response | Comments |
|---|--|--|
| <i>Institute a set number of home weatherization experience as a requirement for each category or scope of work (i.e.; 25, 50 or 75 homes).</i> | This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue. | Austin Energy supports experience requirements for contractors. Excessive requirements could act as a barrier to entry. |
| <i>Austin Energy purchase their own equipment instead of using subcontractors equipment.</i> | This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue. | On discussion, this item relates to the requirement that a contractor bear the burden of demonstrating satisfactory performance of work, and the role of Austin Energy. |
| <i>Any contractor that conducted outreach to get homes into program should not then benefit from being assigned those files/projects. The files should go into a "pool" for all to share.</i> | Qualified and expert contractors are especially skilled at efficiently identifying potential customers for the program. | File and application review processes, test-in assessments and other controls ensure that a contractor that identifies a potential customer will not automatically be assigned work with that customer. |
| <i>Austin Energy should be conducting all outreach, not contractors.</i> | Contractors and yard signs are an effective means of initiating contact with customers. Some customers view contractors as especially credible sources of program information. | File and application review processes, test-in assessments and other controls ensure that a contractor that identifies a potential customer will not automatically be assigned work with that customer. |
| <i>Urge Austin Energy to aggressively seek out any additional dollars available for this program. Ask that Advisory Committee urge City Council.</i> | Concur | Austin Energy will seek funding opportunities that are consistent with its mission, and that Austin Energy can perform in a manner that is cost-effective and beneficial to its customers and to the City of Austin. |
| <i>Place MBE/WBE goals on project.</i> | This is a SMBR issue. | Goals were placed in the weatherization solicitation and will be met on the current WX contract. |
| <i>Add to matrix; Did contactor meet their goals on previous projects? (give them more points if goals were met)</i> | This appears to raise a TDHCA, DOE, and/or COA contract and/or procurement issue. | Procurement and SMBR should be able to provide guidance. |

Electronic Mail Communication from TDHCA Program Officer:

From: Michael DeYoung [\[mailto:michael.deyoung@tdhca.state.tx.us\]](mailto:michael.deyoung@tdhca.state.tx.us)

Sent: Monday, March 14, 2011 11:43 AM

To: Saenz, Steve

Cc: Guerrero, Joe

Subject: Reobligation

Steve – This email is confirmation of the proposed Reobligation of WAP ARRA funding to Austin Energy and the City of Austin. The Reobligation is attributable to the outstanding performance to date, the implementation of quality assurance processes and the current capacity of your contractor base.

TDHCA has asked you and Austin Energy to take on additional funding to provide weatherization services to low-income residents in the City of Austin. This opportunity reflects the processes that you have implemented for quality assurance and high levels of production. Additionally, it recognizes that your current contractors have the capacity to produce the additional units, and that no time will be lost due to a rebid process. [emphasis added]

As you know, the State of Texas wants to expend all of the ARRA funds without returning them to the Treasury. Our fiscal analysis (projections) of your current production shows that your current production allows AE to continue to be a high performer in the ARRA WAP network.

If you have question please don't hesitate to call.

Michael De Young, Director
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