

**Paul Fenn**  
**Proposed Fifth Amendments (Submitted)**  
**Local Agency Formation Commission**  
**City and County of San Francisco**  
**July 8, 2005**

**1. Energy Efficiency Programs Implementation and Administration - Dept. of Environment**

Staff from the Department of the Environment shall participate in the program design, administration, management and evaluation of the Electric Service Provider's energy efficiency program implementation, as determined by the Board-appointed CCA Program Director, who shall receive, manage and allocate all Energy Efficiency Public Goods Charge funds paid to the City and County by the California Public Utilities Commission.

**2. Contingency - RFP Process and Outcomes**

**a. RFP Document Preparation Process**

The CCA RFP process shall be undertaken by the CCA Program Director, and shall consist of several steps. First, the Program Director shall undertake a prequalification process, or Request for Qualifications (RFQ), for parties interested in participating in the RFP, to present their qualifications to the Program Director.

Second, a preliminary draft RFP shall be presented to qualifying bidders for Industry Review, providing prospective bidders with the opportunity to comment on their ability to respond to the preliminary draft RFP.

Finally, the Program Director shall not present a final draft RFP to the Board of Supervisors for approval, unless at least two (2) qualifying bidders indicate a willingness to submit bids in response to the preliminary draft RFP.

The Board of Supervisors shall have final authority to approve the final draft RFP pursuant to Ordinance 86-04.

**b. RFP Bids Evaluation Process**

The Program Director, SFPUC, SFDOE and CCA Citizens' Advisory Task Force shall review qualifying bids and make their recommendation concerning these bids to the Board of Supervisors, which shall review the bids and decide whether to approve one of the proposals submitted by qualified bidders in response to the RFP by ordinance.

If the Board of Supervisors does not approve any of the qualifying bids, the Program Director shall prepare a report to the Board of Supervisors and Mayor outlining the cause of the RFP failure, and recommending a course of action.

If the Board of Supervisors does approve a bid, the Program Director and City Attorney shall prepare an ESP contract for approval by the Board of Supervisors. The approval shall be undertaken by Ordinance, pursuant to AB117.

### **3. Contingency - High Opt-Out Rate**

CCSF's CCA RFP shall require bidders to accept liability associated with the rate of customer Opt-Out during the 120-day opt-out period required by AB117. The RFP shall allow ESPs to assign a premium to this risk within their rates, and shall require ESPs to provide various forms of financial assurance such as a bond or letter of credit from a third party, or their parent company, in the event that costs associated with the opt-out rate exceed the the assigned premium.

### **4. Contingency - Rollout Performance and H Bond Tranches**

Bidders for the ESP contract shall be pre-qualified , so that only firms with the capacity to provide CCSF with sufficient performance security can bid for the project. A qualifying ESP will have to post a significant performance security (either 100% of the capital project value or some major percentage of the capital project value) prior to entering into the contract, which financially binds a third party surety company or bank to provide a binding commitment of funds from the third party to CCSF cover the ESP's capital project obligations if the ESP defaults.

The ESP contract will be structured so that the ESP can only invoice for payment from the H Bond funds for 360 MW capital work that has been completed and verified by the CCA Program Director. The ESP can never be given any form of advance payment for the capital work or for any reason except for Mobilization. CCSF will float the H Bonds under one umbrella bond arrangement through a bond broker. Under this arrangement, a smaller number of bond releases, or "tranches" shall be undertaken over time that corresponds to the capital program cash flow needs.

### **5. New Budget - Finance Committee**

The CCA program budget must be re-calculated to reflect a comprehensive 2005-6 budget divided between the Independent Program Director, the SFPUC and the Department of the Environment. It should also include funding to support tidal power. Accordingly, the LAFCO requests the Budget and Finance Committee to create and endorse a final budget when it takes up the CCA Implementation Plan in coming weeks.