



EXECUTIVE COMMITTEE MEETING MINUTES

Wednesday, June 1, 2022
Virtual Meeting: Zoom

Executive Committee Members Present: Greg Abbe, Jo Ann Bodemer, Amy Boyd, Emmett Lyne, Maggie McCarey, Dennis Villanueva

Executive Committee Members Absent:

Other Attendees: Gretchen Calcagni, Eric Belliveau, Adrian Caesar, Christopher Graham, Paul Johnson, Rachel Evans, Elliott Jacobson, Kathleen Lyons, Bill Graham, Christine McEachern, John Lanzi, Kennedy Cameron, Nick DelMonaco, Michele Buchanan, Wesley Couture, Maggie Downey, Jodi Hanover, Frank Gundal, Alyssa Vargas, Audrey Eidelman Kiernan, Kate Peters, Heather Deese, Martijn Fleuren, Jerrold Oppenheim, Sarah McDaniel

1. Call to Order

McCarey, as Chair, called the meeting to order at 10:07 AM.

2. Executive Committee Updates and Business

Weatherization Pricing

Following the May 25th EEAC meeting and the EEAC resolution on weatherization pricing, Peters indicated the program administrators (PAs) are reviewing feedback from the contractor community regarding the pricing data review process. Peters announced that the proposed pricing changes were halted, and the emergency 10% price increase from the fall has been maintained while additional review occurs. Peters said the PAs hope to provide a pricing update next week.

Johnson felt the Council supported a different pricing approach, since using the average of the bottom third of pricing bids is not a sufficient approach. Johnson recalled that Commissioner Woodcock's resolution directed the PAs and contractors to collaborate and determine a pricing solution. Johnson noted that the pricing bids need to be released since contractors have no reason to believe that the pricing results are accurate. Johnson reiterated that contractors requested transparency in bid results several months ago. Johnson was disappointed by the PAs lack of

communication with contractors since the last EEAC meeting. Johnson indicated that Christine McEachern, an integral member of the Best Practices Working Group (BPWG) for 12 years, left the BPWG since the PAs have alienated contractors and failed to address pricing concerns. McEachern posed a question asking whether the PAs respect and appreciate the views of contractors, to which Johnson indicated that the vendor CLEAResult provided an insufficient answer. Johnson recommended that the Executive Committee push the PAs to collaborate with contractors to determine a solution.

McCarey thought the PAs were conducting additional pricing analysis to work with contractors, and asked whether messaging went to contractors on the PAs plan for delay of pricing. Peters indicated that the PAs interpreted the Council's May 18th request on contractor pricing as a directive to conduct additional review and halt any pricing changes until said review is finished. Peters said the PAs want to be responsive to contractor feedback, but do not anticipate direct negotiation with contractors. Peters reiterated that the PAs support using competitive procurement to set prices.

McCarey asked if additional PA review could change price-setting methodology. Peters said the PAs are examining multiple ways to address questions and feedback provided by stakeholders. McCarey wanted to avoid another round of pricing that does not adequately address contractor concerns and sincerely consider contractor feedback. McCarey added that additional transparency into pricing bids was included in the Council resolution, as Johnson mentioned. Peters said the PAs do not agree with releasing the full list of bids since it contradicts procurement processes and could undermine future bid processes. Peters said if Council needs more assurance over the PA approach, a third party with a non-disclosure agreement can review both the bids and PA price-setting analysis. McCarey did not recall any concerns about the accuracy of the pricing analysis, but there is a need for transparency on bids to understand the impact of using the bottom third of pricing bids relative to other potential bid ranges and analysis options.

Boyd believed there were doubts about the pricing methodology itself, rather than whether the PAs applied it correctly. Boyd said that using the average of the bottom third of pricing bids can exclude the top two-thirds of contractors from the workforce, which is not worth the cost savings.

McCarey said the meeting minutes include feedback on the PA pricing RFQ presentation and should provide more clarity on the level of transparency requested. Peters responded that the PAs are happy to discuss other components of the pricing data. McCarey said the Council would like to see additional data and updates on pricing at the June EEAC meeting.

Johnson believed the Mass Save program would implode if the workforce was not supported. Johnson felt the PAs were adequately responsive to the Council's May 18th resolution on contractor pricing. Johnson noted that Massachusetts state law requires transparency on public bids and asked if Bodemer could confirm this was the case. Bodemer said she could follow up offline. Johnson said the Council and PAs need to speak with contractors. Johnson said a simple solution would be changing the PA methodology, such as using the average of the middle third of pricing bids. Johnson stated that the procurement process did not reflect the market and is

illegitimate. Peters expressed concern about setting an expectation that there will be a negotiation over pricing results, when bidders are applying political pressure to change the results of procurement.

McCarey cited Commissioner Woodcock's May 18th resolution on contractor pricing, and reiterated that this language should guide the PA update on pricing. Peters confirmed that the PAs are conducting additional analysis in line with the Council resolution. McCarey said the Executive Committee needed to ensure the PAs would provide updates in June, though there is no guarantee the update will satisfy everyone.

Johnson felt that the May Resolution watered down the Council's intent, and the meeting minutes will illustrate the concern about contractor prices. Johnson said the procurement was not competitive because an arbitrary subset of pricing data was used, and even the bottom tenth of bids could have been selected. Johnson argued that the resulting prices are not sustainable and contractors are moving onto other lines of work or further reducing crews. Johnson thanked the Executive Committee for listening to his comments, but urged everyone to be realistic about the current situation.

Lyne thanked McCarey for restating the Council resolution and also thanked Peters for her support.

C&I Working Group

McCarey indicated that the Commercial & Industrial (C&I) Customer Profile Study was used to ensure the largest industry segments were represented on the C&I Working Group. Stakeholders include A Better City, Healthcare Without Harm, the PAs, and a list of willing participants. McCarey noted that the list was expanded to include two Commercial Real Estate and two Higher Education seats on the Working Group. McCarey added that two seats, Retail and Hospitality, have not been filled, but the Working Group would finalize its charter. McCarey said the C&I Working Group should also maintain a focus on Commercial third-party implementation, so this topic will be included in the July EEAC meeting agenda.

Villanueva appreciated the addition of seats on the C&I Working Group. Villanueva asked about the Manufacturing seat since the group will be more technical in nature. Villanueva also requested to participate in the Working Group to keep the Council involved. McCarey replied that DOER is working on filling the Manufacturing seat. McCarey supported Council participation in the Working Group, but was concerned about having two representatives from the same organization as seated members. Villanueva viewed himself as a general C&I representative, but understood McCarey's concerns. McCarey still wanted Villanueva to participate, so they could follow up. Villanueva believed the member of his organization he recommended for the Hospital seat would serve better in a technical capacity, but still wanted to ensure Council presence in the group.

Johnson felt that the Council's commitment to explore third-party program implementation was being pushed off. McCarey said the third-party implementation work will be sector specific. Johnson said councilors who supported this third-party research should be allowed to participate in the C&I Working Group. McCarey said Villanueva and Rio would be the EEAC participants

in the Working Group. Johnson asked who would focus on the third-party program implementation research. McCarey said participating EEAC representatives would support third-party implementation work, but the Working Group would largely focus on the technical aspects of energy efficiency in C&I buildings. Johnson reiterated the Council's commitment to exploring third-party program implementation.

Evans clarified that a quorum of Councilors cannot participate in EEAC working groups. Evans stated that it is unclear whether the Council advocating for third-party program administrators falls within the Council's authority. Evans emphasized that the C&I Working Group and other subcommittees have charters separate from the Council. Evans reiterated that there will be changes to Remote Meeting Policy and Open Meeting Law that will require Council in-person meetings.

Boyd asked whether the full Council would discuss third-party program administration. McCarey replied that the C&I Working Group would determine how to approach the subject, but the Council will be represented on the Working Group. Boyd expressed interest in exploring third-party program administration, but did not want to participate in technical C&I Working Group conversations.

Other Updates

McCarey announced that the Consultant Team (C-Team) completed a soft launch of the EEAC website that includes new functionality and designs. For the June EEAC meeting, McCarey suggested starting the meeting 30 minutes earlier to allow for a walkthrough and Council discussion on the updated website.

McCarey also announced that the procurement for technical consultant services would be released this year, which would hopefully be discussed during the July EEAC meeting.

3. EEAC Bylaws and Remote Participation Policy

Evans summarized changes to the EEAC Bylaws, noting that they have not been updated since 2015. Evans indicated there were three primary areas of updates related to changed legislation, remove redundancy, and clarify issues. Evans stated that hybrid meetings would still require a quorum of voting councilors in a physical meeting location beginning in July. In addition, Evans said that the physical meeting location needs to accommodate public access. In order to ensure quorums, Evans said the standard will require voting Councilors to attend in-person and provide advance notice of unreasonable difficulties to participating in person. Evans reviewed her edits to the EEAC Bylaws to solicit feedback. McCarey said primary goal of these updates is to allow for hybrid meeting participation while adhering to Open Meeting Law.

Bodemer suggested that the statutory definition of PAs is used in the EEAC Bylaws.

Boyd asked why the language for requesting and receiving additional information was removed, since it was added to ensure Council information requests for quarterly reports are fulfilled. Evans clarified that the responsibility to provide information lies with the PAs, but the language could be re-added if important.

Lyne appreciated Evan's edits. Lyne wanted to provide consolidated feedback from the PAs once they have a chance to review the updated EEAC Bylaws.

Johnson also thanked Evans for updating the EEAC Bylaws. Johnson asked why all voting Councilors would be expected to attend meetings in person. Evans said Open Meeting law requires quorum of voting Councilors in physical meeting location, and there is a standard that only allows remote participation for unreasonably difficult circumstances.

Evans said the language on EEAC Committees was also modified to be consistent with the Executive Committee Charter, in addition to clarifying the difference between standing committees subject to Open Meeting Law.

Jacobson recommended that Income Eligible customers should have representation on the Executive Committee. Evans said this would require changes to the Executive Committee charter and EEAC Bylaws. Jacobson offered LEAN support in updating the language. Bodemer concurred that additional Income Eligible customer representation is needed on the Executive Committee. McCarey noted that Abbe's seat on the Executive Committee combines Residential and Income Eligible representation, but it may be reasonable to bifurcate their representation.

Boyd commented that the reference to the Green Communities Act in Section 4.3 of the Bylaws may need to be a statutory number. Evans said statute will be defined at the top of the Bylaws for clarity.

Evans indicated a new section on Remote Participation was added, which would allow for hybrid meetings. Evans reiterated that the Council would need to attend a fully in-person meeting in July if they do not approve the Remote Meeting Policy in June.

Johnson wanted to ensure there would be sufficient time to review the fully updated EEAC Bylaws, and suggested only the Remote Meeting Policy has a vote in June. Evans said the Bylaws must be revised now give the Council authority to hold remote meetings. Evans tried to provide the Executive Committee advanced notice of proposed changes, but reassured Johnson that the changes should all be made now instead of incrementally. Evans still welcomed feedback prior to June EEAC meeting.

Boyd asked why designees were not mentioned in Section 8 of the EEAC Bylaws that describe Council votes. Evans responded that designee responsibilities are described in EEAC Ground Rules. Evans said designees could vote on behalf of Councilors, so the language can be revisited in both the EEAC Bylaws and Ground Rules.

Jacobson recommended additional designees are allowed to guarantee quorums are met. McCarey said in advance of meetings, Councilors would need to designate an in-person attendee or participate remotely, but Councilors cannot both participate remotely and have a designee attend in person.

McCarey requested Executive Committee feedback on the EEAC Bylaws and Remote Meeting Policy by June 5th, prior to sharing with the full Council on June 8th. McCarey said the Remote Meeting policy was mainly changed to align with updated EEAC Bylaws, to clarify reasons for virtual participation, and to provide accommodations for people with hearing impairments or language barriers.

Johnson felt uncomfortable voting on the fully updated Bylaws in June. Bodemer supported all of Evans' proposed modifications as they were not controversial, despite that it seems there were significant changes. Boyd agreed that Evans' edits were mainly corrections and clarifications on the EEAC Bylaws. McCarey said voting on outdated Bylaws would not make sense, so the full Council can make final edits in June prior to voting.

Evans directed Executive Committee members to send feedback to the EEAC email address.

4. June EEAC Meeting –Agenda Finalization

McCarey announced that the June EEAC meeting would include updates on weatherization pricing, a vote on the updated EEAC Bylaws and Remote Participation Policy, a C-Team presentation on Q1 2022 results, moderate-income program design, the Renter Strategic Plan, and a workforce development update from MassCEC.

McCarey proposed pushing the Renter Strategic Plan to July to give the Council more time to react to the Draft Plan from the PAs, which needs to be filed in September. McCarey said the PAs also planned to provide an update on Residential and Income Eligible marketing and spending in response to Johnson's request.

Lyne asked whether the marketing update should be tailored to the Residential sector or include a more comprehensive update on marketing efforts. Boyd was curious about new efforts, such as heating electrification marketing, in addition to effective or failing C&I marketing efforts that the PAs can share. Boyd agreed on moving Renter Strategic Plan discussion to July, though an Acadia Center funder requested information on the Plan. McCarey said the Equity Working Group feedback on the Renter Strategic Plan could be shared.

Abbe expressed interest in a full update on Moderate-Income program design as opposed to just reviewing the slides the PAs provided.

Bodemer also agreed Renter Strategic Plan discussion should be held in July, especially given that weatherization pricing updates and marketing update were added to the June EEAC meeting agenda.

Johnson said the marketing presentation needs to describe marketing spending as well as the degree of success across each effort. McCarey agreed, and Lyne confirmed that the PAs intend to present all this information. Hanover noted that detailed marketing evaluations have been conducted and are available on the EEAC website. Hanover indicated it is difficult to determine the success of campaigns without evaluations.

McCarey suggested shifting the Mass CEC workforce development presentation to August to give them more presentation time. McCarey said they have shared detailed slides and links to their programs. Abbe agreed.

Bodemer said that third-party program administration is a sensitive and interesting topic, but was unsure if the Council has legal authority to push for third-party administration according to the Green Communities Act. Bodemer recommended that a legal analysis is done before Council time is dedicated to this. Bodemer clarified that she did not suggest the Council should avoid discussing third-party program administration. Bodemer said removing third-party program discussion from the July EEAC meeting agenda would free up time for both Renter Strategic Plan and Mass CEC updates. McCarey said the Executive Committee would discuss the July meeting agenda next month, but the Council did commit to exploring third-party program administration in 2022 and needs to determine how this will occur. Boyd agreed with Bodemer that the Council needs to confirm the legal basis of the Council exploring third-party program implementation.

Boyd suggested moving the discussion on weatherization pricing toward the end of the June agenda given how much time the updates may take and the importance of other agenda items. McCarey said weatherization updates would be an individual meeting topic. Calcagni confirmed the updated EEAC website demonstration could be completed in 30 minutes.

Bodemer and Lyne thanked Hanover for her last EEAC meeting and all her support. Hanover thanked everyone for their well wishes.

5. July EEAC Meeting – Draft Agenda Topics

McCarey indicated that the July EEAC meeting would cover Commercial and Multifamily Deep Energy Retrofit offerings, the Renter Strategic Plan, New Construction program implementation, and potentially third-party program implementation.

6. Adjournment

McCarey, as Chair, adjourned the meeting at 11:50 AM.