

New Jersey Energy Efficiency Programs Joint Utility Contractor Remediation Policy

As part of the transition anticipated by the 2018 Clean Energy Act (“CEA”), the seven (7) investor-owned utilities in New Jersey¹ (each, a “Utility”) have assumed primary responsibility for many of the Energy Efficiency Programs (“Programs”) previously administered by the State of New Jersey and have launched new Programs in an effort to meet the energy reduction targets required by the CEA. The Board of Public Utilities (“BPU”) has further established requirements for the utilities to adopt a coordinated Contractor remediation policy for Programs.² All Contractors participating in any of the Utility Programs should be familiar with this policy and understand the consequences for failure to comply. For purposes of this policy, a Contractor is defined as an entity that is participating in one or more Programs by providing goods or services pursuant to the terms of the Program.

General Requirements

In order to participate in the Programs, Contractors must:

- Carefully review, understand and comply with the requirements of all Programs in which they will participate.
- Hold a valid New Jersey license for all contractor work performed and continue to meet all underlying requirements for the respective licenses for the types of work they are performing.
- Secure permits when required.

Minor Infractions

Each Utility, or its implementation contractor, will monitor Contractor performance. Minor infractions regarding Program rules, as determined in the sole discretion of the applicable Utility or implementation contractor, will be brought to the contractor’s attention and corrected by the Contractor. Examples of minor infractions, include but are not limited to:

- Unintentionally submitting incorrect or incomplete data;
- Unintentionally submitting incorrect or incomplete equipment ratings; or
- Evidence, including legitimate customer complaints, of deficient service and/or equipment

Contractors will be notified of any planned remediation strategies regarding the minor infractions which may include but are not limited to coaching, additional written guidance, increased level of

¹ The seven Investor-Owned Utilities include Atlantic City Electric Company, Elizabethtown Gas Company, Jersey Central Power and Light Company, New Jersey Natural Gas Company, Public Service Electric and Gas Company, Rockland Electric Company, and South Jersey Gas Company.

² As defined in the BPU’s June 10, 2020 Order in Docket Nos. QO19010040, QO19060748, and QO17091004.

quality assurance/quality control/inspections performed on their projects and/or training. There is no requirement that a Utility share information regarding minor infractions with any other Utility.

Repeated minor infractions may be escalated to be considered as a major infraction if a Contractor has not taken action to address the underlying problems causing such infractions despite the remediation actions taken.

Major Infractions

Each Utility, or its implementation Contractor, will monitor Contractor performance and share its discovery of major infractions with the other Utilities. Examples of major infractions include, but are not limited to:

- Any actions that pose a significant threat to human health and safety;
- Evidence of intentionally incorrect or incomplete data submittals or repeated incorrect or incomplete data submittals that have occurred in spite of remedial action having been previously taken;
- Evidence of intentionally incorrect or incomplete equipment ratings or repeated incorrect or incomplete equipment ratings that have occurred in spite of remedial action having been previously taken;
- Evidence of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- Evidence the Contractor has engaged in repeated acts of negligence, deficient service, unethical, misleading, or illegal sales or commercial practices, or other failures to meet standards of business conduct and/or professional standards required under their licensing or technical requirements;
- Evidence the Contractor has been accused of engaging in acts constituting, any crime or offense relating to the Contractor's business;
- Evidence that any of the Contractor's personnel is engaged in drug or alcohol use that is reasonably likely to impair such personnel's ability to conduct Contractor's business with reasonable skill and safety;
- Misrepresentation within the Contractor's participation agreement (where applicable);
- Violation of applicable New Jersey licensing requirements or any applicable law or regulation.

Contractors will be notified in writing of major infractions identified by a Utility, along with planned remediation strategies, which may include but are not limited to probation, suspension, or termination from the Programs. The remediation strategies employed with regard to a major infraction shall be in the sole discretion of each Utility that identifies a major infraction in its

Program. Each Utility shall have the right to impose a remediation strategy based on another Utility's determination that a major infraction has occurred. For the purposes of this policy, these actions shall be defined as:

Probation: Defined period of days where every pending project for that Contractor for a particular Utility will be inspected before issuing payment and all applications pending will require pre-approval from a Manager or higher for all Programs for the Utility.

Suspension: Defined period of days where the Contractor will be prohibited from submitting any new applications to any Program or participating in any new Program customer applications as a subcontractor. Existing applications that are in process and deemed complete prior to the suspension will be allowed to proceed; provided however that the Utility will have the right but not the obligation to inspect up to 100% of the Contractor's remaining projects. A Contractor that has been suspended is precluded from using any Utility forms or software.

Termination: Contractor is prohibited from participation in any Program.

Utility Coordination:

When an individual Utility identifies a major infraction for a Contractor, all Utilities will be notified of the circumstances of the major infraction. The Contractor will have five (5) business days from the date a notice of action by a Utility is issued to provide a response if it believes there are extenuating circumstances that merit reconsideration of the action by the Utility. The Utility will provide a response within ten (10) business days and either confirm initial remediation action or issue a modified response.

Regarding major infractions, each individual Utility shall have the right to impose Probation, Suspension or Termination on a Contractor in its service territory. This may include prohibiting a Contractor from participating in any Program.