

DISTRICT OF COLUMBIA OFFICE OF THE INSPECTOR GENERAL

OIG Project 18-I-05KG0

September 2018



DEPARTMENT OF ENERGY AND ENVIRONMENT

Evaluation of the District of Columbia Sustainable Energy Utility Contract



Guiding Principles

*Workforce Engagement * Stakeholders Engagement * Process-oriented * Innovation
* Accountability * Professionalism * Objectivity and Independence * Communication * Collaboration
* Diversity * Measurement * Continuous Improvement*

Mission

Our mission is to independently audit, inspect, and investigate matters pertaining to the District of Columbia government in order to:

- prevent and detect corruption, mismanagement, waste, fraud, and abuse;
- promote economy, efficiency, effectiveness, and accountability;
- inform stakeholders about issues relating to District programs and operations; and
- recommend and track the implementation of corrective actions.

Vision

Our vision is to be a world-class Office of the Inspector General that is customer-focused, and sets the standard for oversight excellence!

Core Values

Excellence * Integrity * Respect * Creativity * Ownership
* Transparency * Empowerment * Courage * Passion
* Leadership





Why the OIG Did This Inspection

The OIG Inspections & Evaluations (I&E) Unit conducted this evaluation as a part of the OIG's *Fiscal Year (FY) 2018 Audit and Inspection Plan*. The evaluation topic was selected as a result of the District entering into a new 5-year contract with the Vermont Energy Investment Corporation (VEIC), the contractor administering sustainable energy programs in the District since 2011.¹

The objectives of this evaluation were to: 1) ascertain whether there are any terms or conditions that are unfavorable to the District or conflict with best practices or applicable criteria; and 2) assess whether parties to the contract have effectively operationalized administration of key contract terms and conditions and whether DOEE maintains proper oversight of deliverables.

What the OIG Recommends

This report presents nine recommendations to strengthen the DCSEU contract and to improve DOEE's administration of the contract.

DEPARTMENT OF ENERGY AND THE ENVIRONMENT

Evaluation of the District of Columbia Sustainable Energy Utility Contract

What the OIG Found

In April 2017, with procurement authority delegated by the Department of Energy and Environment (DOEE), the Office of the Deputy Mayor for Planning and Economic Development (DMPED) awarded a 5-year cost reimbursement plus fixed-fee contract to Vermont Energy Investment Corporation (VEIC), also known as the District of Columbia Sustainable Energy Utility (DCSEU). The DCSEU is responsible for administering sustainable energy programs in the District to achieve six performance benchmarks, most of which are related to reducing energy consumption, increasing renewable energy generating capacity, and improving energy efficiency in buildings that service low-income residents. The contract term is for a base period of 5 years, from April 5, 2017, to September 30, 2021, with 1 option period of 5 additional years. The contract funds payable to VEIC may not exceed \$15 million for fiscal year (FY) 2017 and \$20 million per year for FYs 2018-2021. DOEE administers the contract.

Overall, DOEE has improved its oversight of the DCSEU contract expenditures as compared to the previous DCSEU contract, by adding restrictions on expenditures related to food, travel, parking, and other administrative expenses. The team identified four findings related to contract transparency, operationalization of contract requirements, compliance with legislated reporting requirements, and District training standards.

¹ DISTRICT OF COLUMBIA OFFICE OF THE INSPECTOR GENERAL FISCAL YEAR 2018 AUDIT AND INSPECTION PLAN (Aug. 31, 2017) available at

<http://app.oig.dc.gov/news/view2.asp?url=release10%2FFY+18+Audit+and+Inspection+Plan%2Epdf&mode=releas e&archived=0&month=20177&agency=0>.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



September 25, 2018

Tommy Wells
Director
Department of Energy and Environment
1200 First Street, N.E.
Washington, D.C. 20002

Dear Director Wells:

Enclosed is our final report entitled *Evaluation of the District of Columbia Sustainable Energy Utility Contract (OIG Project No. 18-I-05KG0)*. Our objectives of this evaluation were to: 1) ascertain whether there are any terms or conditions that are unfavorable to the District or conflict with best practices or applicable criteria; and 2) assess whether parties to the contract have effectively operationalized administration of key contract terms and conditions; and whether DOEE maintains proper oversight of deliverables. We conducted this evaluation in accordance with standards established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

We provided DOEE our draft report on August 29, 2018, and received your response on September 12, 2018, which is included as Appendix C of this report. DOEE agreed with eight of the report's nine recommendations. DOEE disagreed to our recommendation requiring the Contracting Officer to submit the contract and all required documentation to OCP for posting to the Awarded Contracts Database, and went on to state that this had occurred prior to the initiation of our engagement. We acknowledge that the contract is now posted on OCP's publicly-accessible website. However, DOEE should take steps to clear up the misconception identified during the course of this engagement; specifically, the DMPED contracting officer's belief that only sole-source contracts should be posted to the Awarded Contracts Database. As DOEE is reliant on external agencies to award contracts on its behalf, it is important to ensure that sound policies and procedures reside within DOEE to ensure other external partners appropriately execute statutory responsibilities on its behalf. The OIG may review actions DOEE has taken in relation to this, or other contracts, in future engagements.

Director Tommy Wells
OIG Report No. 18-I-05KG0
September 25, 2018
Page 2 of 3

We appreciate the cooperation and courtesies extended to our staff during this project. If you have any questions concerning this report, please contact me or Edward Farley, Assistant Inspector General for Inspections and Evaluations, at (202) 727-2540.

Sincerely,



Daniel W. Lucas
Inspector General

DWL/ef

cc: See Distribution List

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TABLE OF CONTENTS

Background	1
Evaluation Findings	2
Contract Terms And Conditions Were Improved To Increase Monitoring And Reduce Risks Related To The DCSEU’S Costs And Expenditures	2
Some DCSEU Contract Terms And Conditions Were Not Fully Operationalized Into Performance Deliverables	3
The Executed DCSEU Contract And Other Required Documentation Have Not Been Posted To OCP’S Awarded Contracts Database	5
The DCSEU Advisory Board Did Not Post The FY 16 Annual Report In Accordance With D.C. Code § 8–1774.04(g).....	7
DOEE’S Contract Administrator Has Not Attended OCP’S In-Person Contract Administrator Training	9
Conclusion	10
Appendix A: Objectives, Scope, Methodology	12
Appendix B: Acronyms And Abbreviations.....	13
Appendix C: DOEE’S September 2018 Response to the Draft Report	14

BACKGROUND

The Clean and Affordable Energy Act (CAEA) of 2008, D.C. Law 17-250 (D.C. Code § 8-1773.01 *et seq.*), established authority for the Mayor, through DOEE, to “contract with a SEU to conduct sustainable energy programs on behalf of the District of Columbia.”² The CAEA designates the SEU to be the primary source for energy efficiency and renewable energy services for D.C. residents and local businesses. VEIC performs these contractual obligations by providing a portfolio of services that include installation of energy efficient products, and energy rebates for businesses; home energy conservation kits, energy efficient products and installation for residential consumers; and job creation and workforce development programs. The DCSEU operates under a performance-based³ contract administered by DOEE, with guidance and recommendations from the DCSEU Advisory Board.⁴

The District of Columbia, through DOEE, contracted with the VEIC, a non-profit organization, “to administer sustainable energy programs in the District, including the development, coordination, and provision of programs for the purpose of promoting the sustainable use of energy in the District[.]”⁵ In accordance with DOEE Office Order 2013-01, § IV, pg. 3, effective September 1, 2012, the DOEE Director delegated procurement authority to DMPED’s Director of Contracts and Procurement. The contract is not subject to the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (PPRA).⁶

The DCSEU contract (#CW51134) contains a 5-year base period beginning April 5, 2017, through September 30, 2021, renewable for 1 option period of 5 additional years. The cost reimbursement, fixed-fee contract is currently in its second year, in an amount not to exceed \$20,000,000, minus the total withheld for any performance incentives⁷ the contractor attains. The contract has a compensation structure comprised of reimbursement of actual costs incurred (e.g., direct labor, materials, equipment, subcontracting, and supplies), a non-at-risk operations

² D.C. Code § 8-1774.01(a) (Lexis – Statutes current through July 24, 2018).

³ D.C. Code § 8–1774.02 (c) states: “The SEU contract shall be performance-based and shall provide financial incentives for the SEU to surpass the performance benchmarks set forth in the SEU contract. The SEU contract shall also provide financial penalties to be applied to the SEU if the SEU fails to meet the required performance benchmarks.”

⁴ D.C. Code § 8–1774.03(a)(1) provides that the DCSEU Advisory Board was established to “provide advice, comments, and recommendations to the DOEE and Council regarding the procurement and administration of the SEU contract”

⁵ See Contract No. DOEE-2016-C-0002, at 2 (Apr. 5, 2017).

⁶ As set forth in D.C. Code § 8–1774.01(i), Contract with a Sustainable Energy Utility: “Notwithstanding the provisions of Unit A of Chapter 3 of Title 2 [§ 2-301.01 *et seq.*], the SEU contract shall be awarded pursuant to the procedure set forth under this subchapter.”

⁷ The DCSEU contract requires the contractor to achieve minimum performance benchmarks including: 1) Reduce electricity consumption; 2) Reduce natural gas consumption; 3) Increase renewable energy generating capacity in the District of Columbia; 4) Improve the energy efficiency and renewable energy generating capacity of low-income housing, shelters, clinics, or other buildings serving low-income residents in the District of Columbia; 5) Increase the number of green-collar jobs in the District of Columbia; and 6) Leverage External Funds to support energy efficiency and renewable energy projects. In addition, the contractor must report “at least semiannually” the impact of its programs on reducing the growth of peak electricity demand in the District of Columbia, and reducing the growth of the energy demand of the District of Columbia’s largest energy users.

fee of 4% of the reimbursed costs, and at-risk compensation⁸ of up to \$820,833 for FY17.⁹ The contract is funded by the Sustainable Energy Trust Fund (SETF), which is administered by DOEE. Funds are collected through surcharges to customers, which appear on local electric and natural gas utility bills.¹⁰ The DCSEU is also expected to leverage external funding beyond that which is provided by the SEFT.

EVALUATION FINDINGS

CONTRACT TERMS AND CONDITIONS WERE IMPROVED TO INCREASE MONITORING AND REDUCE RISKS RELATED TO THE DCSEU'S COSTS AND EXPENDITURES

Our analysis of the current DCSEU contract identified multiple contract terms and conditions that DOEE implemented to improve monitoring of contract expenditures. Due to the performance-based¹¹ nature of the first contract¹² DOEE did not restrict spending for travel, food and beverages; nor did the agency specify any approvals that were needed for unusual expenses. In addition, contract terms related to eligible costs and expenses were vague, and administration cost guidelines were not defined. Monthly, quarterly, and annual reporting terms were also missing due dates and specifications for reporting on expenditures.

Among the key updates to the new contract, DOEE has implemented requirements related to monitoring the contractor's expenses; aligning strategies, plans and goals; and implementing performance standards related to leveraging external funds to support energy efficiency and renewable energy projects. The current contract requires the contractor to obtain from DOEE prior written approval for costs related to food and beverages (alcoholic and non-alcoholic) except as a part of travel expenses; third party events; valet parking or employee/consulting parking; and employee or consultant rent and utilities. In addition, the reimbursable general and administrative costs¹³ and non-at risk fixed fee are capped at 20% of the contract's cost

⁸ Actual incurred costs and a non-at-risk operations fee are reimbursed; however, at risk compensation is paid only if performance milestones and benchmarks are attained.

⁹ For fiscal years 2018 through 2021, the maximum amounts will be incorporated into the Contract with a contract modification.

¹⁰ D.C. Code § 8-1874.10(a)(1) states: "There is established as a special fund the Sustainable Energy Trust Fund, which shall be used solely for the purposes stated in subsection (c) of this section. The Sustainable Energy Trust Fund shall be funded by an assessment on the natural gas and electric companies under subsection (b) of this section and from the sale of credits associated with the Regional Greenhouse Gas Initiative or any successor program. All funds collected from these sources shall be deposited into the SETF and shall be disbursed by the Fiscal Agent."

¹¹ According to the National Institute of Governmental Purchasing (NIGP), "Performance Based Contracting is a results-oriented contracting method that focuses on the outputs, quality, or outcomes that may tie at least a portion of a contractor's payment, contract extensions, or contract renewals to the achievement of specific, measurable performance standards and requirements. These contracts may include both monetary and non-monetary incentives and disincentives." <https://www.nigp.org/docs/default-source/New-Site/global-best-practices/performancebased.pdf?sfvrsn=2> (last visited Jan. 5, 2018).

¹² DOEE (previously known as the District Department of the Environment (DDOE)) and Vermont Energy Investment Corporation entered into contract DDOE-2010-SEU-0001 on December 17, 2010.

¹³ Attachment J.15 of the contract states: "General and Administrative Costs . . . are costs which support multiple programs, projects and activities of the overall operation of the DCSEU and are not attributable to a specific program. These costs are typically referred to as 'back-office' costs."

reimbursement ceiling¹⁴ for the year; and the contractor must provide detailed documentation to support the contract costs that were incurred. The new contract also identifies additional reporting deliverables for strategic planning and program design; monitoring reports for projects that are in progress; tracking of subcontracts; and asset tracking.

Interviewees indicated that under the previous contract, DCSEU was not spending the contract funds prudently because allowable and unallowable costs were not defined in the contract. At present, DCSEU has made improvements in order to comply with the new contract requirements under the multi-year contract. DOEE interviewees stated that as a result of improved communication between DOEE and DCSEU, lessons learned from that previous contract, and additional oversight from DOEE, the contractor has become more strategic in how they spend contract funds.

Based on the team's observation of contract documentation, DOEE has made multiple improvements to the DCSEU contract. While the team did not find any significant deficiencies related to the contract terms and conditions, we have identified actions that DOEE should take to improve administration of the DCSEU contract, and to ensure compliance with the District's contracting requirements.

SOME DCSEU CONTRACT TERMS AND CONDITIONS WERE NOT FULLY OPERATIONALIZED INTO PERFORMANCE DELIVERABLES

Per the terms and conditions of the contract, reporting on general and administrative costs-to-date expenses, asset tracking, and information technology (IT) costs were required; however, DOEE did not publish the reporting requirements and due dates to the contract deliverables list in contract Section F.4. While DOEE provided the asset tracking log as evidence that the contractor reported the assets, the agency did not obtain the contractor's quarterly cost-to-date expenses reporting, or the IT costs breakdown report. In addition, the contract is silent on how often DCSEU must submit IT cost breakdown reporting.

The contract specifies the following requirements:

- Section C.1.3 requires the contractor to report quarterly on annual, general, and administrative costs-to-date, with projections to end of each current fiscal year.
- Section C.22 requires reporting that details a breakdown of all assets, including “logos, trademarks, databases, copyrighted material or material eligible for copyright, computer, telecom, IT, and physical equipment, computer software, surveys, survey results, and program designs” purchased with contract funds. The report is due on March 31 and September 30 each fiscal year.
- Per Section C.37, the Contractor must provide reporting that details the expenditures related to the delivery of IT services and equipment described in the contract's statement

¹⁴ As defined in the contract, “Cost Reimbursement ceiling” “means the maximum amount of reimbursed compensation for all eligible costs and expenses, including a non-at-risk Fixed Fee, incurred by the Contractor.” Contract No. DOEE-2016-C-0002, § A.1.9 (Apr. 5, 2017).

Additionally, the CO and CA will work with the DCSEU to modify the DCSEU Contract within the next 60 days to include a detailed breakdown of IT costs on the Deliverables Table.

THE EXECUTED DCSEU CONTRACT AND OTHER REQUIRED DOCUMENTATION HAVE NOT BEEN POSTED TO OCP'S AWARDED CONTRACTS DATABASE

We reviewed OCP's Awarded Contracts Database¹⁵ and determined that some DCSEU contract documentation was not published to OCP's website. The database did not contain a copy of the executed DCSEU contract; the contract modifications, change orders, or the amendments associated with the contract; or the contract summary documents that were submitted to the Council for its review. The database did provide records for four determination and findings¹⁶ documents¹⁷ as required by D.C. Code § 2-361.04(b) (3) (B). At the time of our review, OCP's website¹⁸ only displayed solicitation transaction details from March 3, 2017, thru January 8, 2018.¹⁹

The executed contract, amendments, and modifications are also not publicly available on DOEE's website at www.doe.dc.gov. DOEE's website does contain a copy of the solicitation and other related documentation.²⁰

According to D.C. Code § 2-361.04 (Transparency in contracting):

- (a) The CPO shall establish and maintain on the Internet a website containing publicly available information regarding District procurement.
- (b) The website [shall contain]:

...

- (3) A database containing information regarding each contract executed by the District for an amount equal to or greater than \$100,000, including each such contract made by a District agency exempt from the authority of the CPO pursuant to § 2-351.05. For each contract contained in the

¹⁵ OCP website (http://app.ocp.dc.gov/RUI/information/award/award_detail.asp?award_id=9428) (last visited Jan. 24, 2018).

¹⁶ "Determination and Findings" means a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions. The "determination" is a conclusion or decision supported by the "findings." The findings are statements of fact or rationale essential to support the determination and must cover each requirement of the statute or regulation. <https://www.acquisition.gov/far/html/Subpart%2017.html> (last visited Jan. 29, 2018).

¹⁷ As of January 29, 2018, OCP's Awarded Contracts Database contained documentation of determination and findings for "Cost Reimbursement Plus Fixed Fee Contract," "Multi-Year Contract," "Price Reasonableness," and "Contractor Responsibility."

¹⁸ OCP website, <http://app.ocp.dc.gov/RUI/information/scf/SolNumRespond.asp> (last visited Jan. 24, 2018).

¹⁹ The DCSEU Request for Proposal (RFP) is dated February 19, 2016: <https://doee.dc.gov/publication/dc-sustainable-energy-contractor-2016-request-proposals> (last visited 4/11/18).

²⁰ DOEE website, <https://doee.dc.gov/publication/dc-sustainable-energy-contractor-2016-request-proposals> (last visited Apr. 23, 2018).

database, the database shall include a unique identifier and, at a minimum, the following:

- (A) A copy of the executed contract;
- (B) All determinations and findings related to the contract;
- (C) All contract modifications, change orders, or amendments associated with the contract;
- (D) All solicitation documents for the contract, including all requests for proposals and invitations for bids, and any amendments of such documents; and
- (E) The contract summary documents for the contract that are submitted to the Council for its review.

In addition, on March 8, 2017, emergency legislation was introduced by D.C. Council Chairman Mendelson on behalf of the Mayor, to approve the proposed multiyear contract. In accordance with the requirement at D.C. Code § 2-352.02(c) (12),²¹ DOEE officials indicated that the “contract, and any amendments or modifications, if executed” [would] be made available online” at DOEE’s website. To date, however, DOEE has not made the DCSEU contract available on its website.

We also found that the DCSEU contract was not posted to the OCP Awarded Contracts Database because the DMPED CO believed only sole source contracts were required to be posted in the database. In addition, DOEE employees that we interviewed were unaware that the contract was required to be publicly posted.

According to the NIGP’s global best practices, “[t]ransparency assists in ensuring that any deviations from fair and equal treatment are detected very early, and makes such deviations less likely to occur. It protects the integrity of the process and the interest of the organization, stakeholders, and the public.”²² Because the executed DCSEU contract and supporting documentation are not publicly available, District stakeholders and the public are not receiving key information that could help them assess whether the D.C. government is receiving the best value for the contracted SEU services.

Recommendations:

Therefore, we recommend that:

- (3) DOEE posts the executed contract and all amendments and modifications to www.doe.dc.gov.

Agree _____ X _____ Disagree _____

²¹ This D.C. Code section contains criteria for Council review of multiyear contracts and requires the agency to submit a contract summary that includes information on where the contract and any amendments or modifications would be made available online.

²² NIGP website, <http://engage.nigp.org/acton/attachment/24793/f-01da/1/-/-/-/transparency.pdf> (last visited Jan. 29, 2018)

DOEE's September 2018 Response to Recommendation #3, As Received: *The executed DCSEU Contract, including all modifications and attachments, was posted on DOEE's website on September 6, 2018 <https://doee.dc.gov/service/dcseu-contract>.*

- (4) The CO submits the contract and all required documentation to OCP for posting to the Awarded Contracts Database.

Agree _____ Disagree _____ X _____

DOEE's September 2018 Response to Recommendation #4, As Received: *DOEE disagrees with this recommendation because all contract documents were submitted to OCP for posting prior to the inception of OIG's engagement with DOEE. Specifically, the CO indicated that copies of the executed DCSEU Contract and all required documentation were submitted to OCP for posting to the Awarded Contracts Database in April 2017. OCP's website and Awarded Contracts Database are maintained by OCP staff, and to date the database contains only some of the required documents. However, the Procurement Automated Support System (PASS) which is also maintained by OCP and allows for direct uploads of documents by authorized District government employees, contains copies of the executed DCSEU Contract and all supporting documentation, including all contract modifications; Contractor's Certificate of Insurance; Certificate of Clean Hands; Contractor's Business Licenses; Determination and Findings for Contract Award and/or Modifications; CA Delegation Letter; and Purchase Orders used in conjunction with a Contract Award. Nonetheless, the CO will continue to work with OCP to closely monitor posting of all submitted contract documents to the Awarded Contracts Database.*

THE DCSEU ADVISORY BOARD DID NOT POST THE FY 16 ANNUAL REPORT IN ACCORDANCE WITH D.C. CODE § 8-1774.04(g)

The DCSEU Advisory Board did not prepare and present an SEU progress report within 90 days after the conclusion of the independent review of the SEU's performance and expenditures. Fiscal Year (FY) 2016 ended on September 30, 2016; the Advisory Board's annual report was completed in January 2018. The independent review of the DCSEU's performance²³ has been publicly available at www.doee.dc.gov since the inception of the OIG's engagement with DOEE, which began October 19, 2017. DOEE also provided the team with the FY 2016 independent financial audit dated March 8, 2017.²⁴ Because the independent financial audit was completed in March 2017, and the independent performance audit was completed in June 2017, the Board's annual report should have been submitted to the D.C. Council in September 2017 in order to comply with D.C. Code § 8-1774.04(g), which states:

²³ TetraTech's FY 2016 Annual Evaluation Report for DCSEU's Performance Benchmarks is dated June 28, 2017.

²⁴ DOEE contracted with F.S. Taylor & Associates, P.C. to audit the DCSEU's reported contract costs, and compliance with various contract requirements for the period of October 1, 2015 through September 30, 2016.

The Board shall annually prepare and present a report on the progress of the SEU to the Council within 90 days after the conclusion of the independent review of the performance and expenditures of the SEU under § 8-1774.05(k). DOEE shall make the report available to the public on its website within 10 days after its submission to the Council.

The Board is required to “[p]rovide advice, comments, and recommendations to the DOEE and Council regarding the procurement and administration of the SEU contract”²⁵ The purpose of the annual report is to provide the Board’s evaluation of DCSEU’s performance, and offer recommendations to DOEE and the Council. Without timely progress reporting, the Board cannot offer timely and relevant guidance to the DCSEU, DOEE and the Council.

Recommendations:

Therefore, we recommend that:

- (5) The Chairperson of the DCSEU Advisory Board implement procedures (via policy, guidance, checklists, or training) to ensure adherence to all reporting deadlines as required under D.C. Code § 8–1774.04(g).

Agree _____ X _____ Disagree _____

***DOEE’s September 2018 Response to Recommendation #5, As Received:** The Chairperson of the SEU Advisory Board has routinely provided guidance to Board members throughout the development of the Annual Report, which typically begins immediately after the Board has received the final draft of the Independent Evaluation, Measurement, and Verification of the DCSE U’ s Performance Report (EM&V Report). DOEE transmitted the final draft of the EM&V Report to the Board on July 11, 2017. Pursuant to D.C. Code § 8- 1 774.04(g), the Board’s FY 2016 Annual Report was statutorily due to the D.C. Council on October 11, 2017. However, scheduling conflicts and the addition of three new Board members in 2017 who did not have the historical context regarding the Board’s oversight of the DCSEU’s performance significantly delayed the completion of the report in a timely manner. The Board formally requested an extension of the due date for submission of the Annual Report from the D.C. Council, which was granted and the final draft of the Annual Report was transmitted to the D.C. Council on January 4, 2018.*

Moving forward, the Chairperson of the Board has already raised with the Board members implementing a policy change (which, when enacted, would result in a significantly streamlined Report). The Chairperson has also identified several key members who will be responsible for drafting various sections of the report, and will collaborate with DOEE to ensure that the Board’s FY 2017 Annual Report is completed within the specified timeframe. The Chairperson will use checklists to

²⁵ D.C. Code § 8–1774.03(a)(1).

contract administration. The CA stated that he would like to gain an understanding of what contract administration looks like District-wide and is open to attending CA training.

Recommendations:

Therefore, we recommend that:

- (7) The CA attends in-person CA training per OCP requirements.

Agree X Disagree _____

DOEE's September 2018 Response to Recommendation #7, As Received: The CA attended all in-person CA trainings offered by OCP, and completed the trainings on May 18, 2018.

- (8) The CA attends performance-based contract training that includes the technical aspects of administering a performance-based contract.

Agree X Disagree _____

DOEE's September 2018 Response to Recommendation #8, As Received: The CA attended all in-person CA trainings offered by OCP, and completed the trainings on May 18, 2018. The CA trainings included 17 hours of classroom instruction on all technical aspects of administering executed performance-based contracts per OCP requirements.

- (9) DMPED modify and reissue the CA Delegation Memorandum to add verbiage for CA training requirements and ensure that specific training requirements are included in all future CA Delegation Memoranda.

Agree X Disagree _____

DOEE's September 2018 Response to Recommendation #9, As Received: The CO agrees to amend the Contract Administrator (CA) Delegation Memorandum and will utilize the District's Office of Contracting and Procurement's updated Contract Administrator Memorandum which contains detailed information relative to CA training requirements.

CONCLUSION

Through the course of this evaluation, we learned that the DOEE has implemented processes and procedures to monitor DCSEU's contract expenditures for general and administrative costs, while maintaining the performance-based nature of the contract, as specified in the CAEA. To improve administration of the DCSEU contract, DOEE should ensure that all contract terms and conditions are fully operationalized into specific contract deliverables that can be measured; and

DOEE should ensure that the CA attends in-person contract administrator, and technical performance-based contracting training.

To achieve compliance with the specified District rules, DOEE, the DMPED CO, and OCP should take additional measures to ensure the contract adheres to District contracting transparency requirements. Additionally, the DCSEU Advisory Board should implement processes and procedures to ensure that its reporting is timely and publicly available.

APPENDIX A: OBJECTIVES, SCOPE, METHODOLOGY

REPORT OBJECTIVES:

- 1) Ascertain whether there are any terms or conditions that are unfavorable to the District or conflict with best practices or applicable criteria; and
- 2) Assess whether parties to the contract have effectively operationalized administration of key contract terms and conditions and whether DOEE maintains proper oversight of deliverables.

SCOPE:

District of Columbia Sustainable Energy Utility contract #CW51134 thru the Period of Performance (April 2017 - September 2017)

METHODOLOGY:

The evaluation was conducted in accordance with the standards established by the Council of the Inspectors General on Integrity and Efficiency. The team conducted the following activities:

- Reviewed D.C. Official Code, D.C. Municipal Regulations, and other applicable criteria.
- Reviewed and analyzed contract files, contractor evaluations, reports, and invoices and supporting documentation.
- Reviewed and analyzed independent financial audits, and evaluation, verification, and measurement reports conducted by an independent evaluator.
- Interviewed DOEE employees to clarify and understand information documented in contract files and applicable criteria.

APPENDIX B: ACRONYMS AND ABBREVIATIONS

CA	Contract Administrator
CAEA	Clean and Affordable Energy Act of 2008
CO	Contracting Officer
CPO	Chief Procurement Officer
DCMR	District of Columbia Municipal Regulations
DCSEU	District of Columbia Sustainable Energy Utility
DMPED	Deputy Mayor for Planning and Economic Development
DOEE	Department of Energy and the Environment
IT	Information Technology
NIGP	National Institute of Governmental Purchasing
OCP	Office of Contracting and Procurement
OIG	Office of the Inspector General
SEFT	Sustainable Energy Trust Fund
VEIC	Vermont Energy Investment Corporation

APPENDIX C: DOEE'S SEPTEMBER 2018 RESPONSE TO THE DRAFT REPORT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Energy and Environment



September 12, 2018

Daniel Lucas
Inspector General
717 14th Street, NW
Washington, DC 20005

Subject: DOEE Response to OIG Draft Report Titled "Evaluation of the District of Columbia Sustainable Energy Utility Contract (OIG Project No. 18-I-##KGO)"

Dear Mr. Lucas:

Enclosed is the Department of Energy & Environment's (DOEE) response to the findings and recommendations presented by the Office of the Inspector General (OIG) in its draft report titled "Evaluation of the District of Columbia Sustainable Energy Utility Contract." The responses describe actions taken or planned, target dates for completion of planned actions, and reasons for disagreement with one of the recommendations included in the draft report.

Thank you for the opportunity to review the draft report and provide comments prior to the release of the final draft. Should you have any questions concerning our responses, please contact me or [REDACTED]

Sincerely,



Tommy Wells
Director

cc: Mr. Rashad M. Young, City Administrator, District of Columbia (via email)

Enclosure



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DOEE Response to OIG Draft Report 18-I-##KGO

Finding:

SOME DCSEU CONTRACT TERMS AND CONDITIONS WERE NOT FULLY OPERATIONALIZED INTO PERFORMANCE DELIVERABLES.

Recommendations:

(1) The CO and CA review the contract to ensure that all Contract requirements are specific and measurable, and properly itemized as Contract deliverables with due dates and descriptions.

Agree _____X_____ Disagree _____

DOEE Response:

The CO and the CA will conduct a thorough review of the DCSEU Contract within the next 60 days to ensure Contract requirements are specific, measurable, and properly itemized as deliverables with due dates and descriptions.

(2) The CO work with the DCSEU to modify the Contract deliverables to include cost-to-date expenses reporting, the asset tracking log, and IT costs breakdown reporting.

Agree _____X_____ Disagree _____

DOEE Response:

The DCSEU Contract Deliverables Table was modified on June 26, 2018 (DCSEU Contract Modification #4) to include the following deliverables with due dates and descriptions:

- a) Detailed Descriptions of Contractor Positions by Labor Category Report;
- b) Quarterly General and Administrative Costs Report; and
- c) Asset Tracking Log

Additionally, the CO and CA will work with the DCSEU to modify the DCSEU Contract within the next 60 days to include a detailed breakdown of IT costs on the Deliverables Table.

Finding:

THE EXECUTED DCSEU CONTRACT AND OTHER REQUIRED DOCUMENTATION HAVE NOT BEEN POSTED TO OCP'S AWARDED CONTRACTS DATABASE.

Recommendations:

(3) DOEE posts the executed Contract and all amendments and modifications to www.doec.dc.gov.

Agree _____X_____ Disagree _____

DOEE Response to OIG Draft Report 18-I-##KGO

DOEE Response:

The executed DCSEU Contract, including all modifications and attachments, was posted on DOEE's website on September 6, 2018 <https://doee.dc.gov/service/dcseu-contract>.

(4) The CO submits the Contract and all required documentation to OCP for posting to the Awarded Contracts Database.

Agree _____ Disagree _____X_____

DOEE Response:

DOEE disagrees with this recommendation because all contract documents were submitted to OCP for posting prior to the inception of OIG's engagement with DOEE. Specifically, the CO indicated that copies of the executed DCSEU Contract and all required documentation were submitted to OCP for posting to the Awarded Contracts Database in April 2017. OCP's website and Awarded Contracts Database are maintained by OCP staff, and to date the database contains only some of the required documents. However, the Procurement Automated Support System (PASS) which is also maintained by OCP and allows for direct uploads of documents by authorized District government employees, contains copies of the executed DCSEU Contract and all supporting documentation, including all contract modifications; Contractor's Certificate of Insurance; Certificate of Clean Hands; Contractor's Business Licenses; Determination and Findings for Contract Award and/or Modifications; CA Delegation Letter; and Purchase Orders used in conjunction with a Contract Award. Nonetheless, the CO will continue to work with OCP to closely monitor posting of all submitted contract documents to the Awarded Contracts Database.

Finding:

THE DCSEU ADVISORY BOARD DID NOT POST THE FY 16 ANNUAL REPORT IN ACCORDANCE WITH D.C. CODE § 8-1774.04(g).

Recommendations:

(5) The Chairperson of the DCSEU Advisory Board implement procedures (via policy, guidance, checklists, or training) to ensure adherence to all reporting deadlines as required under D.C. Code § 8-1774.04(g).

Agree _____X_____ Disagree _____

DOEE Response:

The Chairperson of the SEU Advisory Board has routinely provided guidance to Board members throughout the development of the Annual Report, which typically begins immediately after the Board has received the final draft of the Independent Evaluation, Measurement, and Verification of the DCSEU's Performance Report (EM&V Report). DOEE transmitted the final draft of the EM&V Report to the Board on July 11, 2017. Pursuant to D.C. Code § 8-1774.04(g), the

DOEE Response to OIG Draft Report 18-I-##KGO

Board's FY 2016 Annual Report was statutorily due to the D.C. Council on October 11, 2017. However, scheduling conflicts and the addition of three new Board members in 2017 who did not have the historical context regarding the Board's oversight of the DCSEU's performance significantly delayed the completion of the report in a timely manner. The Board formally requested an extension of the due date for submission of the Annual Report from the D.C. Council, which was granted and the final draft of the Annual Report was transmitted to the D.C. Council on January 4, 2018.

Moving forward, the Chairperson of the Board has already raised with the Board members implementing a policy change (which, when enacted, would result in a significantly streamlined Report). The Chairperson has also identified several key members who will be responsible for drafting various sections of the report, and will collaborate with DOEE to ensure that the Board's FY 2017 Annual Report is completed within the specified timeframe. The Chairperson will use checklists to ensure timely completion of report preparation.

(6) The Director of DOEE implements procedures to ensure that the Board's Annual Report on the DCSEU's progress is routinely publicly posted within ten days of submission to the D.C. Council.

Agree Disagree

DOEE Response:

DOEE has established procedures for reviewing and posting all SEU Advisory Board Annual Reports on DOEE's website, and will ensure that future reports are posted to DOEE's website within ten days of submission to the D.C. Council. Since 2012, DOEE staff has provided technical and editorial support to the Board to help finalize their Annual Reports, and transmitted the final draft of the reports to the D.C. Council upon completion. The Annual Reports are then posted on DOEE's website and are publicly accessible for public review and/or download at any time.

Finding:

DOEE'S CONTRACT ADMINISTRATOR HAS NOT ATTENDED OCP'S IN-PERSON CONTRACT ADMINISTRATOR TRAINING.

Recommendations:

(7) The CA attends in-person CA training per OCP requirements.

Agree Disagree

DOEE Response:

The CA attended all in-person CA trainings offered by OCP, and completed the trainings on May 18, 2018.

DOEE Response to OIG Draft Report 18-I-##KG0

(8) The CA attends performance-based contract training that includes the technical aspects of administering a performance-based contract.

Agree _____X_____ Disagree _____

DOEE Response:

The CA attended all in-person CA trainings offered by OCP, and completed the trainings on May 18, 2018. The CA trainings included 17 hours of classroom instruction on all technical aspects of administering executed performance-based contracts per OCP requirements.

(9) DMPED modify and reissue the CA Delegation Memorandum to add verbiage for CA training requirements and ensure that specific training requirements are included in all future CA Delegation Memoranda.

Agree _____X_____ Disagree _____

DOEE Response:

The CO agrees to amend the Contract Administrator (CA) Delegation Memorandum and will utilize the District's Office of Contracting and Procurement's updated Contract Administrator Memorandum which contains detailed information relative to CA training requirements.