

Green Jobs Green New York (GJGNY) Advisory Council Meeting
August 11, 2010
Meeting Notes

Attendees:

Albany Office: Emmaia Gelman, Center for Working Families; Judy Butler, Butler Building Performance; Melanie Spaulding, Northeast Parent and Child Society; Bruce McLean, Energy Savers Ins; Art Olson, CSG; Beth Berlin, OTDA; Dick Kornbluth, BPCA; Damion Hodkinson, True Energy Solutions/Efficiency First; Clifford Babson, BPCA; Gary Dowin, BPCA & Energy Construction Welhouse services; Jeff Emerson, BPCA/BlueOx Energy Products Services; Conor Babrick, MA Cahill; Jennifer Keida, Standard Insulating Co.; Ryan Moore, ZeroDraft; Mario Musolino, NYS DOL; Tony Joseph, NYS DOL; Barbara Guinn, OTDA; Jen McCormick, ESD: Mike Bennett, Altamont/EMS; Thomas Holmes, Resa Dimino, DEC, Jackson Morris, PACE: Tariq Niazi, CPB; Keith Corneau ESD; Frank Murray, NYSERDA; Karen Villeneuve, Hal Brodie, Jeff Pitikin, Jim Reis, Bryan Henderson, Dave Munro, John Ahearn, Ruth Horton, Matt Sousa, Linda Miller, Kevin Carey, Adele Ferranti, Kelly Tyler, Susan Moyer, Sue Andrews, NYSERDA.

NYC Office: Mark Gunther, Home Performance Technologies; Jeremy Hoffman, LIUNA; Rick Cherry, CEC; Jay Ackley, CEC; Dave Hepinstall, AEA; Charles Bell, Consumers Union; Damon Bradley, CEC; David Johnson, LIUNA; Taleigh Smith, NWBCCC; Myles Lennon, LIUNA; Miquela Craytor, SSBX; LRPC; Ana Mara Arhh, Make The Road NY; Michael Colgrove, NYSERDA; Luke Falk, NYSERDA; Sharon Griffith, NYSERDA; Dean Zias, NYSERDA

Buffalo Office: Clarke Gocker, PUSH Buffalo; Steve Deisig, Hispanics United of Buffalo; Brianer Paterson, NBI; Joe Siever, Buffalo Energy; Cyd Cox, Ecologic Home; Dorian Gaskin, Outsource Center LLC

Phone: Hannah Blitzler, Low Income Investment Fund; Maribel Cruz, NYPA; Sarah Osgood, NYS Executive Chamber; Alese, Natural Resource Defenders Council; John D'Aloia, NYS DPS

(The following meeting notes capture the essence of comments, questions and discussions held at the meeting.. The Meeting was videotaped and is posted, along with presentations and handouts, at: http://www.nyserda.org/GreenNY/advisory_council_documents.asp. This is not a transcript. Because of the extensive discussion, anyone wishing to fully understand the discussion is encouraged to review the video.)

Members of the Green Jobs Green New York Advisory Council met via video-conference at NYSERDA's Albany, New York City and Buffalo offices on August 11, 2010. Telephone access was made available to members who could not make it to a video conference site. Also present at the meeting were several NYSERDA staff members and additional staff members from Advisory Council member organizations. Members of the public also attended.

Frank Murray, President and CEO, NYSERDA, chaired the Meeting.

WELCOME & INTRODUCTIONS

The ninth meeting of the GJNGY Advisory Council was opened with introductions. No revisions were requested on the July 20, 2010 Advisory Council Meeting Notes.

The purpose of the meeting was to obtain input on the type of contractor and employment standards that may be appropriate for the GJNGY program. This is a topic on which numerous individuals and organization have weighed in, but NYSERDA wanted to hold a separate meeting that allowed more time to discuss the topic.

The GJNGY Act requires NYSERDA to establish standards for energy audits, cost-effectiveness tests, qualified energy-efficiency services, and measurement and verification of savings. Each of these standards is being addressed through the implementation of the GJNGY program. Many of these standards have been discussed at previous GJNGY Advisory Council meetings, and are already in place, and these standards were not the topic for the meeting.

The law also indicates that there is a role in the program for:

“Contractors that have signed enforceable agreements to meet standards set by the authority including standards for local hiring and pre-apprenticeship and apprenticeship and other labor-management training program participation....”

It is these types of standards that were the focus of the meeting. It is worth noting that the GJNGY program provides support for pre-apprenticeship and apprenticeship and labor-management training through its workforce development initiative (WFD). The WFD Operating Plan was approved several months ago and it describes an \$8 million WFD program where training organizations and others can apply for funding. That funding is to establish, expand, and implement a variety of training programs including those that support pathways out of poverty, on the job training, and training partnerships. Several program opportunity notices and RFPs have already been released.

Frank Murray commented on the great deal of work and thought that has already gone into the issues of standards for the GJNGY program by many individuals both on and off the Advisory Council. NYSERDA’s intent is to learn from everyone today, to understand both the value and possible implication of various proposed standards, to help to see and identify where there may be common ground among the parties, and also to recognize that there may be areas where there is not going to be a consensus. No decisions will be made at the meeting. Attendees were encouraged to submit written comments over the next two weeks. NYSERDA will use what we have learned to develop our final plan.

AGENDA:

The Center for Working Families, on behalf of a coalition of organizations and contractors throughout the state, submitted to NYSERDA the “Common agreements on Green Jobs-Green NY contracting and job standards” document which provided the focal point of the meeting discussion.

The meeting was structured to allow Members of the Advisory Council to provide their views, presentations, and prepared remarks followed by a discussion by the members of the Advisory Council. After the Advisory Council discussion, members of the general public had an opportunity to speak. Due to time constraints, Advisory Council Members were asked to limit their remarks to seven minutes and members of the public were limited to three minutes.

PRESENTATIONS AND PREPARED REMARKS OF ADVISORY COUNCIL MEMBERS

Emmaia Gelman - Center for Working Families (CWF) (Full presentation at http://www.nyserda.org/GreenNY/advisory_council_documents.asp.)

Emmaia provided an overview of the process that went into developing the document, and an introduction to the standards.

Some points made during Emmaia's presentation included the following:

- The document was generated by a coalition which the CWF headed. The standards listed were tailored towards the market. Extensive research was done and it found that similar processes have been taken on successfully in other parts of the country.
- CWF did not write the standards, but rather served as a convener during their drafting.
- The BPCA participated actively in the initial development of the policy standards. However, in the end, the BPCA did not sign on to the standards document despite the belief by CWF that the document addressed the concerns of the BPCA representative..
- A component of the legislation that differs from existing Home Performance programs is the idea of using energy policy to generate social and economic fairness. i.e. -
 - “Provide meaningful employment opportunities for displaced workers, the long-term unemployed and new workforce entrants.”
- The standards are an attempt to beef up the energy efficiency industry through State intervention. The standards are focused on five specific areas within the Home performance sector, namely
 - o Local hiring standards
 - o Training Standards
 - o Employment Standards
 - o Contractor Standards
 - o Wage Standards

Rick Cherry, Community Environmental Center (CEC)

CEC is both a union contractor and a provider of services that does a lot of sub-contracting work. CEC made a commitment to begin populating training programs with a population-set that previously not been able to do this type of work. Since that decision, CEC has hired about 20 people and all 20 have come from training programs. CEC has found they are extremely well motivated and this decision has not affected the quality of the work. CEC states that it was a strain on their staff to bring so many people in out of training programs at one time. CEC recommends a balance different from what they experienced – a standard of half local, and half of that may be from training programs or distressed populations. Based on CEC's experience they find this to be very doable, without being a big burden or negatively affecting the quality of work.

Rick commented on the need for the program to define what is meant by ‘responsible contractors’. CEC’s has found that the market is driven by local bidders who have poor work standards and pay low wages, with no benefits, and no safety training. Without defining what responsible means we will continue to have contractors who treat their workers poorly keep winning these bids and as a result drive good contractors out of the market. One area to look at is how many contractors do not do any safety training. CEC can attest this is a burden, but you should not be in this work if you do not give your workers safety training. CEC’s staff takes training in how to work with a respirator, how to get respiratory tests, how to use tools, and the chemicals we use. These are all things workers need to know and there have been no standards.

Rick believes it is also extremely important that there be required wage laws and sick leave benefits. Otherwise, the responsible contractor that does offer these benefits will be driven out of the market. He believes this is very doable and offers to work with and talk to any contractor who is worried about doing this. CEC was very hesitant about stepping into regulations of any sort, more than was necessary and found that this works because people are reasonable and in a reasonable world we can move forward and work out problems rather than just sticking our feet in the mud and saying we are not going to budge.

Rick believes this is a chance for NYSERDA to take advantage of a tremendous amount of work that has already been done in working out a reasonable compromise on all of these issues. He commented that the process was very open and there were changes made when participants made suggestions. This whole effort of bringing about a workable beginning to setting standards has already been done by the coalition and Rick thinks it provides an opportunity for NYSERDA to say that there will always be objectors or people who are afraid of change, but this is something that has enough consensus for us to go forward. CEC believes we can meet these standards and maybe we will be ready to get this program going. Rick encourages everyone to be open minded and encourages NYSERDA to lead the way in NYS in a direction that the rest of the country, or at least the forward thinking rest of the country, will be moving.

Chuck Bell, Consumer’s Union - The Consumer’s Union is a national organization of publishers of consumer reports based in Yonkers NY.

Consumer’s Union strongly agrees with many of the points made by CWF and CEC. As a consumer organization, Consumer’s Union considers themselves to be one of the anchor stakeholder groups for GJGNY as they represent consumers. We want it to be a win-win for the environment, for workers, and for the consumer. Consumer’s Union represents all types of consumers, especially low and moderate income consumers for whom utility and energy costs are a huge concern. Among their base are consumers living in leaking dilapidated housing in distressed neighborhoods throughout NYS. Many of these people are people of color and low-income families and half of the taxpayers in NYS are women. The themes about having this initiative serve the broad community in all its diversity really resonates with the Consumer’s Union..

Consumer’s Union believes to achieve the goals of this initiative, we need strong public oversight and strong labor wage hiring standards. If the labor or the hiring standards are weakened, they would worry that the consumer side of the standards could be weakened. Many of the standards play a very important supporting role in ensuring that the consumer gets what they are promised from the retrofit. When people see benefits of retrofits, they need to see the

responsiveness of contractors and CBOs and real pathways to employment opportunities that can realistically be accessed from where they are living. Consumer's Union believes there should be wage standards for an initiative that is funded with public ratepayer dollars. Displaced workers living throughout NYS are consumers too and they are entitled to benefits. Consumer's Union thinks it is entirely appropriate for NYSEDA to embrace these types of standards that promote access to economic opportunities.

Consumer's Union applauds the aspects of the standards that will help draw in the resources that labor unions can contribute to the initiative; access to training programs, benefits, and welfare funds that lift workers up and help give them a career path. Consumer's Union is concerned that the Home Performance contracting industry has relatively low representation from minority business enterprises (MBEs). This is a concern when we are constructing an initiative that is supposed to benefit all of NYS, for protection of workers and consumers, and for private investors that want to put money into this type of a program. The scalability of retrofit financing is contingent on high standards and investment grade work; so consumer benefits are very closely linked to those of protecting the interests of investors.

Looking broadly at the home improvement and residential construction industry from the consumer perspective, in NYS some companies do excellent work, but many do not. In fact it is an industry that generates numerous consumer complaints and is one of the industries that frustrate consumers the most. In GJGNY we are trying to do something that is different in fundamental ways. We want to get high quality deals for the consumer with minimal problems, high quality retrofits with low levels of complaints, high quality deals for the worker including people who are historically excluded from opportunities, and we want to get substantial energy and carbon savings for the environment. Consumer's Union believes we have a fiduciary obligation to spend the money in this program wisely and effectively, which includes a focus on wage standards, training standards, and preventing a race to the bottom. If these standards go away we are concerned that consumer welfare will suffer. Consumer's Union looks forward to working with other organizations that are such strong supporters of GJGNY and hope that we can reach reasonable accommodations around these issues and create benefits for workers and consumers throughout NYS.

Dave Johnson, Labors International Union of North America (LIUNA). LIUNA represents 500,000 construction workers in the United States and Canada, 30,000 in NYS.

LIUNA stated that the proposed wage rate is below the level the Economic Policy Institute says is needed to support a family of any size in New York. Workers would likely go without health care under these standards. LIUNA states that in deference to the wishes of Building Performance Contractors Association (BPCA) contractors there are virtually no standards addressing the kind of training workers will receive. Employers are therefore able to call whatever they do with workers "training" and pay the trainee a lower wage rate. LIUNA accepts these wage standards only because the coalition support them. LIUNA supports the overall standards because they are achievable, they will deliver tangible benefits to communities and workers, and provide a solid foundation for a robust home performance industry and because LIUNA is committed to the coalition process that created this opportunity.

LIUNA stated the process required some give and take and for that reason agreed to a number of changes that representatives of BPCA said were needed to make this work for their contractors.

Ultimately the CWF's Common Agreement Document does not have everything LIUNA wants, but LIUNA believes with all parties working together the program will work. For this reason, LIUNA worked tirelessly with other contractors and CBOs on a strong document that none-the-less establishes poor wages, does not guarantee healthcare for workers, and sets worker certification requirements that are weaker than those proposed under Home Star. It does not work for, nor benefit, many of the LIUNA members unemployed throughout the state. LIUNA references comments made by CEC who partnered with LIUNA and it has worked well. Green Light Solutions, a Home Performance contractor has also partnered with LIUNA and has hired disenfranchised workers from different communities. They have made it work and have doubled the size of their workforce.

LIUNA believes standards will increase investor confidence and quality assurance. LIUNA held a meeting with investment consultants and bond managers, including the country's largest, which represented \$3 trillion. LIUNA received feedback that contractor standards, an auditing process, and quality assurance would be necessary to protect investors and create large demand. A successful energy retrofit industry will require both consumer and investor protections. Consumers and investors will need to be adequately protected from risks stemming from poor implementation of energy efficiency measures and unrealized energy savings. LIUNA is prepared to work with the Advisory Council to make the program work in a way that will put people back to work.

Miquela Craytor, Sustainable South Bronx – Non-Profit created in 2001 – Focused on Environmental Policy, Education, Workforce Training, and Greening Projects in New South Bronx and the New York area.

Sustainable South Bronx has been involved with the initiative since the initial committees that created the legislation. The program is intended to help prevent climate change but also create economic opportunities for those folks who have been left out of the economic boom. Sustainable South Bronx sees that retrofitting and revamping our infrastructure is one way not only to create jobs it also addresses environmental burdens in certain low-income areas particularly in urban areas where people of color are suffering.

Sustainable South Bronx saw GJGNY as an opportunity for their training program to expand, allowing them to target a population that has been out of work, give them skills that employers have been looking for, and then get them hired. Since their program started in 2003, they have kept high standards, not only for the technical skills received through the training, but also in soft skills that make workers employable for the long term. Over 80% of Sustainable South Bronx's graduates are fully employed. Seven to eight percent are going on to higher education.

Miquela commented that the current system does not create opportunities for individuals who may be good workers but do not have a long work history. This will require systematic thinking and creating linkages. If we ensure that the training programs supply the workers needed, and have the right hiring standards to give these workers employment, we can create the job opportunities. Unless we are willing to ensure these bridges, this program will fail in its intention. GJGNY was not intended just to create and expand opportunities for contractors, but save money for consumers and create real gateways for folks who have been left out.

Sustainable South Bronx commented from their experience this requires people to overcome fears and expand their comfort zone. Sustainable South Bronx acknowledged from their own experience in marketing their training program that this is a challenge, but the program needs to get people connected so that we don't lose out on the amazing work GJGNY is capable of producing. Sustainable South Bronx stated they are willing to meet people in the middle, but standards cannot be overlooked. The intent of the legislation was to enact change; without the standards this will just be more of the same.

Judy Butler, Butler Home Performance – A Home Performance Contractor

Butler Home Performance stated that GJGNY is going to add another level to the Home Performance program, but it is going to be difficult. Butler Home Performance does not agree with everything being proposed, but are trying to be open-minded and focus on creating work, creating jobs, creating a better quality of life, and a better environment. A lot of contractors do not pay their employees adequately and they are not being trained. It is hard dealing with the standards, doing the jobs correctly, doing all the paperwork, trying to make a living, and paying the overhead. The economy is bad so if there is any way to increase projects/business, give people jobs, and provide good work this program has a chance. If the program is not successful in doing this, future funding for GJGNY will not be there.

Eric Walker, PUSH Buffalo (Full Presentation at http://www.nyserda.org/GreenNY/advisory_council_documents.asp)

PUSH Buffalo is a grassroots community power building organization deeply invested in sustainable community development. PUSH Buffalo provided a number of graphical representations of the suburbs of Buffalo and the inner city showing income levels, owner occupancy and ethnicity. PUSH Buffalo commented on the concept of energy efficiency Red-lining. Historically, red-lining has resulted in intentionally excluding people from benefits. In the case of energy efficiency it may not be intentional, but it is the de-facto result of the current development of the energy efficiency industry. PUSH Buffalo suspects that the areas of high owner occupancy, higher income levels, with little diversity are the primary areas where the current Home Performance program is performing the majority of work. PUSH Buffalo believes there needs to be an institutional mechanism to expand the program into the other areas, specifically into the inner City of Buffalo. PUSH Buffalo believes the CBO role to be intimately hinged to the success of the program. PUSH Buffalo believes that there is not an alternative to standards if we are to meet the goals of the legislation. PUSH Buffalo stated that this is not intended to be the existing NYSERDA programs, but rather to be something fundamentally different and to do so different implementation strategies need to be supported.

Jennifer Keida, Standard Insulating Company, Inc. – A Home Performance Contractor

Standard Insulating Company, inc stated that they do not believe anyone disagrees that standards are needed. Jennifer, in her role on the Advisory Council, reaches out to and represents a lot of contractors from Buffalo to NYC that she has had discussions with over the last months. Jennifer realizes that there are places where there is no leeway due to the way the legislation was written, but in other areas there may be options. Jennifer recommends that consideration be

given to existing contractors' workforce and how they have hired and trained workers in the past. The Common Agreement Document only looks at hiring going forward. For example, if 25% of the current staff falls into the targeted group, will that provide flexibility for the next hire? How will this be taken into consideration relative to a company that doesn't currently meet any of the targeted goals? Standard Insulating Company, Inc has been in business for 80 years and participating in NYSERDA's Home Performance program for a number of years and has already met these standards on their own accord.

Jennifer stated that contractors have historically been left on their own to train their workers. Comments have been made about contractors doing the wrong thing. The majority of the Home Performance contractors do the right thing and they talk amongst each other and help each other with ideas. It is important to see the existing training programs and the apprenticeship programs as meeting some GJ training requirements.

Jennifer commented on the need to define 'displaced', as this term is not defined in the Act. In a rural area a displaced employee can be a contractor who has been building houses for ten years and has suddenly lost his job. He had a good life, a good wage, and suddenly does not have a job and has been out of work for six months, plus. Does that define displaced? Jennifer recommends defining displaced including any distinctions there may be by region so that contractors can better understand what is intended by this.

Standard Insulating Company, Inc also commented on the need to define training. Every Home Performance contractor will offer different services. Some offer the whole house and some specialize in certain things. Based on what you specialize in, there could be a layer of different types of certifications. Is there a good definition of what constitutes an entry level position and what defines a certified installer position? Standard Insulating Company, Inc has installers that do many things across the board in some areas, but they could not cross over to other work that the company does.

Jennifer commented that there is concern about a CBO conducting QC on the contractors work when some of the CBOs will be just introduced to the field as opposed to the companies currently doing QC having years of experience. There is a concern of how this will work and if this represents a conflict of interest.

Standard Insulating Company, Inc stated there is apprehension and perhaps confusion about contractor reimbursement for audits. On page 10 of the Common Agreement document, "for customers who are screened and identified as having barriers that make them unlikely to move to a retrofit and for customers whom the contractor decides not to have a third party to screen, contractors will receive 50% of payment at the time of the audit and 50% at the time of the contract." There is not a lot of clarification regarding whether contractors have to do a free energy audit to all homeowners in NYS. Also, if a CBO gives a contractor a lead, is it still the CBO lead, so if it doesn't result in a retrofit, does the contractor only get paid 50% of the audit? The cost of the audit has not yet been determined, but currently the discussion is \$250.00. Half of \$250.00 to perform an energy audit that does not convert into a retrofit is not worth it to a contractor, but if the lead is coming from a CBO, it obliges us to do the audit anyway.

Jennifer stated that some the things in the Common Agreement Document require more discussion, as they are based on conversion rates, and things of that nature, which are very hard

to predict right now. This uncertainty is what is causing a lot of the resistance from the contractors.

Jennifer commented that due to comments she made at the last Advisory Council Meeting, a number of contractors have sought her out. As a result she has spent a lot of time on the phone, internet, and web with a lot of contractors. Most of the contractors had not yet seen the Common Agreement document. BPCA has done their job as an organization to let contractors know what is going on, by directing people to the NYSERDA website to find the Common Agreement document, how to get involved, how to see the videos of previous Advisory Council meetings and notes. Jennifer noted this in the context of why there has suddenly been a lot of feedback from the contractor base.

Dick Kornbluth, BPCA (handout provided and posted on http://www.nyserda.org/GreenNY/advisory_council_documents.asp)

Dick provided comments on behalf of certain members of the Building Performance Contractors Association (BPCA.) BPCA provided copies of the Common Agreement to contractors soliciting feedback. Written comments have been provided and are posted on the NYSERDA web site. The main points provided include the following:

- Contracting work in NYS follows the 80/20 rule. That is 80% of the work is done by 20% of the contractors. This is because that the majority of contractors in the state are very small. The proposed standards are likely to pose challenges for small contractors.
- There is no issue with the goals of the program, just on how best to get there. The mandate aspect is not good and could be counterproductive.
- If there is preference shown to any contractors, it should be given based on quality performance.
- The standards have the potential to produce great benefits; however, the overwhelming response from contractors is that there is too much paperwork (and therefore, cost) associated with them.
- Contractors want to and should have the right to hire whoever is best for the job.
- There is also some concern with the mandate aspect of the standards. The standards have no meaning without enforcement and enforcement is costly. NYSERDA costs to run the program will go up.
- The standards for hiring and training do not ensure quality and NYS already has the best quality assurance program in the country. Also, training never stops and is ongoing. Often workers train by doing.
- Finally, incentives should be used to encourage contractors to go along with voluntary standards. To punish those who do not is a bad idea. BPCA is not opposed to the

standards but it would be easier to get totally on board if contractors were incentivized a little. Ex. wage subsidies.

Dave Hepinstall, AEA

AEA commented that they have been involved with a lot of planning processes that NYSERDA has undertaken, and the GJGNY process has been unique in many ways due to the interest in having consensus built into the process. AEA has been, and continues to be, engaged in many other related activities including stimulus money, weatherization and additional efforts on creating jobs. For the past 20 years AEA has been totally engaged in energy efficiency programs, whether it be through the federally funded weatherization program, utility or NYSERDA programs. AEA has been training contractors and staff. AEA states that the goals of the GJGNY legislation are not unique but share the goals of many other programs out there. AEA believes what may be unique is NYSERDA's ability to have a greater sense of flexibility due to the source of funds, than in cases with PSC-oversight (SBC funding) and weatherization rules from Washington.

AEA has been involved with BPI in helping to create the first standards and certifications along with Quality Assurance and a commitment to MWBE. These are critically important. AEA believes in every single goal in terms of targeted hiring. AEA has hired more than 50 people in the last year with a large percentage of people having come out of workforce development efforts that they are working with. AEA has been amazed at the extent to which they are seeing incredibly motivated people. AEA has an energy efficiency technician eight-day course, which has been running non-stop since the beginning of the year. The people coming in are all committed and include ex offenders, women, and other underserved populations, and they are all from the city. AEA is hiring as many as they can and want to hire more. AEA has been trying to convince people since 1993 that there is such a thing as an energy efficiency industry, however they are recently seeing that many of these people are really passionate about working in this field. AEA believes there are a lot of good intentions in the proposed standards, but they need to be thoroughly thought through.

David stated that BPI does not require for 'accredited contractor status,' that every single worker be certified. That is a detail that will have negative consequences. There are more examples like that, of specific details that are well intentioned, but actually will hurt us in achieving the objectives we want to achieve. We have always seen the need for non-stop, on-the-job training once someone has been certified. AEA believes this can be accomplished through the training infrastructure that currently exists and is being expanded.

David further stated that a worker with a building analyst certification, but without experience in the field, can not necessarily perform that job. AEA states there is a learning curve for a crew person as for an energy auditor in a multifamily building. AEA has found the learning curve to be 6 to 12 months for everybody at any level they hire if they have not done the job before.

David stated that he does not see many solutions to the small contractor development problems in the proposed standards. There are some hints; they need jobs, predictable jobs. They have to continue to have work. The small contractor thing is a challenge. Success goes back to what Dick said - it is all about QA: the successful completion of work that is going to save money by meeting all the standards, and we have to have that in the forefront. Wages and the type of

people you hire aren't going to automatically make it work perfectly. The implementation details need to get worked out.

AEA stated that in regards to reporting, it cannot be too burdensome or contractors will not opt in. The goal is to find the right balance that will bring people in.

Frank Murray summarized the comments of the Advisory Council by noting that there is almost unanimity of opinion among the Advisory Council members and the interest groups in the objectives of the legislation. Where there are differences, it involves the specific tools that we are going to pursue to implement that legislation. Frank facilitated a discussion with the Advisory Council focusing on specific topics, asking Advisory Council Members to respectively identify the degree to which they disagree with one another. We have heard some of the practical challenges of implementing some very desirable objectives; and it would be helpful to understand the best way to go forward.

DISCUSSION:

Advisory Council discussion on pertinent topics listed below.

LOCAL HIRING STANDARDS

Giving consideration to past practices regarding hiring.

Comment: Dick Kornbluth stated that all of his hires are local; they live within commuting distance from his office, no more than 30 minutes away. They have never hired outside of their service area. They have one location, Syracuse, and work basically within 50 miles of the city. If jobs are beyond that, and do require overnight stays, they send their crews and have not hired workers outside of their area.

Comment: Emmaia Gelman asked if the discussion could be addressed from the point of the standard, namely wherever, you do 80% of your work. What we are talking about is ramping up work in places where folks do not already do a lot of work. In areas where Home Performance has not already reached a lot of retrofits, would that shift the area where 80% of your work takes place?

Response: The BPI accreditation model says that if you operate in another location, you have to be accredited in that location independently. That means that you are creating a separate office in a separate location. You can check with contractors that operate in multiple areas and confirm if they hire from the area where they work.

Comment: Dave Hepinstall recommended from an implementation perspective, that NYSERDA consider creating a basic questionnaire that would summarize contractor responses to a series of those standard-related questions, so that right from the beginning we would have that information. There is no reason why these standards could not be addressed in terms of current hiring practices. Why not have it as a common database?

Comment: Jennifer Keida stated that one of the conflicts is that she does not just do Home Performance contracting. Standard Insulating Company, Inc also does weatherization and a lot of commercial work. Depending on the year, the balance of worker distribution can be very different. This means that she has employees that have been employed for 20 years who did HP 80% of the time two years ago when the economy and gas prices were up, and the HP program was alive and running. Right now she only has one job of 11 workers doing HP. So she has HP installers who are working on commercial projects now. The idea of trying to define workers by job sector would be a logistic nightmare. She has employees who work one day a week on HP jobs and spend the remaining four days working on a commercial job. The workers may be local or from out of town. The commercial side of the business covers the entire northeast. Right now she has a crew in LI working on a commercial site. In two weeks that crew could be working on HP. So, logistically the paperwork would be challenging. She could not limit HP installers from working on commercial jobs. These jobs often times are prevailing wage jobs, which increase the salaries of the installers. By segregating workers into exclusive areas, she would have to exclude them from these opportunities and they would be laid off. That is not a good business practice and it certainly is not in the workers' best interest. Trying to determine the 80% rule would be a logistical nightmare to define how many employees are involved.

Question: DOL - As you are doing hiring now, where do you get your referrals? Do you use DOL offices free services or do you put ads in the paper? We have 700,000 people registered in our system now, with 80,000 jobs opening.

Response: Jennifer Keida. Generally we have people come into the office daily putting in applications and resumes. Our company is known for providing a good living for workers with benefits. Construction workers find out that we have health care and retirement plans and people migrate to us. We have a long list of people we work with in hiring. We may run an ad for commercial work because people do not like to travel. We do run ads in the paper, go to the Department of Labor, and there are people that find workers for us.

Response: Another Advisory Council Member stated they have the same scenario. If they have a big job they go to the DOL.

Compilation of Data

Question: Eric Walker - How do contractors currently get basic information on employees, such as demographics, where they live, and background, the things that you may have to report to a future employer? How do you manage that?

Response: Judy Butler - We use credit applications, proof driver's license and credit cards. We do not do any checks on whether they have trouble in the past or internal revenue problems. Basically, credit application, drivers license, address verifications, and we check their reference on other places that they have worked. The information is kept electronically where it can be easily retrieved.

Question: Eric Walker - What infrastructure capacity do you have now to compile, retrieve, and present information about current employees which might give me a sense of what logistical nightmare you might have on reporting on future employees? Assuming the logistical nightmare is true, that is a technical assistance function that the program and NYSERDA could help

identify through its network, Community Core Workers, or some designated the staff at the agency level to help compile existing information on new hires into a form or deliverable that could help you comply with an of the standards on local hiring.

Question: If the standards apply to new hires only, would that avert or exaggerate your logistical nightmare?

Answer: Jennifer Keida Yes it would make it more difficult. New hires are hired for a specific job. In the best interest of the employees we shift them to where the work is. It is easier to hire HP installers than commercial spray foam installers.

Question: Jeff Pitkin - There are two issues here. One issue is the location of workers who get hired. Where are they located relative to the retrofit work being done? The other aspect is the profile of the person being hired, their gender, their experience, and their history. On the first issue of location, are there contractors who have found that in meeting with prospective customers, that demonstrating that the workers who are doing the work are from within the community has been something that has helped to sell consumers receptivity to participating in the program?

Response(s): None. None at all. There may be an issue on whether the company is local vs. a company coming in from New Jersey, but as far as employees go, the only concern is whether we have done background checks on our employees. That will make a difference.

Response: In Assisted Home Performance we have found that it is helpful to go into people's homes in neighborhoods with people from their neighborhood. It seems to have more to do with ethnicity and speaking the same language rather than where they are from.

Response: This may be true in the city. People there respond better to people from the same area with the same back ground.

Comment: Dick Kornbluth: The challenge is how to track employees work on HP and non HP jobs.

Question: An advisory council member asked for a clarification on overhead costs?

Answer: The additional overhead costs in Home Performance depend on the level of commitment to the program. We have overhead increases when we are training multiple employees for audits, certifications, etc. They can be large or small.

Question: Is there a way to streamline the paperwork process?

Answer: There is always an effort being made to make it easier for contractors and everyone involved.

Comment: An Advisory Council member stated that everyone needs to recognize that they are not dealing with a static market. If there are a lot of jobs in an area, then a company will open up an office in that location and hire workers from that area. If there are only a few jobs in an area, a company will bring workers in from outside to do those jobs and not hire locally. This is simply a fact of business.

TRAINING STANDARDS:

Comment: What the standards say is that a trainee is being paid 85% of the entry level salary and that training should last for about six months and after that time they are trained and certified. Jennifer wanted clarification on where six months came from saying that she needed at least a year to properly train one of her employees.

Comment: Contractors should screen employees and then do training and certification while working.

Comment: NYSERDA needs to say there will be standards and then find the mechanism for how to discuss the details on the standards. The biggest underlying concern is enforcement. If there is no consensus on this point then there ends up being an exception. This was seconded by the rest of the Advisory Council.

Question: Frank Murray asked what the Advisory Council's thoughts were on how training standards should be enforced.

Answer: There are markers that are set up that allow NYSERDA to go back and check progress. CBO's can also flag issues.

Question: Has there been any thought to structuring the program towards the size of the contractor on a case by case basis?

Answer: There is nothing written in the legislation that requires review of everyone's payroll or investigation of the company, however how well a company keeps records so that they are available when the Department of Labor comes for inspection is key.

Comment: It is frustrating for contractors who follow the standards to see other contractors not follow them. Without enforcement, the standards become meaningless.

Comment: Enforcement can work if it ensures that there are mechanisms in place that allow workers to know what their rights are. The people in the field need to have enough information to know if they are being cheated.

Comment: It is wrong to see the CBO's as enforcers, but if there is an infraction, they could serve as a mediator to work things out before there is an actual investigation.

EMPLOYMENT STANDARDS

Comment: Some employee complaints are legitimate, some are not. The mere fact that there is a complaint is not a problem, the problem is how the complaint is handled and resolved. The employment standards should focus on this. There is a need to better define certification types.

CONTRACTOR STANDARDS

Comment: There should be some flexibility in getting contractors on the BPI track. They should not be barred from participating until they are accredited but there should be a mechanism for them to participate while in the process of getting accredited. It should definitely not be day one; that they have to be accredited to participate.

WAGE STANDARDS

Question: How does one calculate wage benefits? There needs to be a way to calculate this.

Comment: The standards should encourage health benefits. They must also consider that a trainee receives 85% of entry level pay while being trained. Once they are trained do they assume full entry level pay? Are these two issues linked?

Comment: If an employee is fully trusted with a full workload then they should be trusted with full pay.

Comment: The training curve is long. Companies will have to invest a lot in training. Also need to watch for contractors that just cycle through trainees. They won't be able to survive.

PUBLIC COMMENT

Frank Murray invited any member of the public not on the Advisory Council to speak.

Sid Cox,: NYSERDA needs to monitor how they introduce these programs into low income minority communities. These communities are suspicious and often unresponsive to outsiders. There needs to be affirmative action within this program in order for it to work in these types of communities.

Dorian Gaskin: I am a trainer and a certified MBE contractor. I work with all kinds of people that are being trained and there is a 70% placement rate. The only way to meet the hiring goals set by these standards is to consider MBE's.

Brian Patterson: The way to sell services is through the savings to investment ratio. Without wage standards the people employed by these companies would not be making a good wage.

Lisa Tyson: The purpose of the bill was left out of the conversation. It is not meant for businesses to help businesses, it is meant to help targeted populations. This discussion needs to put the community first. Talking about profit vs. workers is leaving out the intention of the bill. If it is not benefitting the communities then there is reason why CBO's need to be a part of it.

Taleigh Smith: The program has typically just been about energy savings, however not anymore. Ninety-five percent of the work that is done locally is contracted outside of the community. Saving on energy bills, although good, does not take people out of poverty.

David Bradley: An installer at CEC. The bill will help him get and keep a job along with a lot of other people just like him. The program is good because it serves as a mechanism for people like him to get long term employment where otherwise there would not have been opportunities.

Marquisha Page: Trainee who graduated from SSBx. People like her do not always have access to these types of programs. Once they go through training, if there are no jobs, the training they received does not matter. The standards in this proposal will create these jobs. It is important that they promote a livable wage. Companies have no reason to look for workers elsewhere if there are trained workers in the communities they are working in.

Ana Maria Archila: There is a wage gap and the standards are a way to correct this. CBO's can be partners to help these programs succeed. Without these standards it is impossible for the CBO's to meet their goals. There is no need to fight with contractors but rather partner with them and work together so that all members of the program benefit.

Cliff Backson: Question: Do the standards apply to all contractors or just the ones that work with CBO's?

Answer: The Common Agreements document proposes that any contractor that signs on to participate in this program is subject to the standards.

Bruce McClain: Likes the idea of helping people save on their energy bills but the "downward push" is preventing him from properly fixing someone's house. He is pressured by so many costs associated with being accredited. He already adheres to the proposed standards by employing ethnic people.

Gary Goodman: Government programs are paid for by the customer/consumer. As a result the costs associated with the program cannot be ignored. It is hard to accept all of the stipulations of the proposed standards. Wage standards are difficult because current employees will have worked very hard for several years for what new hires under this program will have in six months. This creates conflict. Also, standards never get reduced - just added. This hurts small companies. A possible solution to this may be to exempt small companies from some of the standards. Ninety percent of the training is on the job, on site. Training standards are also difficult for small companies. Finally, no other industry is subjected to stricter QA standards than the home performance contracting industry is already.

Mike Bennet: These standards are good experience for CBO's on what it takes to train and employ people from the targeted populations. Also, there was a lot of hesitation on the part of employers on including incarcerated people as part of the targeted population. Many of these people are committed to change and an effort has to be made to find a place for them to fit into the program somehow.

Damian: I am 100% on board with the ideas of the standards; the difference is on how to get there. It is demeaning for private contractors to be told what to do. A partnership is not where one person tells the other what to do it is where the two sides work together equally. The

HPwES program is a proven, successful program and the GJGNY agenda proposes to change it. This must be done carefully and everything must be considered. By revising this program, it is messing with the lives, incomes, and families of contractors. The contracting business is very complicated and there is no need to further complicate things. A slowed down approach might be best. Take a slow phased approach and in a year, once relationships with CBO's are established and the goals of the program are fleshed out, the program will be in a better position to tackle specific standards. It would also help to incentivize the program for contractors.

NEXT STEPS:

The next meeting of the Advisory Council is scheduled for Thursday, September 16th from 1-4 p.m. In the interim, comments will be taken over the next two weeks concerning the GJGNY Standards discussed at this meeting.