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COALITION  
*for* ADEQUATE  
SCHOOL HOUSING<sup>SM</sup>

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October 25, 2013

Mr. Robert Weisenmiller, Ph.D  
Chair, California Energy Commission  
1516 Ninth Street, MS-33  
Sacramento, CA 95814

**RE: Docket #: 13-CCEJA-1  
Comments on Proposition 39**

Dear Chair Weisenmiller:

On behalf of the Coalition for Adequate School Housing (C.A.S.H.), I appreciate the opportunity to provide remarks on the *Proposition 39 Program Implementation Draft Guidelines*. C.A.S.H. was formed in 1978 to advocate for school districts and their industry partners on issues related to school facilities and construction. Our school district members represent approximately 93 percent of the public school pupils in California.

We offer the following comments and recommendations for your consideration.

Five-Year EEP Option

We appreciate the options that are presented for submission of Energy Expenditure Plans (EEPs), in particular the option to submit a five-year complete award EEP. A five-year option offers the CEC assurance that plans are well thought-out while giving consideration to the unknown. The *Draft Guidelines* stipulate that the five-year option is only available to an LEA with an award of \$50,000 or less. C.A.S.H. urges you to consider providing this option to all LEAs, regardless of award size. Restricting this option to smaller LEAs will:

- (a) Inhibit effective long-term planning and instead may encourage a piecemeal approach to planning for larger LEAs, and
- (b) Limit the potential scope of projects, which would be constrained by the yearly award approval process.

Providing equal access for all LEAs to this important option would help ensure that the approval process does not obstruct project delivery or the job creation envisioned by Proposition 39.

Change of Scope Flexibility

We appreciate further the recognition that an LEA's needs and priorities sometimes change. The *Draft Guidelines* address this issue by identifying circumstances that would necessitate a "change of scope approval" of an EEP. We believe the clarifications and modifications outlined below would enhance this process while accommodating changing circumstances at the local level.

Regarding five-year EEPs that contain multiple projects on one site, we believe that a change of scope approval is not necessary for a re-ordering of project commencement. Altering the order of construction for projects on one site should not affect the end result of the approved plan. While the *Draft Guidelines* appear silent on this issue, it would be helpful for this specificity to be included in the final version.

The *Draft Guidelines* require a change of scope approval for project cost increases of more than 15 percent. There are many reasons why project costs may exceed those initially reported in an EEP, including the rise in the cost of construction materials, general inflation and subsequently the rise in total construction costs seen in future bid climates, or changes in project scope due to unforeseen circumstances causing construction change directives (i.e. change orders). We would propose that, in cases where the cost increase is beyond the LEA's control, a change of scope approval should not be triggered, regardless of the percentage increase. Instead, LEAs could provide notification of cost increases above 15 percent to the CEC, noting in brief the cause on a checklist and certifying that the increase was beyond their control. We suggest that a change of scope review should only be triggered in cases where the cost increase would negatively impact an LEA's ability to complete one or more projects on the approved EEP.

#### Reimbursement Projects

It is our understanding that LEAs may finance projects on an approved EEP, and future awards may be used to pay corresponding debt service. It would be helpful for the *Draft Guidelines* to specify that this is indeed an acceptable expenditure. It would also be helpful to clarify that this provision extends to projects that are self-financed, i.e. those approved projects that are initially paid for out of an LEA's General Fund or by a bridge financing mechanism such as a Certificate of Participation (COP) or other available capital funds that may be used to advance projects with the recognition that these must be reimbursed. This assurance would allow districts to proceed with larger projects with costs exceeding an annual award amount, while minimizing borrowing costs. Prohibiting self-reimbursement would again limit the potential scope of projects, therein limiting districts to a year-by-year, pay-as-you-go approach resulting in smaller projects.

#### Quarterly Status Reporting

We recommend annual reporting for each approved EEP, rather than the quarterly progress status reporting proposed by the *Draft Guidelines*. Annual reporting is a reasonable approach that is already familiar to schools who participate in the state School Facility Program, and it provides an appropriate mechanism for assuring accountability of public funds and adherence with the program statute. Annual reporting could still align with the State budget process to properly inform policy-makers about the status of the program. The statute already requires detailed reporting on final costs and energy benefits at the conclusion of the project; we see no benefits of quarterly reporting that outweigh the additional administrative work required of schools.

#### Committee for Collaboration

We recommend direct contact between CEC, the Division of the State Architect (DSA), and the California Department of Education (CDE) on implementation matters. This could be facilitated through creation of a Committee for Collaboration, to include the agencies outlined above plus any others deemed appropriate, as well as representatives from school districts. The Committee would meet on an ongoing basis to undertake an organized review of progress as the program produces active projects; potential policy adjustments could be brought forward for consideration. This process would help address any inter-agency processes that impede streamlined project approval and award disbursement. For example, as districts begin to experience the interrelation between the DSA

and CEC review processes, it may be necessary to revisit potential DSA plan review streamlining options to hasten the CEC approval process, ensuring dollars are out on the street sooner rather than later.

#### Calculators

We appreciate the tools, calculators, and appendices that have been included or referenced in the *Draft Guidelines*, and we look forward to receiving more details about the EEP application form. In particular, “Exhibit B: Typically Cost-Effective K-12 School Energy Projects” is a helpful guiding document for schools as they begin their project planning.

#### Uncertainty

Now is a time of flux for schools in general and facilities in particular, as we begin to understand the new school finance system, the Local Control Funding Formula. Significant new facilities requirements go into effect on January 1, 2014. School construction projects over \$1 million that receive School Facility Program funds are subject to significant new pre-qualification requirements. Additionally, any projects with plans submitted to the Division of the State Architect after January 1, 2014, are subject to new building standards codes, including modifications to the CalGreen Code. This means that schools will face a transition period as they adjust to new codes and prequalification requirements for their construction projects. It is within this context that we urge you to prioritize flexibility in your approach to implementing Proposition 39.

#### Addressing Significant Unmet Needs and Job Creation

Proposition 39 will help meet significant unmet needs for California’s schools. Due to the realities of budget constraints, schools have often been unable to pursue critical energy efficiency upgrades. Proposition 39 awards will allow schools to accomplish important energy retrofits that will generate both operational savings and environmental benefits, improving learning environments for students across the state. Additionally, Proposition 39 has the dual benefit of creating quality construction jobs, which will help continue progress toward California’s economic recovery.

In conclusion, C.A.S.H. believes that school districts should be empowered to determine the best use of funds for their unique circumstances, and the *Draft Guidelines* go a long way toward achieving this. Schools appreciate this unique opportunity and look forward to maximizing the energy savings and budget benefits that Proposition 39 will afford, while creating jobs and stimulating the economy. We appreciate your consideration of these remarks, and we offer to serve as a resource should you need any additional information during the development of the *Guidelines*.

Sincerely,



Thomas G. Duffy, Ed.D

cc: Commissioners, California Energy Commission