



December 18, 2013

The Honorable Andrew McAllister
Commissioner
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Proposition 39 Draft Guidelines

Dear Commissioner McAllister:

This letter serves as the School Energy Coalition's (SEC) comments and input on the California Energy Commission's (CEC) Proposition 39: California Clean Energy Jobs Act - November 2013 Program Implementation Guidelines. SEC is a statewide organization made up of school districts, county offices of education, community colleges and school construction professionals and consultants with a specific focus on school energy projects for California's students.

Our SEC members appreciate the focus of Proposition 39 funding on K-14 schools and the state's objective in creating good-paying energy efficient and clean energy jobs in California and leveraging existing energy efficiency and clean energy programs to increase economic and energy benefits.

Overall, we believe this version of the guidelines is better organized and easier for schools to understand; however, there are some concerns remaining from schools that are seeking to meet the standards. There is a general concern regarding the focus on energy efficiencies and calculations to meet those standards when schools are very focused on cost efficiencies and the ability to generate savings in addition to energy efficiencies, and it is not clear yet that this will occur. LEAs seek to use utility bill savings to reinvest in school priorities for students such as academic achievement, better indoor environments and safety.

We do appreciate, however, the changes that have been made thus far, particularly regarding reporting requirements now on an annual basis rather than quarterly, and allowing five-year comprehensive plans for all school districts.

Expenditure Plan Submittal and Reporting:

Change of Scope: The CEC's DRAFT Guidelines discuss relocating projects and changes in sequencing of projects as one of the triggers for a scope change report. We would ask for your further consideration as to whether this is necessary.

Also, if a project is added or subtracted from an Energy Expenditure Plan (EEP) after funding has been disbursed, a cost increase of more than 15%, a more than 15% increase in equipment being installed, and a relocation of project, are all considered to be "significant" changes that will require approval by CEC. We would encourage the CEC to take into account that a 15% increase could occur due to inflation, especially if the plan spans multiple years, and we ask that this be taken into account so that an additional report is not needed.

Allowing Loading Order to Factor in to Project Approval: Might there be an opportunity to incentivize an LEA following the state's loading order? Allow districts that self-certify that they are complying with the State's loading order in order to access funding or receive some sort of adjustment in meeting the Savings-to-Investment Ratio (SIR) calculation similar to non-energy benefits?

Definition of Cost Effectiveness

Savings-to-Investment (SIR) Ratio: The 1.05 number is one that appears to be critical to the approval of an EEP and schools will quickly be learning the input and output of this calculation. In order to allow for the most flexibility in reaching this number, we suggest that each *individual school site*, be changed to LEA (submitted in one EEP) must achieve a minimum SIR of 1.05 (per paragraph 2 on page 19 of the DRAFT Guidelines).

Approval Process Timing and Disapproval Process

Post CEC Approval Funding Process: The DRAFT Guidelines state that the CEC will approve projects on a first-come, first-serve basis. Once approved, the proposed project expenditure plans will go to CDE for authorization of funds. The DRAFT Guidelines state that CDE will be processing approvals on a quarterly basis (i.e. every three months) and that process will take a month. After CDE authorization, the apportionment package will go to the Controller's Office and that office will "draw warrants" which is expected to take another 3-4 weeks.

It appears that the entire process, after CEC approval, could take a few months. Our members have expressed deep concerns over this timeline as it must be closely aligned to work with project development timelines for the summer construction period.

Disapproval Process: SEC appreciates that CEC staff has stated in outreach meetings that the goal is not to disapprove proposals, but to work with LEAs to move toward approval. However, the specificity of the "Disapproval Process" has raised some concerns with our members. It appears that once you move to this correction and resubmission docket, it is a very formal and bureaucratic process.

Forms and Calculators:

Schools have not yet seen DRAFT Guideline reporting forms and calculators for review and comment at this time. Because schools will have to fill out and return these documents to relevant agencies, it is an important gauge regarding timing and effectiveness, yet schools have not been able to see or try these important tools.

The same is true for the online calculator tools to be used by schools to estimate cost savings, job creation benefits and the SIR for the determination of the cost-effectiveness of a project. These tools should have been available for review prior to final Guidelines.

Given that the SIR number goal of 1.05 appears to be a very important factor in approving these projects. It would be important to understand how the input and output process works, or doesn't, with the calculators. Ideally, LEAs would have liked to have hands-on experience with these tools prior to the issuance of the final Guidelines.

Monitoring and Verification

The CEC Guidelines recognize that Monitoring and Verification (M&V) information is a snapshot in time and can be influenced by factors outside the LEA's control. This includes climate changes in a given year that could account for increases in energy demand for heating and cooling. We would simply ask that there be a way for CEC's staff to review in order to account for that.

Program Changes That Will Impact School Electricity Usage and Structure

We would also suggest that CEC staff become familiar with the impending requirements for schools that may require Class Size Reduction and corresponding square footage and classroom configuration changes.

The most significant of which could be the Local Control Funding Formula (LCFF) and the accompanying Local Control Accountability Plan (LCAP) that LEAs will be developing in the very near future.

These include:

- The requirement to return to 180 instructional days for districts and LEAs currently at 175 days.
- The Class Size Reduction provision of the new Local Control Funding Formula increasing classrooms in use.
- Implementing the Common Core instructional system that requires greater use of technology and more staff professional development during more non-instructional days.
- Providing pull-out programs in additional classrooms to meet the academic and supplemental service requirements of the Local Control Accountability Plan.

We respectfully request that the Guidelines recognize these issues and their effect on monitoring and verification results compared to baseline.

Correlating with Other Energy Programs:

Schools have other state energy programs and regulations they must comply with. It would be useful to have guidance on how schools may integrate upcoming changes to the state's Green Codes and Title 24 requirements for schools with Proposition 39 projects.

Streamlining all school energy projects subject to Division of State Architect (DSA) approvals could also be extremely helpful for this reason. Also, clarification is needed regarding funding being used for access compliance.

Other Issues:

- Ability to use Prop 39 funding to pay back debt and general fund expenditures on approved projects.
- Whether these funds might be used on new schools that have been recently constructed and may already be benchmarked.
- Clarity of "sole source" language surrounding the awarding of funding by LEAs.

We hope you find these comments useful and we are available at any time to discuss them in more detail. California's school districts and community college districts are ready to start energy projects and retrofits throughout the state, districts are only waiting for the guidelines they must operate under to set them in motion.

The interest schools have shown in these projects has been borne out of budget cuts, the housing crisis, and dwindling bond funds, and has grown exponentially in the past five years. It will be exciting to witness the LEA projects in every corner of state move forward to create jobs and provide better health and academic environments for students.

We appreciate the ability to share our concerns with you. Please do not hesitate to contact me (916.441.3300 or aferrera@m-w-h.com) with any questions regarding the information contained in this letter.

Sincerely,



Anna Ferrera
Executive Director

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