



July 30, 2013

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

Proposition 39 Implementation and Guidelines

Dear Commissioner McAllister:

In anticipation of the California Energy Commission's (CEC) internal discussions regarding the implementation of Proposition 39, which was passed by the voters last November, I am writing to provide some thoughts from the K-14 school perspective on the pending guidelines for funding energy projects on behalf of the School Energy Coalition (SEC). SEC is an organization made up of K-12 schools, community colleges, and school construction consultants focused on energy efficiency and renewable generation projects for California's students.

Throughout the policy and budget subcommittee hearings, SEC's testimony and message on the implementation of Proposition 39 has been consistent: Develop a funding process that is **timely, simple, and flexible**. We also strongly urge that you avoid a "one-size-fits-all" approach.

Avoiding a one-size-fits-all program is important because schools and community colleges are all different. They are made up of all sizes, are in rural and urban areas, serve various student needs and are located in vastly different climate zones.

SEC believes that school districts and community colleges are individually best suited to determine what their needs are and what will work for their students and teachers given their configuration, past system investments, and current infrastructure.

Finally, statewide policy has been clear with regard to flexibility for school energy projects. Government Code Section 4217 states these agreements should provide the "greatest possible flexibility" for alternative energy, efficiency and conservation projects "so that economic benefits may be maximized."

SEC Recommendations for Proposition 39 Implementation

Develop “True” Guidelines: As you finalize the process by which school projects shall be funded, SEC urges you to take the spirit of the word “guideline” to heart. The goal should be to provide guidance and recommendations to California school districts. Complex or burdensome requirements will not only extend the time for projects to be completed as districts seek technical or other types of assistance, but it will also delay job creation and could disrupt students’ schedules as the rules are sorted through.

Timing: Overall, the timeliness of these guidelines is of the utmost importance as districts will be seeking to install retrofits or project construction during the summer months while many students are on recess. Projects do not start at groundbreaking.

Planning, design, and state agency project approval, such as through DSA, all take time before a shovel enters the ground. Ideally, districts will need guidelines in place this fall, in October or early November, in order for districts to properly begin design, planning and finally construction.

It is critical to understand that school construction and installation projects must be planned around student schedules. Virtually all of these projects will be focused on times when school is not in session and, given that there are very specific agency approvals such as those for the Division of the State Architect (DSA), delays of even a few weeks may result in a project being pushed back a full year. Under the best of circumstances, the first school projects funded under Proposition 39 may be completed in the summer of 2014.

Following is a quick timeline of basic milestones SEC provided to the Budget Committees for these types of projects depending on whether or not they require DSA Approval:

Task	Summer 2014 Due Date	Summer 2015 Due Date
DSA Approval Required		
Project Identified and Design Starts	June 2013	June 2014
DSA Submittal	October 2013	October 2014
DSA Approval and Bidding	March-April 2014	March-April 2015
Construction	June 2014	June 2015
No DSA Approval Required		
Project Identified and Design Starts	January 2014	January 2015
Construction Documents Complete	March 2014	March 2015
Bidding	March-April 2014	March-April 2015
Construction	June 2014	June 2015

Planning Dollars

The Proposition 39 Trailer Bill Language (TBL) allows for funding to be released early for pre-construction auditing of school sites in order to identify projects for approval under the program. The TBL also permits this pre-construction funding to be used for planning and design. SEC believes that at least 10% and up to 20% of the funding should be made available for planning and “soft costs” for these purposes.

SEC supports developing a pathway for this early access to funding to assist those districts that do not have the staff or resources to begin the process. We also encourage CEC to develop simple guidelines to allow districts to access these funds as soon as possible.

Retroactivity

Questions have come up in our SEC school workshops regarding the ability to pay for preliminary audits and planning that have already been done in anticipation of an efficiency project.

Some districts have been proactive in this area and have thought about energy projects and have gone as far as doing audits that may identify projects but have not yet moved forward for lack of funding.

- Will districts be able to use audits that have already been undertaken in anticipation of efficiency projects on school sites?
- May Proposition 39 funds be used to pay for audits, design or planning that has taken place prior to the guidelines being issued? Prior to the signing of Proposition 39 TBL?

Application Process and Receiving Funds

The information that will be required under the application process, the process for its approval by CEC, timing and the ultimate disbursement of funds from CDE are all of interest and concern. We support a simple and prompt application process so schools may get started on their projects and related training and jobs may be created.

- Would applications be processed as they come in or on a more periodic basis? We would support a prompt review as articulated in the TBL, as well as districts being notified once approved so planning can move forward while awaiting their disbursement check.
- Will the project application differ from the expenditure plan articulated on page 8 of the TBL – or are they one and the same? We would support one application form for the project that incorporates the information that a school would self-certify or would have school board approval.

Multi-Year Funding of Projects

Districts have also asked about the multiple-year funding under Proposition 39. School energy projects will most likely not be seamless in matching annual funding to the total funds needed for a project.

- May a project be submitted that anticipates using program funding beyond the first year and up to the five-year total?

Five-year plans have been encouraged and those may also entail multiple phases and components.

- Will a five-year plan be approved to allow for anticipated funding?

There has been widespread concern that school projects may get started in anticipation of future funding and then find that funding, due to a change in the budget, are not available in a future year. This was similarly the case for schools with emergency repair projects under the *Williams* lawsuit. Many schools that made repairs in anticipation of funds under *Williams* are still waiting for reimbursement. Because of this concern we have been asked whether schools should consider holding the dollars until there is enough in their “account” for a large project.

Please address the issues surrounding funding for projects that go over the annual amount and how they are addressed under the program.

- May a school submit a project for approval and then wait until the funds are fully available to proceed, even if that might mean holding the funding beyond the year it was applied for and approved for?

This might seem to run counter to the idea of creating jobs sooner; however, schools have no assurances that funding will be available and are very concerned about the potential for funding disappearing or being redirected in later years.

Leveraging

Districts have often sought to put together many sources of funding to move needed projects forward. We hope the guidance will address how districts might be incentivized to leverage these funds and not be penalized if other state, local or federal dollars are received to move deep retrofit or more comprehensive projects forward.

A new statewide bond in 2014 would be extremely helpful in allowing many anticipated modernization projects to incorporate highly-efficient attributes.

- May state and local bond funds be used with Proposition 39 funding?
- If modernization funding is used that must meet Title 24 standards, may Proposition 39 dollars be used for that portion of the project that is related to energy efficiency?

Conservation Corps (CC)

Districts are willing to have trainees provide some functions related to these projects, such as baseline measurements and auditing, if they provide a less expensive option for these funds that meet the guideline criteria or expedite the process. Districts are concerned primarily that the use of trainees will not add more time to the process and that the individuals would be well-trained so that services are high-quality, guaranteed, and provided in a professional manner.

Districts will also need to be assured that trainees will be properly supervised and that systems are in place so that data they collect will be provided in a seamless and consistent way for reporting and perhaps state inventory purposes.

- Are there incentives for districts that use CC trainees?
- Sole Source Provisions – Do these rules apply to the hiring of CC or non-profit CCs? May a district work with CC only to provide these services and not have to have an RFQ, best value or other type of process for that part of the work?

Other Issues

Baseline Data: We have heard this process may require a legal document that must be received by the utility before they may release this information. If this is true, it could be a time-consuming step. Might we ask the utilities to streamline this? Perhaps a universal form that all schools may use with all three IOUs? May CC trainees assist in this process without adding steps and time?

Estimating Non-Energy Benefits: Schools would appreciate Agency guidance and clarification on how to calculate this as it appears to be subjective.

Audits: Use existing tools. We urge CEC guidelines to allow the use of existing auditing tools such as Bright Schools, utility program audit, or EPA's Monitoring Tool. ASHRAE Level 1 and 2 are also well-used by districts.

Contractor Qualifications: We suggest using existing lists that may be provided to districts to select contractors and/or guidance with regard to the level of expertise.

Inventory: We encourage you to work with districts through a stakeholder process to understand what their concerns are with regard to a publicly-viewable site and the amount and type of data to be posted.

Completion Report: This is an extremely important part of this process and we look forward to working with CDE and CEC to ensure that the reporting provides the state what they need in terms of tracking and accountability.

Measurement & Verification Tools, Commissioning and Retro-commissioning, etc.: We would appreciate as much clarity as possible with regard to these very important parts of the process. Districts look forward to providing input through the stakeholder process on these items.

Districts understand the importance of accountability for dollars expended and measuring results in terms of cost and energy efficiencies. Districts would like to weigh in on the CDE process for determining whether funds must be returned and under what circumstances.

Defining Cost-Effective: This definition should not just be directed at energy savings; but be more aligned with cost savings to schools on their utility bills that can then be used for other student learning priorities. Net present value (NPV) is a better indicator for this purpose and discretion should be allowed for a school that may find a lower priority efficiency measure to be more cost-effective than a higher priority measure.

Finally, 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 they have shown in these projects has been borne out of budget cuts, the housing crisis, dwindling bond funds and has grown exponentially in the past five years. Schools have projects in every corner of the state that are ready to move forward quickly 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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