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Comments regarding the Equitable Building Decarbonization Tribal Direct Install Program Draft Guidelines

Additional submitted attachment is included below.

October 17, 2025

California Energy Commission
Docket Unit, MS-4
Re: Docket No. 22-DECARB-03
715 P Street
Sacramento, CA 95814

Re: Docket No. 22-DECARB-03– Comments of Center for Sustainable Energy® regarding the Equitable Building Decarbonization Tribal Direct Install Program Draft Guidelines

Center for Sustainable Energy® (CSE) appreciates the opportunity to provide comments on the California Energy Commission’s (Energy Commission) Equitable Building Decarbonization Tribal Direct Install Program Draft Guidelines (Draft Guidelines) issued on September 5, 2025.¹

CSE is a national nonprofit that accelerates adoption of clean transportation and distributed energy resources through effective and equitable program design and administration. Governments, utilities, and the private sector trust CSE for its data-driven and software-enabled approach, deep domain expertise and customer-focused team. CSE’s fee-for-service business model frees it from the influence of shareholders, members, and donors and ensures its independence. Our vision is a future with sustainable, equitable, and resilient transportation, buildings, and communities.

CSE provides these comments based on our experience designing, implementing, and evaluating statewide incentive programs across California and working with California tribes. CSE is already familiar with the Equitable Building Decarbonization (EBD) program and is serving as the regional administrator for Central California. CSE is also part of the Program Administrator team for the Solar on Multifamily Affordable Housing (SOMAH) Program, a statewide solar incentive program sponsored by the California Public Utilities Commission (CPUC), and is the Program Administrator on behalf of San Diego Gas & Electric (SDG&E) territory in the Self-Generation Incentive Program (SGIP). CSE also serves as a trusted advisor and partner to two San Diego area tribes, the San Pasqual Band of Mission Indians and the La Jolla Band of Luiseno Indians and is actively assisting both tribes on implementing greenhouse gas emission reduction measures as part of their climate action plans.

¹ California Energy Commission, Equitable Building Decarbonization Tribal Direct Install Program Guidelines, September 5, 2025.

Through these comments, CSE offers responses to and seeks clarification on the following topics discussed in the Draft Guidelines:

- I. Program Overview (Chapter 1)
- II. Program Eligibility (Chapter 2)
- III. Program Implementation (Chapter 3)
- V. Administration (Chapter 5)

I. PROGRAM OVERVIEW

CSE supports the Energy Commission's proposal to establish an Equitable Building Decarbonization Tribal Direct Install Program (Tribal Direct Install Program) to provide energy efficiency measures and energy efficient electric appliances to residential buildings owned or managed by California Native American tribes or tribal organizations or owned by an enrolled member of a California Native American tribe. CSE also generally supports the proposed budget for the Tribal Direct Install Program of \$30 million, with a minimum funding allocation of \$75,000 for participating California Native American tribes. As discussed below, CSE seeks clarification on how the minimum funding allocations will be awarded and offers recommendations to ensure that small tribes are able to participate in and benefit from the Tribal Direct Install Program. CSE appreciates the Energy Commission's proposal to allow participating tribes to receive funding in the form of a direct grant or in the form of services from a program implementer, as this will provide greater flexibility for tribes and allow smaller or under-resourced tribes to leverage the expertise of entities with experience administering similar programs.

II. PROGRAM ELIGIBILITY

A. Building Ownership

In the Draft Guidelines, the Energy Commission states that, to be eligible to participate in the Tribal Direct Install Program, a building must be an occupied primary residence that is either owned by a California Native American tribe or California tribal organization, managed by a California Native American tribe or California tribal organization, or owned by an enrolled member of a California Native American tribe who resides in California. However, the Energy Commission does not provide any guidance on what documentation can be used to determine if a potential participant meets these eligibility requirements. Specifically, it is unclear how an implementer would know if a potential participant is an enrolled member of a California Native American Tribe. CSE requests the Energy Commission clarify whether potential participants

would be required to submit an Enrolled Tribal Member Certification² or some other documentation to verify their eligibility. CSE also requests clarification on how a California tribal organization would document or prove their status as a “...corporation, association, or group controlled, sanctioned, or chartered by a California Native American tribe...”.³ Rather than leaving it up to the implementing tribes and third-party implementer to independently determine what documentation is sufficient to verify a participant’s eligibility, CSE recommends the Energy Commission specify eligible documentation in the final Guidelines.

B. Household Income

CSE generally supports the Energy Commission’s approach to encourage, but not require, tribes to prioritize lower income households. This approach will provide tribes with flexibility to implement the projects that are most impactful for them. However, CSE recommends the Energy Commission provide details on and develop overarching guidelines for how “[p]articipating tribes will be responsible for selecting homes to serve and will be expected to select households most in need of the benefits offered by the program.”⁴ Specifically, CSE requests the Energy Commission clarify how tribes (including both implementing and non-implementing tribes) are expected to determine which households are “most in need” and whether tribes will be required to provide justification for and report on project selections. CSE recommends the Energy Commission develop these overarching guidelines in conjunction with tribes to determine what criteria should be used to select projects. CSE suggest that health and safety considerations be given high priority within these guidelines.

As detailed in Section 3 below, CSE also encourages the Energy Commission to consider providing targeted support, including technical assistance, to help tribes to identify and assess homes that need retrofits. In some cases, homes may benefit from the program but be ineligible to due to health and safety issues, such as the presence of vermiculite and asbestos. Targeted support will be especially helpful to smaller tribes who may lack the capacity to identify and address safety issues.

Additionally, CSE requests the Energy Commission clarify how tribes’ selection of projects may take precedence over the Energy Commission’s preferences. For example, the language in the Draft Guidelines is unclear as to whether the prioritization of lower income households is an enforceable requirement of participation or if it is a preference of the Energy Commission. The

² State of California Franchise Tax Board, Enrolled Tribal Member Certification Information.
<https://www.ftb.ca.gov/forms/misc/3512.html>

³ California Energy Commission, Equitable Building Decarbonization Tribal Direct Install Program Guidelines, September 5, 2025, page 1.

⁴ *Id.* at 6.

Energy Commission also “...encourages building retrofits that avoid the need for electrical panel upgrades, when possible and appropriate.”⁵ However, it is unclear what conditions are considered to be possible and appropriate and under what circumstances tribes will be permitted to select projects that require panel upgrades

C. Cost Controls

In the Draft Guidelines, the Energy Commission sets cost caps on remediation and safety measures such as wiring and electrical panel upgrades. For the Tribal Direct Install Program, the Energy Commission institutes a maximum cost cap; however, in the Final Guidelines for the general EBD program, the Energy Commission used a maximum average cost cap. CSE recommends the Energy Commission use the maximum average cost cap approach in the Tribal Direct Install Program as well. Using a flat maximum might impact program participation as some participants’ houses will have higher remediation costs than others. A maximum average cost cap would allow these participants to receive funding to address higher remediation costs as long as the average cost across all participants does not exceed the cap. This would provide greater flexibility to participants and would prevent those households that are most in need of retrofits from being excluded from the program.

III. PROGRAM IMPLEMENTATION

A. Program Structure

The Energy Commission proposes that the total \$30 million in funding be available to all California Native American tribes, with a guaranteed minimum funding allocation of \$75,000 per participating tribe and the opportunity for participating tribes to request additional funds. While CSE generally supports this proposal, CSE seeks clarity on how the Energy Commission will allocate these minimum funding allocations and how tribes will be expected to use this funding. Specifically, CSE seeks clarity on whether every tribe that requests the minimum funding allocation will receive it automatically, whether there will a qualification process, and whether tribes may request less funding, if desired. CSE also encourages the Energy Commission to provide guidelines on how many projects are expected to be funded with the minimum allocation. Given the large range of sizes of California Native Tribes, there will be a range of building decarbonization retrofit needs across the various tribes, and clear guidelines would help clarify how the funding is expected to be used and what type of projects should be prioritized.

⁵ *Id.* at 8.

CSE also encourages the Energy Commission to ensure that there is sufficient funding to support as many tribes are interested, especially smaller tribes with limited capacity. To achieve this goal, CSE recommends the Energy Commission consider establishing funding caps to prevent a few tribes from receiving a disproportionately high share of the limited total funding pool. Additionally, CSE recommends the Energy Commission work with tribes to identify criteria for receiving additional funding beyond the \$75,000 minimum. CSE also suggests the Energy Commission consider a tiered funding system that allocates funding based on the size and needs of the tribe. These modifications will prevent smaller tribes from being excluded and will help ensure that funds are being prioritized towards projects with the greatest need.

B. Third Party Program Implementer

In the Draft Guidelines, the Energy Commission states that the Tribal Direct Install Program will have both implementing and non-implementing tribes. Implementing tribes will receive funding directly and will be responsible for delivering the program, whereas non-implementing tribes will work with a single, third-party implementer to deliver the Tribal Direct Install Program in their territories. As described in Table 10, “A maximum of 10 percent of the total funds received by implementing tribes and implementer may be spent on Administrative Costs.”⁶

CSE recommends that the Energy Commission consider providing greater flexibility on the 10 percent administrative cost cap, as the administrative effort of the third-party implementer could vary based on the number of tribes that are non-implementing and could increase due to the broad geographic distribution of tribes across California. Accordingly, the third-party implementer may need additional funding to sufficiently support all the non-implementing tribes and their unique needs.

The Energy Commission also states that “[f]ollowing the adoption of the program guidelines, the [Energy Commission] will issue a competitive solicitation available for a third party to serve as the program implementer”.⁷ CSE observes that, after the adoption of program guidelines, the Energy Commission will likely not have a clear idea of how many tribes intend to apply as implementing or non-implementing tribes. Accordingly, CSE recommends that the Energy Commission not release a competitive solicitation until the tribal application period is completed. Understanding the volume of non-implementing tribes and the available budget will be crucial to organizations interested in potentially applying to serve as the third-party implementer. Additionally, CSE recommends the Energy Commission release a draft of the

⁶ *Id.* at 19.

⁷ *Id.* at 11.

competitive solicitation document ahead of time to allow stakeholders to provide feedback on implementation issues.

C. Roles and Responsibilities

Figure 2 of the Draft Guidelines provides an overview of the implementation of the Tribal Direct Install Program, including the differentiation between the process for implementing tribes and non-implementing tribes. CSE notes that this process diagram indicates that the participating tribe is responsible for identifying homes that will be served by the program in both the implementing and non-implementing scenario. CSE requests the Energy Commission clarify whether the third-party implementer is expected to work with non-implementing tribes to provide guidance on how to make project selections. CSE also recommends the Energy Commission provide further insight into the third-party implementer's role in selecting participating households, if any.

CSE also encourages the Energy Commission allow tribes to access technical assistance resources to streamline program implementation, especially for small tribes with limited capacity. Technical assistance can help tribes identify projects, avoid disrupting culturally-sensitive locations, and navigate complex regulatory and permitting requirements, which can delay project implementation and add unanticipated costs. In some cases, technical assistance providers may be better equipped than tribes to comply with state and federal laws governing development on tribal lands.

D. Program Coordination and Layering

In the section regarding Program Coordination and Layering, the Energy Commission states that the third-party implementer's role is to "apply for and fulfill the requirements of complementary programs on behalf of participating households".⁸ CSE recommends that the Energy Commission revise this language to clarify that the role of the third-party implementer is to support and advise tribes, rather than submitting program applications on behalf of participating households. CSE understands the importance of the third-party implementer serving as a facilitator between households participating in the Tribal Direct Install Program and other similar programs. However, a third-party implementer would likely not be able to directly apply to other programs on behalf of all participating households since these applications would require the submission of information that is unique to individual households and may include financially-sensitive details. A high volume of participating households could also present administrative challenges for a single entity expected to file applications on behalf of all

⁸ *Id.* at 16.

households. Additionally, CSE highlights that layering with other programs may be difficult given inconsistent program requirements and eligibility criteria. To support layering, CSE encourages the Energy Commission to align requirements and criteria for the Tribal Direct Install Program with other programs, where possible and appropriate.

V. ADMINISTRATION

A. Prevailing Wage

Based on the Draft Guidelines, CSE understands that prevailing wage requirements may be applicable in some instances and the implementing tribes and third-party implementer will be responsible for complying with all applicable wage laws. Given the complexity of prevailing wage requirements, CSE recommends the Energy Commission provide additional guidance to help entities determine if they are subject to these requirements and understand how to comply, where relevant. Additionally, CSE encourages the Energy Commission to consider partnering with a compliance software provider to provide implementing tribes and the third-party implementer with the tools and resources needed to comply with prevailing wage law reporting requirements. For example, under the Infrastructure Investment and Jobs Act (IIJA), the Department of Energy (DOE) contracted with LCPtracker,⁹ a third-party software application provider, to facilitate the tracking and submission of certified payroll records for all grant recipients.

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⁹ U.S. Department of Energy, Weekly DBA Payroll Tracking with LCPtracker.
<https://www.energy.gov/infrastructure/weekly-dba-payroll-tracking-lcptracker>

CONCLUSION

CSE appreciates the opportunity to provide these comments regarding the Draft Guidelines. CSE looks forward to continued collaboration with the Energy Commission, tribes, and interested parties to ensure the successful implementation of the Tribal Direct Install Program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rocky Fernandez', with a stylized, cursive script.

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