



California Energy Commission DOCKETED 13-CCEJA-01
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October 22, 2013

Robert P. Oglesby, Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Docket# 13-CCEJA-1
Comments on Proposition 39 Draft Guidelines

Dear Mr. Oglesby:

The Small School Districts' Association (SSDA) appreciates the opportunity to comment on the draft guidelines for implementing Proposition 39 and Senate Bill 73/2013. The Association first wants to thank the Commission's staff for quickly releasing the draft guidelines and the expedited implementation schedule the Commission adopted. We also want to thank you and your staff for the many provisions that understand the needs of small districts and other Local Education Agencies (LEAs). The draft guidelines are very helpful for small districts and LEAs; the use of calculators and useful life equipment and materials will assist small LEAs through the planning and application process.

Technical Assistance

The Association supports the draft provisions encouraging school districts to use the Bright School program and the California Conservation Corps. (CCC). While the implementation guidelines should not include operational issues, such as how the Bright School program and the CCC allocate their technical assistance services, SSDA encourages the California Energy Commission (CEC) to adopt a small school district and small charter school priority for Bright School technical assistance. SSDA also requests the CEC to urge the CCC to adopt a similar priority for their technical assistance services.

Energy Manager Services

SSDA applauds the CEC for including in the guidelines the authorization to use Proposition 39 funds for County Office of Education energy manager services or these services through a consortium of small and mid-sized districts. This is another example of how the guidelines recognize small school district and LEA circumstances.

Multi-Year Project Funding

Reserved Allocations

The Association is concerned, however, that the guidelines are not clear about multi-year project funding and encumbering Proposition 39 allocations. SSDA requests that the guidelines be clear in noting that a small school district (fewer than 2,001 ADA) will not lose their 2013-14 allocation

if the district does not have a CEC approved project and expenditure plan until after July 1, 2014. SSDA further requests that the guidelines be clear that Proposition 39 allocations can be encumbered and reserved at the level identified by the California Department of Education if the plan is not submitted or approved until after July 1, 2014.

SSDA makes these requests because Bright School and the CCC might not be able to complete all of their requests for technical assistance by a date that allows CEC approval prior to July 1, 2014. The fact is that small districts probably will not have a lot of alternative low-cost private vendors available to fill a technical assistance void.

Additionally, SSDA is concerned that some districts and LEAs might not find a qualified contractor, even after the CEC approves the project and expenditure plan that allows the LEA to start the contracting process.

To address all of these issues and concerns regarding multi-year projects and encumbrances, SSDA proposes a simple, "Notice of Intent to Participate" form for a small district or LEA that is not able to file an application in time for the CEC to provide approval of the projects and expenditure plan by July 1, 2014.

Loans

SSDA requests consideration of a small school district no or low interest loan priority for energy efficiency projects that will require three, four, or five years' worth of the district's Proposition 39 allocation.

This type of priority will allow projects to be started sooner and create jobs earlier.

SSDA also requests that the school district be able to pledge/use their subsequent Proposition 39 allocation as the means for loan repayment.

Definition of Utility and Utility Bills

Some very small rural districts and LEAs are not part of a municipal utility or an investor-owned utility. While not very many districts and LEAs are in this situation, they could have the highest energy use and greenhouse gas emissions caused by being off the grid because it is not economical to run utilities to the site.

These small, rural LEAs and school sites do not have monthly bills because they buy their propane as needed and their diesel generator fuel in bulk. Consequently, SSDA requests the CEC guidelines consider a provision similar to the following:

“An LEA or school site that functions as a self-contained energy utility and does not have monthly utility bills or does not have a monthly metering for the prior 12 months will provide the annual propane, diesel or other fuel annual use for the past two years. The after project completion energy audit and verification will be based on the reported annual fuel use prior to the project, adjusted for weather and instructional delivery changes occurring before and after the project.”

Sites Leased From Federal Government

SSDA requests consideration of school sites that do not have separate energy use meters and are leased from the federal government, usually in National forests, to allow for payment of energy costs rather than utility bills for baseline and audit/verification reports.

Sole Source Contracting

SSDA supports the statutory requirement and guidelines provision prohibiting the use of Proposition 39 funds for sole source contracts. However, because some of our more rural school district Proposition 39 projects could have only one response to a “Request for Proposal” or a “Request for Qualifications,” SSDA requests the awarding of a contract in this situation not be considered a sole source contract if the REP or RFQ was sent to multiple vendors. This concern is based on the experience that private vendors tend not to compete for small school jobs if there are jobs available in larger suburban and urban school districts. SSDA fully expects this vendor job selection priority situation to occur as the significant Proposition 39 funds become available during a short period of time in 2014.

Monitoring and Verification

SSDA appreciates the CEC guidelines recognition that the monitoring and verification information is a snapshot in time and can be influenced by factors outside the LEA’s control. Not having penalties protects LEAs from these uncertainties. Examples of when energy usage could increase even after completing an energy efficiency project 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 the number of 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 of facility use.

- Providing pull-out programs in new additional classrooms to meet the academic and supplemental service requirements of the Local Control Accountability Plan.
- Dramatic changes in energy demand for heating and cooling in rural areas that can have significant fluctuation in actual annual days above 90 degrees or below 50 degrees.

The guidelines recognize these issues and their effect on monitoring and verification results compared to baseline.

Division of the State Architect

SSDA understands that the guidelines cannot address the actions of another state agency. We appreciate your efforts to work with the DSA to coordinate and streamline their requirements.

Conclusion

SSDA supports the draft guidelines and hopes the CEC will consider the Association's comments and concerns as an effort to strengthen the final guidelines.

Sincerely,



David L. Walrath