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Services of the San Francisco Public Utilities Commission

Comments to the California Energy Commission

Proposition 39 Draft Guidelines

Docket Number 13-CCEJA-1

San Francisco Unified School District,
Office of the Mayor of San Francisco,
and San Francisco Public Utilities Commission

California Energy Commission

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The San Francisco Unified School District (SFUSD), the San Francisco Public Utilities Commission (SFPUC), and the Office of the Mayor of San Francisco thank the California Energy Commission for the opportunity to comment on the Draft Guidelines. The recommendations below are offered to help maximize the ability of San Francisco and other funding recipients to deliver cost-effective energy projects in school facilities that provide the multiple benefits envisioned by Proposition 39, in a manner consistent with Division 16.3 of the Public Resources Code.¹

Recommendation #1:

Refine guidance on a) energy benchmarking, b) large expenditure plans, c) project prioritization, and d) sequencing of improvements to help LEAs select the most beneficial projects.

- a) San Francisco supports the use of benchmarking as an essential step to help identify cost-effective energy projects, and recently released its second annual energy benchmarking report for its public buildings, including over 130 SFUSD sites.² We request that the Guidelines be refined to make clear that if an LEA has recently benchmarked its sites, it is not required to repeat the process. We also suggest a few clarifications to the Guidelines that encourage LEAs to take into account the difference in expected EUI among different type of facilities (high school, elementary school, district office, etc.), to consider the absolute amount of energy use in addition to EUI, and to consider making appropriate use of rating systems in addition to the raw EUI results. A strict EUI comparison across different facility types may mask important differences between sites:

- (p.13) "*LEAs can easily conduct their own benchmarking process. If an LEA has already*

¹ Excerpts from the Guidelines are *italicized*. Recommended deletions are ~~struck through~~ and additions are underlined.

² See <http://sfwater.org/index.aspx?page=701>

benchmarked its facilities within 12 months prior to submitting its energy expenditure plan, those benchmarking results may be used to fulfill Step 2. Complete, detailed benchmarking instructions are found in the Appendix in Exhibit D.”

- (p.13) “Once these EUI calculations are completed, each LEA can compare the EUI score of one school **site** to another **facility of the same type** to identify schools **sites** with the highest **energy-use EUI**. The best candidates for further energy efficiency evaluation ~~are~~ **may be schools sites in each category of facility** with the highest **energy-use EUI**. As a general rule, when the calculated **energy-cost intensity EUI** is high, there are more energy-saving opportunities. **However, an LEA should also consider that sites with similar EUI may consume very different amounts of total energy if the buildings are of different sizes. Therefore, the absolute amount of energy consumed at each site should also be considered.**”
- (p.45) “Identify the lowest energy performing schools **sites**. These ~~will~~ **may** be the schools **sites of each facility type** with the highest energy cost per square foot and highest Kbtu per square foot. The report ranking will present the schools **sites** that consume the most energy when compared to others in the district. **An energy rating system (such as ENERGY STAR® “Portfolio Manager”) may also be used to help score school sites using additional metrics.**”

b) The Legislature has specified that at least 50% of funding for large LEAs go toward large projects. The intent of the Legislature seems to be to encourage deep retrofits, rather than “cream skimming” only the most cost-effective projects. San Francisco supports this approach, but we suggest clarifying the requirements for large expenditure plan awards to make clear that such projects may include multiple contracts and address multiple scopes of work at the same location:

- (p.11) “LEAs that receive over one million dollars in any one fiscal year grant award are required to submit an energy expenditure plan that meets the large expenditure plan award requirement highlighted above. A large expenditure plan project is defined as a **bundled** project at a school site whose project costs total more than \$250,000.”

c) The Guidelines require each LEA to certify that it has followed the prioritization considerations identified in Step 3. As cited in the Guidelines, PRC Section 26235(e) specifies that each LEA should consider “as applicable, at least the following factors.” We request that the Energy Commission refine the Guidelines to make clear that these 11 factors are not meant to exclude other related considerations that may help determine the best use of funds within each school district, in particular consideration of investing funds in ways that benefit disadvantaged school communities:

- (p.15) “Each LEA shall consider **at least** these 11 factors when prioritizing energy projects for program awards. For all energy expenditure plans, an LEA is required to certify it considered **at least** these factors.”

d) San Francisco supports the loading order identified under the sequencing recommendations in Step 4. We request that the Guidelines clarify that clean energy measures may be considered as part of a bundled project along with energy efficiency improvements at an individual school site,

and that an LEA need not necessarily complete all energy efficiency projects within the entire school district before considering energy generation projects:

- (p.15) *"The Energy Commission recommends LEAs use the sequencing approach described below for reducing energy. **When considering potential projects at a given school site**, LEAs should select energy efficiency and demand reduction projects first."*

Recommendation #2:

Provide additional flexibility for LEAs to build local energy efficiency capacity through a) maximizing the effectiveness of energy training dollars and b) enabling a variety of approaches to promoting robust energy management at school sites.

- a) SFUSD has demonstrated the value of training school occupants through its Shared Savings utility reduction program, which has generated substantial documented energy savings (8.8% reduction in electricity, gas, and water costs) through training of building users, including students, on ways to maximize energy efficiency and conservation. Based on the experience gained through this ongoing program, we recommend that the allowable funding amounts for training activities be increased to 5% of each year's award, to better reflect the potential of training to reduce energy use and operational costs. The Guidelines should also allow LEAs the flexibility to defer funding for training in one year and instead apply in the next.

We also recommend that training funds be made available for education of all building occupants, operators, and users, rather than just classified school employees. Although "classified school employees" are specifically mentioned in PRC Section 26235(a)(6), there is no statutory restriction on providing training to other building users in order to maximize the effectiveness of these training dollars:

- (p.12) *"Training costs may be submitted as part of an energy expenditure plan. Each fiscal year, an LEA will have the option of requesting up to ~~2~~ 5 percent of its award or \$1,000, whichever is greater, for energy efficiency training of classified school employees, **students, and other building users**. An LEA may choose to defer applying for such training funding in any given fiscal year and instead request training funding in a later expenditure plan, up to the allowable funding limits in the current and past fiscal years."*
- b) The ability to build local energy management capacity will be a key positive outcome of Proposition 39 funding. However, a single energy manager position will not always be the most effective decision for a school district. We recommend that the Guidelines provide maximum flexibility to LEAs to fund multiple (or partial) positions to provide energy management functions, as well as the ability to use Proposition 39 funds to partner with other local agencies that can help provide these services. Additionally, "energy manager" is not defined in the Guidelines, and we recommend including examples of energy management functions (such as encouraging energy conservation practices):
 - (p.12) *"Many LEAs do not have the staff, knowledge, or time to effectively control and manage energy costs. Therefore, LEAs may consider ~~hiring an~~ **using funds for one or more energy managers**. An energy manager can actively work to reduce a school site's energy operational costs and provide more control over energy costs, **including through***

encouragement of conservation practices by building users and operators. LEAs too small to justify hiring their own energy managers may consider pooling their energy manager funding within a county and share the services of an energy manager, funding part of a position to perform energy management functions, or partnering with another local government agency to provide these services. Each fiscal year, an LEA will have the option of requesting up to 10% of its award or \$100,000, whichever is greater to hire or retain an energy manager."

Recommendation #3:

Provide added flexibility in the application and reporting process to allow consolidated planning and expenditure plans by county offices of education, school districts, and charter schools.

In the City and County of San Francisco, the Board of Education and Superintendent are responsible for the County Office of Education functions, as well as SFUSD functions. Additionally, several charter schools operate in facilities owned by SFUSD, where SFUSD is the facility manager responsible for building maintenance and operations. In counties similar to San Francisco, the School District, County Office of Education, and individual charter schools occupying publicly-owned facilities should be able to submit a single consolidated energy expenditure plan each year, undertake a common planning process, and utilize funds at the locations in the county with the greatest need. Otherwise, multiple entities may be planning for, implementing, and reporting on energy projects at portions of the same sites, when it would be to the advantage of each entity and the State as a whole to implement whole-building retrofits at the most cost-effective locations. Additionally, combining expenditure plans would reduce duplicate reporting to the maximum extent possible:

- (p.5) *"Eligible Applicants*

LEAs, which include county offices of education, school districts, charter schools, and state special schools are eligible for Program funding. In order to maximize the efficient use of funds and provide the greatest degree of flexibility to recipients, LEAs within the same county may choose to submit a combined request for planning activities and/or a combined energy expenditure plan that aggregates their individual award allocations. In such cases, the energy expenditure plan must show that all eligible school sites were considered as part of energy benchmarking and project prioritization, but the combined award may be used at any eligible school sites.

Generally, LEAs are located in publicly-owned buildings and pay utility bills based on meters at their facilities.

Other LEAs utilize leased facilities with varied utility payment agreements. Eligibility for these LEAs is as follows..."

Recommendation #4:

Provide default energy cost values that funding recipients may use to estimate the cost benefits of Proposition 39 investments, in lieu of an LEA's currently billed energy costs. Alternatively, allow recipients to consult with their local utility to determine an energy cost value that better represents the true value of energy savings, in order to maximize true benefits to local communities and the State as a whole.

In San Francisco and other locations with local public utilities, the value of energy efficiency projects in schools may not be evident from a cost effectiveness calculation that relies only on the billed energy costs. While a municipal utility may offer relatively low current electric rates, these rates may in some cases be artificially low. In this case, neither the school nor the wider California utility structure would be well served by calculations based just on current rates.

As described in the Guidelines (p.25), PRC Section 26235(a)(1) states that the Energy Commission shall establish guidelines for “*Standard methods for estimating energy benefit including reasonable assumptions for current and future costs of energy and guidelines to compute the cost of energy saving as a result of implementing eligible projects funded by this chapter.*” We suggest that the Energy Commission provide default energy cost values that can be used, at the LEA’s option, to better reflect the value of energy savings in school districts where energy bills may be artificially low. Otherwise, benchmarking results may be skewed, energy cost savings will be misleading, and most importantly it may be difficult for these LEAs to undertake many of the cost-effective energy projects identified in Exhibit B of the Guidelines:

- (p.13) “*Benchmarking results must include total energy cost/square footage/year and annual total Kbtus/square footage/year. LEAs will report this information as part of the energy expenditure plan. In calculating energy costs and energy cost savings for project selection and reporting, an LEA may choose to use the default energy cost values provided by the Energy Commission, or alternative energy cost values provided by the LEA’s local utility, to perform energy cost calculations.*”
- (p.18-19) “*Projects must achieve a minimum savings to investment ratio (SIR) of 1.05 to be approved for a Proposition 39 award. This ratio compares the investment the LEA will make now with the amount of dollar savings associated with the LEA will obtain from the project’s energy savings. For every Proposition 39 dollar invested in the energy project, the project LEA will accrue \$1.05 in savings. The SIR is based on the cumulative net present value of both energy benefits and non-energy benefits realized over the life of the project.*”

Recommendation #5:

Adjust cost guidance and application process for energy audit funding to a) facilitate high-quality energy audits of multiple sites, including small sites and b) ensure adequate energy audit capability in later years of the Proposition 39 program.

- a) High quality energy audits are an essential component of delivering cost-effective energy efficiency retrofit projects, and San Francisco supports the Energy Commission’s provision of upfront planning funds to be used for energy audits. However, San Francisco has found through the experience of its municipal energy efficiency program that some smaller and more complex sites may require energy audits that could exceed the cost constraints identified in the Guidelines. For example, a school site that is only 10,000 square feet would be limited by the Draft Guidelines to an energy audit cost of \$2,000 (\$0.20 per square foot), while we believe that \$5,000 is a more reasonable estimate of the minimum cost for a complete ASHRAE Level 2 energy audit that addresses all building systems. Additionally, an energy auditor may be asked to audit multiple buildings as part of the same contract, and it may be difficult to isolate the costs associated with each individual facility. We suggest modifications to the Guidelines that would provide a minimum funding amount for energy audits of small sites, and that would allow

LEAs to perform audits at a portfolio of sites, within the cost limitations:

- (p.8) *"Table 3 below provides a detailed description of each activity. In addition, the table illustrates best practices cost guidance for screening and energy audits. If energy audits of certain smaller or more complex sites exceed these cost guidelines, LEAs can calculate the per-square-foot cost limits based on the sum of the square footage of all sites being audited."*
 - (p.9) Best Practices Cost Guidelines for ASHRAE Level 2 Energy Audit: *"No more than \$0.15 - \$0.20 per gross square foot, with \$5,000 per site allowed for sites smaller than 25,000 square feet."*
- b) The Draft Guidelines permit recipients to apply for energy planning funds in advance, with a limit of 30% of the LEA's first year allocation (maximum of \$1 million) awarded for planning. 85% of this planning allocation (up to 25.5% of the first year award) may be used for energy audits. For some larger LEAs, the allowable audit costs will be less than 25.5% of the first year award, due to the \$1 million limit.

There does not appear to be a provision for applying for energy audit funds in future years. If this allocation is intended to provide energy audits for 5 years' worth of projects, the total available funding for energy audits will amount to less than 5% of a recipient's total award over 5 years, which is a relatively low percentage of total Proposition 39 funding available for energy audits.

- Please clarify whether LEAs (in particular larger LEAs) will be able to apply for additional energy audit funds in future years of the program, or whether this initial allocation is intended to cover all energy audits for the five years of the program?
- If LEAs choose not to perform all energy audits in the first year of the program, will they need to apply for all allowable audit funds in advance in the first year, and then save those funds for future use? Or may an LEA defer part of its energy audit allocation for future applications, in order to maximize the use of first-year funds for other purposes?

Recommendation #6:

Elaborate on the Contracts section of the Draft Guidelines to clarify that LEAs may utilize existing local expertise and capacity to the extent permitted by an LEA's own procurement rules and policies.

While an LEA may choose to contract out some energy project work using Proposition 39 funds, an LEA may also be able to use existing energy project expertise within the school district or within another local public agency. For example, some energy projects may most efficiently be implemented using an LEA's own staff. In other cases, an LEA may be located in a county where another local government agency has experience managing energy projects. For example, local governments throughout the State have successfully implemented energy programs in their communities through the federally-funded Energy Efficiency and Conservation Block Grant (EECBG) program. This expertise and local program infrastructure can be readily leveraged to ensure that Prop 39 funding has the greatest direct and positive impact across California's school communities.

Although the Draft Guidelines do not prohibit an LEA from making use of its own staff, the expertise of other local government agencies, or utilizing the most effective contracting methods for each school district, the Draft Guidelines do not currently specify the acceptability of all of these methods of performing work. We suggest that the Guidelines explicitly state that there are a variety of alternatives for planning and implementing all phases of the Proposition 39 program:

*(p.28) "The Guidelines defer to the LEA's own procurement regulations and procedures as long as they reflect applicable state and local law, and regulations and are not in conflict with the minimum standards specified below. **If the LEA's procurement rules are not in conflict, nothing in the Guidelines restricts an LEA from self-performing projects or other program activities with its own staff, or with the assistance of another local government agency, without the use of a competitive solicitation. In such cases, the project details contained in the LEA's approved energy expenditure plan will fulfill the requirements of Public Resources Code section 26206(d).***

In cases where award funding is paid through a contract:

Projects funded by awards shall require A contracts that must identify the project specifications, costs, and projected energy savings. Public Resources Code section 26206(d). If a master contract is used to perform work, these project details may be contained in a task order, work order, or other similar contractual instrument, as long as the master contract adheres to the other contracting requirements in the Guidelines.

LEAs shall follow applicable law related to contractor qualifications, licensing, and certification requirements related to the project. Public Resources Code section 26235(a)(2).

LEAs shall not use a sole-source process to award grant proceeds. LEAs may use the best-value criteria as defined in paragraph (1) of subdivision (c) of Section 20133 of the Public Contract Code to award funds. Public Resources Code section 26235(c).

Public Resources Code section 26206(a) states "Project selection and oversight shall be managed by existing state and local government agencies with expertise in managing energy projects and programs."

LEAs may partner with other local public agencies with expertise in managing energy projects and programs, within the limitations identified above, to perform approved program activities benefitting eligible LEA facilities. Any contracts executed by a public agency partner on behalf of the LEA must adhere to the contract requirements described above."

Recommendation #7:

Ensure that the requirements related to a) project reporting and b) project change requests are not overly cumbersome.

San Francisco recognizes the importance of accurate reporting in order to show the benefits of

Proposition 39 funding and ensure accountability and transparency. Overall, the Draft Guidelines strike a good balance of enabling the Energy Commission to document program results while minimizing duplicative paperwork for funding recipients. However, there are two areas where we recommend changes to the Guidelines in order to speed project completion without sacrificing accountability to the State's taxpayers.

- a) The Draft Guidelines (p.24) make clear that the Energy Commission will be developing an online reporting system, and that LEAs must report quarterly on each expenditure plan beginning "12-15 months after the completion of the first energy expenditure plan."
- For larger recipients, the Draft Guidelines do not provide an option of combining multiple years of funding into the same energy expenditure plan. Therefore, larger recipients will have to submit at least five energy expenditure plans. The Energy Commission should make every effort to allow funding recipients to consolidate reporting for multiple expenditure plans into the same report, to the extent possible. At a minimum, the report template should allow progress on each approved energy expenditure plan to be reported at the same time, using the same template.
- b) Funding recipients should not be discouraged from taking advantage of opportunities for more cost effective delivery of projects than anticipated in the initial expenditure plan. In some cases, opportunities may be discovered in the field to obtain additional energy savings as part of an ongoing project. However, construction timelines may make such opportunities impossible if submission and approval of a new energy expenditure plan is required before a change order is approved. We suggest requiring formal Energy Commission approval only in cases where the scope of energy efficiency work is decreased substantially from the initial plan:
- (p.27) "A **change reduction** of more than 15 percent in the approved equipment quantity installed. For example, installing a ~~larger or~~ smaller number of lighting fixtures in order to adjust to conditions found during retrofits".

Thank you for providing this opportunity to offer input on the implementation of the California Clean Energy Jobs Act. We hope these recommendations help to develop implementation guidelines that maximize the efficiency and effectiveness of the Proposition 39 program. If we can provide you with additional information or answer questions, please do not hesitate to contact Radhika Fox, SFPUC Director of Policy and Government Affairs, at (415) 554-1830 or rfox@sfgov.org.