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**DRAFT STAFF REPORT**

# **Food Production Investment Program DRAFT Guidelines**

**California Energy Commission**

Edmund G. Brown Jr., Governor

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**Governor Brown's signed AB 109 which directed the Energy Commission to create the Food Production Investment Program. The Energy Commission adopted this Guideline at its business meeting on [Insert Date].**

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# ABSTRACT

This Food Production Investment Program Guidelines explains how the California Energy Commission's program will be administered and outlines terms and definitions.

**Keywords:** Awardee, funding award, food production, greenhouse gas reduction, agriculture, recipient, industrial, on-farm energy savings

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# I. Introduction

California's food processing industries face stiff out-of-state and international competition. Providing support for updating and improving the food production facilities with energy efficient and/or renewable energy technologies will reduce operating costs and greenhouse gas (GHG) emissions. This could help ensure California's food processing industries remain competitive and operational, and the jobs associated with food production remain in California.

The Food Production Investment Program (FPIP), funded by Assembly Bill (AB) 109 (Stats. 2017, ch. 249, § ), provides grants to California's food processing industry to reduce greenhouse gas (GHG) emissions associated with energy use, and furthers the purposes of AB 32 (Nunez, Global Warming Solutions Act of 2006, Nunez, Chapter 488, 2006) and SB 32 (Pavley, California Global Warming Solutions Act of 2006, Chapter 249, 2016). This program and these Guidelines were informed by the following resources:

- Food Processing Task Force (Task Force) consisting of representatives from industry, trade organizations, government agencies, and utilities
- Public comments received from workshops on February 16 and March 1, 2018
- Public comments received by March 1, 2018 on the FPIP docket from stakeholders (Docket URL: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-MISC-01>)

The goals of the program are to accelerate the adoption of advanced energy efficiency and renewable energy technologies at California food processing plants, demonstrate their reliability and effectiveness and help California food processors work towards a low carbon future. The technologies to be funded will help reduce energy costs, maintain product quantity and quality, and reduce GHG emissions associated with food production. The FPIP is open to California food processors. **All projects funded under FPIP must reduce GHG emissions and further the purposes of AB 32 and SB 32.**

These Food Production Investment Program Draft Guidelines (Guidelines) provide potential applicants with the information on how the program will be structured, who and what technologies are eligible and how applications will be scored. In conjunction with the Guidelines, the California Energy Commission (Energy Commission) will release periodic solicitations that will provide detailed instructions on how to submit a funding proposal to the program.

## A. Background

The FPIP is funded by the Greenhouse Gas Reduction Fund (GGRF). All GGRF-funded programs must advance AB32 and SB 32 as the primary program goal and each project must provide real and quantifiable GHG emission reductions. The FPIP will accelerate the adoption of advanced energy efficiency and renewable energy technologies that support achieving the state's long-term GHG emissions reduction goals, while maximizing other co-benefits. The Energy Commission, in alignment with GGRF principles, will prioritize investing the funds in projects that achieve the highest GHG reductions, maximize co-benefits to disadvantaged communities (DAC), and are necessary to meet the State's climate goals.

Specific State legislation governing the FPIP includes the following:

### **Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006**

AB 32 created a comprehensive program mandating a reduction in California GHG emissions to 1990 levels by 2020. GHG emission reduction strategies also include the Cap-and-Trade program requiring the California Air Resources Board (CARB) to develop a Scoping Plan that describes how to reduce GHG

emissions in California. ARB must update the plan every five years. Additional information can be found at: <http://www.arb.ca.gov/cc/ab32/ab32.htm>.

## **AB 1550**

(Gomez, Chapter 369, Statutes of 2016). Amends existing Senate Bill (SB) 535 (DeLeon, Chapter 830, Statutes of 2012) sets investment minimums for GGRF projects in and benefitting DAC and low income communities and includes the following:

- Requires a minimum of 25% of the proceeds to be invested in projects located within and benefitting individuals living in DACs;
- an additional minimum of 5% be invested in projects located within and benefitting individuals living in low-income communities or benefitting low-income communities statewide; and
- An additional minimum of 5% that are located within and benefitting individuals living in low-income communities, or benefitting low-income households that is within one-half mile of a disadvantaged community.

## **AB 109**

(Ting, Chapter 249, Statutes of 2017). Establishes a food processing program at the Energy Commission that is funded by GGRF and provides grants, loans, or other financial incentives to food processors to implement projects that reduce greenhouse gas emissions. This bill authorized \$60 million from the GGRF to fund installation of energy-efficient equipment and systems that reduce GHG emissions through reduced energy usage.

## **AB 1532**

(Perez, Chapter 807, Statutes of 2012). Requires that Cap-and-Trade auction proceeds be used to facilitate achievement of GHG emission reductions. To the extent feasible, also shows how activities maximize economic, environmental, and public health benefits to the State; fosters job creation; complements efforts to improve air quality; direct investments toward disadvantaged communities; provide opportunities for businesses, public agencies, non-profit organizations, and other community institutions to participate in and benefit from statewide efforts to reduce GHG emissions; and lessen impacts of climate change on the State's communities, economy, and environment.

## **Senate Bill (SB) 32**

(Pavley, Chapter 249, Statutes of 2016). Requires the California Air Resources Board adopt rules and regulations to ensure that statewide greenhouse gas emissions are reduced to 40 percent below the 1990 level by 2030.

## **SB 535**

(DeLeon, Chapter 830, Statutes of 2012). Requires the California Environmental Protection Agency (CalEPA) identify disadvantaged communities and requires CARB to provide guidance on maximizing benefits to these communities. In 2016, AB 1550 amended the investment minimums for disadvantaged communities and established new investment minimums for low-income communities and low-income households.

## **SB 1018**

(Budget and Fiscal Review Committee, Chapter 39, Statutes of 2012). Established the GGRF as the account to receive Cap-and-Trade Auction proceeds and established accountability requirements to help ensure that GGRF expenditures achieve GHG reductions and further the purposes of AB 32. Also

requires State agencies appropriating monies from the GGRF to prepare an Expenditure Record showing how the monies will be used, how the expenditure furthered the regulatory purposes of AB 32, how the expenditure contributes to achieving and maintaining GHG emission reductions, how other non-GHG reduction objectives were considered, and how the results achieved from the expenditure will be documented.

**SB 862**

(Leno, Chapter 25, Statutes of 2014). Provides funding appropriations from the GGRF to multiple agencies which reduce GHG emissions and provide investments in, and for, the benefit of disadvantaged communities. SB 862 also requires CARB to develop guidance on quantification methodologies for estimating GHG emission reductions and co-benefits.

**B. Keywords/Terms**

This section identifies the key words or terms used in the FPIP Guidelines.

Word/Term	Definition
AB	Assembly Bill
CalEPA	California Environmental Protection Agency
CAM	Commission Agreement Manager
CARB	California Air Resources Board
DAC	Disadvantaged community
Energy Commission	California Energy Commission
FPIP	Food Production Investment Program
GFO	Grant Funding Opportunity
GGRF	Greenhouse Gas Reduction Fund
GHG	Greenhouse gas
Guidelines	Food Production Investment Program Guidelines
M&V	Measurement and verification
NAICS	North American Industry Classification
NOPA	Notice of Proposed Award
SB	Senate Bill
Task Force	Food Processors Task Force

## II. Program Design

### A. Quantification Methodology

CARB has a statutory role under SB 862 to develop guidance on a quantification methodology to estimate GHG emission reductions and other co-benefits from the FPIP projects. Adoption of energy efficient and/or on-site renewable energy technologies will reduce demand for electricity and natural gas. Reduction of natural gas demand will reduce criteria pollutants which could improve local air quality in communities near the food processing facility.

The CARB quantification methodology is under development. If not available at the time of the Energy Commission's release of the Grant Funding Opportunity (GFO), the Energy Commission's prescribed method to estimate GHG reductions stated in Measurement and Verification Section will be used by applicants. Once the CARB quantification methodology is developed it will be used to calculate GHG emission reductions on all awarded projects.

The CARB GHG quantification methodology will be developed based on a review of the available science, in close coordination with the Energy Commission, as well as academic consultants and other experts as needed. Once developed, the CARB GHG quantification methodology will be available for public comment and will be posted at: [www.arb.ca.gov/cqi-quantification](http://www.arb.ca.gov/cqi-quantification). Once the quantification methodology is final, all projects funded by the GGRF must use this methodology.

CARB is also developing co-benefit assessment methodologies for use in evaluating project co-benefits. These methodologies will be available at: [www.arb.ca.gov/cqi-cobenefits](http://www.arb.ca.gov/cqi-cobenefits).

CARB may review and update quantification methodologies periodically, based on new information or public input to make them more robust, user-friendly, and ensure that they are appropriate for the projects being quantified.

### Measurement and Verification (M&V)

The FPIP requires GHG emissions reductions be quantified as follows:

- **Baseline determination.** Applicants must first develop an energy baseline for its project based on specific characteristics of the targeted equipment to be retrofitted or replaced, operating conditions at the food processing plant, and other factors. These estimates of baseline energy consumption can be derived from an energy assessment conducted by applicant's facility staff, private consultants, equipment vendors, and/or utilities. There are a number of ways in which to conduct an energy assessment of the targeted equipment and the choice of the specific assessment protocol used is left to the applicant but all assumptions and calculation methodologies to justify baseline energy and GHG emissions must be submitted with the application. All targeted equipment and systems for retrofits must reduce GHG emissions through on-site reductions in electricity and/or natural gas use or through the use of low global warming refrigerants. The Energy Commission will evaluate the estimates and assumptions of GHG emissions reductions and energy savings provided by the applicant in scoring proposals submitted for funding. The scoring criteria will reflect those projects having the most potential to cost-effectively reduce GHG emissions along with other factors such as project cost share and benefits to DACs. Estimates of GHG emissions reduction must use the statewide emission factors from the CARB website at: [www.arb.ca.gov/cqi-quantification](http://www.arb.ca.gov/cqi-quantification).
- **Post project determination.** Projects awarded funding will be required to monitor and verify post-retrofit energy performance to verify the GHG emissions and energy reductions attained by

the equipment installations. Applicants may choose to contract with independent third parties, use in-house staff, or local utilities. Utilities may provide monitoring and verification of savings for equipment installed and receiving a utility incentive. Self-certification might be also acceptable. The Energy Commission or its agents reserves the right to conduct an audit of a sample of the projects to verify assumptions and estimates of energy savings and GHG emission reductions.

## B. Project Selection Requirements

### Program Objectives

The FPIP will assist California food producers to achieve the following in their facilities:

1. **Modernization:** Support adoption of advanced, best and commercially available and proven equipment that provides greater GHG emission reductions than current best practices compared to industry standard equipment.
2. **Driving the Future:** Support adoption and demonstration of cutting edge technologies needed to achieve the disruptive GHG emission reductions necessary to accelerate the food processing industry into a low carbon future.

### Eligibility Requirements

Applicants to the FPIP are limited to food processing facilities located in California. The applicant must own or operate one or more food processing facilities that is the site for the proposed equipment retrofit project. For the purpose of the FPIP, food processing facilities are those defined by the North American Industry Classification System (NAICS) codes 311 (Food Manufacturing) and 3121 (Beverage manufacturing). To be eligible for funding, projects must meet all the following minimum requirements:

1. Proposed project must be located at a food processing facility in California;
2. Proposed project will increase the energy efficiency of, or provide renewable energy to, the food processing activities;
3. Proposed project must be designed to achieve significant GHG emission reductions as defined in the grant solicitation; and
4. Applicant must meet all eligibility and other criteria specified in the grant solicitation.

The Energy Commission reserves the right to do the following for each solicitation:

- Restrict applicant eligibility to provide heavier emphasis on food processor facilities that are subject to Cap-and-Trade emissions limits, such as those that emit more than 25,000 metric tons annually and/or to food processor facilities that provide direct benefits to disadvantaged communities as identified in AB 1550.
- Limit the number of projects that each applicant is permitted for each grant solicitation.

### Funding

Funding for FPIP will be awarded through a competitive grant solicitation process as described in these Guidelines. Individual grant solicitations for Tier I and/or Tier II will identify any minimum and maximum grant funds for projects, as well as any limitations on maximum award amounts for individual applicants or project sites. Up to 5 percent of FPIP funds will be retained by the Energy Commission for administrative expenses.

A two-tiered system will be used to categorize awards. Table 1 shows the tiers and their respective initial funding levels.

**Table 1: Funding Tiers**

Tier	Percent of FPIP Funds Available for Awards (less Energy Commission’s administrative expenses)	Award Size	Minimum Match Requirement
I	Up to 100%	\$100,000 - \$3 Million	40% of Eligible Costs
II	Up to 50%	\$2 Million - \$5 Million	40% of Eligible Costs

**Tier I** is open only to food processors currently listed in California’s Cap-and- Trade Program that emit over 25,000 metric tons per year of GHG, and as listed in CARB’s Cap-and-Trade Annual Summary of GHG Mandatory Reporting. The emission amounts subject to compliance obligation in the Cap-and-Trade Program can be viewed at: <https://ww2.arb.ca.gov/our-work/programs/mandatory-greenhouse-gas-emissions-reporting>.

- The focus of Tier I is modernization of existing facilities with advanced, commercially available and proven equipment that provides greater GHG emission reductions than current industry standards. Projects can be either upgrades to existing equipment to result in energy savings/GHG emissions reduction projects. Under Tier I, eligible costs for grant funding are limited to the cost of major equipment that will result in reductions of GHG emissions and any M&V required for validation of GHG emissions reduction. Tier I projects can receive grants up to 60% of the eligible costs and require a 40% match of eligible costs. Utility funds (e.g., rebates, incentives) can also be used to satisfy all or a part of the match requirement. If the applicant is leveraging or pursuing funding from multiple sources of the GGRF, the applicant must describe all existing or potential GGRF sources in their application materials. A letter of commitment, as described in the solicitation, will be required from all sources providing match funds.

**Tier II** is open to all food processors. The focus of Tier II is to fund and demonstrate disruptive cutting edge technologies that provide significant (e.g., greater than 5% facility-wide) GHG emission reductions that are necessary to accelerate the food processing industry into a low carbon future. Eligible costs under Tier II include major equipment, required M&V, and engineering/design. Tier II projects can receive grants up to 60% of the eligible costs and require a 40% match of eligible costs. Utility funds (e.g., rebates/incentives) can be used to satisfy all or a part of the match requirement. If the applicant is leveraging or pursuing funding from multiple sources of the GGRF, the applicant must describe all existing or potential GGRF sources in their application materials. A letter of commitment, as described in the solicitation, will be required from all sources providing match funds.

Please refer to the grant solicitation for any restrictions on match funds. It is the responsibility of the applicant to review the grant solicitation requirements.

**Eligible projects** for Tier I are limited only to those listed below. Tier II projects are not limited to those listed below but the projects must focus on disruptive technologies that may have had limited use and application in California but shows great promise to reduce GHG emissions:

- Compressor controls and system optimization
- Machine Drive controls and upgrades
- Mechanical dewatering
- Advanced motors and controls
- Refrigeration optimization
- Drying equipment
- Process equipment insulation

- Boilers, economizers, steam traps, condensate return, heat recovery
- Evaporators
- Alternatives to natural gas for dewatering, sterilization, etc.
- Solar thermal
- Internal metering and software to manage and control electricity and natural gas use if part of a larger project that reduces energy usage

**Bundling of technologies and sites** will be allowed under the following conditions:

- Tier I:
  - Bundling of technologies within the same facility are allowed
  - Bundling of multiple facilities within the same company is **not** allowed
- Tier II:
  - Bundling of technologies within the same facility are allowed
  - Bundling of multiple facilities within the same company **is** allowed

The Energy Commission reserves the right to do any of the following:

- Solicit proposals/applications for each tier separately or together in a solicitation
- Allocate the funds in phases
- Limit the number/amount of awards per entity

If any of these occur, they will be described in each grant solicitation.

## Key Funding Deadlines

The Energy Commission has two years to encumber funds from the budget authorization date and grant recipients have up to four years to spend the funds. The following are encumbrance and liquidation dates:

- All funds must be encumbered in grant awards no later than June 30, 2019 (this means approval of a grant award by the Energy Commission).
- All awarded funds must be spent by the grant recipient no later than June 30, 2023.

## Solicitation Procedures

A Grant Funding Opportunity (GFO) will be posted on the Energy Commission's website at <http://www.energy.ca.gov/contracts/>.

All information necessary to submit an application will be contained in the GFO and will be consistent with these Guidelines. The GFO will include solicitation objectives, eligibility requirements, schedule, scoring criteria, application form and other required templates along with the terms and conditions. Energy Commission staff will hold a Pre-Application workshop to review the solicitation with potential applicants. Workshop attendance can be in person or via remote access. Participation is optional but strongly encouraged. The workshop will provide an opportunity for potential applicants to ask questions on the solicitation and the application process. The Energy Commission will post a video on how to apply for funding. The video will be available after the grant solicitation is released and will be posted on the FPIP web page (<http://www.energy.ca.gov/research/fpip/>). There will also be an opportunity for interested parties to submit written questions about the solicitation. The staff's responses to all questions will be posted on the Energy Commission website. Any revisions, corrections,

and clarifications on the solicitation will also be posted on the Energy Commission website and announced through the appropriate listserv(s). An estimation of the grant solicitation schedule and project timelines for the first and second round of funding are shown in Table 2. Exact dates will be stated in the solicitation.

**Table 2: Estimated Solicitation and Project Timeline**

<b>Solicitation/Project Item</b>	<b>Approximate Timeline</b>
Solicitation Release	May 2018
Pre-Application Workshop	June 2018
Deadline for Written Questions	June 2018
Post Questions, Answers and Addenda to Website	July 2018
Deadline to Submit Applications (First Round)	August 2018
Post Notice of Proposed Awards (First Round)	September 2018
Business Meeting Date (First Round)	November 2018
Agreement Start Date (First Round)	December 2018
Deadline to Submit Applications (Second Round)	December 2018
Post Notice of Proposed Awards (Second Round)	January 2019
Business Meeting Date (Second Round)	March 2019
Agreement Start Date (Second Round)	April 2019
Project Reporting for All Rounds (Progress Reports, Final Report)	Monthly progress reports; Final report due 6 months prior to end of agreement
Agreement End Date (All Rounds)	December 2022 or earlier

All applications will be scored according to a set of selection criteria. When scoring for the solicitations is complete, the applications will be ranked and a Notice of Proposed Award (NOPA) will be released showing the rank of each applicant based on overall score, applicant name, brief description of proposed project, funds requested and staff recommended funding amount, match funding amount, and whether the project is expected to provide benefits to AB 1550 populations and score status. Funding will first be awarded to the top ranked applicant and then to the next ranked applicant until all funds have been expended.

After the NOPA is released, all applicants will be notified of the results and an Energy Commission representative will begin working with the awardees to develop an agreement for the awarded project. In addition, the NOPA will be posted on the FPIP website at least 10 days before the Energy Commission makes a decision on the funding award. Once the agreement is finalized it will be presented and voted on at an Energy Commission business meeting. After approval at an Energy Commission business meeting the grant agreement will be signed by all parties and work may begin on the project.



## Project Selection Criteria

Applications will be evaluated and scored based on responses to the information requested in the solicitation. To evaluate applications, the Energy Commission will organize an Evaluation Committee consisting of Energy Commission staff possessing expertise in food processing energy efficiency. Subject matter experts from other agencies may also be invited to serve as scorers or technical reviewers-the latter provides insight about the technology. Proposals will be evaluated in two stages, application screening and proposal scoring. Tables 3 and 4 show example criteria. The actual criteria will be contained in each solicitation and could be variations of those listed in Tables 3 and 4.

1. Application screening is a series of pass/fail administrative requirements. Applications that do not pass all the administrative screening requirements are disqualified and will not move on to the scoring stage. An example of the administrative screening criteria is listed in Table 3.

**Table 3: Example Application Screening Criteria**

<b>EXAMPLE SCREENING CRITERIA</b>	
<i>The Application must pass ALL criteria to progress to Stage Two.</i>	
•	The application is received by the due date and time specified in the solicitation.
•	The application form is signed.
•	The requested funding falls within the minimum and maximum range specified in the solicitation.
•	If the applicant has submitted more than one application, each application is for a distinct project
•	The proposal includes one or more match funding commitment letters

Proposals that pass the application screening process are then scored by an Evaluation Committee.

The following are the technical scoring criteria that will be used for FPIP:

1. Technical merit and need
2. Technical approach
3. Impacts and benefits, including:
  - a. GHG emission reduction
  - b. Co-benefits such as energy savings or
  - c. Cost
  - d. Timing
  - e. Market impact
  - f. Measurement and verification
4. Preference points for match funds, benefits to AB 1550 populations, and California based vendors.

An example of the technical scoring criteria is shown in Table 4.

**Table 4: Example Technical Scoring Criteria**

Sample Maximum Points	Example Technical Scoring Criteria
<b>30</b>	<b>1. Technical Merit and Need</b> <ol style="list-style-type: none"> <li>a. <b>For Tier 1 Projects:</b> Identifies how the proposed project will modernize the facility through use of advanced, commercially available and proven equipment that provides greater GHG emission reductions than current best practices.</li> </ol>

Sample Maximum Points	Example Technical Scoring Criteria
	<p>b. <b>For Tier 2 Projects Only:</b> Identifies how the proposed project will lead to technological advancement through use of cutting edge technologies needed to achieve GHG emission reduction goals</p>
10	<p><b>2. Technical Approach</b></p> <p>a. Describes the approach to be used in performing the work, including any outstanding features.</p> <p>b. Identifies and discusses factors critical for success, in addition to risks, barriers, and limitations and how these will be mitigated.</p> <p>c. Describes how the knowledge gained will be shared with others.</p>
60	<p><b>3. Impacts and Benefits</b></p> <p>a. Identifies how the proposed project will benefit California in terms of reducing GHG emissions.</p> <p>b. Provides justifiable <b>quantitative</b> estimates of: 1) annual GHG emission reductions at the applicant’s food processing facility, and 2) other potential benefits for California including the following (<i>as applicable</i>): direct and indirect annual electricity and thermal savings, (kilowatt-hour and therms), energy cost reductions, and any other air emission reductions (e.g., NOx), among other co-benefits</p> <p>c. Provides cost benefit analysis comparing Energy Commission funds requested relative to estimated GHG emission reductions (e.g., CEC dollars requested/ton of GHG emissions reduced)and how it compares relative to other applicants</p> <p>d. States the timeframe, assumptions, and calculations for the estimated benefits, and explains their reasonableness</p> <p>e. Identifies impacted market segments in California that can use the technology demonstrated, including size and penetration or deployment rates, with underlying assumptions</p> <p>f. Provides a clear and plausible measurement and verification plan that describes how GHG emission reductions, energy savings, and other benefits (specified in item 3.b.) will be determined.</p>
100	<p><b>Total Possible Points</b> <b>(Minimum Passing Score is <u>70</u>)</b></p>
15	<p><b>Preference Points (optional)</b> Applicants must meet the minimum passing score to be eligible for the additional points</p> <ul style="list-style-type: none"> <li>• Up to 5 Points: Match Funding preference points may be awarded to proposals that provide match funding in excess of the minimum match requirements for a solicitation.</li> <li>• Up to 5 Points: Preference points may be awarded to proposals that meet the requirements of Section E.</li> <li>• Up to 5 Points: Preference points may be awarded if the equipment selected for installation is purchased from a California—based vendor.</li> </ul>

Source: California Energy Commission

The total minimum passing score is typically 70 out of 100 points. If none of the applicants meet the minimum score, or if funds remain after all passing proposals are awarded funds, the Energy Commission may do any of the following: 1) pursue a second phase of solicitation and modify tiers, as appropriate, or 2) release additional funding solicitations until all funds are expended, or funds expire. Once the scoring process is complete a NOPA is created as described above.

## **C. Project Implementation Requirements**

If awarded funding, a project agreement is developed which establishes a business relationship between the Energy Commission and the recipient of the FPIP award. The grant agreement includes a Scope of Work, Project Budget, Project Schedule, general Terms and Conditions, and disposition of any Intellectual Property. A Commission Agreement Manager (CAM) assigned to the project and will be responsible for coordinating with funding recipients to guide agreement development, provide project oversight, and serve as the Energy Commission's point of contact for stakeholders interested in receiving more information about the project.

All recipients will be required to participate in a kick-off meeting to establish deliverable expectations, roles and responsibilities, accounting procedures, and reporting requirements; submit periodic progress reports to ensure the recipient is complying with the task schedules specified in the grant agreement; and provide required deliverables as specified in the Scope of Work. All meetings will be held at the Energy Commission or the project site, as determined by the CAM.

Some FPIP projects could include one or more critical project review meetings at a pre-designated milestone(s) in which the CAM will review the progress to date and determine whether the progress to date justifies proceeding to the next phase of the project and making necessary corrections to ensure project success. For all projects, CAMs may call a critical project review at any time during the project, if the CAM believes there is a significant issue with the progress or administration of the project that needs to be discussed, and could result in a change to the project or its termination. This is an important management tool for projects that do not always meet their initial goals and decisions need to be made whether to terminate a project based on interim findings.

Periodic project progress reports are required which describe project progress to date. These reports are generally required quarterly. The Energy Commission CAM will identify the necessary reporting frequency. A final report will document total performance for the project will be due approximately three months prior to the agreement end date.

## **D. Maximizing Benefits to Disadvantaged Communities and AB 1550 Populations**

The Energy Commission anticipates 10 percent of the funds will be allocated to projects located within disadvantaged and low income communities and provide benefits to AB 1550 populations. These expenditures will result in the installation of energy efficiency technologies and/or renewable energy technologies, some of which will be installed in food processing plants located in disadvantaged and/or low-income communities and could result in reduced criteria air pollutant emissions and other benefits.

All solicitations will provide preference points for projects located in and benefiting AB 1550 populations. Applicants must describe their efforts to determine and meaningfully address common

needs in disadvantaged communities and low-income communities. Preference points will be awarded based on the whether the project meets the requirements indicated in CARB guidance which is posted at the following: [www.arb.ca.gov/cci-fundingguidelines](http://www.arb.ca.gov/cci-fundingguidelines).

Projects claiming to benefit AB 1550 populations must be designed to avoid substantial burdens (e.g., displacement of low income, disadvantaged community residents and businesses or increased exposure to toxics or other health risks).

The interactive mapping tool to identify disadvantaged and low-income communities is posted at the following: [www.arb.ca.gov/cci-communityinvestments](http://www.arb.ca.gov/cci-communityinvestments).

The interactive mapping tool to identify disadvantaged and low-income communities is posted at the following: <https://www.arb.ca.gov/cc/capandtrade/auctionproceeds/communityinvestments.htm>.

### **III. Administrative Requirements during Project Implementation**

#### **A. Invoicing, Prevailing Wage, Audits and Access to Facilities, Record Retention, Invoicing**

- Recipients may bill the Energy Commission for non-match portions of eligible incurred costs that appear in the approved budget (i.e. paid invoice to a supplier, vendor, outside contractor) during the project. No monies shall be advanced to the recipient for any goods or services related to the project. Additional information on invoicing requirements can be found in the solicitation and the terms and conditions.
- Eligible costs for grant funding are those specified in the solicitation and examples include the following:
  - Tier 1: Major equipment and monitoring and verification costs
  - Tier 2: Major equipment, engineering design and monitoring and verification costs
- Retention of Grant Funds. The Energy Commission shall retain 10% of the final project dollar amount awarded for release at the satisfactory conclusion of the project.

#### **Prevailing Wage**

- Projects that receive an award of public funds from the Energy Commission often involve construction, alteration, demolition, installation, repair or maintenance work over \$1,000. For this reason, projects that receive an award of public funds from the Energy Commission are likely to be considered public works under the California Labor Code. See Chapter 1 of Part 7 of Division 2 of the California Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000. If the recipient does not believe the project is a public works project, the recipient is responsible for obtaining a legally binding determination from the Department of Industrial Relations or a court of competent jurisdiction before work begins on the project that the proposed project is not a public work.

- If outside contractor labor is utilized, they shall be paid at the prevailing wage for their particular trade as established by the California Department of Industrial Relations. Projects must comply with any applicable laws pertaining to prevailing wage and labor compliance.

### **Audits and Access to Facilities**

- Upon written request from the Energy Commission, Applicants and Recipients must provide all project documents, including detailed documentation of all planned and paid expenses, allow the Energy Commission or its designee access to project facilities and records, and allow the Energy Commission or its designee to collect project-related data including the data required to measure and verify natural gas, electricity, and GHG emission reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices and site occupancy levels). Further, if requested, the Applicant or Recipient must provide the Energy Commission or its designee associated data from a period before the start of the project as necessary to establish baseline data, such as energy use and GHG emissions. Audits or program reviews may occur at any time during program implementation or after projects are completed.
- All GGRF administering agencies including the Energy Commission are subject to Legislative and Administration oversight, including audits by the California State Auditor, Finance, other State oversight agencies, or a third-party auditor.

### **Records Retention**

- Applicants and Recipients must retain all project records (including financial records, progress reports, payment requests, and electricity and fuel use reduction documentation) for a minimum of three years from the date of the final payment. Applicants and Recipients must include the above audit, record retention, and access rights in any subcontract or subgrant.
- Public records: Applicants and Recipients must retain all project records (including financial records, progress reports, payment requests, and electricity and fuel use reduction documentation) for a minimum of three years from the date of the final Rebate payment. Applicants and Recipients must include the above audit, record retention, and access rights in any subcontract or subgrant.

## **B. Use and Disclosure of Information and Records and Confidentiality**

With very few exceptions, all project documents submitted to the Energy Commission or its technical consultant(s), including as part of any audit, are considered public records subject to disclosure under the Public Records Act, except as noted in Section V.E.3. The Energy Commission or other state agencies may also use any of these documents or information for any purpose, including to determine eligibility and compliance with the FPIP, applicable law, or a particular solicitation document, or to evaluate related or relevant programs or program elements, or to prepare reports. These documents and information include, but are not limited to: Applications for funding, the agreement itself, invoices and any documentation submitted in support of Applications, invoices, or obtained through an audit, all agreement deliverables, final project report and documents prepared for other reporting requirements, materials and documents developed as part of technology transfer activities.

If the Energy Commission requires Recipient to provide copies of records that the Recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the Recipient may request that such records be designated confidential according to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

Applicants considering requesting confidentiality should note that GGRF funds are subject to information disclosure requirements to ensure transparency. Information concerning the identity of Recipients and the amount or payment of Rebates is public information, and will be disclosed according to the California Public Records Act. This information, as well as other public information, may also be disclosed through the Energy Commission's website, another State of California agency website, or through other means.

Please note that the Energy Commission can disclose confidential information and records to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes.

## **C. Enforcement**

The Energy Commission can take any and all actions necessary to enforce the Energy Commission rights.

### **Recovery of Overpayment**

The Energy Commission may direct the Energy Commission's Office of Chief Counsel to commence formal legal action against any applicant or former applicant to recover any portion of a payment under a grant agreement that the Executive Director determines the applicant or former applicant was not otherwise entitled to receive.

**Fraud and Misrepresentation** The Executive Director may initiate an investigation of any applicant that the Executive Director has reason to believe may have misstated, falsified, or misrepresented information in submitting a reservation application, payment claim, or reporting any information required by these Guidelines. Based on the results of the investigation, the Executive Director may take any action deemed appropriate, including, but not limited to, cancellation of the reservation, recovery of any overpayment, and, with the concurrence of the Energy Commission, recommending the Attorney General initiate an investigation and prosecution under Government Code Section 12650, et seq., or other provisions of law.

## **D. FPIP Guideline Authority**

These FPIP Guidelines are adopted pursuant to Assembly Bill (AB) 109 (Stats. 2017, ch. 249, section 32) and Public Resources Code section 25218(e). In AB 109, section 32, the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code) does not apply to guidelines or other standards adopted and used by a state agency in administering an allocation of moneys from the Greenhouse Gas Reduction Fund.

## **E. FPIP Guideline Interpretation**

Nothing in these FPIP Guidelines is construed to abridge the powers or authority of the Energy Commission.

## **F. Effective Date of the FPIP Guidelines**

These FPIP Guidelines are not effective until adopted by the Energy Commission at a publicly-noticed Business Meeting. The Energy Commission will post the adopted Guidelines on its website: <http://www.energy.ca.gov/research/fpip/>.

Applicants may also obtain the FPIP Guidelines by contacting:

California Energy Commission  
Food Production Investment Program  
1516 Ninth Street, MS-51  
Sacramento, CA 95814

[cyrus.ghandi@energy.ca.gov](mailto:cyrus.ghandi@energy.ca.gov)

## **G. Substantive Changes to the FPIP Guidelines**

The Energy Commission can make changes to this FPIP Guidelines from time to time. Changes will take effect after adoption by the Energy Commission at a publicly noticed business meeting. Substantive changes to the FPIP, policy or design include but are not limited to:

- Changes in evaluation criteria.
- Changes in funding criteria for determining award amount to conform to statutory changes.

### **Nonsubstantive Changes to the FPIP Guidelines**

If the final FPIP Guidelines requires nonsubstantive changes, the Energy Commission will provide a notice of the changes to the FPIP Program listserv and post the amended FPIP Guidelines on the FPIP Web page.

## **IV. Project Tracking and Metrics**

The recipient must track and document detailed project-level information as it relates to energy savings and GHG emission reductions, and co-benefits throughout the term of the project. The format in which this information is to be tracked and reported will be developed with the CAM. This information is to be retained for a period of three (3) years following completion of the project.

## **V. Reporting**

Recipients of GGRF funds must submit reports on expenditures, investment benefits, and project outcomes, per CARB guidance. Recipient shall provide quarterly report on all projects – during the term of its agreement with the Energy Commission and for a period specified by CARB to meet project outcome reporting requirements. These requirements will be specified in the solicitation and could exceed the Energy Commission’s grant term.

Reporting shall follow the format provided by the Energy Commission, consistent with the project-type specific reporting requirements in CARB guidance.

Information to be reported includes, but is not limited to:

- Recipient Name
- Project description
- Project location
- Census tract
- Dates: Project Selected and Completed
- GGRF dollars allocated
- Leveraged and/or match funds
- Estimated total project GHG emission reductions
- Estimated /actual energy saved (kWh, therms or other fuels) for energy efficiency projects
- Estimated /actual energy generated (kWh or therm equivalents) for renewable energy projects
- Other benefits or results
- Benefits to disadvantaged communities and/or low income communities