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Comments of the NRDC-CAPS-TerraVerde on Draft SRVEVR Program Guidelines

Comments attached

Additional submitted attachment is included below.

February 5, 2021

Re: Comments and Recommendations for the Draft SRVEVR Program Guidelines

Dear Commissioner Douglas and Energy Commission Staff:

The School Reopening Ventilation and Energy Efficiency Verification and Repair (SRVEVR) Program provides a unique opportunity to improve indoor air quality in California public schools. This is especially valuable for the public health of students in schools exposed to high levels of air pollution and to avoid transmission of COVID-19. It also a great opportunity to reduce energy waste, increase efficiency and develop pollution-free school buildings powered by clean electricity.

The Draft SRVEVR Program Guidelines ("Draft Guidelines") adhere to the requirements of AB 841 in many respects, but do not sufficiently respond to the urgency of the situation faced by schools nor the need for immediate economic stimulus. As called out in the statute, this program must respond to the "extraordinary crises of the COVID-19 pandemic and the economic recession" and muster "all possible state resources to protect our most vulnerable populations while also bolstering the economy as a whole."[1]

We urge the California Energy Commission (CEC) to identify every possible opportunity to increase the speed and flexibility in deployment of these funds, in alignment with statute, as well as opportunities to enable this program to contribute to the state's health, equity, and climate goals. In this spirit we offer the following recommendations, described in more detail below:

- The CEC should provide a list of all eligible schools that meet the "underserved community" criteria.

- All Local Educational Agencies (LEAs) with schools that meet one of the "underserved community" criteria should receive a set-aside grant allocation based on the enrollment in that district's eligible schools.

- LEAs should be able to use these funds flexibly to assess and improve ventilation in the eligible schools, in line with the requirements of statute. The funds should include a base

[1] Cal. Public Utilities Code Section 1600 (b).

amount for assessment and maintenance plus 20 percent "for repairs, upgrades, or replacements" required to make equipment "functional or more energy efficient."[2] This 20 percent should be allowed to be used flexibly on eligible activities at any of the LEA's qualifying school sites, and not confined to a single piece of equipment or school building.

- The CEC should provide detailed guidance describing the eligible activities and a standard electronic reporting format, such that schools can move forward confidently with assessment, maintenance, and repairs for the portion of the funds that have been set aside for their district as soon as final guidelines are released.

- The CEC should explicitly allow a portion of the funds to be used to prepare the documentation and planning needed to submit any required application documents.

- In alignment with the air quality goals of this program and the climate goals of the state, the CEC should require that all projects replacing gas-powered HVAC equipment prioritize efficient clean electric alternatives.

Comments and Recommendations

A. The CEC should provide a list of all eligible schools that meet the "underserved community" criteria.

Rather than LEAs independently determining their schools' eligibility under the criterion A through E, the Energy Commission should publish the list of qualified schools in each utility territory and LEA. The data to determine eligibility is available from the California Department of Education (CDE) and CalEnviroScreen by California's Office of Environmental Health Hazard Assessment. This would save time and provide clarity for the LEAs, and the research would be required of the CEC in any event to validate applicants.

B. All LEAs with schools that meet one of the "underserved community" criteria should receive a set-aside grant allocation based on the enrollment in that district's eligible schools.

It is not clear in the Draft Guidelines how the distribution of funding by Tier was established in Table 3, beyond that this is a convention used for the Energy Conservation Assistance Act (ECAA) Competitive Loan Program. Instead, the SRVEVR program should provide equal funding opportunity for all qualified schools, whether they are in a small, medium or large LEA. In fact, statute requires that all schools in underserved communities be offered the grant

[2] Cal. Public Utilities Code Section 1621 (c)(1).

opportunity, with direction that the Energy Commission "shall prioritize underserved communities by ensuring that all schools that are in an underserved community are offered the opportunity to apply for and receive grants" (emphasis added).[3] There is no reference in statute to an application system with separate funding tiers based on LEA size.

Instead of expediting the deployment of funding or increasing equitable access to funds, we believe that the system proposed in the Draft Guidelines adds unnecessary complexity and uncertainty to the application process. In the "competitive" program model of the Draft Guidelines, schools will be scrambling to submit applications quickly to get a spot in line, and the Draft Guidelines only add confusion about which tier they are in and if funding will be left in that particular tier. This will lead to uncertainty about whether an LEA's effort to put together an application will even be rewarded with grant funding.

The system proposed in the Draft Guidelines will also preference LEAs that are relatively well-resourced with staff available to manage their applications. LEAs in disadvantaged communities in 'normal times' have limited resources to develop such grant applications, and now in midst of the COVID-19 pandemic, the constraints are heightened. The application process in the Draft Guidelines requires LEAs to secure site-specific details, work estimates, and develop an overall initial round strategy prior to submitting its grant application. LEAs would be required to do this work without any assurance that funding will be available. These applications would then require review by CEC, followed by a funding reservation, and eventual disbursement of funds. This is an overly complex and staged process that does not provide, as required by statute, all LEAs in underserved communities access to grant funding.

Instead of requiring initial applications by the LEAs, we recommend allocating funding to every LEA with schools in underserved communities on the basis of student enrollment at eligible school sites. With an initial funding round of $200M in 2021, this would provide roughly $80 per student enrolled, based on these assumptions:

Initial Round Funding (SRVEVR)	**$200,000,000**
Public Schools in California	10,588
Public School Enrollment (2019-20)	6,163,001
% of schools in IOU territory (estimate)	80%
% of schools qualifying as underserved (guess)	50%
Est. initial round funding per student	**$80**

[3] Cal. Public Utilities Code Section 1612.

Elementary Avg. Enrollment	506
Middle/Junior High Avg. Enrollment	751
High Avg. Enrollment	1,319
Est. initial round funding for Avg. Elementary	**$40,500**
Est. initial round funding for Avg. Middle	**$60,100**
Est. initial round funding for Avg. High	**$105,500**

This is a rough calculation, and we do not anticipate that the initial round of funding will cover all of an LEA's eligible schools' needs. But this would allow each LEA to have a set amount of funding to enable them to get started quickly and with confidence.

To align with statute, this set-aside funding would cover the assessment and maintenance activities, with a portion (the 20 percent adder) reserved for "for repairs, upgrades, or replacements."[4] The amount allocated to LEAs in the initial round is unlikely to cover all of the LEA's eligible schools, in which case the LEA can prioritize schools based on their own strategy for reopening and their knowledge of the HVAC conditions in each school. Alternatively, if the funding is too much (which seems unlikely given the chronic underinvestment in public school facilities) the funds would revert to the general funding pool for a future round.

To receive the funding allocated for qualified schools, the LEAs would need to submit a plan for use of that funding and the plan would need to be approved by the CEC before funding is dispersed. However, the LEAs should expect the CEC would approve any plan components in compliance with the Project Requirements in Chapter 2. To accommodate work that needs to be done immediately to support school reopening, LEAs should be permitted to move forward with qualifying projects and work prior to submission or approval of their plan, and then secure reimbursement for that work once their plan is approved. Every school for which funding is awarded would still complete the HVAC Assessment and Maintenance requirements described in the draft guidelines, as required by statute. This will assure each qualified school is "assessed and maintained" as described and provide the CEC a valuable database of HVAC equipment installed and potential future projects in schools.

C. LEAs should have maximum flexibility in using allocated funds to assess and improve ventilation in the eligible schools

LEAs should be able to use these allocated funds flexibly to assess and improve ventilation in the eligible schools, in line with the requirements of statute. As described above, the funds should

[4] Cal. Public Utilities Code Section 1621 (c)(1).

include a base amount plus 20 percent "for repairs, upgrades, or replacements" required to make equipment "functional or more energy efficient."[5]

Importantly, this 20 percent should be allowed to be used on eligible activities at an LEA's qualifying school sites, and not confined to a single piece of equipment or school building. There is nothing in the statute that requires the 20 percent to be site-specific, but the Draft Guidelines propose to limit the funds in this way: "Approved budgets are site specific, and the 20 percent contingency funds must be spent at the site for which the funds assigned. The 20 percent contingency may not be used to complete work at another site."[6]

Assigning the funds in this way would severely limit the efficacy of this program and is not aligned with the likely needs of schools. In our experience, it is unlikely that each school will have only minor repairs that require only the 20 percent contingency. Instead, a district is more likely to have a few schools with newer HVAC that need little improvement, and other schools with inadequate or non-functional ventilation that can only be brought up to the required standards with major repairs or replacement of equipment. LEAs will be better able to identify and remedy their schools' ventilation issues if they can more flexibly use these funds, and not delay all significant projects until an unknown future date when more funds might be available.

Additionally, LEAs with multiple qualifying schools should be provided the flexibility to use and redistribute its funding allocation to address its highest needs and priorities, provided the funding is only used in qualifying schools, and the work accomplished complies with the Project Requirements. For example, if an LEA received an allocation for both an elementary school and a high school, and the elementary school had recent HVAC upgrades providing good outside air ventilation and air filtration, it could use more of the SRVEVR program funding to address the HVAC needs of its high school.

D. The CEC should provide detailed guidance describing the eligible activities and a standard electronic reporting format to enable fast action by LEAs.

The CEC should provide the guidance and reporting detail required such that schools can move forward confidently with assessment, maintenance, and repairs for the portion of the funds that have been set aside for their district as soon as final guidelines are released. For example, the CEC should issue testing, adjusting, and balancing (TAB) protocols and reporting templates, and other assessment documents or forms that align with application requirements. CEC should standardize the documentation required for this process so that different TAB and Engineering qualified personnel are submitting similar documentation, preferably completely electronically.

[5] Cal. Public Utilities Code Section 1621 (c)(1).
[6] Draft Guidelines page 22.

E. The CEC should explicitly allow a portion of the funds to be used to prepare the documentation and planning needed to submit any required application documents.

As mentioned above, schools and especially those in underserved communities are struggling due to a lack of resources during this time of crisis. Most schools will not have staff able to prepare all the documentation and do the planning needed to apply for funds and implement these grants. The CEC should explicitly allow LEAs who require support to use a small portion of their allocated funding for the costs of the investigation, preliminary assessment, and application preparation.

F. The CEC should require that all projects replacing gas-powered HVAC equipment prioritize efficient all-electric alternatives.

In alignment with the air quality goals of this program and the climate goals of the state, the CEC should require that all projects replacing gas-powered HVAC equipment get bids for efficient electric equipment, and prioritize those bids when considering available financial incentives, or that LEAs provide documentation as to why an efficient electric option was not feasible at the school site. This requirement should be added to the Draft Guidelines, and the "Review of the HVAC Assessment Report"[7] should explicitly require the licensed professional to consider and provide an estimate for electric equipment options. Additionally, when the CEC develops additional guidance for funding targeted at HVAC replacements (beyond the 20 percent contingency amount), preference should be given to projects that include fuel substitution.

These recommendations are consistent with state policy and with the CEC's own findings. In its Integrated Energy Policy Report (IEPR), the CEC determined that "[t]here is a growing consensus that building electrification is the most viable and predictable path to zero-emissions buildings" and is "essential to California's strategy to meet its [greenhouse gas] reduction goals for 2030 and 2050.[8] In addition, the California Air Resources Board (CARB) Resolution 20-32 identifies health risks from "NO2 and other nitrogen species (NOx) emitted from gas appliances" and notes that "electrification of natural gas appliances in California would result in significant health benefits and reduction of greenhouse gas (GHG) emissions."[9]

[7] Draft Guidelines at page 20.

[8] CEC, Docket No. 18-IEPR-01, 2018 IEPR Update Volume II, at 28, 32 (Mar. 21, 2019) (emphasis added) (2018 IEPR Update Volume II), https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report/2018-integrated-energy-policy-report-update.

[9] CARB Resolution 20-32: https://ww3.arb.ca.gov/board/res/2020/res20-32.pdf.

G. Other miscellaneous recommendations

- The CEC should consider extending the 18 month maximum term to complete the assessments and verification of work completed. This will be extremely challenging for any work requiring DSA approval.
- In the "Documentation of HVAC equipment" described in bullet 2, the CEC should add: heating capacity, cooling capacity, year installed, refrigerant type and square footage served. For clarity, the CEC could provide a standard workbook detailing the information required for HVAC equipment.
- To reduce cost and avoid duplicative work, the CEC should consider ways to reduce the assessment requirements for similar equipment. We suggest allowing schools to only test 1 in "typical" 7 units for schools with similar equipment. Adjustment recommendations can then be tested out for any unit adjusted.

Thank you for considering our comments. Please contact us if you require further information about any of our recommendations.

Sincerely,

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