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NAESCO Comments on SEES Draft Program Guidelines

Submitted attachment included below

Additional submitted attachment is included below.

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The National Association of Energy Service Companies (NAESCO) appreciates the opportunity to submit these comments on the California Energy Commission (CEC) **Docket Number: 20-RENEW-01, School Energy Efficiency Stimulus Program, SRVEVR Program Draft Guidelines and SNPFA Program Draft Guidelines ("Guidelines")**.

Introduction to NAESCO

NAESCO is the leading advocacy and accreditation organization for US Energy Service Companies (ESCOs) and is dedicated to modernizing America's building infrastructure through performance contracting. Uniting the energy service industry, NAESCO promotes favorable government policies; sponsors a rigorous accreditation program; provides training and education; and champions ESCOs interests across the country. NAESCO counts among its members some of the world's leading energy services companies, including: ABM Energy, AECOM Energy, Ameresco, Brewer-Garrett, CEG Solutions, Centrica Business Solutions, ClearEnergy Contracting, Climatec, CM3, CMTA, ConEdison Solutions, Constellation New Energy, CTI Energy Services, E3, Energy Solutions Professionals, Energy Systems Group, EnergyLink, Engie, Entegrity, FPL Energy Services, Georgia Power, GRP Wegman, Hannon Armstrong, Honeywell, Johnson Controls, McClure Energy, McKinstry, METCO Engineering, Navitas, New York Power Authority, Noresco, Perfection Group, Performance Services, Schneider Electric, Siemens Industry, SiteLogiq, Southland Industries, Stark Esco, The Efficiency Network, Trane, Wendel Energy Services, and Willdan.

During the past twenty years, NAESCO member companies have implemented energy efficiency, demand response, renewable energy and distributed generation projects for government, industrial, commercial, institutional, and residential customers, including several billion dollars' worth of projects in California. Nationally, NAESCO member projects have produced:

- $60 billion in projects paid from savings
- $65 billion in savings – guaranteed and verified
- 500,000 person-years of direct employment
- $45 billion in infrastructure improvements in public facilities
- 480 million tons of CO_2 savings at no additional cost

Summary of Comments

NAESCO's offers the following comments on the Guidelines.

The CEC should allow the Local Education Agencies (LEAs) to submit combined applications and combined reporting for the SRVEVR and SNPFA programs.

The Guidelines should recognize that the funding available in the SRVEVR and SNPFA grants is not sufficient to provide permanent upgrades to critical school building systems.

The CEC should recognize that the Guidelines do not cover even the full actual costs the costs of the allowable list of measures that comprise the short-term solutions.

Program funding for future years may be curtailed if the 2021 SEES projects do not produce savings.

The CEC should encourage the LEAs to take a holistic approach to upgrading their HVAC and plumbing systems by leveraging the SRVEVR and SNPFA grants with funds available from public programs and private investors.

The CEC Guidance should provide more details on the grant eligibility, payment terms and amounts and should consider ways to ameliorate the effects of the scheduled distribution of grants.

Discussion

NAESCO offers the following arguments in support of its comments.

1. **The CEC should allow the Local Education Agencies (LEAs) to submit combined applications and combined reporting for the SRVEVR and SNPFA programs.**

The duplicate processes described in the Guidelines will result in unnecessary costs for LEAs that intend to participate in both programs. If the duplicate processes are designed to ensure participation from smaller, local contractors and not to allow large companies to dominate the program, a more effective approach would be a mandatory requirement to utilize local/small business like what SMUD does with SEED contractors.

2. **The Guidelines should recognize that the funding available in the SRVEVR and SNPFA grants is not sufficient to provide permanent upgrades to critical school building systems.**

The legislature enacted AB 841 to fund a limited set of "quick fixes" to HVAC and plumbing systems to allow schools to operate safely during the COVID pandemic and prevent immediate harm to students and staff. But it limited the allowable measures to stretch the available funding to cover as many schools as possible. A recent report by the Public Policy Institute of California (PPIC, August 2020) cites studies that document the need is much greater than "quick fixes." (emphasis added)

A recent national study estimates that HVAC is a particularly common problem for schools, noting that 41 percent of districts currently need to replace the HVAC system in at least half of their schools (Government Accountability Office 2020). A case study involving 104 California classrooms with retrofitted HVAC units further found that only 15 percent of classrooms met indoor air quality and energy efficiency standards (Chan et al. 2020).

Or this observation from the UC Berkeley Center for Cities and Schools:

The passage of AB 841 will help. But keep in mind that it is a drop in the bucket compared to the needs out there; $600 million will not go that far across California's 10,000 schools and their countless buildings. ("EdSource", October 2020)

3. **The CEC should recognize that the Guidelines do not cover even the full actual costs the costs of the allowable list of measures that comprise the short-term solutions.**

Implementing and maintaining the allowable measures will include both short and long-term costs that are not covered by the grants, including (using the SRVEVR program as the example):

- Required **Assessments** of the HVAC equipment and maintenance procedures (field audits, engineering and estimating), reports preparation, and application assistance to LEA's (like Prop 39). Many of the participants in the January 29 workshops complained about this. These costs can either be covered in separate payments, as they were in Prop 39 projects, or rolled into the cost of comprehensive design-build or performance contracts.
- **Energy costs will likely increase** when schools try to maintain building temperatures while significantly increasing air flow through old, inefficient major ventilation system components (*e.g.*, fans and ductwork) and heating and cooling equipment (*e.g.,* furnaces, boilers, and chillers). These increased costs can be offset by savings from a complete retrofit of the HVAC system and/or by combining complete HVAC retrofits with short-payback measures in a comprehensive project.
- **Increased O&M Costs** that the more complex ventilation, CO_2 sensing systems and HVAC control systems will require. These costs will include the regular replacement of more expensive disposables (*e.g.*, filters) and should include the monitoring and verification of system operations, reviewed by a third party that is not the system operator (*e.g.,* a school district maintenance supervisor) to ensure that the systems are functioning properly. Our understanding is that the grants will pay for a one-time fix, not the ongoing maintenance costs for the expected life of the new equipment, which will be borne by the LEA.
- **Increased training and retraining** costs for school maintenance and school district supervisory personnel to operate the more complex systems.

4. **Program funding for future years may be curtailed if the 2021 SEES projects do not produce savings.**

The title of the SEES program and the funding of the program through ratepayer collections indicates that the legislature, the CEC and the CPUC expect that SEES projects will produce energy savings. And many energy efficiency and demand response companies and organizations lobbied against the passage of AB 841 because they wanted the CPUC to revise its EE program rules to allow for more cost-effective IOU EE programs, thus eliminating the gap between allowable EE budgets and actual EE program expenditures that fund the SEES program. These companies and organizations will continue to advocate for expanded IOU EE programs in CPUC proceedings this year. Expanded CPUC programs means less funding for SEES grants. NAESCO believes that the 2021 programs must produce savings to maintain the estimated funding levels for the 2022 and 2023 program cycles. So, we urge the CEC to allow LEAs to leverage the SEES grants to implement comprehensive projects that will produce savings, as discussed below.

5. **The CEC should encourage the LEAs to take a holistic approach to upgrading their HVAC and plumbing systems by leveraging the SRVEVR and SNPFA grants with funds available from public programs and private investors.**

Unfortunately, the allowable measures do not solve the problems for many schools. NAESCO believes the programs should recognize, for example, that the SRVEVR program, with its focus on maintenance, economizers, and CO2 monitors, is only a short-term solution for many schools that need a more holistic solution. The SRVEVR program should try to facilitate comprehensive HVAC system and controls upgrades, based on life cycle costing of the HVAC system, which will provide better ventilation to school facilities while at the same time making the operation more energy efficient and sustainable.

As the PPIC report cited above notes, funding for these comprehensive projects is not likely to come from state or LEA bond issues during the next few years.

Pre-pandemic cost pressures (e.g., pensions, special education, and declining enrollment) and the uncertainty over funding for future capital projects after the defeat of most bond measures in the March 2020 election will compound the financial difficulties of addressing COVID-19, particularly among those 150 districts that were already financially distressed (Warren and Lafortune 2020; Legislative Analyst's Office 2020; Sharfstein and Morphew 2020).

So, these comprehensive improvements cannot be implemented without leveraging the SEES grants with other financing sources. NAESCO suggests that CEC try to facilitate that leveraging, and that the Prop 39 Guidelines offer a useful precedent. The CEC should allow similar leverage of the SEES grants by adopting the same or similar language (see below), with appropriate adjustments in the list for discontinued programs and new programs, including the various federal stimulus programs that will be rolling out this spring, cooperative agreements, streamlined procurement methods, design-build contracts, and energy performance contracts (Section 4217).

"LEAs may pursue other programs and incentives to leverage Proposition 39 awards, such as, but not limited to:

- *The Energy Commission's Bright Schools Program "no-cost" energy efficiency audits.*
- *California Conservation Corps "no-cost" and "low-cost" energy efficiency data collection and energy efficiency surveys.*
- *Local government programs.*
- *Utility programs.*
- *The Energy Commission's ECAA-Ed Loan Program.*
- *Bond funding.*
- *Other private capital funding."*

Source: PROPOSITION 39 CALIFORNIA CLEAN ENERGY JOBS ACT – 2013 PROGRAM IMPLEMENTATION GUIDELINES *REVISED JUNE 2014 CEC-400-2013-010-CMF-REV2, Page 13*

6. The CEC Guidance should provide more details on the grant eligibility, payment terms and amounts and should consider ways to ameliorate the effects of the scheduled distribution of grants.

During the January 29 workshops, the CEC and workshop participants discussed several related topics that NAESCO suggests being addressed by the CEC as soon as possible.

- The CEC said that they are developing allowable ranges for the reasonable costs for Assessments and retrofits. NAESCO suggests that establishing and policing these allowable cost ranges will be very difficult, because reasonable costs will be highly variable by LEA, depending on climate zone, existing equipment, etc. For example, several engineers at the January 29 workshops said that their LEA clients do not have HVAC systems that can be retrofitted as the SEES program envisions. NAESCO suggests that the CEC staff does not want to spend an inordinate amount of time establishing the allowable cost ranges and then adjudicating pricing with the LEAs. Allowable costs should be negotiated between the contractor and the LEA, with the CEC staff focusing on the few cases where costs are seriously out of line.

- A related issue is the requirement for CO_2 sensing systems, which can be very expensive. We understand that this requirement is in the legislation but funding this portion of the LEA applications might be reasonably delayed, focusing funding on the immediate problem of COVID transmission mitigation. The usual application of CO_2 sensing systems is to ensure that a classroom or a building that is trying to be as efficient as possible meets minimum ventilation requirements. But COVID mitigation is about increasing, not decreasing, ventilation, and we would expect that increased ventilation levels will make CO_2 sensing systems superfluous to the task of COVID transmission mitigation. The applications could include the cost of the CO_2 sensing systems, so as not to require the LEAs to do a second set of Assessments but grant funding for these systems could be postponed until the CEC has funded the COVID-mitigation measures in the applications of all the interested LEAs.

- We urge the CEC to reconsider the guideline that a grant can only be used to fund upgrades in a particular building. As with the allowable cost ranges above, this may lead to a lot of work by CEC staff when an LEA discovers that the upgrades in one building is cheaper and the work in another building is more expensive than the estimates in the Assessments. We suggest that the Guidelines should allow an LEA application to include Assessments for individual buildings and sum these Assessments to a total Not-to-Exceed grant amount. Then the Guidelines should allow the LEAs to modify these Assessments to account for changes during implementation, and submit a final, post implementation application, reconciled to actual implementation costs that totals no more than the Not-to-Exceed amount of the grant. The CEC might see this process as analogous to starting a project with design drawings and specifications and ending with as-built drawings and specifications.
- If the CEC agrees with our premise that the available grant funding is not sufficient to cover the needs of all of the eligible LEAs, and recognizes that a grant in the 2023 program cycle doesn't help an LEA reopen a school building in 2021, we urge the CEC to consider some form of grant rationing or grant caps (*e.g.,* delaying the funding of CO_2 sensing systems, described above) to spread the available funding more equitably and allow more schools to open quickly and safely.
- The payment schedule that the Guidelines propose -- 50% payment upfront (approximately 4-6 weeks after the completion of the grant agreement, which occurs after the Assessment has been performed and accepted by the CEC) and 50% approximately 4-6 weeks after receipt of all final required reporting -- could deter some districts from applying, especially those in cash-strapped smaller and underserved communities. It seems to put these LEAs in violation of 30-day contractor prompt payment laws (California PCC Section 10261.5**)**. Also, it is another barrier to program participation for MWDBE contractors in the underserved communities because they cannot cash flow these extended payment terms. We urge the CEC to use a more accelerated payment schedule, such as 50% payment upfront with the remaining 50% on a monthly progress payment basis, and to consider a 100% upfront payment for financially distressed LEAs.

Respectfully submitted by,

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