

DOCKETED

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NEVI Formula Program Grant Solicitation

Additional submitted attachment is included below.



Center for Law, Energy,
& the Environment

September 28, 2022

California Energy Commission and
California Department of Transportation
California Energy Commission Docket Unit, MS-4
Docket No. 22-EVI-05
715 P Street Sacramento
California 95814
Uploaded via CEC Website

Re: Docket #: 22-EVI-05: NEVI Formula Program Grant Solicitation

We, Ken Alex, Nico van Aelstyn, Louise Dyble, and Ted Lamm, submit the following comments regarding the proposed grant solicitation under the National Electric Vehicle Infrastructure Formula Program (NEVI Program) for funding allocated under the Bipartisan Infrastructure Law of 2021 (BIL), as presented in Pre-Solicitation Joint Workshops conducted by the California Energy Commission (CEC) and the California Department of Transportation (Caltrans) on September 7 and 8, 2022.

I. INTRODUCTION AND OVERVIEW

We submit this comment in connection with our participation in a new initiative focused on equitable deployment of electric vehicle infrastructure based at the UC Berkeley Center for Law, Energy, & the Environment (CLEE).¹ The initiative, which will be led by CLEE staff, including Messrs. Alex and Lamm, and supported by a range of stakeholders, including Mr. van Aelstyn and Ms. Dyble of the firm Sheppard Mullin, will seek to develop equitable and effective charging networks in lower-income communities in multiple California cities. The NEVI Program represents a critical step toward achieving that transition, and we appreciate the opportunity to comment on proposed solicitation criteria for program grants. This comment suggests changes and additions to proposed application requirements and selection criteria, which we believe are critical to realizing the full potential of the NEVI Program.

Encouraging the switch to electric vehicles (EVs) requires accessible, safe and reliable charging facilities in all communities. Standards for upkeep and basic amenities are not merely desirable—they are essential, particularly in areas where motorists will have few alternative options. Specifications that incorporate safety and functionality should be spelled out in program requirements. Clear and detailed requirements will ensure that a competitive solicitation process that does not risk sacrificing the interests of drivers and communities in having well-designed and maintained facilities.

¹ We provide our institutional affiliations solely for purposes of identification and do not imply any institutional endorsement of the views expressed here.

Federal guidance expressly encourages programs to include support for strong labor, safety, training and installation requirements, as well as opportunities and benefits for disadvantaged business enterprises (DBE) and small businesses. California should make the most of scoring criteria to encourage inclusive hiring practices and to provide reliable basic amenities. Moreover, criteria should be adopted to ensure that stations locate within Disadvantaged Communities, Low-Income Communities and Justice 40 communities result in benefits to local residents and businesses, including benefits that members of the Disadvantaged Communities Advisory Group (DCAG) have identified as priorities.²

II. SAFETY AND SUPPORT FACILITY REQUIREMENTS

Criteria should prioritize proposals to bring safe, full-service, community-beneficial charging sites to locations where communities need them. Charging site safety and support facility requirements should be specified and expanded. Safety is specifically listed in federal guidance as one of the criteria that should be considered in program deployment.³ Access to essential facilities and services, including clean and well-maintained restrooms, contributes to overall safety, usability, and community benefit of charging sites. We therefore recommend the following additions to program requirements:

- The standard for adequate lighting should be specified based on station characteristics, and lighting plans should be required as part of station designs.
- Access to a telephone or emergency call box at each station should be required for stations with limited cellular service or limited access to neighboring businesses and facilities.
- Access to restroom facilities should be required for all stations, with potential exceptions for small stations without water utility access.
- If adjacent businesses provide restrooms, the business that will provide restroom access should be specified and minimum requirements for size should apply.
- Restroom functionality/operation criteria should be adopted, with requirements to ensure restrooms are open and available at all charging times (*e.g.*, 97 percent, consistent with federal requirements for charger availability).
- Maintenance and Operations (M&O) plans should be required to include restroom maintenance.
- Potable water should be available free of charge.

Equity considerations and labor/workforce considerations also should be incorporated into the bidding process. A community benefits analysis should be required as a component of the application, including

² Community groups identified charging for medium- and heavy-duty vehicles as one of two top priorities, along with employment opportunities. Suggestions that incorporate these priorities through application scoring criteria are outlined below. Caltrans and CEC, California's Deployment Plan for the National Electric Vehicle Infrastructure Program (California Deployment Plan), Aug. 2022, p. 12.

³ U.S. Federal Highway Administration, National Electric Vehicle Infrastructure Formula Program Bipartisan Infrastructure Law Program Guidance (Federal Guidance), Feb. 10, 2022, p. 24.

any plans for local hiring and training programs, to support evaluation of related scoring criteria (see below).

III. APPLICATION EVALUATION AND SCORING CRITERIA

We recommend expanding and adding more detailed criteria to the Application Evaluation and Scoring criteria presented on slide 42 of the Pre-Solicitation Workshop Presentation for Day 1. More specifics not only will support objective scoring, but will reduce uncertainty for applicants, maximize local job creation, and increase the frequency of specific desirable station characteristics. Scoring criteria should prioritize sites that will provide benefits to host communities and not just to drivers. We recommend the following additional criteria:

Project Design and Local Access

- Points should be allocated to stations that are accessible to local communities directly via local streets or roads.
- Points should be allocated for stations with ADA-accessible pathways to each of the following amenities (all identified in federal guidance), with additional points awarded based on proximity:
 - Convenience stores or food retailers.⁴
 - Public sheltered seating areas.
 - Land use with substantial community benefit, including a visitor center or small business.

Community Benefits

- Consistent with DCAG priorities,⁵ points should be added for local hiring and training programs that include outreach to and partnerships with local community organizations, employment centers, schools and colleges. Points should be awarded separately for technical training programs and hiring programs that address hiring needs for construction and installation, and for hiring programs for jobs associated with operation and maintenance.
- Points should be allocated for site development plans that demonstrate a high likelihood of providing local economic development opportunities, such as by attracting drivers to local businesses, or by accommodating new businesses that support the charging site. Additional

⁴ Federal Guidance, p. 23.

⁵ See California Deployment Plan, p. 12.

points could be awarded for support of small businesses, as supported by BIL requirements and federal guidance.⁶

Applicant Characteristics Criteria.

- Points should be awarded for the inclusion of public agencies, including cities, counties, special districts, and public schools and colleges as secondary applicants.
- Points for joint ventures with DBE and small businesses should be included in scoring criteria, and for the inclusion of specified DBE and small business subcontractors. This incentive should be in addition to requirements for DBE inclusion by awardees.

Project Capacity

- Points should be allocated to stations that include capacity for future expansions needed to support the electrification and charging demands of medium- and heavy-duty trucks, including station size and power levels on a station-by-station basis (while accounting for anticipated community charging needs in different regions of the state).⁷ This would support one of the two priorities identified by members of the California DCAG.⁸

We recommend adding facility design and local access criteria as subcategories within the “Project Location” category for Application Evaluation and Scoring. We recommend adding new categories for “Project Capacity” and “Community Benefits,” with values at least equal to “Project Location” and “Project Implementation and Readiness.” We recommend allocating some of the points now allocated to “Cost” to applicant characteristics criteria listed above.

IV. CORRIDOR GROUP RANKINGS

As proposed, none of the ranking criteria proposed for prioritizing corridor groups relate directly to environmental goals or energy infrastructure availability. Criteria should be added that prioritize construction in air quality non-attainment areas, as well as for corridors where energy capacity is already available.

⁶ Federal Guidance at pp. 15, 16, 23. California Gov. Code § 14837 defines "small business" as an “independently owned and operated business, which is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, or is a manufacturer [] with 100 or fewer employees.”

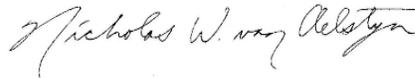
⁷ Federal NEVI Program guidance states that “[s]tation designs should [] consider the potential for future expansions needed to support the electrification and charging demands of medium- and heavy-duty trucks, including station size and power levels.” Federal Guidance, p. 26.

⁸ See California Deployment Plan, p. 12.

Thank you for your consideration of this comment. We look forward to working with the CEC and Caltrans to achieve California's goals for the transition to EVs in the coming years.



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