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Comments of Emerald Cities Collaborative on the California Energy Commission Equitable Building Decarbonization Program RFI

Additional submitted attachment is included below.

January 20, 2023

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 22-DECARB-03
1516 Ninth Street
Sacramento, CA 95814-5512

Via Electronic Commenting System

Re: Docket No. 22-DECARB-03; Comments of Emerald Cities Collaborative on the California Energy Commission Equitable Building Decarbonization Program Request for Information

Emerald Cities Collaborative (ECC) respectfully submits our comments in response to the California Energy Commission (CEC) Equitable Building Decarbonization Program Request for Information (RFI).

Background and Introduction

ECC is a national network of organizations working together to advance a sustainable environment while creating sustainable, just, and inclusive economies with opportunities for all – an approach we call “the high road”. ECC develops energy, green infrastructure, and other sustainable development projects that not only contribute to the resilience of our metropolitan regions but also ensure an equity stake for low-income communities of color in the green economy. This includes developing the economic infrastructure for livable and family-supporting wages; and career paths for residents of such communities, as well as contracting opportunities for women, BIPOC and other disadvantaged businesses.

The Equitable Building Decarbonization Program presents an excellent opportunity to simultaneously advance our state’s climate goals, provide high quality economic opportunities, and improve health. ECC has joined the comments of Rising Sun Center for Opportunity to provide overall feedback on the RFI. Here, we offer our own comments based on our work with minority-, women- and other disadvantaged construction businesses, our coalition work with environmental justice, tenants rights and other community based organizations to plan for a just transition, and our experience planning and executing retrofits in multifamily affordable housing. ECC welcomes the opportunity to help shape the Equitable Building Decarbonization Program to ensure it delivers climate, economic and health justice.

RFI Responses

- **1a: What criteria should be weighed more heavily or prioritized when scoring program proposals?**

  Building decarbonization presents an opportunity not only to reduce GHG emissions, energy usage and bills, but also to create economic opportunity, improve health and promote climate justice.

  Program proposals that demonstrate how their program will result not only in job creation, but *high quality* job creation, should be prioritized. For ECC, high quality includes prevailing wages, employer-provided benefits and worksite safety standards.

  Additionally, program proposals that demonstrate how they will target outreach to minority, women, or disadvantaged business enterprises (MWDBEs) should also be prioritized. Business ownership can help individuals to build wealth,[1] and thus programs that target outreach to MWDBEs can reduce GHG emissions, energy usage and bills while also helping to address the racial wealth gap.

  Program proposals should include incentives for contractors to participate in the Equitable Building Decarbonization Program, as in the federal HOMES (up to $200 for projects performed in disadvantaged communities) and HEEHR (up to $500) programs. Incentivizing contractors to participate in the program will increase the likelihood that contractors will take the time to learn about the program and make them better ambassadors for the program with potential customers. Further, as in the federal HOMES program, tying contractor incentives to the area in which the project is performed can increase the incentive for contractors to outreach to customers in under-resourced communities.

  In addition, reductions in GHG emissions, energy usage and bills should be balanced with the health benefits of adding space cooling to homes that previously did not have air conditioning. It is possible that GHG emissions, energy usage or bills could increase in these situations, but this would be offset by the health benefits of having a safe space to retreat to in times of extreme heat and/or wildfire smoke. Program proposals that demonstrate how they are balancing these outcomes should be prioritized.

  Under-resourced communities bear the brunt of the economic and health effects of climate change. While the legislation states that a minimum of 50 percent of the funds allocated “shall benefit residents living in under-resourced communities,” this will not come to reality without carefully designed and executed outreach plans. Program proposals should be required to include comprehensive plans for outreach to households in under-resourced communities.

[1] Klein, J. A. (2017). (rep.). Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap. FIELD at the Aspen Institute. Retrieved January 19, 2023, from https://www.aspeninstitute.org/wp-content/uploads/2017/01/Bridging-the-Divide.pdf.

- **1c: Should low-income and moderate-income households be incentivized at different levels? If so, how should that be approached?**

  Yes, low-income and moderate-income households should be incentivized at different levels. The CEC should consider using an approach similar to that in the Inflation Reduction Act (IRA).

  Under the High-Efficiency Electric Home Rebate (HEEHR) Program, low-income households (defined as up to 80% of AMI) are eligible for rebates to cover up to 100% of the upfront costs while moderate-incomes households (defined as 80-150% of AMI) are eligible for rebates to cover up to only 50% of upfront costs. ECC does not make a recommendation here regarding what the differential should be for low- vs. moderate-income households, only that low-income households should be incentivized at a higher level than moderate-income households.

- **2a: What best practices, program elements, or state actions would facilitate layering or leveraging different program offerings?**

  State Action: Develop effective and accessible guidance and communications about stackability of various federal, state, local and utility program resources, such as the forthcoming HOMES and HEEHR rebate programs, the weatherization assistance program, the energy efficiency conservation block grant, 25C and 25D tax credits, etc.

  State Action: Align the workforce and MWDBE elements of the Equitable Building Decarbonization Program with workforce and MWDBE elements of the state implementation of HOMES and HEEHR Programs.

- **2b: Should layering or leveraging other programs be a requirement for proposals or a prioritization when scoring proposals?**

  Yes, layering of incentives results in deeper, whole building retrofits and should be a requirement.

- **4a: What tenant protections could be applicable in all regions of the state?**

  Building retrofits can result in tenant displacement (temporary or permanent) and increased rents. The Building Energy, Equity and Power (BEEP) Coalition published a Tenant Protections Factsheet that outlines policies that can mitigate against displacement. In particular, relocation fees, right to return, rent control and renovation harm reduction provisions could be applied statewide. The descriptions below are excerpted from BEEP's factsheet.[2]

[2] Building Energy, Equity & Power, SF Tenant Protections in Building Decarbonization, https://docs.google.com/document/d/1m9Gl6gce1P1R-EaL2D6Yx9dEHWIF_y-xUnG03JSP8ZQ/edit

<u>Relocation Fees/Right to Return</u> When the rental property and/or unit is undergoing construction that would make the unit inhabitable, landlords would be required to provide relocation fees to tenants to temporarily (or permanently) live in a comparable place. Less commonly seen is the Right to Return. Tenants who are displaced for redevelopment or renovation are given the option to move back into the new building once it's completed in a comparable or better quality unit at the same or similar rent. Landlords may also be required to cover rent increases incurred during the construction phase.[3] *Existing law in SF:* San Francisco Rent Ordinance	The **Rent Ordinance** requires relocation fees for "no-fault" causes, e.g. capital improvements, demolition, Ellis Act owner move-in, or substantial rehabilitation.[4] In the case of temporary relocation due to capital improvements, tenants must be given proper notice, copy of permits, and relocation fees with the right to return at the same rent and lease agreement after construction work has been completed.[5]
<u>Rent Control</u> Rent control laws and policies limit how much landlords can increase rent in a given period of time. *Existing law in SF:* San Francisco Rent Ordinance	**San Francisco Rent Ordinance** limits rent increases by a set amount each year based on inflation. Landlords can petition for approval to the San Francisco Rent Board (which administers the ordinance) for other rent increases, e.g. capital improvements pass-through. Tenants can also petition to the Rent Board for rent decreases if the landlord has failed to provide agreed upon or legally required services, e.g. parking and safe living conditions.[1] Major exemptions apply (e.g. single family homes), and exempted units may instead have coverage under state law AB 1482.[2]

<u>Renovation Harm Reduction</u> Landlords can use major renovations (i.e. capital improvement) as a way to displace tenants by physically displacing tenants during construction to worse living conditions or raising rent through cost recovery programs. State and local tenant protection policies for renovation harm reduction includes requiring robust construction permits with tenant impact assessments and limiting how much landlords can pass renovation costs through rent increases. *Existing law in SF:* San Francisco Rent Ordinance	Under the Rent Ordinance, capital improvement pass-throughs to the tenant are limited at a maximum increase of 10% or at a maximum increase of 7% for operating and maintenance costs. These rent increases must be first approved by the rent board. Tenants can request an exemption if found eligible for the **Tenant Financial Hardship Application**[11].

- **4c: What programs should the CEC look to for examples of effective building retrofit and decarbonization programs with tenant protection requirements?**

  Combining incentives and affordability covenants can promote building improvements in tenant-occupied buildings and ensure ongoing affordability. The Building Energy, Equity and Power (BEEP) Coalition published a Tenant Protections Factsheet that outlines policies that can mitigate against displacement. The descriptions below are excerpted from BEEP's factsheet.[3]

  "California's Solar on Multifamily Affordable Housing (SOMAH) offers eligible building owners up to 100% funding for solar PV installations. In return, participating building owners must sign two legally-binding documents: (1) Affidavit Ensuring 100% Tenant Economic Benefit, which guarantees rent will not increase and cost savings will be received through solar, and (2) Affidavit Ensuring Tenant Education, which requires building owners to provide tenants with SOMAH-approved education."[4]

  "California's Low Income Weatherization Program offers free technical assistance and incentives for energy efficiency measures and solar PV to building owners, who must sign a covenant agreeing to maintain rent affordability to low-income occupants for at least 10 years following the energy efficiency and weatherization improvements."[5]

  As in SOMAH and LIWP, landlords who receive incentives through the Equitable Building Decarbonization Program should be required to sign affordability covenants or similar agreements that limit rent increases. These rules should apply not only to

[3] Building Energy, Equity & Power, SF Tenant Protections in Building Decarbonization, https://docs.google.com/document/d/1m9Gl6gce1P1R-EaL2D6Yx9dEHWIF_y-xUnG03JSP8ZQ/edit

[4] San Joaquin Valley Pilots: Tenant Protections and SOMAH Case Study – GRID Alternatives

[5] Low-Income Weatherization Program Factsheet – California Department of Community Services and Development

deed-restricted affordable housing, but also to naturally-occurring affordable housing and market-rate housing.

- **5b: What opportunities for workforce development should be considered, encouraged, or leveraged?**

  ECC supports the comments of Rising Sun Center for Opportunity in response to question 5b.

- **6a: How can the CEC best facilitate awareness for residents and building owners within under-resourced communities to encourage program participation?**

  Program implementers should be required to contract with community-based organizations within under-resourced communities. These CBOs are trusted sources of information within their communities, and can be trained in the details of the Equitable Building Decarbonization Program. Importantly, CBOs should be fairly compensated for their time and expertise.

- **7a: Should other currently active building decarbonization programs be allowed to compete for funding from the Equitable Building Decarbonization Program?**

  Yes, other currently active building decarbonization programs should be allowed to compete for funding. One of the difficulties in accessing public funds for building retrofits is the sheer number of different programs that exist, each with their own eligibility, measures and methods for determining incentive amounts. There is no need to create new programs if currently active programs can achieve the goals of the Equitable Building Decarbonization Program. However, currently active programs should be scored according to the same criteria as proposals for new programs and must demonstrate how they will target low- and moderate-income households in under-resourced communities.

- **7b: Should the CEC fund decarbonization programs that have existing infrastructure in an initial phase to allow for the Program to quickly decarbonize homes and provide benefits to residents?**

  Yes, the CEC should fund decarbonization programs that have existing infrastructure in an initial phase. However, these programs should focus on low- and moderate-income households in under-resourced communities. For example, TECH Clean California was quickly fully subscribed, an initial indication that the program was easy-to-access. However, program data shows that of the 10,877 heat pump HVAC and heat pump water

heater units installed, only 968 (9%) of these units were installed in disadvantaged communities.[6] If programs like TECH Clean California were to be funded in an initial phase, the program implementers must demonstrate how they will adjust the program to target low- and moderate-income households in under-resourced communities.

- **8d: How should the CEC consider equipment and measures that mitigate impacts from extreme heat, wildfires, or local air pollution but increase individual energy use (e.g., installing a heat pump heating and cooling system in a home that previously did not have an air conditioner)? How does this align with the legislative direction that the program shall "reduce the emissions of greenhouse gases"?**

  Reductions in GHG emissions should be balanced with the health benefits of adding space cooling to homes that previously did not have air conditioning. It is possible that adding space cooling may increase GHG emissions, but this would be offset by the health benefits of having a safe space to retreat to in times of extreme heat and/or wildfire smoke. The legislative direction states that the "program" shall "reduce the emissions of greenhouse gases" and while that direction should continue to guide overall program intent, it need not govern each individual measure installation.

- **11a: How should the CEC prioritize the use of funds between these options? What market actor should be incentivized? Why?**

  Distributors and contractors drive market demand for particular appliances. Therefore, incentives should be offered at the point of sale (at distribution, sale or installation).

- **11b: What criteria or factors beyond the reduction of direct GHG emissions should be considered when evaluating incentive options? How do these considerations benefit residents living in under-resourced communities?**

  ECC supports the criteria and factors named by Rising Sun Center for Opportunity in response to question 11b.

  "Rising Sun strongly supports the inclusion, consideration, and valuing of non-energy benefits in this program. This might include things such as the demographics of customers served, reduced shutoffs, improved air quality, fire safety, home health and comfort, affordability, quality of the work performed, and overall energy security. From a workforce perspective, it might include the number of jobs created, workers employed and retained, average wages earned, benefits provided, the percentage of union

[6] TECH Clean California Public Data, Maps and Graphs, https://techcleanca.com/public-data/maps-and-graphs/

contractors utilized, the percentage of women-owned and BIPOC-owned contractors utilized, etc. What should be avoided is a cost-benefit analysis that solely evaluates the per-dollar value of GHG emissions, which has the consequence of making low cost the sole competitive driver for programs."

Investing in building decarbonization will reduce GHG emissions, but it has the possibility to do so much more than that. Residents living in under-resourced communities have to deal with poor air quality, extreme heat, energy insecurity and limited economic opportunity. The transition to low and zero-carbon building technologies offers an opportunity to address all of these issues. Climate solutions that focus solely on reducing GHG emissions miss the mark; they may help us avert further climate change, but they leave under-resourced communities to fend for themselves against the effects of climate change that are already here.

- **11c: Where are the gaps in current incentive offerings that if addressed could advance the market for low and zero-carbon building technologies?**

  Current incentive offerings do not cover home repairs that may be needed to enable a home to make use of low and zero-carbon building technologies. Programs tend to focus on the cost of appliances and installation, but ignore structural adjustments like new roofs, wiring and panel upgrades, insulation, windows etc. ECC appreciates that the funds for the Equitable Building Decarbonization Program may be used for "wiring and panel upgrades, [and] building infrastructure upgrades" as these are often barriers to the adoption of low and zero-carbon building technologies, particularly in low-income households and under-resourced communities. The CEC should ensure that, as is allowed by statute, funds are allocated to address these types of issues.

- **11d: How should incentives from this project interact with other incentives such as those available from the direct install program, utility programs, tax credits, etc.?**

  Incentives from this program should be allowed to stack with incentives from other programs. Layering of incentives results in deeper, whole building retrofits. In addition, different programs may cover different expenses necessary to complete retrofits (e.g. equipment vs. labor, appliances vs. minor home repairs).

- **11g: CEC aims to leverage and/or align with programs supported by the federal Inflation Reduction Act and the Infrastructure, Investment, and Jobs Act. Should CEC continue to leverage or align if it is at the cost of earlier implementation?**

CEC should continue to leverage and/or align with the programs supported by the federal Inflation Reduction Act and the Infrastructure, Investment, and Jobs Act, even if it is at the cost of earlier implementation. The effects of a potential delay can be mitigated by funding “decarbonization programs that have existing infrastructure in an initial phase to allow for the Program to quickly decarbonize homes and provide benefits to residents” as envisioned by Staff in question 7b.

- **12a: What data not mentioned above should be collected for tracking program performance and evaluating program success?**

  The CEC should also collect data on the race/ethnicity of the households who use the program and of the contractors that perform the installations.

Additional Input

Incentive levels must be set high enough to enable contractors who pay good wages to compete for work funded by the program. The residential construction sector is notoriously low-road, with the lowest bid most often being the winning bid. However, these low bids often come at the expense of workers who are given low wages and low or no benefits. As stated earlier, contractors who participate in the program should be required to pay prevailing wage and provide benefits to their workers. However, to make it feasible for high-road contractors to participate in the program, the CEC must set incentive levels high enough to enable these high-road labor practices.

Conclusion

ECC appreciates the opportunity to provide input into the design of the Equitable Building Decarbonization Program, and believes that it can be designed to deliver climate, economic and health justice. We welcome future opportunities to help shape the Program.

Sincerely,

/s/ Neha Bazaj
Senior Economic Inclusion Manager
Emerald Cities Collaborative, Bay Area

/s/ Avni Jamdar
Regional Director
Emerald Cities Collaborative, Bay Area

Robert M. Gould, MD
President
San Francisco Bay Physicians for Social Responsibility

Leslie Alden
Executive Director
DRAWDOWN BAY AREA REGIONAL SOLUTIONS to the GLOBAL CLIMATE CHALLENGE

Diane Bailey
Executive Director
Menlo Spark