

**DOCKETED**

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*Comment Received From: Rising Sun Center for Opportunity on behalf of the Bay Area H RTP*

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*Docket Number: 22-DECARB-03*

**Comments of the Bay Area High Road to Building Decarbonization Partnership on the Cal**

*Additional submitted attachment is included below.*



June 30, 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 the Bay Area High Road to Building Decarbonization Partnership, led by Rising Sun Center for Opportunity, on the California Energy Commission Equitable Building Decarbonization Program Direct Install Draft Guidelines Request for Input**

The Bay Area High Road to Building Decarbonization Partnership (the Partnership), including City of Berkeley Planning & Development Department, Office of Energy & Sustainable Development; City of San Francisco Environment Department; Construction Trades Workforce Initiative; Nomada Consulting; and Rising Sun Center for Opportunity, respectfully submits our comments in response to the California Energy Commission (CEC) Equitable Building Decarbonization Program Direct Installation Draft Guidelines. The Partnership is joined by Build It Green, Building Decarbonization Coalition, Building

Electrification Institute, Center for Sustainable Neighborhoods, City of Oakland Workforce Development Board, and Greenlining Institute in these comments.

### **Background and Introduction**

High Road Training Partnerships ([HRTPs](#)) are regional, industry-based, worker-focused partnerships supported by the CA Workforce Development Board that address critical issues of equity, job quality, worker voice, and environmental sustainability and build skills for California’s high road employers. Our Partnership, co-led by regional labor representatives, convenes Bay Area cities and government agencies, unions, employers, and equity advisors. The vision of the Partnership is to develop a residential building decarbonization industry that supports equitable access to quality jobs, attracts a qualified workforce, and provides stable career pathways for disadvantaged workers while simultaneously reducing greenhouse gas emissions and building more resilient communities.

Previous climate investments in the U.S. have often failed to create jobs that offer livable and dignified wages, employer-provided benefits, and opportunities for advancement. Given the challenging nature of the residential construction sector, this is likely to happen again without strategic policy intervention. The Partnership submits the following recommendations to guide such action.

The Partnership commends the CEC for taking into consideration the calls from environmental justice, labor, and workforce entities to include prevailing wage and workforce development planning in the guidelines, and recognizes the CEC’s intentional efforts to learn from community and practitioner knowledge.

To maximize the workforce impacts of this investment overall, we strongly encourage:

1. The inclusion of holistic job quality standards in addition to wage requirements,
2. Strengthening the prevailing wage language,
3. Guidance on the use of best practice procurement processes for program administration, and
4. Alleviating administrative burden from participating residents and contractors and enabling a truly holistic approach to building retrofits.

### **General Recommendations:**

- Publicly funded and administered direct install programs are opportunities for State entities to move beyond the current lowest-bid model and cost effectiveness mandates that drive the private market at the expense of equity, job quality, and climate justice. We encourage the CEC to strengthen the labor standards of this program as much as possible, as this will develop the market, attract and strengthen a high quality contractor pool, and set the foundation for the incentive program to follow. Given its broader sphere of control, the Direct Install program is the place to reach for our most ambitious, high road market transformation goals.
- As a Partnership, we have identified a three-tier approach to labor standard structuring that can help provide a more inclusive, achievable outcome:
  1. Raise the job quality floor with baseline labor standard requirements,
  2. Incentivize ‘reach’ standards that go beyond the floor and reward contractors who achieve these higher standards,

3. Provide programmatic support and resources to help employers meet the baseline requirements and reach beyond them. It is critical to support employers to expand their high road capacity. This targeted support is specifically key for contractors from marginalized communities who likely employ more workers and serve more households from their respective communities.

- Provide more specific and detailed labor standards and job quality guidelines that go beyond the language pertaining to prevailing wage (further details in the following section).
- We acknowledge that program administration is inherently complex, but residents and contractors have traditionally been left to shoulder this burden. The more that this complexity can be taken on by the Program Administrator and the CEC, the easier it will be to braid incentive programs, alleviate administrative burdens for residents and contractors, and allow for a true holistic approach.
- Lastly, we recommend the CEC consult with the California Workforce Development Board (CWDB) to integrate their expertise into the development of the workforce guidelines.

### **Responses to Question #13:**

#### ***13. Would you recommend changes or additions to these workforce standards and requirements?***

- **Prevailing Wage:** As a Partnership, we greatly appreciate the inclusion of prevailing wage language, and understand the enforcement complexities that leave the authority of determining prevailing wage scope to the DIR. We respectfully request that the CEC strengthen the prevailing wage language by providing a wage floor provision for instances in which prevailing wage is determined not to apply.<sup>1</sup>
- **Guidelines for Project Aggregation:** We commend the CEC for highlighting project aggregation as a key implementation strategy. We ask that the CEC provide additional guidance on best practices to actualize aggregation and offer technical assistance to help the Administrators in achieving this. We recommend language found in the City of Berkeley Just Transition Pilot RFP:
  - “Aggregated Project(s) Development: In consultation with the City and community partners, develop aggregated project(s) including: income eligibility criteria, proposed scope of work and estimated budget per unit, workforce needs and capacity based on proposed work, and outreach to recruit participating owners, residents and contractors.
    - a. Integrate all available resources from related housing improvement programs and funding opportunities to maximize occupant benefits, leveraged resources and emissions reduction.
    - b. Develop project proposal(s) that includes financial and nonfinancial costs and benefits to residents, owners, workforce, local economy, etc.
    - c. Assess workforce needs and capacity based on proposed work to be performed. For example, how many work hours are estimated by trade (i.e.

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<sup>1</sup> The Solar on Multifamily Affordable Housing (SOMAH) Program set a wage floor in their Program Handbook that we suggest as a model, though the specific multiplier may differ: “The Contractor must pay job trainee(s) for time spent on each SOMAH installation, at a rate consistent with the primary Contractor’s entry level or temporary worker wage, or 1.4x the minimum wage of the city in which the SOMAH project is located, whichever is higher.” <https://calsomah.org/resources/program-handbook>

plumbing, HVAC, electrical) to perform scope of estimated needs of targeted building stock. Include details on which contractors are available to perform the trade-specific work and comply with the labor standards.

- d. Finalize selected direct install program(s) and budget(s) with the following eligible uses of funds.
- e. Develop and conduct a marketing and outreach strategy to recruit building owners, residents, and contractors.”<sup>2</sup>
- **Additional Labor Standards:** We request that the CEC provide more specificity and additional industry-appropriate labor standards beyond wages; wages are just one aspect of job quality. We would like to uplift the additional standards outlined by Construction Trades Workforce Initiative (CTWI) in conjunction with their affiliated Building Trades Council<sup>3</sup>, as well as the comments submitted by Adams Broadwell on behalf of JCEEP, Western States SMART, CA State Pipe Trades Council, and the IBEW-NECA LMCC<sup>4</sup> in their respective January comment letters. We request specifically the addition of the following standards:
  - Health and retirement/pension benefits
  - Targeted hire requirements, with a minimum of 30% of work hours performed by disadvantaged workers (including but not limited to women, BIPOC, low income, and re-entry individuals)
  - Preference for contractors providing career avenues for graduates from approved MC3 pre-apprenticeship programs, city workforce development programs, or two year (or greater) community college program in the applicable trade.
- **Add Specified Language:** Per Section D1. Workforce Requirements of the Draft Guidelines, under Contractor Preference, where it states “Administrators shall provide preference for local contractors and for contractors that meet specified criteria,” we suggest that the CEC explicitly state the specified criteria to include being an Minority, Women, and Disadvantaged Business Enterprises (MWDBEs) or working in collaboration with one, and meeting the above stated labor standards.
  - This structuring aligns with a Best Practice Procurement Process. This approach allows the Administrator to weigh contractor applications based on their varying ability to meet desired criteria. We recommend providing contractors an application question to name which requirements they are not currently equipped to meet, and have technical assistance built into the Administrators scope in order to help elevate them to achieve that criteria. This creates a more inclusionary and supportive labor standards approach.<sup>5</sup>
- **Contractor Support Program Elements:** Contractors are the frontline engagement entities for the residents. They need to be well resourced, well informed, and have capacity to navigate the complexities of implementing a government program. Smaller, less resourced, and minority

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<sup>2</sup><https://berkeleyca.gov/sites/default/files/documents/23-11586->

[C Berkeley%20Just%20Transition%20Residential%20Electrification%20Pilot%20Program.pdf](https://berkeleyca.gov/sites/default/files/documents/23-11586-)

<sup>3</sup><https://efiling.energy.ca.gov/GetDocument.aspx?tn=248475&DocumentContentId=82922>

<sup>4</sup><https://efiling.energy.ca.gov/GetDocument.aspx?tn=248403&DocumentContentId=82832>

<sup>5</sup> An example might be cash flow financing and administrative support needed to run consistent payroll to meet prevailing wage requirements.

contractors might also require administrative and business support. We request that the CEC include targeted procurement processes, training opportunities, avenues for contractor mentorship, and technical and administrative assistance services.

- Some recommended strategies include: Mentorship structuring for smaller contractors who are not currently meeting high road standards to subcontract and learn from a best practices high road lead contractor; low or no interest cash flow financing for MWDBEs who meet high road labor standards; and providing an intermediary ‘project navigator’ that can support the contractor and customer on the ground and alleviates some aspects of the additional administrative, sales, communication, project design, and customer service skills required. For growing contractors, being able to fill all these roles on top of performing the technical retrofit work might require more capacity than they currently have, so providing that support in house can help alleviate some of the burden placed on them.

**13a. How would you recommend defining “local” for this purpose?**

- We recommend the inclusion of targeted hire provisions in addition to local hire. Targeted hire more specifically benefits those who have been marginalized and historically excluded from the workforce and economic opportunities, such as women, BIPOC individuals, residents of low-income communities, veterans, and system-impacted people. Partnerships with workforce development providers and trainers, including Multi-Craft Core Curriculum (MC3) pre-apprenticeship programs and city workforce development and pre-apprenticeship programs, can provide a pipeline for these workers. See the final recommendation on p. 4, section 1A. of the comments provided by Adams Broadwell et al. for an example of this type of language.<sup>6</sup>

The Bay Area High Road to Building Decarbonization Partnership appreciates the CEC for its commitment to uplifting the decarbonization workforce, for the inclusion of workforce standards in the Draft Guidelines, and for the opportunity to comment and engage in this process. We welcome future conversations, as useful and appropriate, to explore the topic of workforce standards more in-depth.

Sincerely,

/s/ Chiara Arellano  
Manager, High Road Workforce Initiatives  
Rising Sun Center for Opportunity

/s/ Julia Hatton  
President & CEO  
Rising Sun Center for Opportunity

/s/ Billi Romain  
Manager of the Office of Energy and Sustainable Development  
City of Berkeley

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<sup>6</sup> <https://efiling.energy.ca.gov/GetDocument.aspx?tn=248475&DocumentContentId=82922>

/s/ Jodi Pincus  
Founder and Principal  
nomada coaching & consulting

/s/ Cyndy Comerford  
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**Appendix A.** Relevant Program Strategies from the *H RTP for Residential Decarbonization Public Programs Best Practices Guide Draft* developed for the Partnership (Please note that due to draft editing, page numbers cited might change by the time of the Guide’s publication):

- **Contracting & Procurement Standards:** “Public programs award funding and structure contracts on criteria other than simply what firms bid the lowest or spend the least. These approaches can be seen as flexible and customizable frameworks that program administrators can use to embed labor and job quality standards. This approach has been utilized most prominently in recent years in the public transportation sector. Jobs to Move America, a strategic policy center working to transform public spending and corporate behavior, has developed a fully customizable procurement policy called the U.S. Employment Plan. It has been used by public entities in their public purchasing processes and has been proven to have positive impacts on job creation, investment in manufacturing facilities, and generating career pathways for people traditionally left out of the manufacturing sector” (p. 28).
  - **Best Value Contracting:** “Best Value Contracting systems award contracts based on a determination of which firms provide the most value both in terms of cost and additional criteria. Firms are asked to submit answers to questions and public programs can include questions based on a series of job standards, contractor history, inclusive hiring practices, etc. A study done by the [Performance Based Studies Research Group at Arizona State University](#) has tracked hundreds of projects across 41 industries and found consistent cost savings and added value over traditional delivery models. Contract language also provides the opportunity for public program administrators to define the incentives and penalties if a contractor does not meet criteria within the contract” (p. 29).
- **MWDBE High Road Transition Supportive Mechanisms:** Intentionally supporting Minority-owned, Women-owned, and Disadvantaged Business Enterprises (MWDBE’s) in a high road industry transition is critical, “as they face additional institutional barriers to entry and growth due to discriminatory and non-discriminatory factors including limited access to capital, lack of technical expertise, and limited access to well-resourced networks and connections, among others.” Therefore, “to ensure that all communities and workers benefit from the transition to a low-carbon economy and to promote diversity and inclusion in the residential decarbonization sector, it is important to develop high-road strategies for supporting MWDBE’s,” including technical assistance support, mentorship pathways, inclusive procurement processes and supportive services to help MWDBEs meet labor standards (p. 32). Partnering with entities that provide capacity building and technical support to contractors, such as union affiliated contractor associations or programs such as Emerald Cities Collaborative’s E-Contractor Academy are beneficial partnerships to further this goal.
- **Contractor Training:** “A review of the ARRA-funded retrofit projects revealed that one of the most common traits among ‘successful’ programs<sup>7</sup> was required contractor training. Trainings included technical education, program processes and management, and sales strategies for retrofit projects. There were several important components of contractor training that were

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<sup>7</sup> Successful programs were identified by their score on 12 metrics that include cost effectiveness, market saturation, and economic impacts.

identified through [ARRA-era program successes](#). These components should be incorporated into any contractor training offering:

- Requirement of trainings for program participation to ensure consistent results
  - Compensation for training hours to enable and incentivize participation
  - Some measure or certification of competency for activities included in the retrofit programs
  - Flexible timing for trainings
  - Options to substitute certain technical trainings based on certifications/experience” (p. 61).
- **Setting Standards Through Agreements:** “Increase the usage of agreements such as Project Labor Agreements (PLAs), Community Workforce Agreements (CWAs), and Community Benefits Agreements (CBAs). While these different types of agreements involve different stakeholders and can cover different components of a project, they are all powerful vehicles for determining and mandating many of the labor standards discussed as well as having significant benefits in terms of organizing large, complex projects with multiple contractors, unions, etc. This increased efficiency comes through a variety of channels including decreased labor disputes, better synchronized work schedules, better trained workers” (p. 51).
    - “A study by the [UC Berkeley Labor Center](#) has shown that despite much higher wages and benefits for workers, projects covered by PLAs do not lead to higher construction costs than non-PLA projects and they have the same or fewer construction problems while attracting the same number of bidders. It is important to note that this study was performed in a different sector than the residential construction realm” (p. 52).
  - **Internalizing Program Administration Complexities:** “Findings from the ARRA-funded projects and discussions with several stakeholders revealed the importance of the public sector being able to play the role of intermediary between contractors and homeowners. This intermediary has several important roles:
    - Convey the standards, requirements, and public program structure to both contractors and homeowners.
    - Manage the individual retrofit projects, including coordinating contractors. This is an important role that many contractors are not willing to play because this is outside of their typical scope of work and is particularly daunting when navigating a public program which they’ve likely only recently learned about themselves. New York’s Retrofit Accelerators offers contractors and homeowners support in the form of a one-stop center, which provides a good model in filling knowledge and programming gaps.
    - Mitigate any challenges before they escalate. Help avoid pitfalls and proactively address challenges from a place of deep knowledge and understanding of the program.
    - Homes—and especially lower-income homes—often require additional health and safety construction work (for example, replacing a roof or updating parts of a home to meet code requirements) that add complexity and cost to projects. Intensive project management can identify these challenges, potentially connect this work to other rebate or subsidy programs within the city or region, and complete this work all in one step. In the absence of government-led or sponsored management, these homes may

end up abstaining from decarbonization programs and any other applicable health and safety programs out of fear of costs and spiraling project complexity” (p. 65).