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Docket Number:	22-DECARB-03
Project Title:	Equitable Building Decarbonization Program
TN #:	255346
Document Title:	Strategic Actions for a Just Economy Comments - Strategic Actions for a Just Economy - Comments on EBD Solicitation
Description:	N/A
Filer:	System
Organization:	Strategic Actions for a Just Economy
Submitter Role:	Public
Submission Date:	3/29/2024 11:45:42 AM
Docketed Date:	3/29/2024

*Comment Received From: Strategic Actions for a Just Economy
Submitted On: 3/29/2024
Docket Number: 22-DECARB-03*

Strategic Actions for a Just Economy - Comments on EBD Solicitation

Additional submitted attachment is included below.



Strategic Actions for a Just Economy
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March 29, 2024

California Energy Commission
Re: Docket No. 22-DECARB-03
Via Electronic Commenting System

Re: Docket No. 22-DECARB-03– Strategic Actions for a Just Economy Comments Regarding the Equitable Building Decarbonization Direct Install Program Solicitation Materials

Thank you for the opportunity to provide comment on the solicitation process for the Equitable Building Decarbonization (EBD) Direct Install program. We believe that the EBD program has great potential to lessen energy burdens, improve air pollution and increase climate resiliency in low-income communities. These benefits will only be accessible to low-income tenants, however, if they are protected from displacement and able to remain in their homes.

Tenant protections are a critical part of equitably administering the EBD program, and it is important that potential Program Administrators work with their teams to develop sound approaches to upholding these protections. In order to identify the Program Administrator teams best equipped to support low-income tenants and enforce tenant protections, we recommend amending the program solicitation materials in the following ways:

- 1. Indicate in the Solicitation Scope of Work (Task 5.11) that Program Participation Agreements will need to take a certain form.** We appreciate that the Solicitation Manual requires applicants to describe their team’s approach to executing Program Participation Agreements and that these agreements must include tenant protections. We encourage the CEC to clarify the form these agreements should take to ensure that they are enforceable by both Program Administrators and tenants.
 - a. Program Participation Agreements should take the form of deed restrictions and one or more of the following forms: lease addendum, deed recording, or other documents.
 - b. For market-rate rental housing, the deed restriction should include a requirement that the property owner sign a lease addendum with all tenants at the property.
 - c. Program Participation Agreements should also include information and resources for tenants on what to do if their rights are violated.

- 2. Include additional guidance on minimizing disruption to tenants during construction in the Solicitation Scope of Work (Task 5.12).** Projects should be designed to minimize disruption to tenants and avoid the need for temporary displacement. If a project will require tenant displacement, it should not be able to participate. If after construction begins on an approved project and participants learn it will require the tenant to temporarily relocate, the program should pay for the relocation in a hotel within 2 miles of the home and grant tenant fundings according to General Services Administration rates.

- 3. Indicate in the Solicitation Scope of Work (Task 5.13) that Program Administrators will be primarily responsible for enforcing the tenant protections included in the Program Participation Agreements.** Enforcement of Program Participation Agreements should be the responsibility of the Program Administrators and the CBOs on their team. Applicants should be required to describe strategies for enforcing Program Participation Agreements in their application, and these strategies should include:
 - a. Adding legal services providers capable of providing support in enforcing tenant protection provisions to their application team.
 - b. Checking in with the property owner and tenants every six months to ensure that Program Participation Agreements are being adhered to. The CBO case manager should require the property owner to certify that they have followed the agreement.
 - c. Investigating complaints made by tenants and concluding whether the property owner violated the agreement.
 - d. Requiring the property owner to certify that the same tenant resides in the building, and that the rental rate has not changed. This document should be attached to the annual registration of the rental unit with the city, if that is a local requirement.
 - e. Communicating that there will be penalties associated with violations of Program Participation Agreements. Penalties for violations should take the form of:
 - i. Reimbursements to the agency in the amount equal to the amount spent on retrofits and program participation, including parts, labor, overhead costs, attorney's fees, court costs, and interest at the statutory rate for judgments from the time of the breach. If the property owner cannot repay these costs, a lien should be placed against their property.
 - ii. Damages to tenants or applicants for tenancy in the amount of \$100 per day.
 - iii. Prohibition from utilizing public subsidy programs for buildings they own.
 - iv. Payment to tenants that allow them to recover attorneys fees incurred from enforcing the agreement.

If it is not possible for these recommendations to be incorporated in the solicitation materials because such changes would require first updating Chapter 4C of the Guidelines, then we respectfully ask that the CEC update the Guidelines as soon as possible and work with the selected Program Administrators prior to program implementation to ensure tenant protections are upheld according to the recommendations above.

We greatly appreciate the CEC's consideration of our recommendations and look forward to the release of the final solicitation.