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**Comments of CEJA and the Partnership on the BUILD  
Implementation Plan\_080720**

*Additional submitted attachment is included below.*

**Comments of the California Housing Partnership (Partnership) and California  
Environmental Justice Alliance (CEJA) on the  
CEC's Building Initiative for Low-Emissions Development (BUILD) Program  
Implementation Plan**

**Docket Number 20-DECARB-01**

**Submitted:** August 7, 2020

**Submitted by:** Srinidhi Sampath Kumar, California Housing Partnership and Roger Lin, UC  
Berkeley Environmental Law Clinic  
on behalf of the California Environmental Justice Alliance

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The California Housing Partnership (Partnership) and California Environmental Justice Alliance (CEJA) appreciate the opportunity to comment on the Building Initiative for Low-Emissions Development (BUILD) Implementation Plan. The Partnership creates and preserves affordable and sustainable homes for low-income Californians by providing expert financial and policy assistance to nonprofit and public partners. Currently, the Partnership is the outreach lead for the Solar On Multifamily Affordable Housing (SOMAH) program and the Multifamily Low Income Weatherization Program (LIWP).

CEJA is a statewide, community-led alliance that works to achieve environmental justice by advancing policy solutions. CEJA envisions an energy system that is just, democratic, equitable, and composed of genuinely clean energy. Low-income communities and communities of color across the state have paid a high price for the existing energy system. CEJA is leading dynamic campaigns to put energy decisions in the hands of these communities. It is seeking to advance small-scale solar and other renewable energy solutions that create local jobs and investments in the neighborhoods that need it the most.

**Introduction:**

CEJA and the Partnership believe that, if implemented thoughtfully, the BUILD program has the potential to shape California's building decarbonization future. With that in mind, we offer the following comments to prioritize and center the BUILD program around the needs of the low-income communities this program intends to serve. We also believe this program implementation plan should be reviewed and redrafted along with the technical assistance provider, an outreach provider and a Community Based Organization (CBO) that the program must sub-contract for it to be successful.

## **1. Program Eligibility Criteria**

We agree broadly with the program eligibility requirements. We look forward to the CEC's proposal on outlining the criteria defining commitment of existing buildings to go all-electric and addressing the stages at which properties can be eligible to receive BUILD incentives.

The economic impacts of the current pandemic are severely borne by lower income communities, largely Black and Brown communities. Further, the pandemic is already inducing uncertainty in the ability for nonprofit affordable housing developers to construct newer units, even as the demand for housing across California is surging. Given this inequity, which is further exacerbated by the pandemic, any use of BUILD funds throughout the program years should be reserved for lower income residents, who could benefit from reduced utility bill savings and added resiliency through extreme weather events. If in its biennial evaluation, it is found that the program uptake is low from these communities, the CEC must re-evaluate its marketing, education and outreach policies and shift its approach, rather than shifting these critical investments away from communities that need them the most. In any event, the BUILD program funds must benefit low-income and disadvantaged communities.

It is unclear from CEC's proposal if it has a plan on how to prioritize "regions in the state with the highest potential for achieving program goals" or "specific climate zones of the state where there is a high cooling and high heating load, low-income residential housing, or specific building ages or types." CEC's program implementation plan should also outline how it plans to prioritize lower-income residents living in disadvantaged communities.

## **2. Incentive Structure**

We appreciate CEC's efforts to keep the incentive structure simple for applicants by doing the incentive analysis upfront. We recommend that the CEC also refer to new construction affordable housing developments that have either completed all-electric construction or are in the process to get data that could inform the incentive structure. For buildings where gas infrastructure needs to be removed or capped, CEC must track the costs of these and potentially include these costs in the incentive structure. Further as the CEC acknowledged in its program implementation plan, the goal is to influence building design decisions to go all-electric. Given that, kicker incentives being made unavailable to technologies that receive compliance credit seem counter intuitive. Any changes to the incentive structure and the kicker incentives should go through a public vetting process.

### 3. Bill savings methodology

As a preliminary matter, SB 1477 requires bill savings. “It is . . . the intent of the Legislature that projects . . . result in utility bill savings for the building occupant.”<sup>1</sup> Savings requires a decrease in energy bills, yet CEC misinterprets this intent, and instead proposes that the Program will “not result in higher utility bills for building occupants.”<sup>2</sup> The CEC proposal echoes a portion of SB 1477 to ensure that the Program does not result in higher utility bills, but this requirement sets the floor and not the ceiling when read with the entirety of SB 1477. To harmonize with the intent of the statute as a whole, and meet the need to “increase participation”<sup>3</sup> and “encourage”<sup>4</sup> that participation in low-income communities and DACs, it is critical for the CEC to ensure actual savings. Although CEC proposes a 5% cushion to guard against any bill increases, at best, the proposal still fails to meet the intent of SB 1477. We respectfully request CEC to modify its proposal to provide a guarantee of 5% bill savings when BUILD funds are used for appliances that are in tenant units or billed to tenants. Under this methodology, modeling would need to show that a participating resident’s bill (per billing cycle) would be at least 5% lower than the minimum of T24 compliance. Further, in properties where tenant systems are incented, incentive rates for common area appliances should be higher which would encourage both participation and result in tenant bill savings, addressing any split incentive concerns. For example, the Solar On multifamily Affordable Housing (SOMAH) has the highest incentive rate for both common area and tenant solar. Any energy savings model should take into consideration the nuances of utility allowances and how they work. In affordable housing, gross rent equals net rent plus utility allowance. Utility Allowances are generally set at the County level and modeled to reflect typical utility costs.<sup>5</sup> However, California Utility Allowance Calculator more closely reflects actual utility bills. The BUILD program should help affordable housing providers navigate utility allowances as it relates to the bill savings analysis modeled by CEC and support the nonprofit affordable housing providers in identifying best models that they can use including a blend of different utility allowance models. CEC’s bill savings analysis should also reflect and differentiate between common area versus tenant installs.

In addition, for the following two reasons, we are concerned with CEC’s proposed methodology to calculate bill savings.

First, an unreliable baseline distorts actual benefits that should accrue to participating residents. CEC’s proposed baseline assumes that all residents are currently subscribed to CARE. Applying a CARE baseline for non-CARE customers will result in

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<sup>1</sup> SB 1477 Sec. 1(c).

<sup>2</sup> Staff Report Implementation Plan at 26.

<sup>3</sup> Pub. Util. Code § 921.1(c)(2).

<sup>4</sup> Pub. Util. Code § 921.1(c)(1).

<sup>5</sup> [https://chpc.net/wp-content/uploads/2016/04/UA-Guide\\_April-2016Web.pdf](https://chpc.net/wp-content/uploads/2016/04/UA-Guide_April-2016Web.pdf)

underestimation of existing bills and applying a non-CARE baseline to CARE customers would overestimate existing bills. The CARE income threshold is 200% of the federal poverty rate. In many parts of California, this is equivalent to 30- 40% AMI which translates to housing Extremely Low Income (ELI) residents.<sup>6</sup> Although some buildings would meet this income threshold, BUILD also applies to deed-restricted affordable housing up to 80% AMI. We request CEC to use two models to calculate bill savings: one that assumes CARE rates for buildings that are restricted to ELI residents; another that assumes non-CARE rates for buildings that are open to residents above 30% AMI. Second, CEC anticipates assessing bill reduction annually, not monthly, seasonally or per billing cycle. Bill reductions should be on a billing cycle basis because late-payment penalties are a bill increase, and we cannot risk electric disconnections for non-payment for tenants in affordable housing.

Any bill savings methodology that CEC prepares must be reviewed by a targeted group of stakeholders, specifically affordable housing nonprofit developers, utility allowance consultants, advocates and financial consultants who will navigate it. We also recommend that CEC clarify its language around the treatment of excess PV generation and the modeling for common area usage.

#### **4. Technical assistance and outreach plan**

We recommend that the technical assistance be broad, and budget be allocated per applicant for the technical assistance, so the applicants have flexibility in choosing the kind of technical assistance that is needed. Technical assistance should be flexible and should be provided until program completion. We do not feel CEC staff should provide technical or recruitment assistance to market-rate housing developers. To the extent any BUILD funds remain to be directed to market-rate housing, we do not believe market-rate housing developers and residents would need assistance in addition to incentive money.

We strongly support targeted outreach for the BUILD program. The purposes of outreach plan identified by CA are:

- to encourage applications for participation in the BUILD incentive program;
- to encourage use of the program incentive funds with technical assistance;
- to complete outreach & technical assistance prior to program implementation for low-income housing.<sup>7</sup>

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<sup>6</sup> Extremely low income families are defined to be very low-income families whose incomes are the greater of the Poverty Guidelines as published and periodically updated by the Department of Health and Human Services or the 30 percent income limits calculated by Department of Housing and Urban Development.

<sup>7</sup> P. 30 (pdf page 37)

Another purpose of outreach should be to educate residents in affordable housing to ensure they 1) are in fact enrolled in the CARE program 2) know how to use BUILD-incented in-unit appliances correctly so they improve their lives and reduce their energy use 3) are aware of BUILD program goals, include bill reductions 4) know who to contact in the event their bills increase or appliances do not operate as expected.

As indicated in the comments by several organizations including those that represent the interests of affordable housing residents on the CEC-CPUC Joint Agency Workshop on Building Initiative for Low-Emissions Development (BUILD) Implementation Plan on June 29, 2020, the need for outreach to be done by a third-party outreach provider in tandem with the technical assistance provider for a program like BUILD is indisputable. Affordable housing is an extremely unique space with nonprofit developers having varying levels of understanding and expertise of different technologies. Unlike solar, for which outreach is largely contractor driven, building decarbonization is new to this sector and any effort to engage this sector must go beyond conventional outreach strategies. We are already seeing lower participation by the affordable housing multifamily sector in programs like the Self Generation Incentive Program that does not have a housing partner for its marketing and outreach. If the priority of the BUILD program is to transform the market equitably, then outreach and education must be done by organizations that already engage with these communities and are acutely aware of the various barriers and challenges unique to not just the sector but the individual organization or community. This happens through years of building networks and trust in these communities and having difficult conversations about transitioning away from gas. For these reasons we believe and are in agreement with several other organizations like Enterprise Community Partners, Stewards of Affordable Housing for the Future, Natural Resource Defense Council, Sierra Club and Association of Energy Affordability that the outreach for the program must involve a third party outreach provider including organizations that have expertise with different aspects of affordable housing and the nuances of community outreach and engagement.

Although CEC may hold relationships with some developers, having a one time relationship is different than engaging this community for a sustained period of time.<sup>8</sup> A program of this scale needs to be marketed by organizations who have advocated on their behalf for decades, with a clear understanding of their needs and barriers and an innate understanding of what works and does not work for this sector, overall. While larger more savvy affordable housing providers are easier to identify and target, several of the affordable housing providers in the State are smaller. The goal of the program should be to serve affordable housing providers that have a large portfolio and also to diversify participation and market the program to harder to reach providers. We are concerned that

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<sup>8</sup> P. 31 (pdf page 38)

CEC is prioritizing outreach primarily to government agencies and local governments, when we believe the priority should be for outreach directly to affordable housing developers, especially those that are less savvy in identifying and navigating such programs. Agency and government contacts are secondary targets for outreach; it is the housing developers who will decide to participate in the program.

With regard to conducting resident outreach, CEC is not the appropriate entity. Rather, CEC should partner with local, trusted CBOs. CEC currently proposes exploring partnerships with CBOs that “promote access to government programs and funding for disadvantaged communities and low communities and residents”, but the plan does not go far enough in articulating criteria on which CEC should base its partnership decisions or situations in which CEC will rely on the partnerships to conduct outreach.

We have concerns about CEC offering to do outreach, advertising and recruiting of tenants upon request of developers. We believe outreach to tenants is a key component of program efficacy. Outreach materials describing BUILD should be prepared as part of the program, not wait until a developer requests them. Further, while CEC may have considerable expertise in coordinating around building standards, reaching out to advertise or recruit low-income tenants is not part of its area of expertise. CEC should partner with CBOs to accomplish this task.

After the project is completed, the CEC proposes to provide “additional outreach support for recruiting tenants and community.”<sup>9</sup> CEC should partner with CBOs to conduct this post-completion outreach. This outreach should include not only recruitment, but the additional educational goals for residents. It should be culturally and linguistically appropriate.

Partnering with local, trusted CBOs is vital to BUILD success. The dual goals of reducing tenant bills and reducing GHG emissions cannot be served without tenants. Latinx Californians are disproportionately living in poverty – statewide nearly 23%, compared to 12.8% of whites.<sup>10</sup> Latinx community members may suffer from linguistic isolation and lack documentation. This community is hardest hit by COVID-19.<sup>11</sup> This is one of the communities that is most important to serve with BUILD, and one that will need outreach from trusted partners for education both about availability of affordable housing and about bill protections once they are housed. Importantly, partnerships with CBOs must be long-term and funded to be effective.

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<sup>9</sup> P. 33 (pdf page 40)

<sup>10</sup> <https://www.ppic.org/interactive/whos-in-poverty-in-california/>

<sup>11</sup> <http://healthpolicy.ucla.edu/health-profiles/Pages/COVID-19Dashboard.aspx>. Last checked August 4, 2020, showing COVID strikes Latinx community members more than any other identified race in almost every California county.



For the first two years, BUILD is limited to low income residential buildings.<sup>12</sup> During that time, CEC proposes to process applications on a first come first serve basis. First come first serve neglects that BUILD Program incentives should go first to the areas “with the highest potential for achieving program goals, including reducing GHG emissions and serving low-income customers.”<sup>13</sup> It is not sufficient to assert that the program and outreach will be designed to accomplish these goals. The plan should describe the “program design” and “outreach efforts” CEC staff intend to use to target areas of the state where there exists the highest potential for GHG reduction and serving low-income customers. Has CEC identified those areas? What will be the process for doing so? The D.20-03-027 targeting directive could be implemented by prioritizing projects in DACs, since CalEnviroScreen includes air quality and poverty among its indicators. Experience with the SOMAH program, which also targets affordable housing, DACs and low-income residents, showed that initial program enrollment was overwhelmingly not from DACs. SOMAH is not also under a mandate to address areas with high GHG reduction potential and low-income customers, beyond its qualifying-project requirements. And fortunately, with time, participation from properties in DACs increased, and at the end of the first year approximately 25% of participating properties are in DACs.<sup>14</sup> If first come first serve participation in BUILD followed a similar trajectory, BUILD would not meet the mandate to prioritize areas with highest potential for GHG reductions and greatest benefits to low-income customers.

**Conclusion:**

We believe the success of this program will influence decarbonization roll-out and strategies for years to come and thoughtful engagement is needed to ensure this program’s success in not just meeting its metrics but truly engaging these communities to equitably transition away from gas.

/s/

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<sup>12</sup> P.34 (pdf page 41)

<sup>13</sup> P.34 (pdf page 41) (citing D. 20-03-27)

<sup>14</sup> SOMAH participation in DACs was underrepresented initially as contractors working on the application marked either that the property was low-income or in a DAC and not both, and now the SOMAH program administrators manually track properties in DAC. Of the total SOMAH eligible properties 35% are in DACs.