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Additional submitted attachment is included below.



January 26, 2024

Via Email to docket@energy.ca.gov

California Energy Commission
Docket Unit, MS-4
Docket No 23-DECARB-01
715 P Street
Sacramento, California 95814

**Re: Inflation Reduction Act Residential Energy Rebate Programs
(Docket No. 23-DECARB-01)**

Dear California Energy Commission:

The below signed legal services providers, in conjunction with the Clean Energy Justice Coalition, write to comment on your Request for Information to inform the CEC's program design for the federal Inflation Reduction Act Home Efficiency Rebates (HOMES) Program.

Our comments are founded in our experience of assisting many victims of predatory lending related to Property Assessed Clean Energy (PACE) programs and the litany of consumer abuses they suffered. We refer you to the lengthy letter we already sent in response to the RFI on Contractor Training. In addition, we address some of the staff questions posed below.

Braiding HOMES with Equitable Building Decarbonization Direct Install

We believe the preferred path forward is for CEC to combine the HOMES program with the EBD Direct Install Program that will serve low-income residents with energy decarbonization packages installed at no-cost. It is critical that low-income residents are not required to pay *any* additional sums to install energy efficient measures such as heat pumps, insulation, air filtration, and the related electrical and panel upgrades, remediation, safety measures *and permit fees* that such improvements may require. If low-income households are left to pay additional costs above the rebates, we anticipate there will be an associated uptick in PACE (Property Assessed Clean Energy) and other high cost home improvement loan originations sold by contractors.¹ Through our experience in dealing with hundreds of PACE victim clients, we have heard many accounts of contractors promising that tax rebates and/or energy savings will wipe out such loan obligations.² That is almost never the case and such lending will result in unaffordable debt burdens to the low-income BIPOC communities we serve.

Where CEC Does not Incorporate/Braid HOMES into the EBD Direct Install Program

Overall Program Design

To the extent the CEC does not incorporate the HOMES program into the EDB Direct Install Program, we suggest that HOMES rebates should only be offered to low-income residents where other existing federal, state or local programs can ensure the energy upgrades are provided at no cost to residents.

Assuming either braiding with EBD Direct Install or other state or local programs to guarantee no-cost outlays by low-income households, we would recommend partnering with local community based organizations and housing counsellors to ensure widespread access and uptake by households in disadvantaged communities. By collaborating with CBOs, CEC will not only outreach to low-income communities through trusted community partners, but can also use the CBOs as a feedback mechanism to highlight problems with the program and, not least, raise up problems with particular contractors. Such problems, in our experience, range from price gouging, to shoddy work, to misrepresenting financing and failing to complete – or sometimes even start – the work.³

¹ PACE Nation, the PACE Industry Trade Group, has already commented that the “IRA provides the PACE industry a massive boost, thanks to an array of building decarbonization and tax credits.” <https://www.pacenation.org/pace-ira/> (last accessed 1/26/24).

² We note the comment provided by Mitchel Rubin on 1/8/24, who states he already installed energy saving devices on the advice that he would be eligible for tax rebates.

³ Public Counsel alone has seen over 350 homeowner victims with over 500 PACE liens between them. Of the 314 liens for which we have recorded data relating to completion of work: twenty-five percent (25%) had substandard work; thirty-two percent (32%) of projects were incomplete; five percent (5%) were projects where the only work done was demolition; and in fifteen percent of cases (15%) no work

All marketing, application, and explanatory materials should be in clear and easy-to-understand language. In addition, CEC should ensure language access by providing all materials, along with support center capabilities for residents, in multiple languages.

There also needs to be fundamental consumer protections in place to ensure that any “stacking” is restricted only to no-cost programs and does not include PACE or any other home improvement financing. Further, no stacking should occur for low-income residents that relies on federal tax credits, as low-income households in general do not earn enough for federal tax credits to have any impact.

Quality Control and Best Practices

With respect to quality control and other best practices, we would recommend requiring written energy audits that demonstrate the need for home improvements, completed ideally by third party professionals and at no-cost to low-income residents.⁴ In addition, completed work should be professionally inspected to ensure the quality of the equipment and installation work performed, and to make sure the installed improvements were program eligible.⁵

We also recommend that contractors benefiting from this rebated work, in addition to being licensed and bonded, should be required to sign up and adhere to a code of conduct to ensure consumer protections: any failure to adhere to those standards should result in the contractor being removed from participation in the program. The code of conduct should include:

- Contractors will not install any unnecessary improvements
- Contractors will provide 12-month warranties on all work undertaken
- Contractors will not sell any financing, or encourage low- or moderate- income people to finance improvements, in conjunction with these rebates
- Contractors will be vetted and certified, and their name and CSLB license number published in a public and easily accessible list, along with their accurate price estimates for improvements
- Contractors will supply information about the proposed improvements, the total cost and how the costs will be covered, to the resident in the language of the discourse between the contractor and the resident
- Contractors will ensure all materials are written in plain language (6th-8th grade reading level) in each language

was ever undertaken. We have also seen rampant price gouging, for example, tankless water heaters installed for upwards of \$15,000 in a small single-family home.

⁴ We have seen multiple cases where unnecessary “improvements” were made, such as perfectly effective dual pane windows and energy-efficient water heaters being replaced with essentially the same products.

⁵ Where ineligible improvements are made, the program should seek claw back from the contractor, not the resident. Where payments have not already been made, the program should help the resident seek redress from the contractor and provide assistance through a restitution fund.

- Contractors will ensure materials provided to elders are available in large type fonts for ease of reading
- Contractors must offer to provide, and must provide if requested, copies of all the documents in a paper writing
- Where any documentation is required to be electronically signed by the resident it must be signed by the resident, not the contractor
- No change orders will be agreed to unless they are at no cost to the low-income resident
- Residents must be allowed a 7-day cooling off period before any work is commenced, except in specified emergency situations
- Contractors will not apply for, or receive, any rebate without successful completion of the work and a finalized permit where such a permit is required.

Further, we recommend a simple complaints process with quick resolution standards for residents and the setting aside of a restitution fund for those who experience contractor abuses that result in physical or financial damage. Payments from such a restitution fund should not be predicated on the exhaustion of any other remedies.

Rebate Determination Approach and Project Cost Caps

In terms of the rebate determination approaches suggested, the payment of a fixed proportion of the project (80% for low-income households) is preferable to payments made in reference to reductions in energy use. Not only is it easier to administer but our experience has shown that, for many folks, promised energy savings never materialize, often due to shoddy or incomplete work. Nonetheless, we reiterate that the low-income and BIPOC communities we serve cannot bear the additional costs: assuming a heat pump installation costs \$12,000 including labor,⁶ covering 80% would still leave a balance of \$2,400 which none of our clients can afford.

In terms of project cost caps, the CEC should develop cost guidelines that, if necessary, can be revised semi-annually to account for inflation. Contractors participating in the program should be required to adhere to the project costs caps set and to also provide publicly published estimates (or ranges) for the various types of work they will undertake, including equipment, labor, and associated remediation, panel upgrades and permit fees. In addition, contractors should be required to upload any contract signed by a resident for the purchase of energy efficient measures that lists all items to be installed, breaks down all associated costs, and demonstrates that the low-income resident is not required to pay or finance any part of the improvements.

⁶ Mark Cato supplied this pricing example in his comment submitted on 1/20/24.

Finally, rebates should be paid either directly to the homeowner or jointly to the homeowner and contractor upon completion of the work and verification of proper installation evidenced by finalized permits where they are required.

Income Verification

In terms of income verification for low-income residents, assuming braiding with programs that ensure no cost can be attributed to them, we would support a combination of both categorical eligibility and self-attestation as was used in the California ERAP rental relief program.

Conclusion

We thank you for your consideration of these comments. Please do not hesitate to contact us if you would like to discuss our experiences further.

Sincerely,



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