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**Comments of the Labor Coalition on the Inflation Reduction Act
Home Efficiency Rebate Program Request for Information**

Additional submitted attachment is included below.

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Submission Via Electronic Docket

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

Re: **Comments of the Labor Coalition on the Inflation Reduction Act Home Efficiency Rebate Program Request for Information**

Dear Commissioners and Staff:

We write on behalf of the Joint Committee on Energy and Environmental Policy, Western States Council of Sheet Metal, Air, Rail and Transportation Workers, California State Pipe Trades Council, and the International Brotherhood of Electrical Workers-National Electrical Contractors Association Labor Management Cooperation Committee (collectively “the Labor Coalition”) to comment on the Request for Information for the Inflation Reduction Act (“IRA”) Home Efficiency Rebate (“HOMES”) Program.

California will be allocated \$292 million to support whole home efficiency projects that help households save money on energy bills, improve energy efficiency, reduce greenhouse gas (“GHG”) emissions, improve indoor air quality. While funding for the HOMES Program is formula driven, the state must design a rebate program consistent with federal requirements, including development of a consumer protection plan that establishes a qualified contractor list. When designing the program, the Commission should prioritize ensuring that low-income consumers receive high quality installation, while at the same time creating good, high road jobs and providing job development and employment opportunities for workers in the community.

To this end, we urge the Commission to incorporate strong workforce standards and requirements into the HOMES Program. Well-designed workforce standards ensure that taxpayer-funded programs create equity and economic

4087-004j

opportunities for disadvantaged communities and will ensure that the work performed for this program maximizes energy efficiency and GHG reduction gains.

I. THE HOMES PROGRAM SHOULD BE BRAIDED WITH THE EQUITABLE BUILDING DECARBONIZATION DIRECT INSTALL PROGRAM, AND INCORPORATE ITS WORKFORCE STANDARDS AND REQUIREMENTS

The Commission plans on incorporating HOMES funding with the Equitable Building Decarbonization Direct Install Program to realize administrative efficiencies and allow more funding to flow to decarbonization activities that benefit Californians.¹ In the braiding scenario, the Commission would seek approval from the Department of Energy to cover 100% of the project costs for low-income households in alignment with the Direct Install Program.² The Labor Coalition strongly supports integration of these programs.

The Direct Install Program will serve low-income residents in underresourced communities with decarbonization packages designed to reduce GHG emissions and advance energy equity.³ The Commission recently adopted the Direct Install Program Guidelines which establish the rules and requirements for the program, including funding allocations, eligibility requirements, eligible measures, and workforce standards.⁴ The workforce standards include minimum training and experience requirements, contractor preference criteria and prioritization, and project bundling.⁵ Contractors are also advised to assume that direct install projects are public works, and that prevailing wage requirements apply.⁶

When designing the HOMES Program, each state must develop a consumer protection plan that includes, among other things, the creation of a qualified contractor list.⁷ The consumer protection plan must describe the qualification(s)

¹ California Energy Commission, Request for Information: Inflation Reduction Act Home Efficiency Rebate Program (HOMES) Docket NO. 23-DECARB-01 (Dec. 21, 2023) pp. 2-3.

² *Id.* at p. 3.

³ California Energy Commission, Equitable Building Decarbonization Direct Install Program Guidelines (Oct. 2023) (hereinafter “Direct Install Program Guidelines”), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=252682&DocumentContentId=87762>.

⁴ *Ibid.*

⁵ *Id.* at p. 28-29.

⁶ *Id.* at p. 28.

⁷ U.S. Department of Energy, State and Community Energy Programs, Inflation Reduction Act Home Energy Rebates: Program Requirements & Application Instructions (Oct. 13, 2023) p. 39 (hereinafter “Home Energy Rebate Requirements”), *available at* https://www.energy.gov/sites/default/files/2023-10/home-energy-rebate-programs-requirements-and-application-instructions_10-13-2023.pdf.

that contractors will be required to meet in order to put on the prequalification list.⁸ Those qualifications should include home performance industry credentials, training requirements, business insurance and licensure, skills standards, and labor standards.⁹ While the Direct Install Program does not require the use of a qualified contractor list, the program's workforce standards and requirements provide the framework for creating and implementing a qualified contractor list, and thus would require very little amendment to meet the HOMES Program requirements.

To the extent the HOMES Program is braided with the Equitable Building Decarbonization Direct Install Program, the Labor Coalition recommends that the Commission integrate the workforce standards and requirements adopted for the Direct Install Program into the HOMES Program. If the programs are not braided, the Labor Coalition recommends the Commission incorporate the workforce standards described in Section II directly into the HOMES Program.

II. PROPOSED WORKFORCE STANDARDS FOR THE HOMES PROGRAM

- **Prevailing Wage:** The Commission should require payment of California prevailing wages for all projects.
- **Minimum Training and Experience:** The Commission should establish minimum training and experience requirements for construction workers, including hands-on training to install equipment and appliances eligible for the program. Workers who have either (1) graduated from a state-approved apprenticeship program, or (2) possess at least three years of relevant installation experience and have received manufacturer training and certification in the type of equipment being installed should be deemed to have adequate training and experience. At least 50% of all construction workers on the project should be required to meet the established minimum training and experience requirements.
- **Apprenticeship:** The Commission should require contractors to either participate in an apprenticeship program in the relevant trade or comply with the apprenticeship requirements that apply to public works project as set forth in Labor Code § 1777.5.

⁸ *Ibid.*

⁹ *Ibid.*

- **Skilled and Trained Workforce:** The Commission should require the use of skilled and trained workforce as set forth in Public Contracts Code § 2600 et seq.
- **Opportunities for Workers from Disadvantaged Communities:** The Commission should require that all participating contractors demonstrate a long-term commitment to providing career pathway opportunities for workers from disadvantaged communities either through participation in a state-approved apprenticeship program in the relevant trade or through the establishment of targeted hiring goals along with “first hire” agreements with local job development entities.
- **Bundling:** The Commission should aggregate projects per contract for economies of scale and to encourage contractor participation.

III. JUSTIFICATION FOR PROPOSALS

Heating, ventilation, and air conditioning (“HVAC”) efficiency is highly dependent on installation quality. Studies have shown that poor quality HVAC installation increases energy use by up to 30 percent.¹⁰ Moreover, poor quality installation is pervasive. The Commission has found up to 85% of replacement HVAC systems are installed incorrectly.¹¹ It does no good to spend hundreds of millions of dollars on energy efficiency incentives for HVAC retrofits, if this equipment is not being installed correctly.

The failure of HVAC systems to achieve intended energy savings can be directly linked to the use of poorly trained workers. Reports prepared by California’s investor-owned utilities have found that most HVAC installers don’t have the technical knowledge, skills, or abilities to properly install systems.¹² These reports have also found that poor quality installation is not the result of a lack of available training.¹³ The problem is that contractors are allowed to take advantage of public incentives even when they use installers who have not been provided this training.

¹⁰ California Energy Commission, Strategic Plan to Reduce the Energy Impact of Air Conditioners (June 2008), CEC-400-2008-010 at p. 5 (poor quality installation of cooling systems result in a 20-30 percent increase in energy use).

¹¹ *Id.*

¹² SCE Energy Efficiency Business Plan 2018-2025 at p. 63; SDG&E Energy Efficiency Business Plan 2018-2025 at p. 216; PG&E Business Plan 2018-2025, Residential Appendix at p. 30.

¹³ See SDG&E Energy Efficiency Business Plan 2018-2025 at p. 214; PG&E Energy Efficiency Business Plan 2018-2025, Appendix WE&T at p. 8; SCE Energy Efficiency Business Plan 2018-2025 at p. 57; SoCalGas Energy Efficiency Business Plan 2018-2025 at p. 377.

If rebate programs are designed in a manner that encourages hiring the cheapest workers, contractors who invest in training will never be able to compete. Because of this, a decision not to include strong workforce standards as part of a rebate program is, in fact, a de facto policy to support low wages, poor training, and poor installation practices.

For over a decade, study after study and state policy after policy has called to address this issue by adopting workforce standards that reward high road contractors that invest in workers and worker training, rather than continuing to subsidize low road contractors. In 2014 the U.C. Berkeley Don Vial Center on Employment in the Green Economy issued a comprehensive workforce standards guidance plan for state and utility energy efficiency programs.¹⁴ The guidance plan identified the need for workforce standards and set forth several specific recommendations, including:

1. Imposition of skilled workforce prequalification requirements based on requiring 60% of jobsite workers to be comprised apprenticeship graduates;¹⁵
2. Prevailing wage requirements – so that contractors will be chosen based on quality, not price;¹⁶ and
3. Workforce skills certification requirements for installation of specific technologies.¹⁷

The guidance plan also recommended adoption of a responsible contractor policy for use across all energy efficiency programs.¹⁸ This recommendation was codified in Senate Bill 350 in 2015 which required adoption of a Responsible Contractor Policy for energy efficiency programs that involve installation or maintenance, or both installation and maintenance, by building contractors to ensure that retrofits meet high-quality performance standards and reduce energy savings lost or foregone due to poor-quality workmanship.¹⁹ But that policy was never adopted and none of the Don Vial Center recommendations have been implemented.

¹⁴ Donald Vial Center on Employment in the Green Economy, *Workforce Issues and Energy Efficiency Programs: A Plan for California's Utilities* (2014) (hereinafter "Guidance Plan"), available at <https://laborcenter.berkeley.edu/pdf/2014/WET-Plan14.pdf>.

¹⁵ *Id.* at pp. 7, 49.

¹⁶ *Id.* at pp. 12, 116, 118-19.

¹⁷ *Id.* at pp. 7, 53-56.

¹⁸ *Id.* at pp. 7, 49, 51-52.

¹⁹ Pub. Resources Code § 25943(a)(3).

The Energy Commission, the California Public Utilities Commission, and the California Workforce Development Board (“CWDB”) have continued to issue policy after policy calling to transform energy efficiency incentive work from a low-cost bidder framework to a lowest-cost qualified bidder framework through the incorporation of workforce standards. In 2016, the Energy Commission adopted a goal in its 2016 Existing Building Energy Efficiency Action Plan Update to “ensure that a certified, high performing workforce will be engaged to deliver energy efficiency retrofits, thereby transforming efficiency incentive work from a low-cost bidder framework to a lowest-cost qualified bidder framework.”²⁰ To achieve this goal, the action plan expressly recommended that IOUs incorporate workforce standards into their energy efficiency program requirements.²¹

In 2020, the CDWB released California’s 2020-2023 Unified Strategic Workforce Development Plan (State Workforce Plan) featuring its vision of a high road economy which is defined by a set of goals to be achieved simultaneously greater equity and mobility for workers, higher skills and competitiveness for employers, and long-term environmental sustainability and climate resilience for the state.²² The CDWB followed up with Jobs and Climate Action Plan for 2030,²³ which identified three key factors that state policymakers should consider when implementing its climate policies and programs:

1. Labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.²⁴
2. California can achieve greater social equity in labor market outcomes for disadvantaged workers and communities when policymakers pay attention to job quality. Identifying high-quality careers (i.e., ones that

²⁰ California Energy Commission, 2016 Existing Buildings Energy Efficiency Plan Update (Dec. 2016) p. 53, available at <https://efiling.energy.ca.gov/getdocument.aspx?tn=214801>.

²¹ *Id.* at p. 50.

²² California Workforce Development Board, California’s 2020-2023 Unified Strategic Workforce Development Plan, https://cwdb.ca.gov/plans_policies/2020-2023-state-plan/#:~:text=California's%20Unified%20Strategic%20Workforce%20Development.state%20workforce%20and%20education%20system (last visited Jan. 26, 2024).

²³ California Workforce Development Board, Putting California on the High Road: A Jobs and Climate Action Plan for 2030 (June 2020), available at <https://cwdb.ca.gov/wp-content/uploads/sites/43/2020/09/AB-398-Report-Putting-California-on-the-High-Road-ADA-Final.pdf>.

²⁴ *Id.* at p. ii.
4087-004j

- offer family-supporting wages, employer-provided benefits, worker voice, and opportunities for advancement) first, and then building pathways up and into such careers, is critical to ensuring that investments in workforce education and training meaningfully improve workers' economic mobility.²⁵
3. Deliberate policy interventions are necessary to advance job quality and social equity as California transitions to a carbon neutral economy, just as such efforts are required to reduce pollution, protect human and environmental health, and to safeguard communities from an already-changing climate.²⁶

Despite these policy pronouncements, most incentive programs have continued the historic practice of rejecting workforce standards to maximize contractor participation.

The one exception is the Equitable Building Decarbonization Direct Install Program. As discussed above, the Direct Install Program requires minimum training and experience requirements for construction workers, including hands-on training to install equipment and appliances eligible for the program.²⁷ Workers who have either (1) graduated from a state-approved apprenticeship program, or (2) possess at least three years of relevant installation experience and have received training and certification in the type of equipment being installed are deemed to have adequate training.²⁸ At least one-third of all construction workers on a project must meet the established minimum training and experience requirements.²⁹ This ensures that all work is supervised by workers that meet minimum experience and training standards, while providing opportunities for new workers to also gain experience.

Finally, opponents to workforce standards often raise the claim that adding contractor training and workforce standards beyond local permitting and licensure requirements would create barriers to program participation. But that is a feature, not a bug. We need to stop subsidizing low road contractors to incentivize those contractors to change their business practices.

²⁵ *Id.* at p. ii-iii.

²⁶ *Id.* at p. iii.

²⁷ Direct Install Program Guidelines at p. 29.

²⁸ *Ibid.*

²⁹ *Ibid.*

IV. STATE-CERTIFIED APPRENTICESHIP PROGRAMS ARE THE MOST EFFECTIVE WAY TO PROVIDE CAREER PATHS TO DISADVANTAGED WORKERS, WHILE AT THE SAME TIME ENSURING THAT WORKERS HIRED BY CONTRACTORS HAVE THE SKILLS NECESSARY TO INSTALL ENERGY EFFICIENCY MEASURES CORRECTLY AND SAFELY

Apprenticeship training is the gold standard for ensuring a trained and qualified workforce and for providing good paying career pathways to disadvantaged workers. Apprenticeships are two to five years in length and include both classroom and hands-on training, along with oversight on the job by experienced journeypersons. Each apprentice is a full-time worker who is receiving on-the-job training as an employee of a contractor on a jobsite. Because apprentices are paid, apprenticeship programs provide career growth opportunities to persons with families that cannot afford to take time off to attend college. Apprenticeship training curricula include specific training on safety and, depending on the craft, on energy and water efficiency measures. This training is independently reviewed and approved by the California Division of Apprenticeship Standards.

Apprenticeship programs are also a proven pathway for providing disadvantaged workers good-paying construction-career opportunities. State-approved apprenticeship programs are required by law to adopt an equal opportunity program with an affirmative action plan to recruit women and minority applicants.³⁰ *Contractors that do not participate in apprenticeship programs or hire apprenticeship graduates are not subject to these requirements.* Among the many ways that union apprenticeship programs meet this requirement is by partnering with Multi-Craft Core Curriculum (MC3) pre-apprenticeship programs throughout the state. The MC3 is a standardized, comprehensive, 120-hour construction curriculum approved by the National Building Trades and designed to help young people and transitioning adults choose and succeed in an apprenticeship program that is appropriate for them. In 2012, the U.S. Department of Labor recognized the MC3 with its Registered Apprenticeship Innovator and Trailblazer Award.

³⁰ Cal. Code Regs., tit. 8, § 215 (requiring apprenticeship programs to include an equal opportunity program with an affirmative action plan to recruit women and minority applicants); see also Labor Code § 1777.5 (f) (“The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities”).

Apprenticeship programs also help reduce the wage and benefit inequities that are widespread in the construction industry by providing for standardized pay, training, and workplace rules for all workers in the program.³¹ In addition, union apprenticeship programs provide an effective framework to address wage and benefit inequities that women, workers of color and immigrants often face in the non-unionized workplace. Unions have been found to effectively “reduce wage differentials and occupational segregation in the workplace itself, as well as help offset the negative career effects of unequal access to good schools and job-hiring networks.”³² This is due largely to the standardized training, wages and workplace rules that level the playing field for all employees.

The number of apprenticeship slots available each year, however, is limited by the number of contractors who are willing to utilize apprentices and the total hours available for apprentices to work. The adoption of requirements to use apprentices and apprenticeship graduates thus helps create local job opportunities for disadvantaged workers by increasing the demand for apprentices.

The simplest way to increase demand for apprentices and apprenticeship graduates is to apply the skilled and trained workforce requirements set forth in Public Contract Code § 2600. Section 2600 sets forth a standard that may be adopted by local and state agencies that generally requires 60% of workers on site to be apprenticeship graduates. Because there are both union and non-union state-approved apprenticeship programs, this is not a union-only requirement.

V. INTERIM PATHS ARE AVAILABLE WHERE LEGITIMATE CONCERNS EXIST OVER THE READINESS OF A PROGRAM TO SUPPORT FULL SKILLED AND TRAINED WORKFORCE REQUIREMENTS

The failure to support high road contractors in the residential market has resulted in high road contractors focusing primarily on the commercial and industrial construction markets. The Commission should design the HOMES Program in a way to induce high road contractors to participate and to encourage low road contractors to shift their business models toward the high road path.

³¹ Jacobs & Thomason, UC Berkeley Center for Labor Research and Education, *The Union Effect in California #1: Wages, Benefits, and Use of Public Safety Net Programs* (May 2018) at p. 2.

³² *Ibid.*
4087-004j

A. Aggregate (Bundle) Retrofit Jobs

A key component to moving on from a low road to high road incentive model is to shift from single project contracting to multi-project contracting to improve economies of scale, encourage participation of high road contractors, and facilitate implementation of workforce training and apprenticeship support requirements. The traditional method of providing incentives to contractors who bid for each job separately limits the likely participation of high road contractors. Having to bid separately on each individual residential or small commercial retrofit is time consuming, costly, and unlikely to induce high road contractors to participate.

In contrast, a program that bids out work in bundles of a 100, 200 or 500 retrofits is much more likely to get the participation of high road contractors, including union contractors, and much more likely to induce low road contractors to take the steps needed to qualify for such jobs. In addition, bundled jobs create an economy of scale that helps offset additional costs associated with using well-trained and fairly paid construction workers.

In fact, the HOMES Program contemplates bundling by allowing aggregators. The program defines an “aggregator” is an entity that engages with multiple single-family homes and/or multifamily buildings for the purpose of combining or streamlining projects as allowed by the State.³³ The Commission should require bundling as part of the program design.

B. Prioritize High Road Contractors

If there are legitimate concerns over the availability of a sufficient number of contractors and workers able to meet skilled and trained workforce requirements in a residential market, the Commission should design the HOMES Program to prioritize participation by high road contractors. This would mean awarding work first to those contractors that can meet skilled and trained workforce requirements, and then turning to contractors that meet softer standards should such contractors be needed. The Direct Install Program’s requirement that administrators establish an initial priority period that limits funding applications and awards to high road contractors is an example of how a prioritization scheme can be implemented.³⁴

³³ Home Energy Rebate Requirements at p. 6.

³⁴ Direct Install Program Guidelines at p. 29.

C. Set Softer Minimum Standards for All Contractors

Because the HOMES Program requires that the Commission establish an eligible contractor list, the Commission will be required to set minimum standards for all contractors to meet even if they are not high road contractors. At a minimum, the Commission should require payment of prevailing wages, use of apprentices in the same manner as required for public work projects, a minimum number of years of experience requirements for at least half of the workers, and either apprenticeship training, a relevant community college degree or certification, or completion of the relevant manufacturer's training in installation of the equipment (type and brand) being installed.

Generally, manufacturer training alone is not sufficient since it is generally limited in scope and depth. These training courses also do not require any actual field experience and often do not contain a hands-on or testing component. It is not accurate that any person could come off the street with zero plumbing or mechanical system experience, take a manufacturer training course and be qualified to install a heat pump system. The widget-based approach of manufacturer training depends on the trainee having a broader understanding of the entire HVAC system. Without a complete understanding of the connecting systems, there are no assurances that the installation will be performed correctly. System training and field experience, such as provided by apprenticeship training are needed to understand the difference between actual conditions and training conditions.³⁵

Reliance on manufacturer training will not provide close to the job performance and workforce development benefits of apprenticeship training or comprehensive community college training, so such a requirement should only be used as a fallback where more comprehensively trained workers are not available. While manufacturer training is better than no training at all, if it were to be incorporated as a fall back, it would need to be linked to a requirement that some percentages of the work crew have at least three to five years of experience in order not to be entirely meaningless.

VI. CONCLUSION

The HOMES Program should be designed to ensure the use of adequately trained and qualified construction workers while at the same time supporting a pipeline for disadvantaged workers that leads to job placement and retention in the

³⁵ Guidance Plan at p. 51.
4087-004j

January 26, 2024
Page 12

energy sector. The adoption of strong workforce standards will improve energy efficiency outcomes, reward high road contractors, protect the safety of consumers, improve customer satisfaction with energy efficiency measures, and provide career opportunities to disadvantaged workers.

Thank you for your consideration of these comments.

Sincerely,



Thomas A. Enslow
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