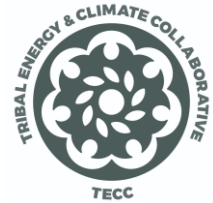


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**Tribal Energy & Climate Collaborative Comments on Docket # 23-
DECARB-03**

Additional submitted attachment is included below.



September 30, 2024

Sierra Graves
Director of Tribal Affairs and Tribal Liaison
Office of the Public Advisor, Energy Equity, & Tribal Affairs
California Energy Commission
715 P Street
Sacramento, CA 95814

Docket #: 23-DECARB-03
Project Title: Equitable Building Decarbonization Program

RE: Tribal Energy & Energy Collaborative (TECC) Comments on CEC EBD Tribal Direct Install Program Design and Scope

Dear CEC Leadership and Staff,

The Tribal Energy & Climate Collaborative (TECC) welcomes the opportunity to provide comments in response to the California Energy Commission's Equitable Building Decarbonization (EBD) Program Tribal Direct Install Program Scoping Document. TECC formed in 2023 through a partnership among the Southern California Tribal Chairmen's Association (SCTCA), Pala Band of Mission Indians, SCTCA's 24 other member Tribes, and Prosper Sustainably. TECC's mission seeks to advance the clean energy, climate change, and related economic and workforce development goals and priorities of SCTCA member Tribes. TECC acts as a hub to centralize and share available resources; a forum to exchange ideas, lessons learned, and expertise; and a training and capacity-building engine for Tribes to increase their internal clean energy-related capabilities and improve access to technical assistance, funding, partnerships, and resources.

TECC stakeholders recognize that the State's Equitable Building Decarbonization Program investments can meaningfully elevate and address Tribal priorities related to decarbonization, energy resilience, climate change, equity, and environmental justice. Many decades of exclusion, oppression, and underinvestment have left many residential properties owned or managed by Tribes in need of significant upgrades and modernization. If designed to be widely and easily accessible, EBD can help improve living conditions in Tribal communities at a time when extreme climate-related risks threaten health and safety in the remote areas where many Tribes are located. As the Commission is aware, effective deployment of customer-serving programs in Tribal communities requires careful consideration and an understanding of the legal, political, and cultural circumstances for Tribal community members living on and off Tribal lands held in federal trust, including reservations and rancherias.

TECC appreciates the Commission's approach to delivering a direct install program in collaboration with California Tribes to build upon and leverage Tribes' unique knowledge,

relationships, and capacity to reach and serve Tribal households. We appreciate the CEC's thoughtful engagement with TECC, including during our September Board meeting to discuss the EBD program. In addition to the feedback provided during that meeting, we offer the following comments and recommendations for CEC's development of the Tribal Direct Install Program.

Program Administration

Many residential energy upgrade programs are highly complex to administrate, especially when considering the need to simultaneously develop and manage a qualified, reliable, and engaged contractor workforce. In addition to interest in regional management, some Tribes have expressed interest in managing this program for their community. To better consider their ability to manage the EBD program, Tribes need more information regarding expectations for Tribal Direct Install program administrators.

If individual Tribes are invited to apply for their own programs, we recommend that program administration requirements be dramatically reduced and simplified in comparison with the general EBD program. We recognize that CEC may have statutory and federal requirements that cannot be waived, and that contractors in a regional marketplace prefer consistency in program rules and processes. Many Tribes, however, face severe constraints on the resources and administrative staff required to establish and manage complex programs. Simplified administration approaches will improve accessibility by Tribes, especially those with the most severe constraints on staffing and resources.

To further reduce administrative burdens for participating Tribes, TECC recommends defining regional or statewide inter-Tribal or Tribal-serving organizations as eligible to serve as program administrators and/or allow multiple Tribes to propose collaborative inter-Tribal EBD programs. By requiring letters of commitment from participating Tribes and by requiring applicants to demonstrate previous related work and effective collaboration, the Commission can confirm that such inter-Tribal groups are trusted and effective Tribal partners that will ensure EBD benefits serve Tribes.

Program administration should include both a State-led, centralized public portal with standardized application processes, as well as more flexible, regionally led implementation processes with deep community outreach and engagement. To minimize confusion among administrators, participants, contractors, and stakeholders, programs will need to operate with some consistency across regional boundaries.

Criteria for selecting grantees should focus on the applicant's demonstrated ability to successfully administrate and implement all aspects of the program, with the support of all partners identified in the grant application. Key criteria should focus on the applicant's capabilities and past success with:

- Engaging and recruiting Tribal governments (if serving multiple), Tribal households,

- contractors, and other service providers participating in similar programs;
- Administrating programs of comparable size, budget, and complexity; and
- Implementing or coordinating the implementation of EBD and related measures in homes and other buildings

The TECC team reviewed the criteria that CEC required in applications from regional administrators to identify initial communities that will be prioritized to receive home upgrades through the Statewide Direct Install Program, and found that most of them are inappropriate for the Tribal Direct Install Program. First, each Tribe has a sovereign government with which the program can partner for culturally appropriate outreach and engagement with community residents. Any preference for other local organizations to support community engagement will infringe upon each Tribe's sovereignty and unnecessarily disadvantage those that haven't established partnerships with such other organizations. Further, the preference for "communities in which households are most likely to experience utility bill savings as a result of decarbonization" could exclude many Tribal homes that should be prioritized, such as those that are not connected to a utility, those that rely on propane or firewood for heating that may be experiencing indoor air quality issues, and households equipped with solar generation and energy storage systems that are currently (but will not always be) offsetting most or all of their bill (which may have been subsidized by other low income programs like SASH or SGIP).

The other prioritization criteria are not applicable because most Tribal communities are located in rural areas that are vulnerable to extreme heat, high fire risk, other climate risks, and/or high levels of air pollution; are underserved by existing home upgrade programs; and include households that experience higher than average energy burdens. The priority should be to serve as many Tribal communities and household as possible in the easiest way possible, without unnecessary or problematic prioritization.

Incentive Eligibility:

Unlike municipalities participating in the Statewide Direct Install Program, all Tribes are considered disadvantaged according to State and federal policies. Creating additional criteria that limit participation to priority targets is counter-productive. TECC generally recommends removing as many barriers to participation by Tribal households as possible, ranging from income status to utility status and tenant protection requirements (as noted in the Scoping Document).

Income qualification has created a significant barrier to participating in the TECH Clean California, Self-Generation Incentive Program (SGIP), and other programs. Low-income Tribal households can be deterred by or have difficulty providing low-income documentation. Also, despite being members of a disadvantaged community, some Tribal members receive per-capita revenue payments from Tribal enterprises that disqualifies them for low-income programs. We recommend that Tribal Direct Install Program eligibility should not be limited by income, or eligibility should be expanded beyond low-income

households. Alternatives could include offering similar programs to moderate-income households at a low cost, or by providing graduated incentive amounts calculated according to a recipient's verified income (although the income documentation requirement still would present a barrier).

CEC should consider using the same approach CalEnviroScreen used in its automatic determination of disadvantaged community status, which includes all federally recognized Tribal lands. This approach would greatly expand participation and ease access to the EBD program for people living on Tribal trust lands. For Tribal members who reside on non-trust lands, enforcing restrictions by Tribal membership status raises complexities and sovereignty concerns. We recommend allowing selected administrators to work with Tribal governments within the service territory to propose culturally and politically appropriate methods to determine program eligibility.

Additionally, CEC should avoid limiting eligibility for EBD benefits to utility customers. Not all Tribal households have utility electric service, and many households, whether served by a utility or not, rely on propane or firewood for heating. Nevertheless, these homeowners may be interested in EBD measures that would prepare them for electrification – not only through expansion of utility distribution systems, but also with off-grid solar generation and energy storage capacity that can directly support Tribal energy sovereignty. TECC recommends that eligibility not be affected by utility customer status, and recipients should not be required to produce past utility bills.

EBD incentives should provide flexibility in choosing decarbonization measures that are suitable for recipients' unique needs, rather than imposing narrow requirements and a limited menu of solutions. For example, while heat pumps should be among eligible measures, they should not be mandated by the program. Likewise, whole-house and remediation measures should be eligible for incentives, encouraging participation by recipients who may need decarbonization measures other than heat pumps.

Participating Contractors and Workforce Development:

Identifying qualified contractors and a workforce to perform home energy upgrades to be supported by the EBD program can be particularly challenging for Tribal and rural communities. In many cases, contractors and technicians located near Tribal communities will be insufficient to meet their needs. Many Tribal communities also face a high rate of unemployment and need opportunities to build workforce skills and secure jobs. The EBD program should be designed and provide funding for substantial and continuous outreach, engagement, recruitment, training, and other workforce development for local contractors and job seekers to build a qualified workforce in these areas that can both install and maintain the systems installed with EBD program support. We recommend offering some form of compensation to improve the ability of Tribal contractors and job seekers to participate in trainings, and to offer opportunities to participate in upcoming general EBD and Training for Residential Energy Contractors (T-

REC) training programs. Lastly, Tribes also would benefit from referral lists and being connected with contractors that have been pre-vetted by other regional or statewide entities.

Tenant Protection Requirements:

The EBD Tribal Direct Install Program can recommend but cannot impose tenant protection requirements that would prevent property owners who participate in the program from evicting tenants or increasing tenants' rents by more than a certain amount for a defined period after a building is improved for homes on Tribal trust lands, because such requirements would infringe upon a Tribal government's jurisdictional sovereignty. In general, California Tribal communities do not include a significant number of renters or rental turnover, and attempting to impose such requirements could create distrust and non-participation among Tribal communities. The risk of tenant evictions on Tribal lands is low, and not a major concern that needs to be addressed by the program. As noted above, CEC should seek to eliminate as many EBD program participation barriers as possible for Tribal community members.

Respecting and Upholding Tribal Sovereignty:

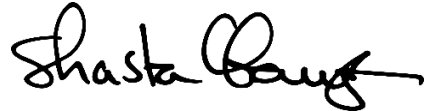
CEC has established worthy goals for engaging Tribes in culturally appropriate ways and ensuring the agency's programs respect and uphold the sovereignty of federally recognized Native American Tribes. TECC urges CEC to develop the Tribal Direct Install program in ways that exemplify best practices and that demonstrate CEC's commitment to upholding Tribes' sovereignty and rights to self-determination. TECC's recommendations regarding eligibility, administration, and other issues aim to support the general principle that any State program that intends to uphold Tribal sovereignty must provide Tribes with the greatest possible degree of flexibility in implementing and administering that program, and must avoid creating complex and burdensome administrative requirements for Tribes that already face severe staffing and resource constraints. Moreover, such a program should not require Tribes to waive their sovereign immunity. Such waivers fundamentally conflict with the principle of respecting and upholding Tribes' federally guaranteed rights to sovereignty and self-determination, and they also create an accessibility barrier that prevents benefits from reaching Tribal communities.

Through its EBD Tribal Direct Install program, the Commission has an opportunity to partner with Tribes and their trusted inter-Tribal organizations and energy community partners to establish a framework based on upholding Tribal sovereignty. Such a framework will produce the most meaningful results by eliminating or minimizing barriers to accessibility for Tribal communities, and by dedicating resources toward the decarbonization measures that recipients select to meet their unique needs. TECC urges CEC to structure the program so that it supports Tribes in implementing the program efficiently and appropriately for their communities, rather than dictating narrow eligibility requirements either for administrators, recipients, or the decarbonization measures

recipients may select to achieve program goals.

Thank you for the opportunity to provide comments and place these important matters on the record in relation to the EBD Tribal Direct Install Program. We greatly appreciate CEC's consideration and we encourage the Commission to continue engaging TECC in further discussion as the program develops, as well as to engage TECC on other intersecting decarbonization, climate, equity, and reliability challenges. TECC is committed to coordinating engagement among the State, TECC Tribes, and their partners.

Sincerely,

A handwritten signature in black ink that reads "Shasta Gaughen". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Shasta Gaughen, PhD
TECC Co-Director
Environmental Director/THPO
Pala Band of Mission Indians