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CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

October 25, 2013

Robert P. Oglesby, Executive Director
California Energy Commission
1516 Ninth Street, MS-29
Sacramento, CA 95814-5512

Dear Mr. Oglesby:

Subject: Docket Number 13-CCEJA-1, Comments on Proposition 39 *Draft Guidelines*

On behalf of the California Department of Education, I respectfully submit the following comments and technical edits for consideration by the California Energy Commission (CEC).

In an effort to minimize your workload—and recognizing that many of the concerns we raise are shared by others and articulated in the public comments and in the public meetings—our document will focus on recommendations or options for your consideration.

The *Draft Guidelines* seem overly complicated.

Recommendation: Given that CEC is required to impose certain requirements pursuant to Chapter 29, Statutes of 2013 (SB 73) and Chapter 357, Statutes of 2013 (SB 97) CDE recommends that CEC provide a series of webinars that explain in "layman's terms" what LEAs need to do in order to successfully complete each of the eight steps identified in the Guidance document. CDE is prepared to assist CEC to develop these webinars.

CDE is concerned with the treatment of charter schools located in private facilities.

Recommendation: CEC believes the Legislature intended for "ALL" LEAs (defined as school districts, charter schools, county offices of education, and the state special schools) be eligible to receive Proposition 39 funding. Specifically, Chapter 357, Statutes of 2013 (SB 97) states in Section 55, Public Resource Code 26236 (i) "For a school facility that is not publicly owned, an LEA receiving moneys pursuant to this chapter for a project for that facility shall require the school repay to the state all moneys received from the Job Creation Fund for the project if the school voluntarily vacates the facility within five years of project completion. The facility owner shall repay to the state

all moneys received from the Job Creation Fund for the project if the school was forced to vacate the facility within the life of the project completion. All benefits of these public funds should be received by the school utilizing the facility."

This language recognized that many LEAs, predominately, charter schools are housed in private facilities should be allowed to access Proposition 39 funds. Similar to our recommendation on the following concern, permit charter schools to access the funding if they can renegotiate with the building owner to reduce their lease cost based on the savings generated using the calculator (to be provided by CEC).

CDE is concerned with the quarterly reporting requirement.

Recommendation: CDE notes there is nothing in the statute or the Proposition 39, 2012 Initiative that would require quarterly reporting. However, LEAs are required to submit annual expenditure reports and more specifically, Chapter 29, statutes of 2013 (SB 73) PRA section 26240 (b) states in part...."(b) As a condition of receiving funds from the Job Creation Fund, not sooner than one year but no later than 15 months after an entity completes its first eligible project with a grant, loan, or other assistance from the Job Creation Fund, the entity shall submit a report of its project expenditures to the Citizens Oversight Board created pursuant to Chapter 3 (commencing with Section 26210). To the extent practical, this report shall also contain information on any of the following:"

Finally, Chapter 29, Statutes of 2013 (SB 73) specifies that the Proposition 39 funding provided to LEAs is subject the annual audit process pursuant to Education Code Section 41020. Thus, we recommend that CEC eliminate the quarterly reporting requirement.

CDE is concerned with the assumption that comparing the previous 12 months of meter data to the following years meter usage will be used to determine success.

Recommendation: CDE is concerned that the specific comparison may not accurately capture other factors that may cause an increase in energy usage. As an example, the assessment system for California's LEAs is in the process of being converted from being administered in a manual process (paper and pencil) to administering assessments online. There is nothing in the guidelines that outlines how CEC will account for increased energy costs resulting from programmatic driven factors.

You will note that many of the concerns we raise are concerns we have raised previously. We appreciate the opportunity to provide additional comments on the *Draft Guidelines* and look forward to continuing to work with the CEC on the implementation of the Clean Energy Jobs Act (Proposition 39).

Sincerely,

Jeannie Oropeza

Jeannie Oropeza, Deputy Superintendent
Services for Administration, Finance, Technology & Infrastructure Branch

ABSTRACT

The California Energy Commission has developed these DRAFT *Guidelines* in accordance with Proposition 39 (2012) and Senate Bill 73 (Chapter 29, Statutes of 2013) adopted by the Legislature and signed into law by Governor Edmund G. Brown on June 27, 2013. Section 26235 (a) of the Public Resources Code requires the California Energy Commission to establish *Guidelines*, in consultation with the State Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the California Public Utilities Commission.

Keywords: Proposition 39, California Clean Energy Jobs Act, Job Creation Fund, Senate Bill 73, energy efficiency, clean energy, conservation, conservation corps, school, community college districts, workforce training, education, local educational agency

Haile Bucaneg, Pierre duVair, Cheng Moua, Justin Regnier, Keith Roberts, Elizabeth Shirakh, Joseph Wang. 2013. ***California Clean Energy Jobs Act Program: Proposition 39 Implementation Guidelines.*** California Energy Commission, Energy Efficiency Division. Publication Number CEC-XXX-2013-XXX.

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CHAPTER 1:
Background

The **California Clean Energy Jobs Act** was created with the approval of Proposition 39 in the November 6, 2012, statewide general election. Proposition 39 added Division 16.3 (commencing with Section 26200) to the Public Resources Code, added Sections 25136, 25136.1 and 25128.7 to the Revenue and Taxation Code, and amended Sections 23101, 25128, 25128.5 and 25136 of the Revenue and Taxation Code. The statute made changes to the corporate income tax code and allocates projected revenue to the General Fund and the Clean Energy Job Creation Fund (Job Creation Fund) for five fiscal years, beginning with fiscal year 2013-14. Under the initiative, approximately $550 million annually is available to be appropriated by the Legislature for eligible projects to improve energy efficiency and expand clean energy generation.

For fiscal year 2013-14, the California's Legislature, through Senate Bill 73 (Chapter 29, Statutes of 2013) appropriated Proposition 39 revenue as follows:[1]

- $381 million in awards to local educational agencies (LEAs), which include: county offices of education, school districts, charter schools, and state special schools that serve students in kindergarten and grades 1 through 12 for energy efficiency and clean energy projects.
- $47 million in awards to California community college districts for energy efficiency and clean energy projects.
- $28 million for low-interest and no-interest revolving loans and technical assistance to the California Energy Commission.
- $3 million to the California Workforce Investment Board (CWIB) to develop and implement a competitive grant program for eligible workforce training organizations to prepare disadvantaged youth, veterans, and others for employment in clean energy fields.
- $5 million to the California Conservation Corps to perform energy surveys and other energy conservation-related activities.

In the subsequent four fiscal years, 2014-15 through 2017-18, LEAs and community colleges will receive allocations from the Job Creation Fund, when funds are appropriated by the Legislature, for eligible energy efficiency upgrades and clean energy installations that create jobs in California.

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1 Exhibit A in the Appendix provides a representation of fiscal year 2013-14 Proposition 39 implementation funding allocation.

DRAFT GUIDELINE OVERVIEW

The California Energy Commission has developed these *Proposition 39: California Clean Energy Jobs Act – 2013 Program Implementation DRAFT Guidelines (DRAFT Guidelines)* in accordance with Proposition 39 (2012) and ~~Senate Bill~~ 73 (Chapter 29, Statutes of 2013). Public Resources Code Section 26235(a) requires the Energy Commission to establish *Guidelines*, in consultation with the State Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the California Public Utilities Commission. To navigate the legal requirements of Proposition 39, the statute or law pertaining to a section of the *DRAFT Guidelines* is captured in a box at the beginning of the section.

These *DRAFT Guidelines* define how the State of California intends to implement the California Clean Energy Jobs Act (Proposition 39) Program. The *DRAFT Guidelines* provide direction to potential applicants on the types of awards and required proposals or plans, explain screening and evaluation criteria, describe the standards to be used to evaluate project proposals, and outline the award process. The Energy Commission has developed these *DRAFT Guidelines* in accordance with Proposition 39 and Senate Bill 73.

In addition to the requirements identified in the *DRAFT* Guidelines, projects may also be subject to environment requirements, local permits ~~or~~ construction rules. These other requirements are not addressed in these *DRAFT Guidelines*.

The DRAFT Guidelines consists of three chapters:

Chapter 1: Background and General Information

Chapter 2: Local Educational Agency Proposition 39 Award Program

Chapter 3: Additional Proposition 39 State Resources

FUNDING DISTRIBUTION

Sections 26227-26233 of the Public Resources Code (added by SB 73) direct the specific allocation of Proposition 39 funding, in addition to specific 2013-14 fiscal year funding amounts for each Program element. For the 2014-15 through 2017-18 fiscal years, inclusive, the amount of funding available from the California Clean Energy Jobs Act to all Program elements shall be determined in the annual California Budget. The five Program elements are listed below with the corresponding funding allocation.

Local Educational Agency Proposition 39 Award Program

SB 73 establishes that 89 percent of the funds deposited annually into the ~~California~~ Clean Energy Jobs ~~Act~~ Fund be allocated to the State Superintendent of Public Instruction (SSPI) for awards and made available to LEAs for energy efficiency upgrades and clean energy installations. For fiscal year 2013-14, the ~~allocation~~ is $381 million.

CONFIDENTIALITY

Persons or entities seeking a confidential designation for data shall follow the process identified in California Code of Regulations, Title 20, Section 2505.

EFFECTIVE DATE OF GUIDELINES

These *DRAFT Guidelines* shall not be effective as final *Guidelines* until adopted by the Energy Commission at a publicly noticed business meeting. The Energy Commission will post the adopted *Guidelines* on its website: www.energy.ca.gov/efficiency/proposition39/index.html or a copy may be obtained by contacting:

California Energy Commission
Efficiency Division
Local Assistance and Financing Office, MS-23
1516 Ninth Street,
Sacramento, CA 95814
E-mail: ?

SUBSTANTIVE CHANGES IN GUIDELINES

Substantive changes to the final *Guidelines* may be made with the approval of the Energy Commission at a publicly noticed meeting with no fewer than 15-days public notice. Unless stated otherwise in the resolution approving substantive changes, such changes shall take effect upon adoption by the Energy Commission. Substantive changes for the Proposition 39 program, policy or design include but are not limited to:

- Changes in screening for eligibility.
- Changes in evaluation criteria.
- Changes in funding criteria for determining award amount.

NONSUBSTANTIVE CHANGES IN GUIDELINES

If the final *Guidelines* require nonsubstantive changes the Energy Commission will provide a notice of the changes to the Proposition 39 program list serve and post the amended *Guidelines* on the Proposition 39 program webpage.

CHAPTER 2:
Local Educational Agency Proposition 39 Award Program

Eligible Project Examples

According to Proposition 39, funding shall be made available for projects that create jobs in California, improve energy efficiency, and expand clean energy generation. A list of eligible project examples is found in the Appendix in Exhibit B: Typical Cost-effective K-12 School Energy Projects.

SCHEDULE

The anticipated Proposition 39 Program implementation schedule is:

☐ SSPI to begin releasing energy audit and planning funds	~~November 2013~~ November 2013, February 2014 and one additional request opportunity if needed in spring 2014
☐ Energy Commission to begin accepting energy expenditure plans proposals	December 2013
☐ SSPI to begin allocating awards	May 2014
☐ Two fiscal year combined funding award requests	September 1, 2014 (*annually*)
☐ Award calculation completed by CDE	November 30 (*annually*)
☐ LEAs project completion reporting	Ongoing
☐ LEAs expenditure reports to Citizen's Oversight Board (COB) and Energy Commission	October 1 (*annually beginning 2015*)
☐ Energy Commission report to COB	January 1 (*annually beginning 2016)*
☐ LEAs final encumbrance date	June 30, 2018
☐ LEAs final project completion date	June 30, 2020
☐ LEAs final project reporting date	June 30, 2021

LEAs are cautioned not to rely on calculations or estimates by entities other than the CDE. To see the final CDE 2013-14 fiscal year awards, please go to (website).

Two-Year Combined Award Option (Tier 1 and Tier 2):

LEAs with 1,000 or fewer prior year ADA are eligible to receive both the current year and the following year funding in the current year. To request the two-year combined funding, apply online through the CDE at: (website).

- ☐ by September 1, 2014, for (2014-2015 and 2015-2016 award),
- ☐ by September 1, 2015, for (2015-2016 and 2016-2017 award).
- ☐ by September 1, 2016, for (2016-2017 and 2017-2018 award).
- ☐

LEAs selecting this option shall not receive a funding allocation in the year following the request.

Energy Planning Reservation Option

Eligible LEAs have the option of requesting a portion of their fiscal year 2013-2014 award for energy planning now, without submitting an expenditure plan to the Energy Commission. This option is only available for the fiscal year 2013-2014 award of the Proposition 39 program and is intended to provide funds for planning activities ~~through~~ for fiscal years 2013-2014 through 2017-18. X

Allowed Planning Activities

The energy planning reservation can only be spent on these two activities:

- ☐ Screening and energy audits.
- ☐ Proposition 39 program assistance.

Table 3 below provides a detailed description of each activity. In addition, the table illustrates best practices cost guidance for screening and energy audits.

Table 3: Energy Planning Activities

Pre-Expenditure Plan Approved Activities	Description of Activity	Best Practices Cost Guidelines
American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Level 2 Energy Audit plus SIR as defined by the *DRAFT Guidelines*.	An ASHRAE Level 2 audit shall provide a review of the past 12 months of utility billing data and calculations of energy use intensity (EUI) and a walk-through of the facility. The audits shall also provide a list of all energy efficiency projects recommended for implementation and shall include detailed project cost, energy savings calculations and financial analysis of proposed energy efficiency measures. The financial analysis shall provide a comprehensive understanding of the financial benefits of implementing the specific energy efficiency project recommendations and include a Savings to Investment Ratio (SIR) according to the *DRAFT Guidelines*.	No more than $0.15 - $0.20 per gross square foot[2]
Energy Surveys Data Analytics	Energy Surveys and Data Analytics may be used as tools to identify opportunities for energy efficiency projects at LEA facilities, such as those projects listed in Exhibit B in the DRAFT Guidelines, for which an Energy Commission calculator may be used to determine energy savings.	No more than $0.02 - $0.05 per gross square footage. ~~No more than $0.2 - $0.5 per gross square foot~~
Proposition 39 program assistance	If an LEA needs assistance completing the Proposition 39 program requirements, it may use part of the award for Proposition 39 program assistance activities. For example, LEAs are required to provide electric and gas usage/billing data, complete benchmarking, and submit expenditure plans to receive energy efficiency funding under this program. Energy planning funds requested for Proposition 39 program assistance activities can be used to complete any of the required Proposition 39 program steps.	

Source: California Energy Commission

Funding Limits

Each of the two approved categories for energy planning activities have funding limits as follows:

Energy Planning Activities	Funding Limits
Screening and Energy Audits	85% of Maximum Energy Planning Award

X

2 "gross" means all the square footage inside the perimeter of exterior walls (less courtyards).

Proposition 39 Program Assistance	15% of Maximum Energy Planning Award

X

Maximum Energy Planning Award Funding Request

~~LEAs in Tier 1-3 may request up to 100% of their first year award for planning activities. LEAs in Tier 4 may request 30% of their first year award for planning activities or up to $1,000,000 whichever is less.~~

1) LEAs with first year awards of $433,000 or less, may request up to $130,000 of their first year award for planning activities.
2) LEAs with first year award of $433,001 or more, may request 30% of their first year award (up to $1,000,000) for planning activities.

Example #1: For an LEA in Tier 1 receiving an award of $15,000, the funding caps are applied as follows:

Energy Planning Activities	Funding Limits	Funding Cap
Screening and Energy Audits	85%	$12,750
Proposition 39 Program Assistance	15%	$ 2,250
TOTAL	100%	$15,000

Example #2: An LEA in Tier 4 receiving an award of $5,000,000 will be limited to 30% or up to $1,000,000 for energy planning activities whichever is smaller:

Energy Planning Activities	Funding Limits	Funding Cap
Screening and Energy Audits	85%	$850,000
Proposition 39 Program Assistance	15%	$ 150,000
TOTAL	100%	$1,000,000

For LEAs that elected to receive two years of award funding in fiscal year 2013-2014, the "first year" funding is one-half of the combined award.

Unused Energy Planning Awards

Any unused energy planning funds may be applied toward energy project implementation approved as part of an expenditure plan.

If an LEA decides to request only a portion of its first year award for energy planning, the planning funding requested will be subtracted from the total award and the remaining funding will be available for energy project implementation through the expenditure plan process.

Retroactive Planning Projects

Award Funding for Training

Public Resources Code section 26235(a)(6) states that "Where applicable, ensuring LEAs assist classified school employees with training and information to better understand how they can support and maximize the achievement of energy savings envisioned by the funded project."

Training costs may be submitted as part of an energy expenditure plan. Each fiscal year, an LEA will have the option of requesting up to 2 percent of its award or $1,000, whichever is greater, for energy efficiency training of classified school employees.

> extra spacing

Award Funding for Energy Manager

Many LEAs do not have the staff, knowledge, or time to effectively control and manage energy costs. Therefore, LEAs may consider hiring an energy manager. An energy manager can actively work to reduce a school's energy operational costs and provide more control over energy costs.

LEAs too small to justify hiring their own energy managers may consider pooling their energy manager funding within a county and share the services of an energy manager.

Each fiscal year, an LEA will have the option of requesting up to 10% of its award or $100,000, whichever is ~~greater~~ less to hire or retain an energy manager.

PROCESS TO RECEIVE K-12 ENERGY PROJECT AWARD FUNDING

LEAs need to follow the eight step process described in this section to participate in the Proposition 39 program.[3]

Step 1: Electric and Gas Usage/Billing Data

Public Resources Code section 26240(a) states "In order to later quantify the costs and benefits of funded projects an entity that receives funds from the Job Creation Fund shall authorize its local electric and gas utilities to provide 12 months of past and ongoing usage and billing records at the school facility site level to the Energy Commission."

The first step to receive program award funds for energy project implementation is to provide the Energy Commission access to utility data at the school facility site level. Each LEA must identify all electric, natural gas, propane, or fuel oil accounts for all its schools and facilities, and provide a utility data release form allowing the Energy Commission to access both historical (the past 12 months) and future utility billing data and time-of-use interval data. Access to utility data will include all schools and facilities within an LEA that is receiving funding, not just schools and facilities with planned or active projects. ~~An LEA must sign a release to provide~~

signed

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3 Appendix Exhibit C: Proposition 39 Funding Pathway Example provides a visual overview of this process.

~~utility data to the Energy Commission~~. Each utility provider has a specific release form; therefore, LEAs must request the release forms directly from their utility providers. The Energy Commission's Proposition 39 website has direct links to utility and energy supplier release forms: _____(webpage)_____

The Energy Commission must receive the prior 12 months of utility usage data from the local electric and gas utility provider(s) as part of an LEA's submission of its first energy expenditure plan. Authorization for the Energy Commission to receive utility data must continue through the life of the Program and as requested by the Energy Commission thereafter.

Step 2: Benchmarking or Energy Rating System

Public Resources Code section 26235(a)(3)(A) states the Energy Commission shall establish guidelines for "benchmarks or energy rating systems to select best candidate facilities."

As part of the project evaluation an LEA must "benchmark" to determine the energy use intensity (EUI) of any ~~school or site~~ school/site that receives Proposition 39 program funding. Benchmarks provide important information about a building's energy usage. This information is similar to the miles-per-gallon metric for vehicle fuel economy; EUI reflects the rate of energy use of a building. For fiscal year 2013-14, LEAs may choose any benchmarking method to meet this requirement. LEAs can easily conduct their own benchmarking process. Complete, detailed benchmarking instructions are found in the Appendix in Exhibit D. Only the school sites applying for Proposition 39 funding need to be benchmarked. LEAs can choose to benchmark more schools/sites if that is beneficial to their energy planning and school site section process.

Benchmarking results must include total energy cost/square footage/year and annual total Kbtus[4]/square footage/year. LEAs will report this information as part of the energy expenditure plan.

Benchmarking helps determine how well individual schools/sites are performing in terms of energy efficiency. Benchmarks can quickly identify schools/sites that are the lowest and highest energy users, revealing which facilities have the greatest potential for energy savings.

Once these EUI calculations are completed, each LEA can compare the EUI score of one school to another to identify schools/sites with the highest energy use. The best candidates for further energy efficiency evaluation are schools/sites with the highest energy use. As a general rule, when the calculated energy cost intensity is high, there are more energy-saving opportunities.

The Benchmarking Process

The benchmarking process begins with data-gathering and concludes with a prioritized plan for implementing energy efficiency measures.

Figure 1: Benchmarking Process

4 One thousand British thermal units.

invested in the energy project, the LEA will accrue $1.05 in savings. The SIR is based on the cumulative net present value of both energy benefits and non-energy benefits realized over the life of the project.

An individual project may have a SIR lower then 1.05, but the portfolio of bundled projects at each individual school site, submitted in one energy expenditure plan, must achieve a minimum SIR of 1.05.

To determine the SIR, the Energy Commission has created a SIR calculator to assist in calculating cost-effectiveness. The Energy Commission SIR calculator will provide the SIR for each project measure as well as a combined SIR value for a portfolio of bundled project measures. The SIR calculator will be available at the Energy Commission's Proposition 39 website at www.energy.ca.gov/efficiency/proposition39/index.html upon approval of the *final Guidelines*.

To use the SIR calculator, an LEA will need the following input values for each proposed project:

1) Annual energy savings (kWh, therms, gallons)
2) Demand savings (kW)
3) Annual energy cost savings
4) Project installation cost
5) Rebates/other financial incentives
6) Other matching grants (Any matching grant funds, (not including Proposition 39 awards) used to finance the project. This is funding that does not need to be repaid.)

Exhibit E in the Appendix explains the SIR calculation, including all assumptions built into the SIR formula.

Step 7: Complete and Submit an Energy Expenditure Plan

A: Submission of Energy Expenditure Plans

The energy expenditure plan is the application an LEA uses to request Proposition 39 program award funds to implement proposed energy projects. The energy expenditure plan includes all information specified in these *DRAFT Guidelines*. LEAs must complete and submit an energy expenditure plan to the Energy Commission, and that energy expenditure plan must be approved by the Energy Commission for the LEA to receive Proposition 39 program award funds. The energy expenditure plan form is available on the Energy Commission's website at (website)_____.

In September 2013 and November for following fiscal years, the SSPI will announce each LEA's award for the current fiscal year. Once that award is known, LEAs may submit their energy expenditure plans to the Energy Commission. The Energy Commission will review energy expenditure plans as they are received. LEAs are encouraged to submit their completed energy expenditure plans as soon as possible to allow timely review and approval by the Energy Commission, so LEAs can meet targeted implementation schedules.

LEAs shall submit their energy expenditure plans, all project back-up documentation, and required certifications through the Energy Commission's website at (website)_____.

An LEA can submit its energy expenditure plan depending on the options provided for its award level as illustrated below in Table 6.

Table 6: Energy Expenditure Plan Options

Award Level	Energy Expenditure Plan Options
$50,000 or less	☐ Option 1: Yearly award energy expenditure plan ☐ Option 2: Two-year (bundled) award energy expenditure plan ☐ Option 3: A five-year complete award energy expenditure plan.
$50,001 or greater	Up to four energy expenditure plans may be submitted per fiscal year.

Source: California Energy Commission

Option 1: Annual award energy expenditure plan. Under Option 1, the LEA submits a new energy expenditure plan with new energy projects identified for only that current fiscal year's award to the Energy Commission for approval. If the full award is not budgeted for proposed projects, the balance (whether the full award amount or a portion) will roll over to the next year.

Option 2: Two-year (bundled) award energy expenditure plan. Under Option 2, small LEAs that submitted their two-year award requests to CDE are eligible to submit one energy expenditure plan, with energy projects totaling the two-year combined award funding. (Note: LEAs in Tier 1 and Tier 2 are eligible to receive a combined funding award for the current and following fiscal year in the current fiscal year. Two-year award funding requests must be made to CDE by September 1 of each year.) If the full award is not budgeted for proposed projects, the balance (whether the full award amount or a portion) will roll over to the next year.

Option 3: Five-year complete award energy expenditure plan. Under Option 3, the LEA submits one energy expenditure plan, with energy projects amounting to the estimated total five-year Program award. Based on the known first-year funding award, the LEA can estimate the remaining yearly awards and develop a complete five-year energy expenditure plan. The LEA and the Energy Commission will annually review the five-year plan to ensure the projects are still on track and adjust the plan if necessary.

B: Energy Expenditure Plan Content

LEAs must apply to the Energy Commission as specified in the energy expenditure plan form. LEAs are required to submit all energy project information on a standard energy expenditure plan format created by the Energy Commission.

The energy expenditure plan includes the following elements:

- ☐ Energy Planning Funds – (if requested in 2013-14) A description of use of planning funds and a financial breakdown of expenditures.
- ☐ Benchmarking EUI for all school sites **(STEP 2)**
- ☐ Energy project upgrades: Pre-installation verification form that includes:
  1. 2013-14 (or current year) award amount and estimate of 2014-17 amount if the plan includes future years.
  2. Project(s) description. **(STEP 5)**

3. Estimated energy savings (must include supporting engineering analysis or Energy Commission calculator results). **(STEP 5)**
4. Current energy usage (must include 12 prior months of electric and gas utility billing records). **(STEP 1)**
5. Estimated project cost (an itemized budget for the project that identifies all related costs and expenses). **(STEP 5** or contractor estimate)
6. Individual project backup documentation (energy audit or energy survey) **(STEP 5)**

☐ Energy Training request. - required? X

☐ Energy Manager request. - required? X

☐ Job Creation Benefits (see below and Appendix, Exhibit G for calculation methodology).

☐ Consent for the LEA's utility provider(s) to release 12 months of historical energy billing data and ongoing data to the Energy Commission. This includes all utility accounts and locations of meters for all school sites within an LEA. **(STEP 1)**

☐ The energy expenditure plan will also include the following certifications:

1. The LEA followed the Guidelines regarding Sequencing of Facility Improvements. **(STEP 4)**
2. The LEA followed the Guidelines regarding Energy Project Prioritization. **(STEP 5)**
3. The LEA commits to use the funds for the project(s) approved in the energy expenditure plan.
4. The LEA commits that the information included in the application is true and correct to the best of the LEA's knowledge.
5. The California Environmental Quality Act (CEQA) requirements have been met. X
6. The LEA will obtain DSA project approval as applicable X pursuant to Title XXIV.
7. The LEA acknowledges that the expenditures are subject to financial audit requirements (Public Resources Code sections 26206(e) and 26240(g)).

Job Creation Benefits Estimation

Public Resources Code section 26235(e)(9) states "The individual or collective project's ability to facilitate matriculation of local residents into state-certified apprenticeship programs."

Public Resources Code section 26235(e)(10) states "The expected number of trainees and direct full-time employees likely to be engaged for each LEA's annual funding commitments based upon a formula to be made available by the Energy Commission or California Workforce Investment Board. The formula shall be stated as labor-intensities per total project dollar expended, and may differentiate by type of improvement, equipment, or building trade involved."

The California Labor and Workforce Development Agency, the California Workforce Investment Board (CWIB), the Energy Commission, and other state agencies collaborated to

- The application does not contain all the requested information.
- The application is deemed incomplete and the requested additional information is not received within the time frame specified in the Energy Commission's written notification of incompleteness.
- The energy project or portfolio of energy projects does not meet the SIR of 1.05.

If the Energy Commission disapproves an energy expenditure plan, staff will contact the LEA representative to explain the reason(s) for disapproval and how the problems may be remedied. The Energy Commission will return the energy expenditure plan to the LEA, along with the reason(s) for disapproving the plan, for correction and resubmission.

Petition Of Reconsideration Of Expenditure Plan Denial; Appeal Of Executive Director's Decision

If an LEA's resubmission of materials is denied, an LEA may petition the office of the Executive Director for reconsideration if an expenditure plan is denied. The petition for reconsideration shall be submitted electronically or in writing to the Energy Commission docket for this proceeding (Docket # 13-CCEJA-1) at the address below, together with any supporting documentation within 30 days of the date the notice of denial is mailed to the LEA. The petition shall specify why the LEA believes the denial of the expenditure plan is improper given the eligibility criteria in the *Guidelines*, explain any supporting documentation filed with the petition, and identify the remedy sought. Within 30 days of receiving a complete petition, the Office of the Executive Director shall issue a decision on the petition. Petitions for reconsideration shall be submitted to the following address:

Dockets Unit
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, CA 95814
(916) 654-5076

If an LEA disagrees with the decision of the Office of the Executive Director, the LEA may appeal the decision to the Energy Commission. The appeal must be filed within 15 days of the date the decision of the Office of the Executive Director is mailed to the LEA and shall consist of a letter of appeal stating why the decision is unacceptable, a copy of the petition for reconsideration and any supporting documentation, and the decision of the Office of the Executive Director. The appeal shall be sent to the Commission's Public Adviser at the following address:

California Energy Commission
Public Adviser's Office
1516 9th Street, MS-12
Sacramento, CA 95814-5512

Within 30 days of receiving the letter of appeal, the Public Adviser shall arrange for the appeal to be presented to the Energy Commission at a regularly scheduled Business Meeting. The

Public Adviser shall inform the appealing party in writing of the Business Meeting date and the procedures for participating in the Business Meeting. The appealing party shall be responsible for presenting the appeal to the Energy Commission during the Business Meeting. Unless otherwise determined during the course of the Business Meeting, the Commission shall determine the appeal during the Business Meeting. Energy Commission staff may present a response to the appeal when the matter is under consideration by the Energy Commission.

Step 8: Project Tracking and Reporting

Project Reporting Requirements

Public Resources Code section 26240(b) requires "As a condition of receiving funds from the Job Creation Fund, not sooner than one year but no later than 15 months after an entity completes its first eligible project with grant, loan, or other assistance from the Job Creation Fund, the entity shall submit a report of its project expenditures to the Citizens Oversight Board created pursuant to Chapter 3 (commencing with Section 26210)."

Public Resources Code section 26240(c) requires "If an LEA completes more than one project, the required information for a second and any subsequent project shall be submitted no later than the first full quarter following project completion."

For reporting purposes, an "eligible project" is considered the combined projects approved under a single energy expenditure plan. Therefore, following the above legal requirements, LEAs must report between 12-15 months after the completion of the first energy expenditure plan. An LEA shall submit a report of project expenditures to the Citizens Oversight Board (COB) and a copy to the Energy Commission. The Energy Commission intends to create an automated online program reporting system. This system will allow LEAs to submit the required project information in a standard format to be collected in the Energy Commission's publicly accessible database and will also generate a standard final project report LEA's must submit to the Citizens Oversight Board.

Quarterly Reports

Leg intent to use annual audit process?

LEAs are required to submit a quarterly progress status report for each approved energy expenditure plan to the Energy Commission, until all projects within an energy expenditure plan are completed. The Energy Commission intends to create a simple quarterly report template, which will be available on the Energy Commission's Proposition 39 webpage.

Final Reports

Public Resources Code section 26240(b)(1-7) requires "To the extent practical, this report shall contain information on all of the following:

(1) The total final gross project cost before deducting any incentives or other grants and the percentage of total project cost derived from the Job Creation Fund.

(2) The estimated amount of energy saved, accompanied by specified energy consumption and utility bill cost data for the school or site where the project is located.

effort to determine the energy savings by choosing either option A or B below. An LEA can report the project level energy savings, choosing any one of the following methods:

A. Utility Incentive Completion Report. For energy efficiency projects that receive utility incentive, the (M&V) requirements of the utilities can be used to determine the actual energy savings. Monitoring and Verification X

B. Energy Commission Energy Savings Calculators Report. An LEA may choose to use the Energy Commission Energy Savings Calculators to estimate the actual energy savings for each project. These are the same calculators offered in the energy expenditure plan phase that provided energy savings estimates for less complex projects.

C. LEA's Own M&V Report. An LEA can calculate its own project energy savings using data from an energy management system, short-term monitoring (or data logging), and engineering calculations for each project. This M&V report can be submitted as the energy savings report.

D. Third-party M&V report. In some cases, an LEA may choose to hire an independent M&V consultant to conduct the detailed M&V for each energy efficiency project or for continuous monitoring. A third party-prepared M&V or commissioning report can also be used for this purpose.

Job Creation Benefits Calculation

LEAs must use the same job creation benefits calculation methodology as described in the energy expenditure plan section. See Appendix G.

The CWIB, in consultation with the Energy Commission, must use reports filed by LEAs to the COB to quantify total employment affiliated with funded projects, as well as to estimate new trainee, apprentice, or full-time jobs resulting from Job Creation Fund activity. The CWIB is required to prepare an annual report with this information and submit it to the COB.

Audit

Public Resources Code section 26206(e) states that "All projects shall be subject to audit."

Public Resources Code, Section 26240(h)(1) states, "The Superintendent of Public Instruction shall require local education agencies to pay back funds if they are not used in accordance with state statute or regulations, if a project is torn down or remodeled, or if the property is deemed to be surplus and sold prior to the payback of the project."

SSPI will use its standard process to ~~correct~~ collect LEA non compliant Proposition 39 expenditures. X

ENERGY EXPENDITURE PLAN IMPLEMENTATION CHANGES

Project changes are sometimes unavoidable. If an LEA has project changes after the Energy Commission has approved its energy expenditure plan and the SSPI has distributed funding, a revised energy expenditure plan may be required. Any significant change in the approved energy expenditure plan will require "change of scope" approval. Significant changes are defined below:

CHAPTER 3:
Additional Proposition 39 State Resources

1) Energy Conservation Assistance Act - Education Subaccount: Loan and Technical Assistance Program

PROGRAM SUMMARY

SB 73 transfers $28 million from the Job Creation Fund to the Energy Conservation Assistance Act, Education Subaccount (ECAA-Ed). Of that amount, about 90 percent will be used to provide low-interest or no-interest loans to LEAs and community college districts through the ECAA Loan Program. About 10 percent will be used by the Bright Schools Program to provide technical assistance grants to qualifying LEAs and community college districts needing support with energy efficiency project identification and planning.

ECAA-Ed (Proposition 39) Loan Program

The Energy Commission implements the ECAA Program pursuant to Public Resources Code section 25410, et seq., and the Title 20 of the California Code of Regulations, sections 1650 – 1655. The ECAA-Ed funds are available to fund low-interest or no-interest rate loans for energy efficiency and renewable energy retrofits. Eligible projects are required to generate energy cost savings sufficient enough to allow the loan principal and all accrued interest to be repaid to the Energy Commission within a maximum of 20 years. The simple payback is 20 years if the interest rate is set at 0 percent. The Energy Commission Program Opportunity Notice for ECAA-Ed loans will specify the interest rate, repayment period (includes principal and interest), the maximum simple payback period and requirements on building ownership.

Bright Schools Technical Assistance Grant Program

LEAs and community college districts may apply to the Bright Schools Program for technical assistance in planning how to best use Proposition 39 program award funds for school energy efficiency projects. Assistance is provided by the Energy Commission on a first come, first served basis. Energy Commission staff and consultants provide the energy technical assistance including energy audits and project recommendations. The grant is not provided in cash, but rather in the form of engineering and design assistance provided at no charge by the Energy Commission. This program is implemented pursuant to Public Resources Code section 25416(d).

Eligible Entities

LEAs and ~~CCDs~~ CCCDs in public buildings are eligible for ECAA-Ed loans and grants for technical assistance. X

Eligible Projects

To qualify for an ECAA-Ed loan, the following requirements must be satisfied:

1. Projects must meet the eligibility requirements for an ECAA-Ed loan as specified in Public Resources Code section 25410, et seq., and the Energy Commission's regulations in Title 20 of the California Code of Regulations, sections 1650 – 1655.

2. Loan applicants must satisfy all requirements as specified in the Energy Commission Program Opportunity Notice.

3. Projects must be technically and economically feasible.

4. Loans must be repaid from energy cost savings within a maximum of 20 years, including principal and interest.

5. The term of the loan may not exceed the useful life of the loan-funded equipment or the lease term of the building in which the loan-funded equipment will be installed.

6. Proposition 39 program funded loans will be repaid by the projects estimated annual energy cost savings achieved by the project.

Examples of eligible projects include, but are not limited to, the following:

- Lighting systems
- Heating and air conditioning modifications
- Pumps and motors
- Building insulation
- Alternative energy generation projects

Application Process

ECAA-Ed Loans

LEAs and ~~CCDs~~ CCCDs in public buildings may apply for funding as specified in the Energy Commission's Program Opportunity Notice. Complete applications are evaluated and recommended for funding as specified in the Program Opportunity Notice. X

Technical Assistance Grants

LEAs and ~~CCDs~~ CCDs in public buildings may apply to receive technical assistance from the Energy Commission through the Bright Schools Program. X

2) California Workforce Investment Board Grant Program

The California State Workforce Investment Board (CWIB) will implement energy efficiency focused "earn-and-learn" job training and placement programs targeting disadvantaged job seekers. The goal of this program will be to train approximately 500 Californians for entry-level employment and create career pathways that are driven by public and private investment in energy efficiency and green building standards. Funded projects will create opportunities for disadvantaged youth and veterans to improve their qualifications for energy efficiency occupations and qualify for state-certified apprenticeship programs, community college career programs, and direct job placement.

Key program elements include:

- Pre-apprenticeship training aligned with local building trades councils and based on nationally certified Multi–Craft Core Curriculum.
- Training and placement requirements developed in alignment with energy efficiency work opportunities.
- Regional partnerships, resource and program alignment among local Workforce Investment Boards, employers, organized labor, K-12, community colleges, California Conservation Corps, and community-based stakeholders.
- Rigorous performance and evaluation methods to ensure program efficacy and continuous improvement; development of sustainably model to increase scale and/or replication of successful programs.

For additional information on the CWIB's Proposition 39 program, please go to: http://www.cwib.ca.gov/.

3) California Conservation Corps

With funding from the California Budget Act of 2013-14, and as part of California's plan to save energy and create jobs, the CCC will provide energy efficiency services to public schools for the fiscal years 2013-14 through 2017-18.

The CCC is a state agency putting young men and women, ages 18-25, to work on natural resource projects. Since its earliest days, these projects have included energy conservation work, from low-income home weatherization to solar panel construction to, most recently, energy surveys and retrofitting convenience stores through the EnergySmart Jobs program.

The CCC may assist LEAs:

1) ***Conducting energy surveys to assess building conditions, identify energy efficiency opportunities, and establish baseline use.*** Teams of trained young adults, working under the supervision of professional CCC staff, will visit schools to collect 'whole building' energy use data in conformance with the Energy Commission's Guidelines. Surveys will be provided to qualifying K-12 schools at no or low cost.

2) ***Assisting with the implementation of basic energy efficiency measures.*** As part of the project implementation, the CCC will have crews trained to directly install and/or assist

with the installation of basic energy efficiency measures such as lighting replacement, "occupancy" detectors for lighting, and "smart" power strips.

The Proposition 39 investment in schools is also an investment in the members of the CCC, as they prepare to enter the state's workforce. Through their work, the corps members will gain hands-on training, certificated technical education, and work experience designed to increase employment opportunities in green technology fields.

The CCC may extend this learning opportunity to schools by connecting with service learning, science classes, environmental clubs or career academy programs.

To learn more about the CCC's Proposition 39 program call (916) 341-xxxx or email energycorps@ccc.ca.gov. X

Kitchen Equipment

Priority	Project Example	
2	Install evaporator fan controllers at all walk-in coolers and freezers.	Custom audit required
3	Install low-flow, pre-rinse spray valves at dishwashing area.	Custom audit required
3	Evaluate energy-efficient kitchen appliances and technologies to reduce energy and water use.	Custom audit required

Pool Equipment

Priority	Project Example	Climate Zone (CZ) Recommendations
1	Install and use pool covers at night or when pool is not used.	Custom audit required
4	Evaluate variable speed drive for swimming-pool circulation pumps.	Use HVAC variable frequency drives Calculator
4	Evaluate a pony pool pump for nighttime use.	Calculator available

Other Equipment

Priority	Project Example	Climate Zone (CZ) Recommendations
1	Implement automatic shutdown software on all computers.	Custom audit required
1	Install occupancy controls on all vending machines.	Custom audit required

Miscellaneous

Priority	Project Example	Climate Zone (CZ) Recommendations
1	Conduct commissioning (the process of verifying and documenting that the building and energy systems perform interactively according to the design intent and the operational needs).	Custom audit required
1	Develop a training program for energy-efficiency maintenance.	Custom audit required
1	Provide energy-efficiency awareness courses/seminars for students, including behavior modification.	Custom audit required
2	Plant deciduous shade trees on south side of buildings.	Custom audit required

Demand Response (DR)

Priority	Project Example	
1	Sign up for an air conditioning cycling program, if available in your area.	Custom audit required
2	Sign up for another DR program (either through your utility or with a Demand Response Aggregator) to develop a load shed plan. This plan will involve reduced use of lighting, office equipment, kitchen equipment, elevators, and so forth during DR events by dimming, cycling, or turning off some or all equipment.	Custom audit required
3	Install programmable communicating thermostats (PCTs) to help manage the air conditioning load; some utilities install these as part of their air conditioning cycling programs.	Custom audit required
4	To facilitate your ability to respond to DR events, install automatic controls such as energy management systems which reduce air conditioning load, lighting, or other equipment. Utilities offer rebates through their DR Technical Incentives and Auto DR programs that cover some of the costs of this equipment.	Custom audit required
5	Evaluate thermal energy storage for shifting load away from peak hours.	Custom audit required

Exhibit C: Proposition 39 Funding Pathway Example

SIMPLE PATHWAY TO PROPOSITION 39 ENERGY FUNDING:

Energy Planning Funding Option
If requested, Energy Planning funding can be used to pay for the required Proposition 39 Energy Commission *Guidelines*

word not showing

☐ **Step 1:** Electric and Gas Usage/Billing Data
- ✓ 12 months site energy usage before project installation

☐ **Step 2:** Benchmarking of facilities

☐ **Step 3:** Energy Project Prioritization Considerations (Statue required considerations)

☐ **Step 4:** Sequencing of Facility Improvements (Energy Commission recommendations)

☐ **Step 5:** Energy Project Identification
- ✓ Perform Energy Survey

☐ **Step 6:** Cost-Effectiveness Determination
- ✓ Use Energy Commission Calculator

☐ **Step 7:** Complete and Submit an Energy Expenditure Plan
- ✓ Energy Expenditure Plan reviewed and approved

☐ LEA Independent Responsibilities
- ✓ DSA Compliance
- ✓ CEQA Compliance
- ✓ Contracting
- ✓ Project Management

☐ **Step 8:** Project Tracking and Reporting
- ✓ 12 months site energy usage after project installation
- ✓ Use Energy Commission Calculator

X

Does survey determine steps 3 + 4?

X

Exhibit D: Benchmarking Process

Energy Benchmarking Steps

1. Gather Energy Data and Summarize Energy Data

Gather and summarize energy usage data for all energy sources, including electricity, natural gas, and fuel oil. To accomplish this, an LEA gathers the last 12 months of utility bills, including electricity, natural gas, and fuels, to calculate the EUI. If a school has two or more meters for electricity, natural gas, or other fuels, the utility data shall be combined for one EUI calculation. Benchmarking a facility must be performed on a school-by-school basis. Table 4 shows the data required to calculate EUI. If LEA staff members have difficulty gathering this information, they may contact their local utility or energy provider.

Table 4: Example of School Energy Use Data Annual Summary

FACILIT	XYZ School								
UTILITY	PG&								
School	E 11,000								
SOFT		Electricit			Ga		Other		Total
		Account		Rat	Accoun	Rat	(propane/diesel		Cos
	Yea	Averag Pea Deman (kW)	Total Energy Us (kWh)	Charges ($)	Total Gas (Therms)	Natural Gas Charges ($)	Total Fuel (Gallons)	Fue Charge ($)	Total Charges ($)
Tota	201	63.	85,81	$ 16,465	6,928	$ 6,030	0	$ -	$ 22,495

Source: California Energy Commission

2. Establish Energy Use Intensity

Establish an EUI for your school. After collecting 12 months of energy cost data and knowing the square footage of your school, the next step is calculating the EUI by dividing the annual energy use by the gross[5] square footage of the school for each end-use energy category. For example, in Table 4, the LEA staff looking at XYZ School divides the total 85,815 kWh use by the total square footage of 11,000 to obtain the electricity use intensity of 7.8 kWh/sq.ft/year. Next, perform the same calculations for natural gas, other fuels and total cost. X

use more realistic sq. ft.

Table 5 below shows the EUIs for XYZ School. The two numbers (highlighted in yellow) the Total Energy Cost/sq.ft./year and Kbtu/sq.ft./year are the two numbers required in the energy expenditure plan.

5Square footage inside the perimeter of exterior walls (less courtyards).

Background: Effective Useful Life for Measures in Years

~~How is the Effective Useful Life (EUL) for energy efficiency measures determined? And what are the EULs for other renewable or generation projects?~~ — unnecessary

The EUL list for the energy efficiency measures is mainly determined from the 2008 and 2011 update of Database for Energy Efficiency Resources (DEER) for building related energy efficiency measures. The general approach for selecting EULs for this 2008 and 2011 DEER Update was to review the various data sources and their underlying strengths and weaknesses and provide EUL recommendations that were determined to be most appropriate, based on the information that was available.

There is insufficient data for renewable and other generation projects in the DEER database and there is not a consensus number for these projects. The Energy Commission will consider other renewable and generation projects on a case by case basis based on available information, required maintenance and project warranty period.

q) **Energy Use Intensity (EUI)** – The amount of energy used in a building relative to the size of the building.

r) **Energy Expenditure Plan** – The request by an LEA for Proposition 39 funding. The energy expenditure plan is submitted to the Energy Commission and includes technical description and specifications for proposed eligible energy projects and other qualifying measures.

s) **Funding Award** – Award of funds to an applicant under this Program through a funding distribution, contract, grant, loan or interagency agreement.

t) **Kbtus** – One thousand British thermal units (btus). Btus is the traditional unit of energy. It is the amount of energy needed to cool or heat one pound of water by one degree Fahrenheit.

u) **kWh** – One kilowatt of electricity supplied for one hour.

v) **kW** – One thousand watts.

w) **Lead Commissioner for Energy Efficiency Policy Matters** – The member of the Energy Commission charged with policy direction for all matters concerning energy efficiency at the Energy Commission including, but not limited to, Proposition 39 implementation.

x) **Local Educational Agency (LEA)** – A county office of education, school district, charter school, or state special school.

y) **Local Utility**– Energy utility (not a water utility).

z) **Program** – California Clean Energy Jobs Act, Public Resources Code Division 16.3 added by Proposition 39 and SB 73.

aa) **Program Element** – The subject area designated for funding by the California Clean Energy Jobs Act or the 2013-14 Budget Act (that is, energy efficiency for LEAs).

bb) **Project Installation Cost** – The total of all project cost including design, site preparation, equipment, and labor.

cc) **Project Measure** – An energy project located at one LEA facility site.

dd) **Savings-to-Investment Ratio (SIR)** – The SIR is the ratio of the present value savings to the present value costs of an energy efficiency project or alternative energy generation project.

ee) **School Site** – Any local educational agency facility site. Examples include a school campus, district office, County Office of Education facility or charter school facility.

ff) **Second Principal Apportionment (P-2)** – Apportionment based on the second period data that LEAs report to the CDE in April and May and is the final state aid payment for the fiscal year ending in June.

gg) **State Superintendent of Public Instruction (SSPI)** – The ~~SSPI is the~~ elected official of the State of California who superintends the schools of the state and is the executive officer of the CDE.

Exhibit I: List of Acronyms

ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers
ADA	Average Daily Attendance
BTU	British Thermal Unit
CALGreen	California Code of Regulations, Title 24, Part 11,Green Building Standards
CBC	California Building Code
CCC	California Conservation Corps
CCCCO	California Community Colleges Chancellor's Office
~~CCD~~ CCCD	Community College District ← California
CCR	California Code of Regulations
CDE	California Department of Education
CEQA	California Environmental Quality Act
COB	Citizens Oversight Board
CPUC	California Public Utilities Commission

X